



# Consumer Rights - Fair Debt Collection Practices Act

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*“If you don’t pay this bill in full by Friday, we’ll have you arrested and put in jail. Your employer will find out that you don’t pay your bills, and so will all your friends. The only way to stop this is to pay up now. What are you going to do, Mr. Smith?”*

*“Mrs. Jones, you owe this money. If you don’t pay it, we will take you to court. We’ll get your house and your car. You’ll never be able to get another loan because your credit will be shot. You don’t want that, do you?”*

## The Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act requires that debt collectors treat you fairly by prohibiting certain methods of debt collection. Harassment, threats of bodily harm, or the advertisement of your debt is prohibited. Debt collectors may not make false statements about your credit history or lie about what action they can legally take against you.

This fact sheet explains your rights and how to enforce them.

### Creditors and Debtors

- If you use credit cards, owe money on a personal loan, or are paying on a home mortgage, you are a **“debtor.”**
- The bank, mortgage company, or credit card company with whom you have an account is the **“creditor.”**
- If you fall behind on your credit card or loan payments, or an error is made on your accounts, you may be contacted by a **“debt collector.”**

### Who is a Debt Collector

A debt collector is any person who regularly collects debts owed to others. This includes attorneys who collect debts as well as collection agencies and other companies which pursue debt collection as a business practice.

### What Debts are Covered?

Personal, family, and household debts are covered under the Act. This includes money owed for medical care, charge accounts, credit cards, and car loans.

### How May A Debt Collector Contact You?

A debt collector may contact you by mail, telephone, telegram or fax. A debt collector may NOT, however, contact you at inconvenient times (such as before 8:00 am or after 9:00 pm local time) or places, unless you specifically agree.

A debt collector also may not contact you at work if the collector knows your employer disapproves of such contacts. You can tell the collector not to call you at work.

You can stop a debt collector from contacting you at all by writing a letter telling it to stop. After that, the debt collector may only contact you to say there will be no further contact or to notify you that some specific action will be taken. Remember, that does **not** stop the debt collection activities.

**What is the Debt Collector Allowed to Do?**

If you have an attorney the debt collector must contact the attorney, rather than you. If you do not have an attorney, a debt collector may contact other people, but only to find out where you live, what your phone number is, and where you work. Debt collectors are usually prohibited from contacting third parties more than once. In most cases, the debt collector may not tell anyone other than you and your attorney that you owe money.

If you need assistance finding an attorney, contact the State Bar Association of North Dakota at 1-800-932-8880. You may also qualify for a free or low cost attorney from Legal Services of North Dakota at 1-800-634-5263.

**The Debt Collector Cannot:**

Debt collectors cannot:

- Use threats of violence or harm, or threaten to have you arrested if you do not pay your debt; use profane or obscene language, or use the telephone to harass you or annoy any third party they contact; make you accept collect calls or contact you by postcard.
- Publish a list of people who refuse to pay their debts (except to a credit bureau).
- Make false or misleading statements. They cannot imply you have committed a crime, pretend they are government representatives or attorneys, or use a false name.
- They cannot take or threaten to take your property (unless it can be done legally), or lie about papers they are sending you - they must tell you whether or not they are legal papers.

The debt collector cannot contact you if, within thirty (30) days after you receive a written notice you send the collection agency a letter stating that you do not owe money. However, if the collection agency then sends you proof of the debt, such as a copy of the bill for the amount owed, it can continue its collection activities.

**Your Rights:**

If you reach an agreement with the debt collector regarding payment of the debt, you should follow up with a letter to the debt collector setting out the agreement. That will avoid any confusion over the terms and amounts agreed upon.

**Where to File a Complaint**

All debt collectors must be licensed by the North Dakota Department of Financial Institutions (DFI). You can file a complaint against a debt collector by contacting DFI at **(701) 328-9933** or online at **<http://www.state.nd.us/dfi/>**. You have the right to sue a debt collector in state or federal court if you believe the law was violated. You may wish to contact a private attorney for assistance.

**Too Many Bills?**

If you are feeling overwhelmed by debt and looking for help, you may wish to contact a reputable credit counseling or debt management agency for help. These agencies provide a full range of free or low cost services and can help you negotiate a lower interest rate and reduced payment plan with your creditors. Use caution - not all agencies are legitimate.

*Consider the advantages of working with a reputable local organization, such as the **Village Family Service Center** - which is the only credit counseling organization located in ND that is also an approved provider for required pre-bankruptcy financial counseling. Contact VFSC toll-free 1-800-450-4019 or [www.helpwithmoney.org](http://www.helpwithmoney.org).*