



7th JMTC Legal Assistance Information

Debt Collection Practices

Please note that this Information Paper only provides basic information and is not intended to serve as a substitute for personal consultations with a Legal Assistance Attorney.

If you use credit cards, have a car loan, or are paying off a student loan or home mortgage, then you, like most other Americans, are a "debtor." With luck, you will never come in contact with a debt collector. But if you do, you should know that there is a law to make sure you are treated fairly. In the Fair Debt Collection Practices Act, the U.S. Congress prohibited debt collection practices considered to be abusive. Of course, the law does not erase any legitimate debt you owe, but it does help protect you from unfair harassment, intimidation, and deception. The Act covers personal, family, and household debts. This includes money owed on a car loan, medical care, charge accounts, etc.

A debt collector is anyone, other than the creditor or the creditor's attorney, who regularly collects debts for others. A debt collector may contact you in person, by mail, telephone, or telegram. However, a debt collector may not contact you at inconvenient or unusual times or places, such as before 8 a.m. or after 9 p.m., unless you agree. A debt collector may not contact you at work if your employer disapproves. (The military considers military supervisors and commanders to be "employers." So a debt collector who contacts you at your on-post office or worksite is violating the law, if your commander or supervisor prohibits such contact.) You may stop a debt collector from contacting you by writing a letter to the collection agency telling them to stop. Once they receive this letter, they may not contact you again, except to say there will be no further contact. The debt collector is allowed to notify you that some specific action may be taken, but only if the debt collector or the creditor usually takes such action.

If you have an attorney, like a Legal Assistance attorney, the collector may not contact anyone but the attorney. If you do not have an attorney, a debt collector may contact other people, but only to find out where you live or work. The debt collector is not allowed to tell anyone other than you or your attorney that you owe money. In most cases, debt collectors may

not contact any person more than once. Within 5 days after you are first contacted, the debt collector must send you a written notice telling you the amount of money you owe, the name of the creditor to whom you owe the money, and what to do if you feel you do not owe the money. The debt collector may not contact you if you send the collector a letter within thirty days after you are first contacted saying you do not owe the money. However, a debt collector can begin collection activities again if you are sent proof of the debt, such as a copy of the bill.

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

- (1) Use threats of violence or harm to property or reputation.
- (2) Publish a list of consumers who refuse to pay their debts (except to a credit bureau).
- (3) Use obscene or profane language.
- (4) Repeatedly use the telephone to annoy someone.
- (5) Telephone people without identifying themselves.
- (6) Advertise your debts.

e. False Statements are prohibited. Debt collectors may not use any false statements when collecting a debt. For example, debt collectors may not:

- (1) Falsely imply that they are an attorney or government representative.
- (2) Falsely imply that you have committed a crime.
- (3) Falsely represent that they operate or work for a credit bureau.
- (4) Misrepresent the amount of the debt.
- (5) Indicate that papers being sent are legal forms when they are not.
- (6) Indicate that papers being sent are not legal forms when they are.
- (7) Give false credit information about you to anyone.
- (8) Send you anything that looks like an official court document or government document.
- (9) Use any false name.

Also, debt collectors may not say that:

(1) You'll be arrested if you do not pay your debt.

(2) They will seize, garnish, attach, or sell your property or wages, unless the collection agency or the creditor intends to do so, and it is legal for them to do so.

(3) Actions will be taken against you which legally may not be taken.

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

(1) Collect any amount greater than your debt, unless allowed by law.

(2) Deposit a post-dated check before the date on the check.

(3) Make you accept collect calls or pay for telegrams.

(4) Take or threaten to take your property unless this can be done legally.

(5) Contact you by postcard.

(6) Put anything on an envelope other than the debt collector's address and name. Even the name can't be used if it shows that the communication is about the collection of a debt.

You have the right to sue a debt collector in a state or federal court within one year from the date the law was violated. If you win, you may recover money for the damage you suffered, court costs, and attorney's fees. In addition to the federal Fair Debt Collection Practices Act, many states have their own debt collection laws. Check with your state Attorney General's office to determine your rights under state law. Federal agencies rely on consumer complaints to decide which companies to investigate. You can assist these enforcement efforts by contacting the appropriate government office. Additionally, you should always contact your Legal Assistance Office. If a retail store, department store, small loan and finance company, oil company, public utility company, state credit union, government lending program, or travel and expense credit card company is involved, contact the Federal Trade Commission office nearest you.

German debt collectors operating in Germany are not subject to the provisions of the Fair Debt Collection Practices Act. Furthermore, if the creditor has to resort to a debt collection agency because you repeatedly fail to pay a debt in spite of the creditor's reasonable attempts to collect the debt, then under German law a court may order you to pay the collection agency's expenses as well as the original debt itself.

