

# DEBT COLLECTION

## IF YOU OWE A DEBT

If you are a consumer and are having difficulty paying a debt, you can contact the creditor before the bill goes to a collector. Sometimes the creditor will refinance or otherwise modify the payment agreement rather than pay a debt collector. If the creditor does turn the debt over to a collection agency, you have certain rights.

## ALTHOUGH MOST DEBT COLLECTORS OPERATE

*in an ethical manner, some resort to abusive or fraudulent tactics to collect on a past-due account. Tactics such as disturbing a debtor's sleep, bothering a person at work, calling neighbors and threatening violence are prohibited under both Texas and Federal laws.*

## DON'T PAY EXTRA

It is unlawful for a debt collector to attempt to collect more than the amount originally agreed upon – whether the agreement was in writing or not. However, the debt may be increased by the addition of attorney's fees, investigation fees, service fees, collection fees or other charges if a written contract authorizes the additional charges.

## IF YOU DISAGREE

If you dispute an item in the file a debt collector has on you, you should give the debt collector written notice. The debt collector must provide you with the

necessary forms for the written notice and must help you fill out the forms if you request assistance. The debt collector has 30 days after receiving your written request to determine whether or not the disputed item is correct. If the item is incorrect, it must be fixed. The debt collector must alert anyone who has already received a report containing the incorrect item. If, at the end of 30 days, the debt collector has not been able to determine whether or not the item is correct, the collector must make the change you requested and notify anyone who received a report containing the incorrect item. If it is later determined that the item was correct after all, you must be notified and collection efforts may be continued.

## HARASSMENT IS PROHIBITED

State law prohibits the use of harassing and abusive collection tactics. It is illegal for any debt collector to:

- threaten violence or other criminal acts;
- use profane or obscene language;
- falsely accuse the consumer of fraud or other crimes;
- threaten arrest of the consumer or repossession/ seizure of property without proper court proceedings;
- use the telephone to intentionally harass debtors by calling anonymously or making repeated or continuous calls; and
- make collect telephone calls without disclosing the true name of the caller before the charges are accepted.



## **FRAUD AND DECEPTION ARE ILLEGAL**

The use of fraudulent or deceptive practices is also prohibited, including:

- using a false name or identification;
- misrepresenting the amount of the debt or its judicial status;
- sending documents to a debtor that falsely appear to be from a court or other official agency;
- failing to identify who holds the debt;
- misrepresenting the nature of the services rendered by the collection agency or the collector; and
- falsely representing that the collector has information or something of value in order to discover information about the consumer.

## **YOUR HOME AND WAGES ARE PROTECTED**

Some collectors will threaten to foreclose on homesteads or garnish wages. In Texas, a homestead cannot be taken to pay a debt except for debts incurred for the purchase of the home, for home improvements, for home equity loans or payment of certain taxes. Wages may be garnished to pay court-ordered child support, back taxes and defaulted student loans.

## **VIOLATORS CAN BE PENALIZED**

Violators of the Texas Debt Collection Act are subject to criminal and civil penalties. Consumers who think that they have been harassed or deceived may seek injunctions and damages against debt collectors.

These actions are also violations of the Texas Deceptive Trade Practices/Consumer Protection Act, which gives the Attorney General the authority to take action in the public interest.

## **FEDERAL LAW REGULATES COLLECTION AGENCIES**

Texas statutes cover actions by anyone trying to collect a consumer debt. The federal law—the Fair Debt Collection Practices Act—applies only to collectors working for professional debt collection agencies and attorneys hired to collect a debt. It is similar to Texas law, but also prohibits:

- calls at work if the collector has reason to know the employer does not permit such calls;
- calls before 8 a.m. or after 9 p.m. unless the collector knows such times are more convenient for the debtor;
- “unfair or unconscionable means to collect or attempt to collect a debt”; and
- any conduct to harass, oppress or abuse.

If you are being subjected to harassing, abusive or fraudulent debt collection tactics by professional debt collectors and you want to stop further contact, notify the collector in writing. Keep a copy of your letter and send the original to the debt collector by certified mail.

## **CONSUMER INFORMATION**

For more information about fraudulent debt collection or abusive collection tactics, call the Attorney General’s Consumer Protection Hotline at 1-800-621-0508, or contact your nearest Attorney General regional office.

Austin • (512) 463-2070  
Dallas • (214) 969-5310  
El Paso • (915) 542-4800  
Houston • (713) 223-5886  
Lubbock • (806) 747-5238  
McAllen • (956) 682-4547  
San Antonio • (210) 225-4191

All consumer complaints must be made in writing. Please call or write for a complaint form. Write to:  
Office of the Attorney General  
Consumer Protection Division/010  
P.O. Box 12548  
Austin, Texas 78711–2548

Complaint forms and additional information can also be found in the consumer affairs section of our Web site, at [www.oag.state.tx.us](http://www.oag.state.tx.us).

## **CONTACT INFORMATION**

### **BY US MAIL**

Office of the Attorney General  
Consumer Protection Division/010  
P. O. Box 12548  
Austin, Texas 78711-2548

### **ON THE INTERNET**

[www.oag.state.tx.us](http://www.oag.state.tx.us)

### **BY TELEPHONE**

Main agency switchboard  
(512) 463-2100  
Consumer Protection Division  
(800) 621-0508 or  
Regional Offices  
Austin • (512) 463-2070  
Dallas • (214) 969-5310  
El Paso • (915) 834-5800  
Houston • (713) 223-5886  
Lubbock • (806) 747-5238  
McAllen • (956) 682-4547  
San Antonio • (210) 224-1007

### **PUBLIC INFORMATION & ASSISTANCE**

(512) 463-2007  
(800) 252-8011