

# **Debtors' Rights: Dealing with Collection Agencies**

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## **Are you being contacted by debt collection agencies?**

This publication should help you understand debt collection practices and your rights when dealing with debt collectors. If you're being sued, or if there's already a judgment against you, see our publications [Debtors' Rights in a Lawsuit](#) or information packets on [How to Answer a Lawsuit for Debt Collection](#) or [How to Claim Personal Property Exemptions](#). Get these at our website: [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org). Or call the CLEAR intake line at **1-888-201-1014**.

## **What is a collection agency?**

Collection agencies are regulated by both the state and federal government. Both the State of Washington and the federal government have laws protecting debtors who are contacted by collection agencies. In Washington, these laws are called the "Collection Agency Act" (in [RCW 19.16.100](#)) and the "Consumer Protection Act" (in [RCW 19.86.010](#)). The federal act is called the "Fair Debt Collection Practices Act" (in [15 U.S.C. 1692](#)). These laws can be found at your local library or online.

Federal and state law defines a collection agency as a business or organization whose principal purpose is the collection of debts. It doesn't include the credit or collection office of a business whose primary purpose is not debt collection. Example: the credit office of a large department store or car dealership, or a bank that issues credit cards and attempts to collect a debt, isn't a "collection agency" within the meaning of state and federal law. Collection of debts isn't their main business. Attorneys who regularly collect consumer debt are also considered "debt collectors" who must comply with the federal law.

Following are some of your rights under debt collection acts and garnishment laws.

## **What if you don't think you owe the debt?**

When a collection agency first contacts you in writing regarding a debt, it must provide you with a written notice containing certain things. If the collection agency first contacts you by telephone, you can insist that they also contact you in writing. The first written notice from a collection agency must include:

- The name and address of the collection agency;
- The amount of the debt, stating the original debt and a breakdown of other costs or interest;
- The name of the creditor to whom the debt is owed;
- A statement that unless you dispute the debt within 30 days after you receive the notice, the agency will assume the debt is valid;
- A statement that, if requested within 30 days, the collector will provide the name of the original creditor, if different from the collector; and

- A statement that if you notify the debt collector in writing (within 30 days of receiving the notice) that you dispute the debt, the collection agency will get verification of the debt and mail it to you.

**Every** communication from a collector must clearly disclose that the purpose of the communication is to collect a debt and that any information obtained will be used for that purpose.

You must notify the collection agency **in writing** within the 30-day period described above if you disagree that you owe the debt or any portion of the debt. Once the collection agency receives written notice that you dispute the debt, it must stop collection of the debt until it has proof that you do owe the debt and sends that proof to you.

You should keep copies of the letter you send to the collection agency. Whenever possible, send letters to collection agencies by certified mail, return receipt requested. See Form Letter #1 at the end of this publication.

Some examples of disputes of debts:

- you don't believe you owe the debt or the amount as stated;
- you already paid the debt;
- you had medical coupons to pay for a debt, and the creditor should have billed the state;
- you were hospitalized, informed the hospital you couldn't pay for care, and the hospital should have considered payment under a charitable care policy; or
- you believe collection of the debt is time barred. (See below).

There are legal time limitations within which a legal claim must be begun. Otherwise it is “barred.” This means that the collection agency waited too long and can’t bring the claim now. The claim has expired.

The exact time limitation will depend on the basis for the debt or the type of claim being made. Most claims based on written contracts or accounts receivable governed by WA law must be commenced within 6 years; most claims based on oral contracts or accounts receivable must be commenced within 3 years.

## **How do I stop the collection agency from contacting me?**

Under the Fair Debt Collection Practices Act, if you notify the collection agency IN WRITING that you want it to cease further communication with you, the collection agency can’t communicate with you further except:

- to advise you that it’s stopping its effort to collect; or
- to advise you that the collection agency intends to take action, such as bringing a lawsuit against you.

This law applies whether you owe the debt or not. If you write such a letter to a collection agency, it must include the following:

- your name and address and, if available, the account number on the statement received from the collection agency;

- the date;
- a statement that you're exercising your rights under the Fair Debt Collection Practices Act; and
- a statement that you want the collection agency to stop calling or writing you, or both.

See Form Letter #2, at the end of this publication. **BE SURE TO KEEP A COPY OF THIS LETTER.** Mail the original to the collection agency, with a copy to the original creditor.

