

# **Prioritizing Debt: Which bills do I pay first?**

## **Credit Problems**

Nearly all of us at one time or another has faced a problem with a creditor – the IRS, a credit card company or hospital. Often, you have money to pay some of their bills, but you don't have enough to pay them all. If you're in this position, you may find it hard to know which bills to pay first.

This publication will define the different general types of debt you may have and then help you prioritize and figure out which debts to pay first. Note: this publication provides general advice only. If you face serious debt issues, consult other resources, including an attorney. (The end of this publication has information concerning helpful resources in this area.)

## **Types of Creditors**

When it comes to use of your limited resources, you should give the basics, or "necessities," priority. Example: you'd most logically choose to use your last dollar to pay for food or shelter over luxuries such as jewelry.

It can also be very helpful in debt prioritizing to understand the different types of debt and creditors that exist.

### **Unsecured vs. Secured Creditors**

A creditor is someone to whom you owe money. A creditor could be almost any entity: the government (the IRS concerning taxes; the local court concerning traffic or parking fines); credit card companies; local retailers (an appliance store); medical providers (doctors, dentists, hospitals); or a collection agency collecting debt originally owed to another.

- **Unsecured Creditors** are creditors that have either loaned you money or agreed to sell you something based solely on your promise to repay them under certain terms or conditions.
- **Secured Creditors** agree to sell you something or give you a loan in exchange for your promise to repay PLUS the provision of "collateral" as a guarantee. Collateral could be anything: a piece of furniture, your car, or your bank account. It often includes the property you purchased. When collateral is involved, the creditor can take ("repossess") that collateral IF (and ONLY IF) you violate the terms of the contract (example: fail to make payments as required).

### **Home Foreclosure and Eviction**

Home foreclosure and eviction are two special types of debt collection. If you fail to make your house payments, the creditor can foreclose on your home. This means that the creditor will be able to sell the home and you'll have to leave. Similarly, a landlord can evict you if you don't pay rent and have no valid defense for this. If someone's trying to foreclose on your home or evict you, consult with an attorney.

## Debt Prioritization

The type of debt/creditor at issue can you help figure out which debt to give priority. You should put priority on payment of secured creditors over unsecured creditors. Secured creditors can more easily and quickly take your property away to satisfy a debt. You should prioritize payment to certain secured creditors over others depending on the collateral or risks involved.

The checklist below incorporates the above ideas.

### Debt Priority Checklist

- 1. Always pay family necessities first.** Usually this means food and essential medical expenses. Find ways to keep these expenses to a minimum.
- 2. Next pay your housing-related bills.** Keep up your mortgage or rent payments if at all possible. If you own your home, you must also pay real estate taxes and insurance (unless they're included in your monthly mortgage payment). Similarly, any condo fees or mobile home lot payments are a high priority. Failure to pay these debts can cause you to lose your home.  
  
If you're having very serious problems that force you to move to a cheaper residence, you might choose to stop paying the mortgage or rent. **CONSULT WITH AN ATTORNEY FIRST IF POSSIBLE.** If you choose to move, don't use that money to pay other debts. Save it as a fund to use for moving.
- 3. Pay what you must to keep essential utility service.** You should make whatever payments are necessary whenever possible. This may not always require full payment (such as during a winter moratorium on disconnections – see our publication "[Public Utilities](#)"). It makes no sense to keep up on your house or apartment if it's unlivable because you have no utilities.
- 4. Pay car loans or leases next if you really need your car.** If you need your car to get to work or for other essential transportation, you should make your car loan or lease payments next after food, housing costs, medical expenses, and utilities. You may even want to pay for the car first, if it's essential to holding onto your job.  
  
If you do keep the car, you must stay current on your insurance payments as well. Otherwise, the creditor may buy for you at your expense costly collision and theft insurance that may give you minimal protection. (In Washington State, it's illegal to not have automobile liability coverage.) If you can do without your car or one of your cars, you save on car payments, gasoline, repairs, and insurance.
- 5. You must pay child support debts.** These debts won't go away and can have serious consequences if not paid – including prison for nonpayment.
- 6. Income tax debts are also high priority.** You must pay any income taxes you owe that aren't automatically deducted from your wages. You must also file your federal income tax return, even if you can't afford to pay what's due. The government has many rights which other creditors don't have, particularly if you don't file your tax return. Remember: if you've lost income due to a change of

circumstances, your tax obligations will also be reduced. Pay only what's necessary.

◆ (If you're involved in a tax dispute with the IRS: call CLEAR at 1-888-201-1014 for more information on your rights and local low-income taxpayer clinics that may be able to assist you.)

