

Protections Against Debt Collectors

CPT Gregory Fetterman, XVIII ABN Corps LAO

Are you in default on past loans or items you purchased on credit? Does your phone keep ringing off the hook with debt collectors on the other end? Have you received threats from debt collectors if you do not “pay-up?” Debtors are covered by federal and state law protections and if any of these situations apply to you it is important you know your rights. Both the North Carolina and Federal versions of the Fair Debt Collection Practices Act (FDCPA) regulate debt collectors in collecting debts and protect consumers from overly aggressive and abusive collection tactics.

When communicating with the consumer’s work, family, or acquaintances, debt collectors must be careful in what they say. They must identify themselves and state they are calling to confirm the location information of the consumer. Outside of these parameters, collectors may not contact third parties concerning the debt. Their correspondence cannot allude to the fact the consumer owes any debt and, under ordinary circumstances, cannot call the same person more than once.

Calls to the consumer are also highly regulated. Debt collectors generally may not call the consumer at an unusual or inconvenient place or time (e.g. at midnight or while attending church). They also cannot call work if they have reason to know the consumer’s employer prohibits such communication. If the consumer has an attorney, the debt collector must communicate through the attorney.

Harassment and abuse are strictly forbidden by the FDCPA. Without limiting the scope of this provision, the debt collectors may not threaten the use of violence or criminal action against the consumer. They cannot use obscene or profane language to abuse the consumer or call the consumer repeatedly to abuse or annoy him or her.

Debt collectors cannot lie when dealing with consumers. Specifically, debt collectors may not lie about the amount of debt the consumer owes or their affiliation with the government. They also may not suggest the consumer will be arrested, sued, or that their property will be seized if they do not pay the debt unless such action is lawful and the collector intends to take such action.

When the consumer determines “enough is enough” and tells the debt collector to stop communications or refuses to pay the debt, the collector must stop communications with the consumer—with the following exceptions: advising the consumer that the collector’s further efforts to collect the debt are being terminated; notify the consumer that the collector or creditor may invoke other legitimate remedies (i.e. lawsuit); notify the consumer that the collector or creditor intends to invoke a specified remedy.

Violators of the FDCPA can be liable for penalties on top of any damages they cause to the consumer. They may be fined anywhere from \$100 to \$2,000 under North Carolina law in addition to the consumer’s actual damages. If you feel you were a victim of an overly-aggressive debt collector you should contact the XVIII Airborne Corps Legal Assistance Office

at 910-396-0396 or 6113. The office is located on the first floor of the soldier support center in Wing D and is open Monday, Tuesday, and Friday from 0900-1630, on Wednesday from 1300-1630, and on Thursday from 0730-1630. For more information please visit our website at <http://www.bragg.army.mil/DIRECTORATES/OSJA/Pages/LegalAssistance.aspx>.