**THE LETTER MUST BE SENT TO THE COLLECTION AGENCY.** If, after you send the letter, the collection agency contacts you again for some reason other than the two reasons stated above, the collection agency has violated the Fair Debt Collection Practices Act. Under this law, you have the right to bring an action against the collection agency for money damages and lawyer fees.

◆ This won't stop the collection agency from suing you. It only stops calls and letters from the collection agency.

### **Which property and income is protected from debt collection?**

Certain kinds of income and property can't be taken to collect a consumer debt. They are:

- Social Security
- Supplemental Security Income
- Temporary Assistance for Needy Families (TANF)
- GAU
- private pensions
- federal civil service pensions
- Labor & Industries disability payments, and
- Unemployment Compensation.

Additionally, some of your wages are also exempt: The greater of 30 times the current federal minimum wage or 75% of your net wages. ("Net wages" means gross pay minus taxes, Social Security, and other mandatory deductions.) Call the Department of Labor to find out the current federal minimum wage, or check this website: <http://www.dol.gov/whd/flsa/index.htm>. Then multiply that amount by 30.

◆ Example: as of July 24, 2009, the federal minimum wage is \$7.25 an hour. Therefore, if you make less than \$217.50 a week net, all of your wages are exempt. If you make \$400 a week, \$300 is exempt (since \$300 is 75% of your wages, and that amount is more than \$217.50).

◆ *NOTE:* This income is usually not exempt from garnishment for child support payments or taxes.

If your income's exempt from garnishment, let the collection agency know. You should provide this information to the collection agency in writing, keeping a copy of the letter.

Example: if your only income is Social Security, which is exempt from garnishment by federal law, then you would write just that in your letter. You should also include this information with any of your other written correspondence to the agency, such as a "cease communication" letter.

While this isn't a defense to the underlying claim, it does let the collection agency know that your only income is exempt from garnishment. If the collection agency successfully sues you and then garnishes your bank account containing exempt funds, then you may have a cause of action against the collection agency.

Certain property cannot be taken to collect a debt:

- \$125,000 equity in your home
- Your car, if it's of limited value and
- Your personal belongings, up to a certain monetary limit.

For more information, or if a creditor or collector is trying to garnish your income or property, see our publications [How to Claim Personal Property Exemptions](#) and [Debtors' Rights in a Lawsuit](#).

## **Unlawful Practices**

Both the Washington Collection Agency Act and the Federal Fair Debt Collection Practices Act prohibit harassment, false or misleading statements and unfair practices by collection agencies. If you believe that you're being unreasonably harassed or misled by a collection agency, you can bring a legal action against the collection agency. If you win the case, the law says you can collect damages and lawyer fees. The following are some examples of violations:

1. the collection agency threatens to tell your employer or neighbors about the debt, or actually does tell them about the debt;
2. the collection agency calls at hours the law has defined as "unreasonable" ( 9:00 p.m. - 8:00 a.m. under the federal law; 9:00 p.m. -7:30 a.m. under state law);
3. the collection agency threatens you with illegal action ( example: threatening to take money out of your Social Security check taking other exempt property, or threatening arrest, jail).
4. the debt collector communicates with you or anyone else in your household? in such a manner as to harass, intimidate, threaten, or embarrass the debtor.
5. the debt collector communicates with you or your spouse more than three times in a single week.
6. the debt collector sends you notices that deliberately look like government documents or a telegraphic or emergency message.
7. the debt collector cannot solicit a postdated check in order to threaten you with criminal prosecution. The debt collector cannot deposit a postdated check before the date on the

check. Additionally, a collector's acceptance of your postdated check violates the law unless you had 3 to 10 business days notice prior to the collector depositing the check.

If you believe that your rights under the Washington Collection Agency Act, Consumer Protection Act, or Fair Debt Collection Practices Act have been violated, or you're sued on a debt you don't believe is valid, contact a lawyer. Agencies which take complaints about violations of the Fair Debt Collection Practices Act and the Washington Collection Act are:

**Department of Licensing**  
Collection Agency Board  
PO Box 9034  
Olympia, WA 98507-9034

**Federal Trade Commission**  
915 Second Avenue, Room 2806  
Seattle, Washington 98174

### **Mail to the Consumer Resource Center nearest you:**

#### **Bellingham - Island, San Juan, Skagit and Whatcom Counties**

Address:  
103 E. Holly Suite 308  
Bellingham, WA. 98225  
Telephone: 360-738-6185  
Fax: 360-738-6190

