

Debtors' Rights: Dealing with Collection Agencies

Are you being contacted by debt collection agencies?

This publication should help you understand debt collection practices and your rights when dealing with debt collectors. If you are being sued, or if there is already a judgment against you, see our publications [Debtors' Rights in a Lawsuit](#) or information packets on [How to Answer a Lawsuit for Debt Collection](#) or [How to Claim Personal Property Exemptions](#). Get these at our website: www.washingtonlawhelp.org. Or call the CLEAR intake line. (Contact info at the end of this publication.)

What is a collection agency?

Collection agencies are regulated by both the state and federal government. Both the State of Washington and the federal government have laws protecting debtors who are contacted by collection agencies. In Washington, these laws are called the "Collection Agency Act" (in [RCW 19.16.100](#)) and the "Consumer Protection Act" (in [RCW 19.86.010](#)). The federal act is called the "Fair Debt Collection Practices Act" (in [15 U.S.C. 1692](#)). You can find these laws at your local library or online.

Federal and state law defines a collection agency as a business or organization whose principal purpose is the collection of debts. It does not include the credit or collection office of a business whose primary purpose is not debt collection. Example: The credit office of a large department store or car dealership, or a bank that issues credit cards and attempts to collect a debt, is not a "collection agency" within the meaning of state and federal law. Collection of debts is not their main business. Attorneys who regularly collect consumer debt are also considered "debt collectors" who must comply with the federal law.

Following are some of your rights under debt collection acts and garnishment laws.

What if you do not think you owe the debt?

When a collection agency first contacts you in writing regarding a debt, it must provide you with a written notice that has certain information. (If the collection agency first contacts you by phone, insist that they also contact you in writing.) The first written notice from a collection agency must have:

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

Every communication from a collector must clearly disclose that the purpose of the communication is to collect a debt, and that any information obtained will be used for that purpose.

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

Keep copies of the letter you send to the collection agency. Whenever possible, send letters to collection agencies by certified mail, return receipt requested. See **Form Letter #1** at the end of this publication.

Some examples of disputes of debts:

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

There are legal time limitations within which a legal claim must be begun. Otherwise it is “barred.” This means that the collection agency waited too long and cannot bring the claim now. The claim has expired.

The exact time limitation will depend on the basis for the debt or the type of claim being made. Most claims based on written contracts or accounts receivable governed by WA law must be begun within six years. Most claims based on oral contracts or accounts receivable must be begun within three years.

How do I stop the collection agency from contacting me?

Under the Fair Debt Collection Practices Act, if you notify the collection agency **IN WRITING** that you want it to stop further communication with you, the collection agency cannot communicate with you further, except:

- To advise you that it is stopping its effort to collect; or
- To advise you that the collection agency intends to take action, such as bringing a lawsuit against you.

This law applies whether you owe the debt or not. If you write such a letter to a collection agency, include the following:

- Your name and address and, if available, the account number on the statement received from the collection agency;
- The date;
- A statement that you are exercising your rights under the Fair Debt Collection Practices Act; and
- A statement that you want the collection agency to stop calling or writing you, or both.

See **Form Letter #2**, at the end of this publication. **KEEP A COPY OF THIS LETTER.** Mail the original to the collection agency. Mail a copy to the original creditor.

YOU MUST SEND THE LETTER TO THE COLLECTION AGENCY. If, after you send the letter, the collection agency contacts you again for some reason other than the two reasons stated above, the collection agency has violated the Fair Debt Collection Practices Act. Under this law, you have the right to sue the collection agency for money damages and lawyer fees.

◆ This will not stop the collection agency from suing you. It only stops calls and letters from the collection agency.

Which property and income is protected from debt collection?

Certain kinds of income and property cannot be taken to collect a consumer debt. They are:

- Social Security
- Supplemental Security Income
- Temporary Assistance for Needy Families (TANF)
- All pensions: private, federal and civil service, once deposited into your bank account or cashed
- Labor & Industries disability payments, and
- Unemployment Compensation.

