

## FAQ'S

### Frequently Asked Questions (FAQ) on Debt Collection Laws

#### What is a creditor?

A creditor is someone who is owed a debt by a consumer, if the debt originates from a transaction that took place during the ordinary course of the creditor's business.

#### Who is considered a third party debt collector or collection agency? Can an attorney be a debt collector?

A debt collector is any person, other than the creditor, who regularly collects debts owed to others. Under a 1986 amendment to the Fair Debt Collection Practices Act, this includes attorneys who collect debts on a regular basis.

#### What debts are covered under the Fair Debt Collection Practices Act (FDCPA)?

Personal, family, and household debts are covered under the Act. This includes money owed for the purchase of an automobile, medical bills, credit cards, checks, loans, lines of credit, overdraft fees, etc. Business debts are NOT covered by the FDCPA.

#### How may a debt collector contact you?

A collector may contact you in person, by mail, telephone, telegram, or Fax. However, a debt collector may not contact you at unreasonable times or places, such as before 8 a.m. or after 9 p.m., unless you agree. A debt collector also may not contact you at work if the collector knows that your employer disapproves.

#### Can a consumer collection agency call you at work?

Yes. However, if the collector believes that your employer may not approve of this communication, then they must stop calling. In addition, you can personally request that a consumer not call you at work.

#### Can a consumer collection agency communicate with anyone else about your debt?

A collection agency may not contact anyone about your debt besides you, your attorney, a credit agency, the creditor or the creditor's attorney. They cannot contact friends, roommates, co-workers, family or former spouses.

The only time collection agency can contact other people to find out your address, what your phone number is, and your employer, and they may only contact them one time. They can not mention that you owe any debt nor may they disclose the name of the company.

To protect your privacy, debt collectors may not send post cards, and they may not use any language or symbol on the envelope to indicate that the communication relates to the collection of a debt.

#### Can you stop a debt collector from contacting you?

You may stop a debt collector from contacting you by writing a letter to the debt collection agency telling them to stop or cease and desist. Once the debt collection agency receives your letter, they may not contact you again except to say there will be no further contact or to notify you that the agency, or to inform you that the creditor intends to take certain specific actions. Send the letter by certified, return receipt requested and save copies of everything in a safe place.

#### What must a debt collector tell you about the debt?

Within five days after you are first contacted, the collector must send you a written notice telling you the money you owe; the name of the creditor to whom you owe the money; and what action to take if you believe you do not owe the money or dispute the debt.

#### What types of debt collection practices are prohibited?

Harassment. Debt collectors may not harass, oppress, or abuse any person. For example, debt collectors may not:

- Falsely imply that they are attorneys or government representatives.
- Falsely imply that you have committed a crime;
- Falsely represent that they operate or work for a credit bureau;
- Misrepresent the amount of your debt;
- Misrepresent the involvement of an attorney in collecting a debt;
- Indicate that papers being sent to you are legal forms when they are not;
- Indicate that papers being sent to you are not legal forms when they are.

Debt collectors also may not state that:

- You will be arrested if you do not pay your debt;
- They will seize, garnish, attach, or sell your property or wages, unless the collection agency or credit intends to do so, and it is legal to do so (garnishment is currently prohibited in South Carolina for the collection of most debts):
- Actions, such as a lawsuit, will be taken against you, which legally may not be taken, or which they do not intend to take.

Debt collectors may not:

- Give false credit information about you to anyone;
- Send you anything that looks like an official document from a court or government agency when it is not;
- Use a false name.

Unfair practices. Debt collectors may not engage in unfair practices in attempting to collect a debt. For example, collectors may not:

- Collect any amount greater than your debt, unless allowed by law;
- Deposit a post-dated check prematurely;
- Make you accept collect calls or pay for telegrams;
- Take or threaten to take your property unless this can be done legally;
- Contact you by postcard.

**Should you tape the debt collectors?**

Yes! – If your state allows it by law. If your state allows, you do not have to tell the debt collector you are recording them. Check the internet for a list of states allowing one party permission for recording. New York and New Jersey allow you record your telephone conversations without telling the debt collector! Audio tape evidence is the best evidence in making a debt collector pay you money damages!

**What can you do if you believe a debt collector violated the law?**

You have the right to sue a debt collector in a state or federal court within one year from the date you believe the law was violated. If you win, you may recover money for the damages you suffered plus an additional amount up to \$1,000. Court costs and attorney's fees also can be recovered.