#### **Kennewick - Southeast Washington**

Address:  
500 N. Morain St. Suite 1250  
Kennewick, WA. 99336-2607  
Telephone: 509-734-7140  
Fax: 509-734-7285

#### **Seattle - King, Snohomish, Clallam and Jefferson Counties**

Address:  
900 Fourth Ave. Suite 2000  
Seattle, WA. 98164-1012  
Telephone: 206-464-6684  
Fax: 206-464-6451

#### **Spokane - Northeast Washington**

Address:  
West 1116 Riverside  
Spokane, WA. 99201-1194  
Telephone: 509-456-3123  
Fax: 509-458-3548

#### **Tacoma - Pierce, Mason, Grays Harbor and Kitsap Counties**

Address:  
P.O. Box 2317  
Tacoma, WA 98401  
Telephone: 253-593-2904  
Fax: 253-593-2449

#### **Vancouver - Thurston, Lewis, Pacific, Cowlitz, Skamania, Clark and Wahkiakum**

Address:  
1220 Main St. Suite 549  
Vancouver, WA. 98660-2964  
Telephone: 360-759-2150  
Fax: 360-759-2159

### **What steps may I take on my own?**

Your success in an unfair debt collection practice claim often depends on the strength of your proof a violation has occurred. You should take some or all of the following steps:

1. Set up a place to keep all notes or letters from the collection agency. Keep all written material you receive from them, including the envelopes.

2. Make notes of every phone call from the collection agency, including the date, time, content and names of people involved in the conversations.
3. Make notes of the same information if you learn that the collection agency has contacted anyone other than you.
4. If the stress of dealing with a collection agency begins to result in physical, mental or emotional problems for you, see a counselor or physician of your choice and discuss the situation thoroughly with them.

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**This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of the date of its printing, May 2010.**

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**Form letter #1: No-contact letter, verification request.**

The following letter is a no-contact letter form that you can use with collectors. Check the boxes next to appropriate language in the letter if that language applies in your case.

This letter includes a general request for verification. If you have specific disputes (for example, if you want to dispute that this is your account), you should request information related to those in the verification request, and mention those specific disputes in the letter.

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By Certified Mail RRR  
# \_\_\_\_\_

RE: ACCOUNT # \_\_\_\_\_

Dear Sir or Madam:

I am writing to request that you stop communications to me regarding my account. The Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., requires that you honor my request.

Under the Fair Debt Collection Practices Act, once I've asked you to stop contacting me, you may only communicate with me to (1) advise me that your further efforts are being terminated, (2) notify me that you may invoke specified remedies that you normally invoke or (3) where applicable, to notify me that you intend to invoke a specified remedy.

Please provide me with the following:

- (1) Verification of any debt relating to my account;
- (2) The name and address of the original creditor and the current creditor;
- (3) Confirmation that any such debt and the accuracy of the items in the files relating to me will be treated as disputed; and
- (4) Forms and assistance I can use to dispute the accuracy of such items.

Until advised otherwise, you should consider this debt to be disputed.

- Furthermore, I've been the victim of abusive collection practices by agents of your company. Specifically:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

You should know that such practices violate Federal law and place you in jeopardy of legal liability.

- I also wish to inform you that my sole source of income is Supplemental Security Income (SSI)/ Social Security. As a result, my income is exempt from garnishment for this type of debt. I have no non-exempt assets.

Thank you for your cooperation.

Sincerely,

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (print name)  
\_\_\_\_\_ (street address)  
\_\_\_\_\_ (city, state & zip)

**Form letter #2: No-contact letter, no verification.**

You can choose to use the following no-contact letter form to deal with collectors. Check the boxes next to appropriate language in the letter if that language applies in your case.

◆ Note: This form letter does not include a request for verification.

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

By Certified Mail RRR  
# \_\_\_\_\_

RE: ACCOUNT # \_\_\_\_\_

Dear Sir or Madam:

I am writing to request that you stop communications to me regarding my account. The Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., requires that you honor my request.

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Until advised otherwise, you should consider this debt to be disputed.

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

You should know that such practices violate Federal law and place you in jeopardy of legal liability.

- I also wish to inform you that my sole source of income is Supplemental Security Income (SSI)/ Social Security. As a result, my income is exempt from garnishment for this type of debt. I have no non-exempt assets.

Thank you for your cooperation.

Sincerely,

Dated: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (print name)  
\_\_\_\_\_  
\_\_\_\_\_ (street address)  
\_\_\_\_\_ (city, state & zip)