Some of your wages are also exempt: The greater of 35 times the current federal minimum wage or 75% of your net wages. ("Net wages" means 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 here:

<http://www.dol.gov/whd/flsa/index.htm>.

Then multiply that amount by 35.

◆ Example: As of 2012, the federal minimum wage is \$7.25 an hour. If you make less than \$253.75 a week net, all of your wages are exempt. If you make \$400 a week, \$300 is exempt (since \$300 is 75% of your wages, and that amount is more than \$253.75).

◆ This income is usually not exempt from garnishment for child support payments or taxes.

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

Example: If your only income is Social Security, which is exempt from garnishment by federal law, then write just that in your letter. You should also put this information in any of your other written correspondence to the agency. (Example: a "cease communication" letter.)

While this is not a defense to the underlying claim, it does let the collection agency know that your only income is exempt from garnishment. If the collection agency successfully sues you and then garnishes your bank account containing exempt funds, then you may be able to sue the collection agency.

Certain property cannot be taken to collect a debt:

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

For more information, or if a creditor or collector is trying to garnish your income or property, see our publications [How to Claim Personal Property Exemptions](#) and [Debtors' Rights in a Lawsuit](#).

Unlawful Practices

Both the Washington Collection Agency Act and the Federal Fair Debt Collection Practices Act prohibit harassment, false or misleading statements and unfair practices by collection agencies. If you believe that you are being unreasonably harassed or misled by a collection agency, you can sue the collection agency. If you win, the law says you can collect damages and lawyer fees. Here are some examples of violations:

1. the collection agency threatens to tell your employer or neighbors about the debt, or actually does tell them about the debt;
2. the collection agency calls at hours the law has defined as "unreasonable" (9:00 p.m. - 8:00 a.m. under the federal law; 9:00 p.m. -7:30 a.m. under state law);
3. the collection agency threatens you with illegal action (example: threatening to take money out of your Social Security check, taking other exempt property, or threatening arrest or jail).
4. the debt collector communicates with you or anyone else in your household in a way that harasses, intimidates, threatens, or embarrasses you.
5. the debt collector communicates with you or your spouse more than three times in one week.
6. the debt collector sends you notices that deliberately look like

government documents or a telegraphic or emergency message.

7. the debt collector cannot ask for a postdated check in order to threaten you with criminal prosecution. The debt collector cannot deposit a postdated check before the date on the check. Also, 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 that your rights under the Washington Collection Agency Act, Consumer Protection Act, or Fair Debt Collection Practices Act have been violated, or you are sued on a debt you do not believe is valid, contact a lawyer. Agencies which take complaints about violations of the Fair Debt Collection Practices Act and the Washington Collection Act are:

Department of Licensing
Collection Agency Board
PO Box 9034
Olympia, WA 98507-9034

Federal Trade Commission
915 Second Avenue, Room 2806
Seattle, Washington 98174

**Mail to the Consumer Resource
Center nearest you:**

**Bellingham - Island, San Juan, Skagit and
Whatcom Counties**

Address:
103 E. Holly Suite 308
Bellingham, WA. 98225
Telephone: 360-738-6185
Fax: 360-738-6190

Spokane - Northeast Washington

Address:
West 1116 Riverside
Spokane, WA. 99201-1194
Telephone: 509-456-3123
Fax: 509-458-3548

Kennewick - Southeast Washington

Address:
500 N. Morain St. Suite 1250
Kennewick, WA. 99336-2607
Telephone: 509-734-7140
Fax: 509-734-7285

**Tacoma - Pierce, Mason, Grays Harbor and
Kitsap Counties**

Address:
P.O. Box 2317
Tacoma, WA 98401
Telephone: 253-593-2904
Fax: 253-593-2449

**Seattle - King, Snohomish, Clallam and
Jefferson Counties**

Address:
900 Fourth Ave. Suite 2000
Seattle, WA. 98164-1012
Telephone: 206-464-6684
Fax: 206-464-6451

**Vancouver - Thurston, Lewis, Pacific, Cowlitz,
Skamania, Clark and Wahkiakum**

Address:
1220 Main St. Suite 549
Vancouver, WA. 98660-2964
Telephone: 360-759-2150
Fax: 360-759-2159

What can I do on my own?

