

Tips for Smart Consumers—Debt Collection

The following information may be obtained in brochure form by email request at ConsumerComplaint@atg.state.vt.us

Are you behind on your credit card payments, your home mortgage, a personal loan or other debt? If so, you may be contacted by the creditor or a debt collection agency acting on the creditor's behalf. While the law does not prohibit reasonable attempts to collect legitimate debts, both state and federal laws protect you from abusive debt collection practices.

What types of debt collection practices are prohibited?

The following practices are prohibited regardless of whether the debt is being collected by the creditor, an attorney or a third-party collection agency.

Threats. Debt collectors may not threaten action that they will not or cannot take. For example, debt collectors may not:

- use or threaten violence or other criminal means;
- threaten that if you don't pay they will take your property or your wages without a court order (except where such actions are permitted by law).

Harassment. Debt collectors may not harass, oppress, or abuse anyone.

For example, debt collectors may not:

- use profane language;
- contact you so frequently as to be unreasonable;
- misrepresent who they are or the purpose of their contact;
- contact you between the hours of 9 p.m. and 8 a.m.;
- call you at work if you have instructed the creditor or collection agency not to do so.

Unreasonable publication. The law prohibits a debt collector from notifying other people about your debt. In particular, debt collectors must not:

- contact your employer (unless a court has entered a judgment against you or the purpose of the contact is to locate you and the collector does not disclose that you owe a debt);
- contact any family member other than your spouse or your parents or guardian if you are a minor and reside in the same house (again, unless a court has entered a judgment);
- inform any person other than those above of the existence of a debt or use any means of communication that would ordinarily be seen by any other person.

Deceptive Representations. Debt collectors may not engage in deception in attempting to collect a debt. For example, debt collectors may not:

- falsely represent the status of the debt in any legal proceeding (e.g., that the collector has obtained a judgment against you);
- falsely represent that the collector is associated with any state or federal agency;
- use any document that simulates a government document.

Unconscionable Means. Debt collectors may not use unconscionable methods to collect a debt. For example, debt collectors may not:

- add their fee to the amount of the debt unless allowed by law to do so;
- contact you, other than by sending a statement of account, once you notify them that you are represented by an attorney and that all communications should be addressed to the attorney.

What other rights do I have?

If the collector is a debt collection agency collecting on behalf of the creditor or an attorney who collects debts on a regular basis, you have some additional rights. These include:

- You can stop a collection agency from contacting you by writing a letter to the agency telling them to stop. Once they receive your letter, they may not contact you again except to say there will be no further contact or to notify you if they or the creditor intend to take some specific action, such as filing a lawsuit against you. You should send the letter by *certified mail, return receipt requested*, so that you have evidence that you sent the letter and that it was received by the agency. (See back page for a sample “cease contact” letter.)
- The collection agency must send you a written notice containing the amount of the debt, the name of the creditor, and what action to take if you believe you do not owe the money.
- A collector may not contact you if, within 30 days after you are first contacted, you send the collection agency a letter stating you do not owe the money. However, a collector can renew collection activities if you are sent proof of the debt, such as a copy of a bill for the amount owed.

Can a creditor require me to increase my monthly payments?

Once you have defaulted on a loan or fallen behind on your credit card payments, the creditor usually has the right to collect the total amount of the debt at once. However, creditors will often settle for less than the total. We recommend that you send a *written proposal* to the creditor indicating the amount you can afford and a payment schedule. Make sure that it is an agreement you can honor!

Can a creditor sue me if I am making regular payments?

Yes. If you have defaulted or fallen behind on your payments, the creditor can sue you, even if you are currently sending in payments. It is important to be able to document that you have been making an effort to pay off the account. If you are taken to court, make sure that you can document your income and expenses so that you can accurately demonstrate to the court your ability to pay the bill.

Can a creditor refuse my partial payments?

A creditor or collection agency can refuse partial payments. Sometimes they will return checks to consumers if they determine the amount is too small. If this happens, we recommend that you put the amount into a savings account. In the event that you are sued, you will be able to show your good intentions towards paying the bill.

Where can I report a debt collector for violating my rights?

If a creditor, attorney or collection agency has engaged in any of the practices described above, the first thing you should do is send them a certified letter directing them to cease all

communication. If they continue to contact you or otherwise violate your rights, you should contact the Attorney General's Consumer Assistance Program at the following address:

Consumer Assistance Program
Morrill Hall-UVM
Burlington, VT 05405
Phone: 80- 649-2424 (toll-free) or
802-656-0862 (Chittenden County)
Email: ConsumerComplaint@atg.state.vt.us

Where can I get help managing my debts?

The National Foundation for Consumer Credit operates a consumer credit counseling service with locations throughout Vermont. For more information about their services, or to schedule an appointment, you should contact them at the following address:

Consumer Credit Counseling Service of Vermont and New Hampshire
P.O. Box 676
Concord, NH 03302
800-327-6778

Sample "Cease Contact" Letter

Sam Consumer
Main Street
Anytown, VT 00000

By Certified Mail

Date
ABC Collection Agency
Main Street
Anytown, USA 00000

Dear Sir/Madam:

Please cease all communication with me concerning account number with (Company).

The federal Fair Debt Collection Practices Act requires that you stop contacting me immediately upon receipt of this letter.

Very truly yours,

Sam Consumer