Debtors’ Rights: Dealing with Collection Agencies

Collection agencies are calling me nonstop. What can I do?

Read this for help understanding debt collection practices and your rights. If a collection agency is suing you OR already has a judgment against you, see Debtors’ Rights in a Lawsuit or packets on How to Answer a Lawsuit for Debt Collection or How to Claim Personal Property Exemptions. Get these at WashingtonLawHelp.org.

What is a collection agency?

Federal and Washington state laws define a collection agency as a business or organization whose principal purpose is collecting debts. **This does not include the credit or collection office of a business whose primary purpose is not debt collection.**

**Example:** The credit office of a department store or car dealership, or a bank that issues credit cards and tries to collect a debt, is not a "collection agency" within the law’s meaning. Collecting debts is not their main business.

- Lawyers who regularly collect consumer debt are “debt collectors.” They must follow federal law.

Federal and state laws protect debtors whom collection agencies contact. Washington's laws are the "Collection Agency Act (CAA) (RCW 19.16.100) and Consumer Protection Act (CPA) (RCW 19.86.010). The federal law is the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. 1692). You can find these laws at your local library or online.

What if I do not think I owe the debt?

When a collection agency first contacts you in writing about a debt, its notice must have certain information in it. If they first contact you by phone, you should insist they contact you in writing.

The first written notice from a collection agency must have all of these:

- The collection agency's name and address
- The debt amount, stating the original debt and a breakdown of other costs or interest
- The name of the creditor you owe
- A statement that unless you dispute the debt within 30 days after getting the notice, the agency will assume the debt is valid
- A statement that, if you request it within 30 days, the collector will provide the original creditor's name, if different from the collector
• A statement that if you notify the debt collector in writing (within 30 days of getting the notice) that you dispute the debt, the collection agency will mail you verification of the debt

*Every* communication from a collector must clearly state that they are trying to collect a debt, and will use any information they get from you for that purpose.

You must notify the collection agency in writing within the 30-day period described above if you disagree that you owe any of the debt. Once the collection agency gets your written notice that you dispute the debt, it must stop collection until it sends you its proof that you do owe it.

Keep copies of what you send the collection agency. Whenever possible, use certified mail, return receipt requested. See *Form Letter #1*.

Some *examples* of disputes of debts:

• You do not believe you owe the debt or stated amount
• You paid the debt
• You had medical coupons. The creditor should have billed the state
• You were hospitalized. You told the hospital you could not pay for care. The hospital should have considered payment under a charitable care policy
• You believe collection of the debt is time-barred (see below)

**What does “time-barred” mean?**

A collection agency must start a legal claim against you within certain legal time limitations. If it does not, it is “time-barred.” The claim has expired. The collection agency waited too long. It cannot bring the claim now.

The exact time limit depends on the basis for the debt or type of claim. Most claims based on written contracts or accounts receivable governed by Washington law must be begun within **six years**. Most claims based on oral contracts or accounts receivable must be begun within **three years**.

**Can I make the collection agency stop contacting me?**

Mostly. Under the *Fair Debt Collection Practices Act* (FDCPA), if you notify the collection agency IN WRITING to stop communication with you, they can only contact you again to advise you

• it will stop trying to collect from you
• it intends to take action against you, such as filing a lawsuit

This law applies even if you do owe the debt.
What should this letter to the collection agency say?

You must include:

- Your name and address
- If available, the account number on the collection agency’s statement
- The date
- A statement that you are exercising your rights under the FDCPA
- A statement that you want the collection agency to stop calling or writing, or both

See Form Letter #2. KEEP A COPY OF THIS LETTER. Mail the collection agency the original. Mail the original creditor a copy.

YOU MUST SEND THE COLLECTION AGENCY THE LETTER. If, after sending it, the collection agency contacts you again for some reason besides the two above, they have violated the FDCPA. You can sue the collection agency for money damages and lawyer fees.

This will not stop the collection agency from suing you. It only stops them from calling and sending you letters.

Which property and income does the law protect from debt collection?

The kinds of income that cannot be taken are:

- Social Security
- Supplemental Security Income (SSI)
- Temporary Assistance for Needy Families (TANF)
- Child support you receive
- Most pensions (private, federal and civil service)
- Unemployment Compensation
- Federal student loans

Some of your wages are also exempt: Generally, the greater of 35 times the current federal minimum wage or 75% of your net wages. (”Net wages” is 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 www.dol.gov/whd/flsa/index.htm. Then multiply that amount by 35.

芳香: In 2019, the federal minimum wage is $7.25 an hour. If you make less than $253.75 a week net, all your wages are exempt. If you make $400 a week, $300 is exempt. ($300 is 75% of your wages. That amount is more than $253.75).
This income is usually **not** exempt from garnishment for child support payments or taxes.

If the creditor is trying to collect on **private student loan debt**, the greater of 85% of your take-home pay or 50 times the state minimum wage is exempt. In 2019, the minimum wage in Washington state is $12.00 an hour.

If your income is exempt from garnishment, let the collection agency know in writing. Keep a copy of the letter.

**Example:** Your only income is Social Security, which is exempt by federal law from garnishment. You would put that in your letter. You should also put this info in all your other written correspondence to the agency. (**Example:** a “cease communication” letter, telling the agency to stop contacting you.)

This is not a defense to the underlying claim. It does let the collection agency know your only income is exempt from garnishment. If they successfully sue you and then garnish your bank account containing exempt funds, you may be able to sue them.

