

KNOW YOUR RIGHTS

DEBT PROBLEMS?

1. What can a creditor do to me if I owe a debt?

The creditor may:

- stop doing business with you.
- report your debt to a credit reporting agency.
- retain debt collection agencies to attempt to collect the debt.
- sell your debt to a debt buying company.
- bring a lawsuit to collect the debt.

2. What if the creditor sues me?

If the creditor sues you for the debt, you can defend yourself and dispute the debt. Do not ignore the legal action. Seek legal assistance for a Summons or any legal papers you receive.

A creditor may or may not be able to enforce a judgment and collect money from you. If the debt is “secured” by collateral such as your home (as in the case of a mortgage), the creditor may take back (“repossess”) the collateral to satisfy the debt. If the debt is not secured, such as a hospital bill or credit card debt, the creditor may freeze and subsequently seize funds in your bank account, garnish your wages within certain limits, take personal property, or put a lien on real property.

3. What is exempt from debt collection?

Judgment creditors cannot enforce judgment awards against certain individuals. These litigants either have minimal income to garnish or have an income derived from public funds.

Under Federal and New York State laws, some assets that are sources of income are exempt from collection, under the following circumstances:

- Funds that are exempt from collection, include Social Security, SSI, disability, pensions, child support, spousal maintenance, unemployment insurance, veterans benefits, workers compensation, and public assistance.
- The first \$ 2,625 in your bank account is exempt from collection, if it contains any directly deposited exempt benefits listed above. The first \$ 1,740 in all other bank accounts are exempt from collection.
- Federal benefits are exempt from collection in the amount of (a) \$ 2,625 or (b) twice as much as the account holder’s monthly benefits, whichever is greater.
- Your income is exempt from collection, if your weekly take home pay is less than 30 times the minimum wage. (Currently, the current minimum wage in New York is \$ 7.25. $30 \times \$7.25 = \$ 217.50$).

4. I get too many phone calls from debt collectors. What are my rights?

Debt collectors work for a company or an attorney who are paid to collect debt. Some debt collectors use abusive and unlawful methods such as repeated threatening phone calls. Debt collectors are regulated by a federal law, called the Fair Debt Collection Practices Act (FDCPA), and New York State laws that requires them to deal fairly with debtors.

5. What does the debt collector have to tell me about the debt?

Within five days after you are first contacted, the 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 action you can take if you believe you do not owe the money.

6. How do I dispute the debt?

If you believe that you do not owe the money, you must write a letter to the debt collector to dispute the debt and request verification of the debt. Once a debt collector receives your dispute letter, the debt collector must stop all collection activities, get verification of the debt from the creditor, and send you the proof. Until the requested proof is provided, the debt collector may not attempt to collect on the debt, or even start a lawsuit against you.

7. Can I stop a debt collector from contacting me?

Yes. You can write a letter called a “Cease Letter,” asking the debt collector to stop. Once the debt collector receives your letter, the debt collector may not contact you except to confirm that there will be no further contact, or to tell you that the debt collector will take specific action to collect the debt, such as bringing a law suit.

8. What kind of conduct is prohibited by the Fair Debt Collection Practices Act (FDCPA)?

The FDCPA prohibits harassing and deceptive collection practices. Specifically, the debt collector may not:

- tell third parties like your neighbors, friends or relatives about your debt.
- contact you if you have an attorney
- contact you after you write a “cease” letter (except to acknowledge the letter)
- telephone repeatedly and frequently
- call you at inconvenient times, usually before 8 am and after 9 pm
- contact you in any manner that make it public that you owe money, such as a post card or publishing your name.

The debt collector may not use false or misleading statements or threaten or harass you when collecting a debt. For example, they may not misrepresent the amount you owe. The debt collector must not falsely claim:

- to represent a governmental agency
- to be an attorney or a law firm
- to be working for a credit bureau
- that you have committed a crime
- that you will be arrested if you do not pay your debt
- that the collector will seize your property, levy your bank account or garnish your salary without first being awarded a judgment by a court

The debt collector may not threaten or harass you by:

- using obscene, derogatory or insulting remarks
- making threats against you or your relatives

Debt collectors may not engage in unfair practices such as:

- imposing charges or fees not authorized by a court or state laws
- collecting more than the amount owed
- deposit a post-dated check before date

9. Can I sue the debt collector?

If the debt collector used harassing or misleading methods in violation of the FDCPA, you have a right to sue the collector in state or federal court within one year from the date the law was violated. If you win, you may recover money for the damages you suffered plus an amount up to \$ 1,000 as well as court costs and attorney's fees.

If a debt collector fails to give you information required by law, or unlawfully threatens or harasses, call 311 or visit nyc.gov/consumers to file a complaint with DCA.

Resources

For more information about consumer and credit issues, or to file a complaint contact:

- New York City Department of Consumer Affairs. 311 or 212-NEW-YORK outside the five boroughs. nyc.gov/consumers
- The Federal Trade Commission. 1-877-FTC-HELP (1-877-382-4357)
- New York State Attorney General's Office 1-800-771-7755 (info & complaint line) www.oag.state.ny.us

To find a lawyer, contact:

- The Legal Aid Society, Queens Civil Office 1-718-286-2450 or 1-212-577-3300, www.legal-aid.org.
- The Association of the Bar of the City of New York 1-212-626-7373(English) or 1-212-626-7374 (Spanish) www.abcnyc.org (click on "Consumer Resources")
- New York State Courts Online – If you are representing yourself, visit the website for information and forms used, <http://www.courts.state.ny.us/courts/nyc/civil/represent.shtml>



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MAKING THE CASE FOR HUMANITY

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**HOW TO DEAL
WITH YOUR DEBTS
AND STOP DEBT
COLLECTORS
FROM HARASSING
YOU**



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