

DEBT COLLECTION GUIDE

The New York City
Department of Consumer Affairs

*Debt
collection
law*

*When debt
collectors
cross the
line*

Have you heard from a debt collector? Here are some facts you should know.

If you owe money, you are legally obligated to pay. Failure to pay off debts can lead to a poor credit history. Your access to further credit will be cut off. More debt makes it harder to pay off past and current bills at the same time.

A creditor has the right to contact you to collect outstanding debts. Some employ the services of a debt collection agency to press for the money owed.

Sometimes these agencies violate the law.

New York City law prohibits harassment or abuse by collectors. All debt collection agencies that seek to collect debts from New York City residents must be licensed by the Department of Consumer Affairs (DCA). All debt collection agencies must comply with the City's Consumer Protection Law and rules enacted by DCA, or risk suspension or revocation of their licenses by DCA.

Say you owe money. Sometimes a debt collector may pull dirty tricks to intimidate you into paying off. Collectors are not entitled to cross the line between lawful collection practices and menacing intimidation.

The City's debt collection law provides the strongest anti-harassment protection in the country. It covers debt collection agencies and companies' in-house collection departments in their efforts to collect outstanding debts for clients.

*Not
allowed*

- Engaging in acts of violence, threats of violence or obscene language.
- Making false statements, including misrepresenting the character or status of the debt, and stating that nonpayment will lead to the collector seizing your wages, unless the seizure is lawful and the creditors intend to pursue such action.
- Calling a debtor at an inconvenient or unusual time, particularly before 8 AM or after 9 PM, or more than twice a week.
- Advertising a debt or revealing it to another person.
- Contacting your employer for any reason other than to locate you. This also applies to contacts with neighbors, family, and friends. Creditors and debt collectors cannot discuss the alleged debt with anyone other than you.

*By the
book*

Under the law, debt collectors must:

- Notify you of the right to dispute a debt, and stop trying to collect on disputed debts, until a correction has been made or an explanation has been sent.
- Stop bothering you if you request it in writing. They may send one final notice telling you if they plan to sue.
- Deal only with your attorney, after you have hired one and informed the collectors of this.

NOTE! Licensed debt collectors that collect CHILD SUPPORT PAYMENTS must:

*Child
support
payments*

- **SUBMIT TO DCA a copy of the standard contract** with clients for the collection of child support payment to ensure compliance with the requirements governing the content of such contracts.
- **FURNISH a surety bond** for \$5,000 payable to the City of New York as a condition for obtaining a collection agency license, or renewing such license, on or before its next expiration date.

*Who's
exempt?*

The law does not apply to debt collection activities performed by:

- state and federal employees
- nonprofit credit counseling organizations
- public utilities regulated by the Public Service Commission
- individuals performing an action required by law

When a debt collector contacts you the first time, it is usually in the form of a DUNNING LETTER. Find out if the collection claim is valid, but NEVER IGNORE A DUNNING LETTER. Respond to the letter immediately.

*If the debt
is valid*

- Calculate your finances and figure out your ability to repay the debt. If you cannot pay off the debt right away, be honest with the creditor. There is a good chance the creditor will work out a repayment plan with you.

Do not suggest to the creditor that you can pay off the debt when you cannot, or that you can't pay the debt when you actually can.

Pay your SECURED DEBTS first — when property has been put up as collateral. However, don't ignore your other unsecured debts. Make every effort to pay them off as soon as possible.

*If you are
not sure if
the debt is
valid*

- **Write a letter to the collection agency requesting proof of the original debt. If you request proof of an alleged debt, the collector is not allowed to contact you again until proof is provided. Do not be pressured into making any payments until you have received proof of the original debt. When you receive such proof and are satisfied that the debt is valid, decide the best way to pay it.**

*If you do
not owe the
debt*

- Tell the collector, in writing (verbal requests have no legal weight), to immediately cease contact about the alleged debt. Your letter will act as a CEASE AND DESIST ORDER. Simply write:

This is a request to cease all further communication in regard to this matter. Your account of my alleged debt is inaccurate. Any further communication beyond what is legally allowed will be a violation of the law.

In your letter you should mention any abusive tactics used on you by the collector's employees.

Send your cease and desist order to the collection agencies and to the original creditor via certified mail, return receipt requested. Make copies of the letter and any documents that support your claim.

After receiving a cease collection letter, a collection agency is only authorized to contact you once more, in writing, to inform you of any further legal action they intend to pursue.

If collection agencies continue to communicate with you or harass you after you send a cease collection letter, tell them they are violating the law, and file a complaint with the Department of Consumer Affairs. You also can take legal action against a collector who persists in trying to collect on the debt claim. For any legal case, be sure to document your contact with the collector.

*Know your
rights*

Knowledge is your best weapon against debt collection harassment. Know your rights. Make sure the collector knows that you know them.

- ❑ If you make a deal over the telephone with a debt collector, insist that the collector confirm it in writing. No deal is binding without written confirmation.
- ❑ Never ignore debt collectors. Even small debts can hurt your credit record.
- ❑ If you are sued, do not ignore a court summons. Consult an attorney, or if you cannot retain one, go to the court clerk and answer the summons yourself. If you ignore the summons, the creditor can obtain a default judgment, which may include fees and interest charges in addition to the debt itself. A judgment may also lead to seizing your wages.
- ❑ Do not let a debt collector persuade you to borrow money from a friend or family member to pay off a debt. Never let a debt collector talk you into getting further into debt.
- ❑ You have a legal right to declare bankruptcy, but should seriously think about it and explore other options first. If you are considering declaring bankruptcy, consult with a credit counselor or an attorney first.

*How to get
credit
counseling
assistance*

For a nominal fee, nonprofit credit counseling or budget planning services can help you in setting a budget and negotiate with your creditors. All nonprofit credit counseling or budget planning services must be licensed by the State of New York Banking Department. Contact the National Foundation for Consumer Counseling, (800) 388-2227, for a referral. Double-check the referred service with the State Banking Department, (877) BANK-NYS, toll-free.

*How to
resolve
complaints*

You can file complaints about the actions of debt collectors or debt collection agencies with the NYC Department of Consumer Affairs or the Federal Trade Commission (FTC). For more information or to file a federal complaint, call the FTC toll-free at (877) FTC-HELP or go to **www.ftc.gov**.



Michael R. Bloomberg, Mayor
Jonathan Mintz, Commissioner

The New York City Department of Consumer Affairs fosters a marketplace that consumers can trust and in which honest businesses can thrive.

If you would like more information about the work of the agency or our new strategic initiatives, please call **3-I-I** or contact:

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www.nyc.gov/consumers

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