

FAIR DEBT COLLECTION PRACTICES ACT

Protection from the Abusive Debt Collection Practices of Third Parties (Collection Agencies, etc.)

The Fair Debt Collection Practices Act of 1978 prohibits abusive, deceptive and unfair debt collection practices by debt collectors. The following is a summary of various points covered by the Act.

Who is a debt collector?

Under the Act, a debt collector is anyone, other than the original creditors or his attorney, who regularly collects debts for others. For example, an outside agency collecting for a hospital is covered – but a department store employee, a banker, or a finance company employee collecting on a credit account issued by his or her firm IS NOT covered by the Act.

What debts are covered?

Almost any consumer debt you owe which is being collected by a third party.

How may a debt collector contact you?

A debt collector MAY contact you in person, by mail, telephone or telegram. However, contact cannot be at inconvenient times or places, such as before 8:00 a.m. or after 9:00 p.m., unless you agree. A debt collector MAY NOT contact you at work if your employer disapproves.

Can you stop a debt collector from contacting you?

YES! You may stop a debt collector from contacting you by saying so in writing. (This notice should be mailed via *certified mail, return receipt requested*, to prove it was received by the collector). Once such notice is received from you, the debt collector can no longer contact you, EXCEPT to tell you that there will be no further contact. Also, the debt collector may notify you that some specific action may be taken, but only if the debt collector or the creditor usually takes such action.

May a debt collector contact any other person concerning your debt?

In general, a debt collector MAY contact any person TO LOCATE YOU. The debt collector MAY NOT, however, tell anyone else that you owe money, or in any other way identify to anyone else his or her company or purpose in trying to make contact with you.

What is the debt collector required to tell you about the debt?

Within five (5) days after you are first contacted, the debt collector must send you a written notice, telling you (1) the amount you owe, (2) the name of the creditor to whom you owe the money, and (3) what to do if you feel you do not owe the money.

What if you feel that you do not owe the debt?

The debt collector **MUST NOT** contact you if you send a letter within thirty (30) days after you are first contacted saying you do not owe the money. The collector **CAN**, however, begin collection activities again after providing proof that you do owe the debt.

What types of debt collection practices are prohibited?

A debt collector **MAY NOT** harass, oppress, or abuse any person. A debt collector **MAY NOT**, for example, use threats of violence, threaten to harm your reputation, use obscene language, make repeated calls to annoy, telephone anyone without identifying himself, nor advertise your debt. Neither may a debt collector make **FALSE** statements, such as implying he represents the U.S. Government, or that he is an attorney, or that **YOU** have committed any crime, or that legal action is being brought against you when no such action has been taken.

Also, a debt collector **MAY NOT** say that you will be arrested or imprisoned for failure to pay, or that he will take any action against you which cannot legally be taken. A debt collector **MAY NOT** give false information about you to anyone, send you anything that looks like an official government or court document, nor use a false name.

A debt collector also **MAY NOT** deposit any postdated check before the date on the check, make you accept collect calls or pay for telegrams, take or threaten to take your property unless he has a present legal right to do so, contact you by post card, nor put anything on an envelope addressed to you which identifies the nature of the communication.

What control do you have over specific debts?

If you owe several debts, any payment you make must be applied as you wish. A debt collector cannot apply a payment to any debt you feel you do not owe.

What can you do if the debt collector breaks the law?

You have the right to sue a debt collector in a state or federal court within one (1) year from the date the law was violated. You may recover money for the damage you suffered. Court cost and attorney fees can also be recovered.

Who can you tell if the debt collector breaks the law?

Call the nearest State Attorney General's office and tell them you want to file a complaint against a debt collector (in San Antonio: 210-225-4191). While the Federal Trade Commission (FTC) cannot intervene in individual complaints, information from consumers about their experiences is vital to the enforcement of this Act. You should send a letter providing all relevant information to the Regional Federal Trade Commission office nearest you (in Texas: 100 N. Central Expressway, Dallas, Texas 75201; telephone 972-767-5503).