7. **Loans without collateral are low priority.** Most credit card debts, attorney, doctor and hospital bills and other debts to professionals, open accounts with merchants and similar debts are low priority. You haven't pledged any collateral for these loans. There's rarely anything that these creditors can do to hurt you in the short-term.
8. **Loans with only household goods collateral are also low priority.** A creditor might require you to put some of your household goods up as collateral on a loan. You should generally treat such a loan the same as an unsecured debt - a low priority. Creditors rarely seize household goods. They have little market value and are hard to seize without court process, and it's time-consuming and expensive to use the court process.
9. **Don't move a debt up in priority in response when a creditor threatens suit.** Many threats to sue aren't carried out. Even if the creditor does sue, it will take a while for the collector to be able to reach your property, bank account, or wages, and much of your property may be exempt from seizure. On the other hand, non-payment of rent, mortgage, and car debts may result in immediate loss of your home or car. (See our publications "[Debtor's Rights in a Lawsuit](#)" and "[How to Answer a Lawsuit for Debt Collection](#).")
10. **Don't pay when you have good legal defenses for repayment.** Examples: goods purchased were defective, or the creditor is asking for more money than it's entitled to. If you think you have a legal defense, get legal advice to determine whether your defense will succeed. In evaluating these options, remember that it is especially dangerous to withhold mortgage or rent payments without legal advice. However, for all other debts you should consider fighting back when you have a valid defense.
11. **You should take court judgments against you seriously.** After a collector obtains a court judgment, that debt often should move up in priority. The creditor can now enforce that judgment by asking the court to seize your property, or garnish your wages and/or bank account. The seriousness of a threat depends on the applicable law, the value of your property, and your income. All of your property and wages might be protected under state law. If so, you should still pay this debt only after more pressing obligations. Consult with an attorney for advice on your specific situation.
12. **Student loans are medium priority debts.** You should generally pay your student loan debts after top priority debts and before low priority debts. Most delinquent student loans are backed by the United States and federal law provides special collection remedies against you that other creditors don't have, such as seizure of your tax refunds and denying you new student loans and grants. For

some government student loans or debts, the Department of Education may try to garnish a portion of your government benefits to satisfy the debt. If this happens, consult with an attorney immediately. There are rules limiting the amount that may be garnished.

**13. Debt collection efforts should *never* move up a debt's priority.** Be polite to the collector, but make your own choices about which debts to pay based on what's best for your family. Debt collectors are unlikely to give you good advice. They may be most aggressive to get you to pay debts that you should actually pay last. Moreover, you can easily stop debt collection contacts and you have legal remedies to deal with collection harassment. (See our publication "[Debtor's Rights: Dealing with Collection Agencies.](#)")

**14. Threats to ruin your credit record should *never* move up a debt's priority.** Often, when a collector threatens to report your delinquency to a credit bureau, the creditor has already provided the credit bureau with the exact status of the account. And if the creditor hasn't done so, a collector hired by the creditor is very unlikely to do so. In fact, your mortgage lender, your car creditor, and other big creditors are much more likely to report your delinquency (without any threat) than is a debt collector that threatens you about your credit record.

**15. Co-signed debts should be treated like your other debts.** If you've put up your home or car as collateral on a loan, it's a high priority debt for you if the other co-signers aren't paying. If you haven't put up such collateral, they're a lower priority. If others have co-signed for you and you can't pay the debt, tell your co-signer about your financial problems so that s/he can decide what to do about that debt.

**16. Refinancing is *rarely* the answer – Beware!** Refinancing can be very expensive. It can give creditors more opportunities to seize your important assets. Example: by refinancing unsecured credit card debt through a loan where your home is collateral (second mortgage), you've now put your home at risk if you default on the new loan. A short-term fix can create long-term problems. (See the National Consumer Law Center's (NCLC) publication "[What You Should Know About Refinancing.](#)")<sup>1</sup>

## Garnishment

Garnishment is a powerful tool for creditors who have gotten a court judgment mandating payment of a debt. Garnishment allows these creditors to be paid directly from your income or bank accounts. In Washington State, the law protects certain kinds of income and personal property from garnishment. (See our publication "[How to Claim Personal Property Exemptions.](#)") If someone's trying to garnish your income or seize your property or bank account, consult an attorney.

---

<sup>1</sup> This section was excerpted (edited) with permission from National Consumer Law Center (NCLC), *Surviving Debt: A Guide for Consumers* (1999 Third Edition). For a copy of this publication, or others provided by NCLC, contact them via their website @ [www.consumerlaw.org](http://www.consumerlaw.org) or by phone/mail @ **National Consumer Law Center:  
18 Tremont Street; Boston, MA; 02108-2336; (617)-523-8089.**

## Other Resources

If you're low-income, you can get additional legal advice by calling the Northwest Justice Project's Coordinated **L**egal **E**ducation and **R**eferral (CLEAR) program at **1.888.201.1014**. Legal publications covering a broad range of legal topics, including some of those mentioned above, are available online at [www.washingtonlawhelp.org](http://www.washingtonlawhelp.org).

0110EN

---

**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, March 2010.**

**© 2010 Northwest Justice Project — 1-888-201-1014**

(Permission for copying and distribution granted to the Alliance for Equal Justice and to individuals for non-commercial purposes only.)