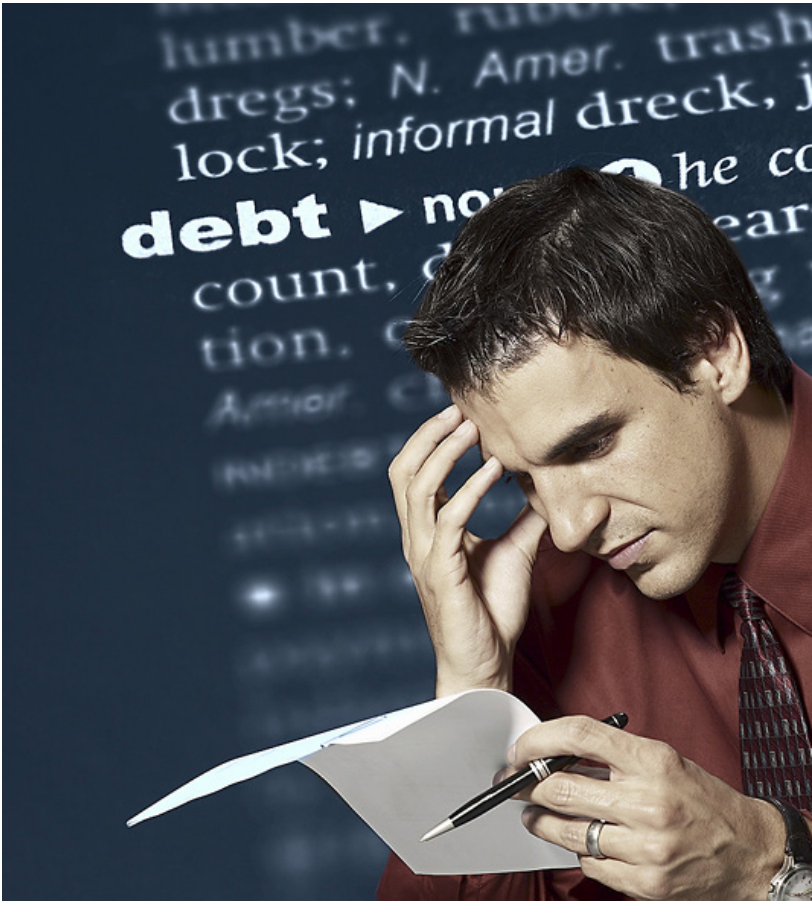


# Debts You Owe And Debts You Don't

*How to spot and fight illegal debt collection tactics.*



NEW YORK STATE



DEPARTMENT OF STATE

## **Division of Consumer Protection**

*Advocating for and empowering New York consumers*

Andrew M. Cuomo, Governor

Cesar A. Perales, Secretary of State

**A** store, bank or other creditor may hire a debt collection company to recoup owed money.

Some intimidating debt collectors have harassed people with threatening phone calls early in the morning or late at night. Other debt collectors have attempted to collect debts that never existed, while others have seized Social Security, Veterans benefits, alimony or child support, and/or other protected benefits from personal bank accounts. These actions are against the law.

This brochure shows how you can spot illegal collection tactics and how the law can protect you.



**The debt collection process officially begins when you are first contacted by a debt collector. The debt collector may also send a notice to the credit reporting bureaus.**

Within 5 days of being contacted by a debt collector, you must be mailed a letter detailing:

- 1) the debt amount;
- 2) the creditor's name;
- 3) a statement that the debt is assumed to be valid unless the consumer disputes the validity of all or any part of the debt within 30 days after receiving the notice; and,
- 4) a statement that on written request, the debt collector will provide the consumer with the original creditor's name and address.

If you dispute owing part or all of the debt, or wish to know the name and address of the original creditor, write a letter to the debt collector within 30 days. (Send your response by certified mail to confirm that your letter is received.) The debt collector must cease all collection activity until it provides verification of the debt or the original creditor information. A debt collector could verify the debt by providing an account history, for example.

# Consumer Safeguards

## **A debt collector CANNOT harass you by:**

- Threatening violence or harm or by using profane language;
- Calling you repeatedly;
- Reaching out to others, except to obtain your contact information.

## **Debt collectors CANNOT make false statements:**

- Implying that he or she works for a law enforcement or government agency or credit-reporting bureau such as TransUnion, Equifax or Experian;
- Using a false name;
- Misrepresenting the amount of the debt; or
- Misrepresenting the legal status of the debt.

## **A debt collector CANNOT contact you:**

- At inconvenient times, such as before 8 a.m. or after 9 p.m., or at inappropriate places unless you otherwise agree to such contact;
- At work if the debt collector knows that the employer disapproves of such contact;
- If you are represented by an attorney. They must contact your lawyer instead;

- If you indicate in writing that you do not wish to be contacted.  
(Note: The debt collector may resort to legal action to pursue its rights.)

**A debt collector or a bank CANNOT seize Supplemental Social Security (SSI); Social Security; welfare; alimony or child support; unemployment, disability, Workers' Compensation or Veterans benefits; or public or private pensions.**

- By contacting your bank, you can try to make arrangements to recoup lost funds and to protect these monies in the future.



## **Common Questions:**

### **Q. If I pay a debt collection agency the full amount owed, how will my credit report be affected?**

A. In this situation, your account will show a zero balance, but it will still have a notation that explains it was paid unsatisfactorily. Whether you pay the full balance or pay a lesser amount agreed upon by the debt collector, an adverse notation generally remains on your credit report for seven years from the date the account was charged off as uncollectible. If a debt collector tries to convince you that payment will remove all derogatory notations associated with that account from your credit report, have them send you that commitment in writing.

### **Q. Is there a statute of limitations on debts in New York State?**

A. Creditors are increasingly selling their old "charged off" accounts to collection agencies for pennies on the dollar. The collection agencies attempt to obtain payment on these accounts. This practice is legal. However, consumers should understand that in New York a creditor has six years to sue a debtor to collect on the amount owed. Although a creditor may attempt to sue a debtor after this period of time, the creditor may not be successful. If you are contacted about debt that is "older" than six years, you may advise the collection agency that you will pay them only if a court finds that you currently owe such amounts.

**Q. How long will my credit report be affected by not paying my bills on time?**

A. The federal “Fair Credit Reporting Act” states that most negative information can stay on your credit report for seven years from the date of last activity. The date of last activity is usually the date that the creditor charged off your account as uncollectible, and it is usually noted on your credit report.

**Q. I am being harassed by debt collectors, but I’m sending them all I can. Is this legal?**

A. Debt collectors are not required to accept anything less than full payment. However, in most cases, once a debt collector understands that you are paying all you can afford, he/she usually will cooperate with you. Debt collectors cannot harass or abuse you, according to State and federal laws.

**Q. What should I do if I believe a debt collector has violated the law?**

A. You may have legal rights. Problems with a debt collector should be reported to the Office of the New York State Attorney General or the Federal Trade Commission:

- **New York State Attorney General**  
Consumer Frauds & Protection Bureau  
120 Broadway, New York, NY 10271  
1-800-771-7755  
[www.ag.ny.gov](http://www.ag.ny.gov)

- **Federal Trade Commission**  
Consumer Response Center  
Washington, DC 20508  
1-877-382-4357  
[www.ftc.gov](http://www.ftc.gov)

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