



PREVENTIVE LAW SERIES

FAIR DEBT COLLECTION PRACTICES ACT



Prepared by:
Legal Assistance Department
Region Legal Service Office Southwest
3395 Sturtevant Street Suite 9
San Diego CA 92136-5072
(619) 556-2211

WHAT IS THE FAIR DEBT COLLECTION PRACTICES ACT?

The federal Fair Debt Collections Practices Act (FDCPA), 15 U.S.C. §§ 1692 et seq., grants consumers certain rights, which protect you from abusive and deceptive debt collection practices by debt collectors. The California Fair Debt Collection Practices Act, Cal. Civil Code §§ 1788 et seq., has a broader definition of “debt collector,” covering collection agencies, creditors, and employees of creditors.

WHO IS A DEBT COLLECTOR?

Not all people attempting to collect money are debt collectors. Under the federal Act, a debt collector is a person who “regularly attempts to collect debts by using interstate commerce or the mail.” Under federal law, the employee of a creditor is NOT a debt collector; however, California law includes people working on behalf of others, such that the employee of a creditor IS a debt collector.

PROHIBITED PRACTICES BY DEBT COLLECTORS

A debt collector may not:

1. Communicate with the debtor by calling, writing, or talking with the debtor directly if the debt collector knows the debtor has an attorney; call repeatedly or at unusual or inconvenient times or places; reach the debtor at work (if the debt collector knows that the debtor is prohibited from receiving debt collection calls at work); or send a document that misleadingly appears to be from a court, attorney, or government agency.
2. Harass or abuse the debtor by harming or threatening the debtor or a third person (or the reputation or property of those persons), using obscene or profane language, or publishing the name of the debtor as a person who does not pay bills.
3. Communicate with third parties about the debtor; give false information about the debtor; or fail to disclose that the debtor disputes the debt; contact a third party (other than the debtor's attorney or a credit bureau) for any purpose except locating the debtor, verifying the debtor's employment, finding out about the debtor's medical insurance (for medical bill debts) or failing to reveal the debt collector's company name to any third party contacted, if asked.
4. Make false or misleading statements, including: falsely claiming to be an attorney, police officer, or government agent; threatening to take unintended or inappropriate action (such as jailing the debtor); falsely claiming that the debtor has committed a crime, or falsely claiming to be conducting a survey, casting a movie, or promising money or gifts if the debtor will disclose certain information.
5. Use unfair or outrageous debt collection methods, such as: adding interest, fees or charges not authorized in the original agreement or which are not allowed under state law.

WHAT MUST THE DEBT COLLECTOR TELL THE DEBTOR?

When contacted by a debt collector, they must notify you of the following:

1. The amount of the debt.
2. The name of the creditor to whom the debt is owed.
3. A statement that you have a right to dispute the debt or it will be assumed to be valid unless you notify the debt collector within 30 days that the debt is disputed.
4. A statement that the debt collector will verify the debt and send you written verification if you notify them in writing within 30 days that the debt is disputed.
5. A statement that the debt collector will send you the creditor's new name and address (if it has changed) if you request it from the debt collector in writing within 30 days.

HOW TO STOP COMMUNICATIONS FROM THE DEBT COLLECTOR

If you notify the debt collector in writing either that you refuse to pay the debt or that you want the debt collector to stop contacting you, the debt collector **MUST STOP**, subject to a few exceptions. They may still contact you to tell you that efforts to collect the debt are terminated, that a specific action is being taken, or that the collector intends to take certain actions, which are normally taken.

YOUR REMEDIES IF THE DEBT COLLECTOR VIOLATES THE FDCPA

You can hold the debt collector liable for any damages which you suffer as a result of the debt collector's violation of the FDCPA, as well as attorney's fees for any civil action you bring to enforce those rights. Additionally, the court may award you statutory damages of up to \$1,000. In addition to a lawsuit, you may also file a complaint with the California Department of Consumer Affairs, your state Attorney General's office, and/or the Federal Trade Commission.

LEGAL ASSISTANCE SERVICES

A legal assistance attorney is available by appointment Monday through Thursday from 0800 - 1030 and 1300 - 1500, and Friday from 0900 - 1100. Powers of attorney and notaries are available Monday through Friday at the same times. For more information, please contact the Legal Assistance Office, located in Building 56, 32nd Street Naval Station, San Diego, CA, by telephone at (619) 556-2211, or our office at Naval Air Station North Island – Coronado, Building 318 – Second Deck, above the Fleet and Family Support Center, Saufley Road, by telephone at (619) 545-6437.

RESOURCES

Federal Trade Commission: (877) FTC-HELP; www.consumer.ftc.gov/features/feature-0009-military-families; www.ftc.gov/bcp/edu/pubs/consumer/credit/cre18.shtm

- Consumer Information: www.consumer.ftc.gov; (877) FTC-HELP
- File a Consumer Complaint: www.ftccomplaintassistant.gov

California Department of Consumer Affairs: (800) 952-5210; www.dca.ca.gov

Federal Fair Debt Collections Practices Act (FDCPA), 15 U.S.C. §§ 1692 et seq. (2012).

California Fair Debt Collection Practices Act, Cal. Civil Code §§ 1788 et seq. (2013).