Your success in an unfair debt collection practice claim often depends on the strength of your proof a violation has occurred. You should do some or all of the following:

1. Set up a place to keep all notes or letters from the collection agency. Keep all written material you get from them, including the envelopes.
2. Make notes of every phone call from the collection agency, including the date, time, content and names of people involved in the conversations.
3. Make notes of the same information if you learn that the collection agency has contacted anyone other than you.
4. If the stress of dealing with a collection agency begins to result in physical, mental or emotional problems for you, see a counselor or physician of your choice. Discuss the situation thoroughly with them.

What if I need Legal Help?

- Apply online with [CLEAR*Online](http://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 from 9:10 a.m. until 12:25 p.m. CLEAR works with a language line to provide interpreters as needed at no cost to callers. If you are deaf or hard of hearing, please call 1-888-201-1014 using your preferred TTY or Video relay service.
- **King County:** Call 211 for information and referral to an appropriate legal services provider Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, which may be useful when calling from a pay phone, 1-877-211-WASH (9274). 211 works with a language line to provide interpreters as needed at no cost to callers. Deaf and hearing-impaired callers can call 1-800-833-6384 or 711 to be connected to a relay operator at no cost, who will then connect them with 211. Information on legal service providers in King County may also be accessed through 211's website at www.resourcehouse.com/win211/.
- **Persons 60 and Over:** Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

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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. This information is current as of the date of its printing, June 2012.

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

The following letter is a no-contact letter form that you can use with collectors. Check the boxes next to appropriate language in the letter if that language applies in your case.

This letter includes a general request for verification. If you have specific disputes (for example, if you want to dispute that this is your account), you should request information related to those in the verification request, and mention those specific disputes in the letter.

TO: _____

By Certified Mail RRR

RE: ACCOUNT # _____

Dear Sir or Madam:

I am writing to request that you stop communications to me regarding my account. The Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., requires that you honor my request.

Under the Fair Debt Collection Practices Act, once I have asked you to stop contacting me, you may only communicate with me to (1) advise me that your further efforts are being terminated, (2) notify me that you may invoke specified remedies that you normally invoke or (3) where applicable, to notify me that you intend to invoke a specified remedy.

Please provide me with the following:

- (1) Verification of any debt relating to my account;
- (2) The name and address of the original creditor and the current creditor;
- (3) Confirmation that any such debt and the accuracy of the items in the files relating to me will be treated as disputed; and
- (4) Forms and assistance I can use to dispute the accuracy of such items.

Until advised otherwise, you should consider this debt to be disputed.

- Furthermore, I have been the victim of abusive collection practices by agents of your company. Specifically:

_____.

You should know that such practices violate Federal law and place you in jeopardy of legal liability.

- I also wish to inform you that my sole source of income is Supplemental Security Income (SSI)/ Social Security. As a result, my income is exempt from garnishment for this type of debt. I have no non-exempt assets.

Thank you for your cooperation.

Sincerely,

Dated: _____

_____ (print name)
_____ (street address)
_____ (city, state & zip)

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

You can choose to use the following no-contact letter form to deal with collectors. Check the boxes next to appropriate language in the letter if that language applies in your case.

◆ Note: This form letter does not include a request for verification.

TO: _____

By Certified Mail RRR

RE: ACCOUNT # _____

Dear Sir or Madam:

I am writing to request that you stop communications to me regarding my account. The Fair Debt Collection Practices Act, 15 U.S.C. §1692 et seq., requires that you honor my request.

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