

How to Deal with Debt Collectors

A debt collector is someone who regularly collects debts of another. Collectors are regulated by federal law, The Fair Debt Collection Practices Act.

Sometimes debt collectors engage in collection tactics that are illegal. For example, a collector that calls an excessive number of times in a day or calls at unreasonable hours such as before 8 AM or after 9 PM; or threatens to have you arrested for nonpayment of a debt is in violation of federal law.

You have the right not to be called at work by telling the collector not to call you at work and providing an alternative number to call.

If you get a phone call from a debt collector, it is a good idea to plan ahead what you are going to say. It is also important to keep a record of the calls you receive. You can use the sample phone log included to record the calls.

You can stop a debt collector from contacting you, by writing a letter to the collector telling them to stop contacting you. Once the collector receives the letter they may not contact you again except to notify you that the debt collector intends to take specific action such as filing a lawsuit. Included is a sample letter.

Often you will be asked from a debt collector to make payments or enter an agreement of payment. Be careful about entering any agreements to pay if you are not convinced you can afford the payments. You can tell the collector that you need time to think about entering any agreement to pay.

If you are asked to enter a confession of judgment or consent to entry of a judgment you should not agree and consult with a lawyer.

If you have fallen behind in your payments or anticipate falling behind in the payments, you may want to work out a plan to lower the monthly payments.

To work out or negotiate a lower payment plan in your account it is crucial that you prepare a budget first. Preparing a budget will allow you to know the amount you can pay and avoid agreeing to pay an amount that you cannot afford.

If you contact your creditor or collector to negotiate lower payments do not agree to an amount that is more than what you established you can afford with your budget.

Sample script to follow when negotiating with collector/creditor:

"Hello my name is _____. I am unable to make the regular payments on my account _____ (acct. number). I am _____ months behind or I am going to fall behind."

"I would like to bring my account current. Can we arrange a payment plan?"

The collector may offer some suggestions. Remember NOT to agree to any amount that you cannot afford.

"I am currently working with a financial counselor or I have carefully prepared a budget and I can afford to pay _____ (state the amount you can pay NOT the amount the creditor may be demanding)."

You can also negotiate what will be reported to the credit bureau. Ask how the repayment will affect your credit report and if once you have repaid the debt any negative information will be removed from the credit bureau.

Record the information given to you by the creditor/collector. Note the name of the person you talked to, the date and time of the conversation and specific details about the agreement.

If you have reached an agreement with the collector repeat it back to the collector.

"Thank you Mr./Ms. _____ for working with me. I understand that I will not be able to receive any additional credit until my situation changes. I will make _____ (amount of payment) beginning on _____. I will send you a letter confirming the agreement.

Within 5 working days send the creditor a confirmation letter detailing the agreement.

Remember to always keep a copy of any correspondence for your records.

Sample confirmation letter

Date: _____

Re: Account Number _____

Name on account: _____

Dear Mr./Ms. _____:

This letter is to confirm the agreement entered on _____. The terms of the agreement are:

1. The payments to be made to my account will be _____ per month/week
2. The payments will be made starting on _____ until _____.
3. If I complete the payments on time until the amount of _____ is paid, _____ will remove any negative information from the credit bureau.

Please contact me immediately if the terms of our agreement do not coincide with your recollection of our conversation.

Sincerely,

Phone log:

Name of company: _____

Telephone number: _____

Account number: _____

Name in Account: _____

Date _____ Time _____

Person I spoke with _____.

Notes of conversation:

Follow-up:

NC Prohibited Acts by Debt Collectors

Sometimes creditors avoid the federal Fair Debt Collection Practices Act by establishing their own in-house collection department. People working in the creditor's internal department are considered employees of the creditor and are not covered by federal law.

North Carolina consumer protection laws offer protection to consumers, against **anyone** collecting a debt from a consumer. NC law does not exclude in-house collectors or original creditors. The following are examples of debt collection practices prohibited by NC law.

1. Harassment

- debt collectors may not use threats of violence
- publish list of consumers who refuse to pay debt (except to credit bureau)
- use obscene language
- call you at work unless they don't have any other telephone number to call
- excessive calls or calls that are too early in the morning or too late at night

2. False Statements

- falsely imply that they are attorneys
- falsely imply that you have committed a crime
- misrepresent the amount of the debt

Debt collectors also may not state that:

- you will be arrested if you do not pay the debt
- your wages will be garnished, unless legal to do so
- send you documents that look like official court or government documents when it is not

3. Unfair Practices

- collect any amount greater than your debt
- take or threaten to take your property unless this can be done legally

If you have been subjected to conduct prohibited by the NC Prohibited Acts by Debt Collectors Act, you should contact the NC Attorney General, Consumer Protection Division at (919) 716- 6000 or (877) 566-7226.

You may have a cause of action to sue creditors who violate the law. Keep a record of all contacts and save all the mail you receive. You can also consult with an attorney to determine your rights.

Send this by certified mail, return receipt requested, to the address provided by the creditor to send such mail – NOT the payment address - and be sure to keep a copy for your files.

DATE

Collection Agency
Address
City and State, ZIP

Re: Account No.: _____, in the name of

Dear Collector:

Pursuant to the Fair Debt Collection Practices Act, 15 U.S.C.A. §1692(c) and N.C.G.S. 75-51, et seq., you are hereby notified to cease and desist all communication with me regarding the above-referenced debt. I request that you:

- No longer contact me by email, telephone, mail, or otherwise
- Do not contact me at work;
- Do not contact my employer; and
- Do not contact any of neighbors, friends, family members, or acquaintances.

In accordance with federal law, once you have received my request, you may only contact me to:

- Provide proof that I owe the debt that you claim I owe;
- Provide a copy of my state and federal rights concerning this debt, including how to dispute your claim;
- provide proof that you are licensed in my state, and show evidence of your license number;
- Advise me that further efforts are being terminated; or
- Notify me that you may or intend to invoke specific remedies.

I am keeping records of all correspondence regarding this matter. If you contact me for any other reason than those stated above, you could be in violation of 15 U.S.C.A. §1692 and N.C.G.S. 75-51, et seq.

Sincerely,