

Unfair Debt Collection

When you are having difficulty paying all of your debts, make sure you pay your **MOST IMPORTANT** expenses first. This means rent or mortgage, current utilities, food, clothing, ongoing medical care, transportation, insurance and other ongoing monthly expenses. Your least important expenses are your credit cards, old medical bills, old utility bills, and other unsecured debts where, if you don't pay them, nothing can be taken from you.

Is my creditor allowed to keep calling me? Do I have to reply to letters or bills from my creditor?

No. When you answer the phone and realize it is a creditor or debt collector, **HANG UP THE PHONE**. If they call again, hang up the phone. Do this as often as you need to until they stop calling. You get to decide who talks on your phone.

A debt collector cannot contact you at inconvenient times or places, such as before 8 in the morning or after 9 at night, unless you agree to it. Collectors may not contact you at work if they're told (orally or in writing) that you're not allowed to get calls there.

As for the mail, you don't even have to open or read it. Just store the letters/notices/bills somewhere safe.

Is my creditor or debt collector allowed to keep contacting my friends/family?

If you do not have an attorney, a collector **may** contact other people, but **only to find out your address, your home phone number, and where you work**. Other than to obtain this location information about you, a debt collector generally is not permitted to discuss your debt with anyone other than you, your spouse, or your attorney.

How can I stop a creditor or debt collector from contacting me?

If you have decided after speaking to a debt collector that you don't want the collector to contact you again, tell the collector **IN WRITING** to stop contacting you. Say in your letter that you are unable to pay the alleged debt and so pursuant to the Fair Debt Collections Act you demand that the collector cease any further contact with you, your family, or any other third parties regarding the alleged debt.

Make a copy of your letter. Send the original by certified mail, and pay for a "return receipt" so you'll be able to document what the collector received. Once the collector receives your letter, they may not contact you again, with two exceptions: a collector can contact you to tell you there will be no further contact or to let you know that they or the creditor intend to take a specific action, like filing a

lawsuit. Sending such a letter **does not** get rid of the debt, but it should stop the contact.

What is the worst that could happen?

The worst that can happen is that a creditor can file a lawsuit and get a judgment against you. A judgment is merely a piece of paper from the courthouse that says you owe someone some money. Once a creditor has received a judgment, the creditor is known as a "judgment-creditor. The judgment has to then be collected by legal action.

You can NOT be arrested or jailed for simply not paying bills, debts, or judgments. No legitimate debt collector can repossess your house or issue an arrest warrant. Anyone who says otherwise is lying and may be breaking the law that governs debt collectors. You will **NOT** be contacted by a federal agent about an unpaid bill, debt, or judgment.

What is a judgment-creditor allowed to do to collect a judgment?

A judgment-creditor may ask the court to require any of the following to help collect a judgment:

- summons to answer debtor interrogatories: This requires that you come to a court hearing that allows the judgment-creditor to ask you questions about your

income and property. Be sure to answer all questions truthfully.

- garnishment of your income
- levy (or attachment) to sell your personal property
- Creditor's Bill in Equity to sell your real property (rarely used)
- suspension of your driver's license in certain cases.

What is off limits for a creditor or debt collector?

Debt collectors may not harass, oppress, or abuse you or any third parties they contact. This includes, for example, threats of violence or harm, obscene or profane language, or repetitive annoying phone calls.

Debt collectors may not lie when they are trying to collect a debt. For example, they can't falsely claim that you have committed a crime, misrepresent the amount you owe, or falsely claim that they are attorneys or government representatives. In Virginia, it is also a criminal violation for debt collectors to imitate legal process to collect payment.

Debt collectors are also not allowed to say that you will be arrested if you don't pay your debt, or that they'll seize, garnish, attach, or sell your property or wages unless they have a judgment entitling them to do so.

Lastly, debt collectors may not engage in unfair practices when trying to

collect a debt. For example, they may not try to collect any interest, fee, or other charge on top of the amount you owe unless the contract or state law allows the charge. They may not take or threaten to take your property unless it is done legally.

What can I do if I think a debt collector has violated my rights?

You have the right to sue a collector within one year from the date the law was violated. If you win, the judge can require the collector to pay you for any damages you can prove you suffered because of the illegal collection practices. You may also be reimbursed for your attorney's fees and court costs.

This brochure is intended for information purposes only and is NOT a suitable substitute for legal advice from a certified attorney.

If you have a specific question, please consult Legal Aid WorksSM at:

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Legal Aid WorksSM

Fredericksburg Office

Know Your Rights:

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Working for Equal Justice Since 1973

Information provided by Legal Aid WorksSM.