



Debt Collection & Debt Collection Scams

CONSUMER ALERT

BILL SCHUETTE ATTORNEY GENERAL

The Attorney General provides Consumer Alerts to inform the public of unfair, misleading, or deceptive business practices, and to provide information and guidance on other issues of concern. Consumer Alerts are not legal advice, legal authority, or a binding legal opinion from the Department of Attorney General.

Debt Collection & Debt Collection Scams

Michigan consumers are falling behind on paying bills for all types of reasons, including job losses, increased mortgage payments, or medical emergencies. Because dealing with debts and debt collectors can be frightening and overwhelming, this consumer alerts provides background on the do's and don'ts of debt collection, and tips on how to spot and avoid debt collection scams.

Debt Collectors - Is that Legal?

There are varying state and federal laws that govern how debt collectors operate in the State of Michigan. Here is a general roadmap of how debt collectors should legally operate:

Debt Collection and Federal Law: The Federal Fair Debt Collection Practices Act (FDCPA) generally governs how debt collectors may legally operate nationally, as well as in Michigan. The law applies to individuals or businesses that regularly collect debts, including some attorneys, and companies that buy debts and try to collect on them.

The FDCPA covers the collection of personal, family, or household debts, but it does not relate to debts incurred while you may have owned or operated a business.

Debt Collectors and their Contact with Consumers: A debt collector may not call you before 8 am or after 9 pm, unless you permit them to do so. And they may not call you at work if they have been notified orally or in writing that you may not receive calls at work.

Debt collectors who call consumers at work are the source of many consumer and employer inquiries, so it is important to reiterate - in order to stop receiving calls from debt collectors at work, you or your employer should inform the debt collector by phone, followed up with notification by certified mail, return-receipt requested, that such calls are prohibited. Keep the return receipt for your records, and if they contact you at work after you provided this notification, report the debt collector immediately!

If you would like a debt collector to stop contacting you entirely, federal law allows you to demand that they stop contacting you. Send the debt collector a letter, certified mail, return receipt requested. Keep a copy of the letter for your files, along with a copy of the return receipt, in case you need proof that you sent a request to cease contact. After you send this letter, a debt collector may only contact you for one of two reasons: 1) to tell you they will not contact you again; or 2) to inform you that they intend to take further legal action against you.

Finally, it is important to keep in mind that even if you are able to stop a debt collector from contacting you, you will still owe a valid debt!

Disputed Debts: If you believe that a debt collector is demanding payment on a debt that you have a good faith belief you do not owe, send a letter, certified mail, return-receipt requested, to the debt collector disputing the debt. But you must send this dispute letter within 30 days of the debt collector's initial contact! Keep a copy of the dispute letter and the return receipt for your records. The debt collector must stop contacting you unless they provide you with written verification of the debt.

Debt Collector Don'ts: A debt collector may not do any of the following:

- Harass, oppress, or abuse, including using threats of physical violence, obscene language, or repeatedly calling you with the intention of annoying you;
- Lie, including telling you they are from the government, that someone will come and throw you in jail or "debtors prison", that they work for a credit reporting company, that the papers they sent you are legal forms if they are not, or are not legal forms if they are;
- Tell you they intend to sue you when they don't have that intention;
- Tell you they will seize your salary or property unless they have the legal authority to do so;
- Send you a document that looks like it is coming from a court or government agency;
- Provide you with a false company name, or otherwise claim to be someone they are not; or

- Try to collect interest or fees unless your contract or state law allows imposition of interest or fees.

This list is non-exhaustive and if you believe you are being or have been harassed by a debt collector, file a complaint with the Attorney General's Consumer Protection Division, at <http://www.michigan.gov/ag>, or with the Federal Trade Commission, at <http://www.ftc.gov>.

Spotting Fake Debt Collectors: Dealing with legitimate debt collectors is an unpleasant enough experience, but a rash of calls from fake debt collectors has also recently put Michigan consumers on edge. Fake debt collectors will often use several of the "Debt Collector Don'ts", described above. They may call consumers repeatedly at their home, work, or on their cell phones, refuse to provide their real name (they may say their name is Donald Duck or provide some other clearly fake name), and claim to work for fake debt collection agencies. They often have a considerable amount of personal information without you providing it to them, including the name of your bank, your Social Security Number, birth date, or other information. And they often tell you someone will come and arrest you if you don't pay right now.

All of these characteristics are tell-tale hallmarks of fake debt collectors - but "legitimate" debt collectors, acting illegally, may use some of the same tactics at times to scare consumers into paying. So how can you tell a legitimate, but bad, debt collector from a fake debt collector? Legitimate debt collectors are required to follow up their initial phone call with a written notice of the debt within five days. If you don't receive a timely written notice, you will know that call you received was a scam.

If you have been contacted by a legitimate debt collector who uses any or all of the above-mentioned scare tactics, you should report them immediately to the Attorney General or to the Federal Trade Commission.

PAYDAY LOANS AND DEBT COLLECTION SCAMS

The Attorney General's Consumer Protection Division is receiving an increase in the number of consumer calls and complaints related to aggressive debt collectors attempting to collect on outstanding payday loans. Generally, callers claim to be from law firms, government agencies, or even law enforcement agencies. They demand payment on outstanding payday or internet check cashing loans. Often, the callers use many of the "debt collector don'ts" outlined above, and call consumers unceasingly at all hours of the day and night at home or on cell phones, at work, and may even contact relatives.

These calls are especially frightening because they have accurate information about the consumers they target, including Social Security numbers, dates of birth, address information, employer information, bank account information - in

some cases, they even have the names and will actually contact neighbors, relatives, or physicians.

The common thread among these vicious telemarketing scams is that the callers demand payment and refuse to send you any written proof of an outstanding debt and they often threaten legal action or physical violence if the consumer refuses to pay.

If you receive calls such as these:

- Do not send payment or follow the caller's instructions! Also, do not provide any additional information, or confirm any information to anyone that calls you.
- If you believe you are in physical danger, contact your local police department.
- Contact your banking institution and alert them to the fact that your account may have been compromised
- Contact the three credit reporting agencies and put a security freeze on your credit reports. Carefully review copies of your credit reports and look for fraudulent activity.
- File a complaint with the Attorney General's Office, the Federal Trade Commission, or the Internet Crime Complaint Center (<http://www.IC3.gov>).

CONTACT THE ATTORNEY GENERAL'S CONSUMER PROTECTION DIVISION OR THE FEDERAL TRADE COMMISSION

If you have been contacted by a debt collector whom you believe may be violating the law, consider contacting the Michigan Attorney General's Consumer Protection Division at:

**Consumer Protection Division
P.O. Box 30213
Lansing, MI 48909
517-373-1140
Fax: 517-241-3771
Toll free: 877-765-8388**

www.michigan.gov/ag (online complaint form)

Also consider filing a complaint with the Federal Trade Commission, at <http://www.ftc.gov>.