This **property** cannot be taken to collect a debt:

- $125,000 equity in your home
- Your car, if it is of limited value
- Your personal belongings, up to a certain monetary limit
- Your cell phone, personal computer, and printer

If a creditor or collector is trying to garnish your income or property, see [How to Claim Personal Property Exemptions](https://www.washingtonlawhelp.org/) and [Debtors’ Rights in a Lawsuit](https://www.washingtonlawhelp.org/) at WashingtonLawHelp.org.

**What are unlawful practices?**

The Washington Collection Agency Act and federal Fair Debt Collection Practices Act prohibit harassment, false or misleading statements and unfair practices by collection agencies. If you believe a collection agency has unreasonably harassed or misled you, you can sue it. You could win damages and lawyer fees. Here are some **examples** of violations:

- The collection agency threatens to tell or tells your employer or neighbors about the debt.
- The collection agency calls at hours defined by law as “unreasonable:” 9:00 p.m. - 8:00 a.m. under federal law; 9:00 p.m. - 7:30 a.m. under state law.
- The collection agency threatens you with illegal action, such as threatening to take money out of your Social Security check, taking other exempt property, or threatening arrest or jail.
• The debt collector communicates with you or anyone in your household in a harassing, intimidating, threatening, or embarrassing way.

• The debt collector communicates with you or your spouse more than three times in one week.

• The debt collector sends you notices that deliberately look like government documents or an emergency message.

• The debt collector asks for a postdated check or threaten you with criminal prosecution.

• The debt collector deposits a postdated check before the date on the check. **A collector’s acceptance of your postdated check violates the law unless you had three to ten business days’ notice before the collector deposited the check.**

If you believe a collection agency has violated your rights under the law, or a collection agency sues you on a debt you do not believe is valid, contact a lawyer. Agencies taking complaints about violations of the Fair Debt Collection Practices Act and the Washington Collection Act are:

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<thead>
<tr>
<th>Department of Licensing</th>
<th>Federal Trade Commission</th>
<th>Washington State Attorney General</th>
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<tbody>
<tr>
<td>Collection Agency Board</td>
<td>915 Second Avenue, Room 2806 Seattle, Washington 98174</td>
<td>Consumer Protection Division 800 5th Ave., Suite 2000 Seattle, WA 98104-3188</td>
</tr>
<tr>
<td>PO Box 9034</td>
<td>Online Complaint: ftccomplaintassistant.gov</td>
<td>Phone: 1-800-551-4636</td>
</tr>
<tr>
<td>Olympia, WA 98507-9034</td>
<td></td>
<td>Online Complaint: <a href="http://www.atg.wa.gov/file-complaint">www.atg.wa.gov/file-complaint</a></td>
</tr>
<tr>
<td>Phone: 800-451-7985</td>
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<tr>
<td>FAX: 360-750-6699</td>
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<tr>
<td>Email: <a href="mailto:BLS@dol.wa.gov">BLS@dol.wa.gov</a></td>
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**What can I do on my own?**

Make sure you have strong proof that the collection agency violated the law. You should:

• Set up a place to keep everything you get from the collection agency, including envelopes.

• Make notes of every phone call from the collection agency, including date, time, content, and names of people involved in the conversations.

• If you learn the collection agency has contacted anyone besides you, make notes of the same information.
• If the stress of dealing with a collection agency causes physical, mental or emotional problems for you, see a counselor or doctor of your choice. Discuss the situation thoroughly with them.

What if I need legal help?

• **Apply online with CLEAR*Online** - [nwjustice.org/get-legal-help](http://nwjustice.org/get-legal-help) or

• **Call CLEAR at 1-888-201-1014**

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

• **Outside King County**: Call 1-888-201-1014 weekdays, 9:15 a.m. - 12:15 p.m.

• **King County**: Call 211 for info and referral to an appropriate legal services provider weekdays, 8:00 am – 6:00 pm. You may also call (206) 461-3200, or toll-free 1-877-211-WASH (9274). You can also get info on legal service providers in King County through 211’s website, [www.resourcehouse.com/win211/](http://www.resourcehouse.com/win211/).

• Persons 60 and Over: Seniors age 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income. Assets limits may apply. Seniors in King County may call 2-1-1.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 using the relay service of their choice.

CLEAR and 211 will conference in free interpreters when needed.


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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.

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

You can use this “no-contact letter” form with collectors. Check the boxes next to any appropriate language in the letter that applies in your case.

This letter includes a general request for verification. If you have specific disputes (for example, you want to dispute that this is your account), ask for info related to those in the verification request. Mention those specific disputes in the letter.
RE: Account No.:

To Whom It May Concern:

I dispute the validity of the debt in the above-reference account, and would like verification from you of the obligation, the amount owed, and proof of a valid assignment of the debt from the original creditor to you. Please send me copies of all documents related to this debt including, but not limited to, court judgments or other orders, contracts, billing statements, account records, invoices, receipts, cancelled checks and correspondence. In addition, please detail all costs and interest charges owed, the dates incurred, and all amounts paid on the account. Send all of the requested documents to me at the address listed below.

I am also exercising my rights under the Fair Debt Collection Practices Act, 15 U.S.C §1692, and demand that you cease all communication with me, my family members and all other third persons.

I cannot pay this debt. My only income is from Social Security. My income is exempt from garnishment pursuant to 42 U.S.C. §1383(d) and §407. I have no real or personal property to use to pay this debt.

Sincerely,

Dated: ______________________

____________________________________

Signature

Printed Name: _________________________

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

You can use this “no-contact letter form” to deal with collectors. Check the boxes next to any appropriate language in the letter that applies in your case.

- This form letter does not have a request for verification.
Collection Agency Name:
Address:

RE: Account No.:

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