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Dealing with Debt Collectors

When the economy struggles, more and more consumers find it hard to keep paying their credit card bills, auto loans and mortgages. Falling behind on your payments can lead to calls from debt collectors, who use a variety of tactics for getting debtors to pay their bills.

Some of these tactics come close to being illegal, while others cross the line entirely. Here, you can learn about the federal Fair Debt Collection Practices Act (FDCPA), which regulates the tactics of debt collectors (state laws can also protect you from debt collectors' tactics; check with your state attorney general's office for details).

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Application of the FDCPA

The Fair Debt Collection Practices Act applies to anyone who is engaged in the business of collecting debts owed to a third party, such as a department store, auto dealer or other financial institution. This includes lawyers who make debt collection a regular part of their practice.

Contact

Debt collectors are permitted to contact you in person, by letter, telephone or facsimile, but not by postcard. They are not permitted to contact you at work if they know your employer does not approve of such contacts, nor may they contact you at inconvenient times, typically considered before 8 a.m. and after 9 p.m.

If you have a lawyer and the collector knows it, the collector must contact your lawyer instead of speaking to you directly. Collectors are also prohibited from contacting third parties about your debt, except in an attempt to learn how to contact you, such as to learn your telephone number or to find out where you work. Even then, collectors are not allowed to tell the third party that they are calling in regard to collecting a debt.

Within five days of making their first contact with you, debt collectors must send you a letter that states the amount of money you allegedly owe, the name of the creditor to whom you allegedly owe the money and the steps you can take if you dispute the claim that you owe the debt.

If you dispute the debt, you have 30 days to respond to the collector's claim. The collector is not allowed to contact you further, unless he or she can provide proof that you owe the debt, such as by receipts or copies of the bills owed. In any case, you can get a debt collector to stop contacting you by writing a letter telling him or her to stop. Once the collector receives that letter, the only reason he or she can contact you further is to tell you what steps the lender or the collector will take to enforce the debt.

Prohibited Tactics

The FDCPA also prohibits a variety of unsavory tactics that debt collectors have been known to use. It makes it illegal for a debt collector to use obscene or profane language when communicating with you or any third party, or to threaten you with violence.

They are also prohibited from falsely implying that you have broken the law or will be arrested for not paying your debt, and they cannot suggest that documents they send you are from a court or other law enforcement agency when they are not. They also cannot claim to work for the government or a credit bureau.

Your Rights

All of the above sounds good, but the fact is some debt collectors still violate the law on a consistent basis. Fortunately, the FDCPA offers consumers a way to fight back against those collectors. A debtor can file suit in either federal or state court against a debt collector who fails to comply with the law.

The suit must be filed within one year of the alleged violation. If you win your lawsuit, you may be entitled to collect damages, court costs and attorney fees, and an additional amount of up to \$1,000.

There is another weapon at the disposal of consumers who suffer at the hands of debt collectors who violate the FDCPA. They can file suit as a group, and in the event their lawsuit is successful, can be awarded up to \$500,000 in damages or 1 percent of the debt collector's net worth, whichever is less.

You can file a complaint against a debt collector you believe has broken the law by visiting the Federal Trade Commission's website, www.ftc.gov or by calling its toll-free number, 1-877-FTC-HELP. You may also want to talk with an attorney who specializes in helping consumers; your local bar association's referral service can help you find one in your community.

Of course, none of this means you will be off the hook for a legitimate debt, but there is no reason to be mistreated by a debt collector when the law is on your side.

The information contained in this article is for informational purposes only and is not intended as legal advice. Always consult with an attorney before taking any legal action.

Resources

- Federal Trade Commission: www.ftc.gov
- Financial Literacy Education Commission: <http://MyMoney.gov>
- National Foundation for Credit Counseling (NFCC): www.nfcc.org

Here when you need us.

Call: 866-682-6047

Web ID: MY58481

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