

Mail the letter by certified mail with return receipt requested. If you don't, the collector may ignore your letter. Ask a postal worker how to do this.

A sample letter follows:

1/1/93

ABC Collection Agency
1 Main Street
Flint, MI 48801

Dear sir/Madam:

I am writing to request that you stop communications with me about my account number 07723 with Amy's Department Store as required by the Fair Debt Collection Practices Act 15 U.S.C.A. 1692c(c).

Very Truly Yours,

John Consumer
10 Cherry Lane
Flint, MI 48807

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3. Have a lawyer write a cease letter. You don't need a lawyer to write a cease letter, but if your letter does not stop the harassment, a letter from a lawyer usually will. Also collection agencies must stop contacting you once they know you are represented by a lawyer.

4. Work out a payment plan. If you decide to work out a payment plan, you should only agree to a realistic plan, preferably one that significantly reduces the debt. In making any agreement, keep in mind your priorities: don't make even small payments if the payments would prevent you from paying your mortgage or rent.

5. Complain about billing errors. Collection letters are sometimes in error. If a letter contains a mistake, you should write and request a correction (and keep a copy of your request). If you dispute the debt within 30 days of your receiving notice of the right to dispute, the collection agency must stop collection efforts while it investigates. If the account is an open-end account, like a credit card, you can dispute a charge within 60 days of receiving the bill.

6. Complain to a government agency. Mail any complaint you have about a collector's conduct to:

Federal Trade Commission,
Bureau of Consumer Protection
Washington, D.C. 20580

You should also mail a copy to the consumer protection division within your state attorney general's office, and to any local office of consumer protection. You should be able to obtain these addresses from the Better Business Bureau or office of consumer affairs. Send a copy of the complaint letter to the collector.

For More Information

More information on your legal rights and debt strategies is provided in *Surviving Debt: Counseling Families in Financial Trouble*. The handbook is available for \$15.00 from

National Consumer Law Center,
11 Beacon St.,
Boston, MA 02108
(617)523-8010

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Legal Aid Society of Hawai`i

What You Should Know About Debt Collection

Prepared by National Consumer Law Center

Reformatted for use by
Legal Aid Society of Hawaii

**For More Information,
Call the Legal Aid in your Community.**

Legal Hotline open Monday to Friday
9:00am to 11:30am
1:00pm to 3:30pm

Oahu call 536-4302 Hilo call 934-0678
Maui call 242-0724 Kona call 329-8331
Molokai call 553-3251 Kauai call 245-7580
Lanai call 565-6089

Or visit our Web site at <http://www.legalaidhawaii.org>

What you should know about debt collection

If consumers do not have the money to pay all of their debts, they must make difficult choices about which debts to pay first. Constant harassing calls and letters from collection agencies can cause consumers to pay the wrong debts first, resulting in serious consequences for the family. Just as dangerous to the consumer is feeling overwhelmed, and ignoring all the bills in the unrealistic hope that they will simply go away.

This brochure provides a summary of your rights when dealing with creditors and some guidelines for determining what debts should be given a priority in a financial crisis. Even when you do not have the money to pay your bills, you do not have to be subjected to collector pressure tactics.

Which debts do I pay first?

You should use your money to pay for what is most necessary for you family—food, clothing, shelter, and continued utility service. Because there is very little a debt collector can actually do to you, debt collection efforts should have no effect on your decision about which debts to pay first. Threats to bring suit, to seize household goods, or garnish wages should be given little weight unless a lawsuit has actually been filed and you receive court papers.

Some general rules for settling payment priorities are:

****Mortgage and rent payments should always come first.**

****Make whatever payments are necessary to insure essential utility service is not disconnected. The utility service may not require payment in full**

even if you are behind.

****A car loan should be paid after critical items (food, rent, clothing), but before most other debts for non-essentials.**

****Generally, loans with only household goods as collateral should be paid after more pressing debts.**

****Debts without priority pledged as collateral, such as credit cards, doctor/hospital bills, and accounts with merchants, should have low priority.**

****The threat of a lawsuit should not raise the priority of a debt above your mortgage, rent, utility payments, and a car loan.**

****Do not pay those debts that you have a good legal reason not to pay, such as when the car you borrowed the money for is a lemon. Instead, seek legal advice as to how to best fight for your rights.**

****When a creditor wins a lawsuit, a consumer's home and other assets may be at risk depending on state law and the amount of equity in the property. If the property is truly at risk, make this a high priority debt.**

****Tax liabilities and student loans should be paid ahead of low priority but after top priority debts.**

Dealing With Debt Collectors

Once you have decided which debts you're able to pay and which ones you will have to wait, the next step is to deal with the collectors that aren't being paid first.

How should I deal with debt collectors?

Don't let them pressure you into making the wrong choices about what to pay first. For example, explain to the debt collector, "I have to pay my rent and utility bills first. I have been recently laid-off; when I get a new job I will do my best to meet my credit card debt. I will pay you when I can."

What can a debt collector really do?

If the creditor has not taken your house, car or other property as collateral on a loan, then legally the creditor can only do three things:

1. Stop doing business with you.
2. Report your default to a credit bureau (which will be unavoidable when you cannot pay most of your debts on time).
3. Sue you in court. Although the threat to sue you may be very upsetting, it is not nearly as serious as you might think. Many creditors do not follow through on their threats. If they do sue you, you can represent yourself, and explain why you cannot or should not pay. After a period of time, the creditor may obtain a court judgment, but this judgment still does not force you to pay the debt. It only gives the creditor the right to try and seize part of your wages or particular property. If you do not own very much or if you do not earn very much, creditors will not be able to seize any of your property or wages even though they have a court judgement against you. Creditors can never seize wages or property before a judgment, nor can they send the consumer to jail or send

the consumer's children to foster care.

How can I stop being harassed?

Federal law prohibits harassment by debt collectors. For example, they may not contact you at unreasonable hours: before 8 a.m. or after 9 p.m. unless you give your permission. They also may not use obscene or profane language or call you constantly to annoy you.

Consumers being harassed by debt collectors should follow these six steps:

1. Head off harassment before it starts. When financial setbacks prevent you from paying all of your bills, call the creditor and explain your situation. Explain that you have to pay the landlord and utilities first, and that you will pay your other bills when you can. Don't over promise: it's better to be realistic about your prospects for paying. By contacting the creditor first, you may avoid having the debt turned over to a collection agency, which will usually be less flexible than the creditor in working out a payment plan.
2. Write a cease contact letter. If explaining the situation doesn't stop collection efforts, the simplest way to stop contact is to write the collector a cease letter. Federal law requires collection agencies to stop contact after they receive a written request to stop. It's a good idea to include in the letter why you cannot pay right now and what your expectations are for the future, though this is not necessary. You should also note in the letter any billing errors and/or abusive tactics debt collectors have used in their contacts with you. Be sure to keep a copy of the letter.