

Are you 60 or over? If yes, free legal assistance is available. If you have a debt collection or other consumer problem, please call

Consumer Law Project for Elders

1-800-296-1467

Call SLS for help if you are under 60.



Statewide Legal Services
1-800-453-3320
860-344-0380

Search our website for help.



www.ctlawhelp.org

CONSUMER

LEGAL SERVICES

SELF-HELP SERIES

Debt Collection: *Know Your Rights*

June 2018



We offer free legal help in many areas, including

- welfare,
- SNAP (food stamps),
- divorce,
- child support,
- domestic violence,
- bankruptcy,
- special education,
- nursing home care,
- health insurance,
- eviction,
- foreclosure,
- and more.

See the reverse side for more about legal services.

If you are behind in paying your bills, someone will probably contact you to collect the money you owe. You might owe money on a car loan, credit card accounts, medical bills, utility bills, mortgage, or others.

This booklet explains your rights about debt collection and

- what you need to know if a debt collector contacts you,
- which bills you should pay first,
- what you can do if you don't think you owe the debt,
- what you can do if you cannot afford to pay the debt,
- what debt collectors can and cannot do, and
- what happens if you are sued by the debt collector.

I've been contacted about a debt. What do I need to know?

You may be contacted directly by a *creditor* or by a *collection agency*.

- A **creditor** is a company you owe money to, like a credit card company.
- A **collection agency** is a separate company that is in the business of collecting debts.

Both are also called *debt collectors*.

Your rights can be different depending on if you owe money to a creditor or to a collection agency. Debt collectors will try to collect money from you even if you don't have the money or you think you don't owe anything.

Which bills should I pay first?

If you cannot pay all your bills at once, you must decide which bills to pay first. Think about what will happen if certain debts are not paid, and ask yourself which unpaid bills will affect your family the most.

If you're under 60, call us for help:



Statewide Legal Services
1-800-453-3320 or 860-344-0380

Search our website for help:



www.ctlawhelp.org

If you're over 60, call your local legal aid office.

Connecticut Legal Services

www.ctlegal.org

Bridgeport

1000 Lafayette Blvd 203-336-3851
Suite 950

New Britain

16 Main Street 860-225-8678

New London

125 Eugene O'Neill Dr.
Suite 120 860-447-0323

Stamford

20 Summer Street 203-348-9216

Waterbury

85 Central Avenue 203-756-8074

Willimantic

1125 Main Street 860-456-1761

Greater Hartford Legal Aid

www.ghla.org

999 Asylum Avenue
Hartford, CT 06105
860-541-5000

New Haven Legal Assistance Association

www.nhlegal.org

426 State Street
New Haven, CT 06510
203-946-4811

Consumer Law Project for Elders

Free legal assistance to people 60 and over throughout Connecticut who have money/debt problems.

1-800-296-1467

This booklet was produced by Connecticut Legal Services, Greater Hartford Legal Aid, New Haven Legal Assistance Association, and Statewide Legal Services of Connecticut.

The information in this booklet is based on laws in Connecticut as of 6/2018. We hope that the information is helpful. It is not intended as legal advice. For advice on your situation, call Statewide Legal Services or contact a lawyer.

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probably a good idea to talk to a lawyer. It's easier to prevent a repossession than to get your property back after it has been repossessed.

Repossession Calendar

If you have items that are being repossessed, you can expect the following things to happen:

- ▶ **Day of repossession:** The creditor takes back the items.
- ▶ **Within 3 days after repossession:** The creditor must give you a written statement of the amount you owe and the costs of repossession and storage. You might get this written notice before the repossession.
- ▶ **1 to 15 days after repossession:** If you did not get written notice before the repossession, you can get your item back by paying the amount you owe plus the cost of repossession and storage. If you got written notice before the repossession, you may be able to get your item back by working out an agreement with the creditor (the agreement may require refinancing or paying off the full debt).
- ▶ **Before the creditor resells your item:** The creditor must give you at least 10 days' written notice of the time and place of any public sale or the date after which they can sell it in a private sale. You can get your item back up until the date of resale if you work out an agreement with the creditor.
- ▶ **Day of resale:** The creditor sells the item.
- ▶ **1 to 30 days after resale:** The creditor must give you a written statement that says how much the item sold for and how the money from the sale was spent.

You may want to pay your bills in this order:

1. Bills that affect your family's health: Food, medication, health insurance.

2. Bills that affect your family's housing: Rent, mortgage, condo fees, real estate taxes, and utilities such as heat and electricity.

3. Other bills: Car payments if the car is important (for example, if you need a car to get to work), child support, income taxes, and government-insured student loans.

If you have money left over after paying these bills, you can decide how much money you can pay to each of the other debt collectors.

Budgeting

You may want to learn how to budget your debts. Call or visit:

The University of Connecticut Cooperative Extension System
305 Skiff Street, North Haven, CT 06473
203-407-3161

You can also read about budgeting at www.consumer.gov.

What can I do if I think I don't owe the debt?

You should not be billed for something you didn't buy or for something you already paid for, but sometimes mistakes happen.

What if a creditor says I owe money?

You have the right to disagree with (or *dispute*) the charge. Look at the back of your monthly statement for instructions on how to file a dispute. It is best to write a letter and include a copy of your monthly statement (see **Letter A** on the next page). Circle the items you disagree with.



What if a collection agency says I owe money?

You should immediately write a letter to the collection agency saying you don't owe the debt. Until they send you proof of what they say you owe, they must stop contacting you. Your letter should look like **Letter A**.

Letter A

[Your address]

[Today's date]

[Name of creditor or collection agency]

[Address of creditor or collection agency]

Re: Billing Error Notice - Account Number: [account number]

To Whom it May Concern:

I have received your bill regarding an overdue amount for [the item(s) you were billed for].

[Pick one or more of the following:]

- I have paid this bill in full.
- I have paid part of this bill and I owe [amount].
- I have not paid this bill because [reason].

Please check your records and correct my account. Also, please do not send me any more bills or call me until this matter is settled.

Sincerely,

[Your signature, date, and printed name]

What if a creditor tries to take money from my paycheck?

It is common for a creditor or collection agency to threaten to take money from your paycheck, but you may be protected.

Your weekly take-home pay is protected up to \$404 as of 2018. See the legal aid booklet: *Wage Attachments*.

How does having protected income or property help me?

If you owe money to someone and you don't pay, you can be sued. If a creditor sues you and wins, the court will enter a judgment (also called an order) against you that says you have to pay back the debt. But if all of your money and property are protected, then creditors cannot take them from you. A judgment stays in force for 10 to 20 years and can be renewed by the creditor. You will not have to pay the debt for as long as your situation stays the same during that 10 to 20 years. If your situation changes—for example, you go back to work and make enough money to repay your debt—then you may have to pay the debt.

Should I think about bankruptcy?

In some cases, bankruptcy may be a good option for you. See the legal aid booklet: *Are You Thinking About Bankruptcy?*

Repossession

A creditor can't come into your house without your permission to repossess personal property such as furniture or appliances. If someone tries to break into your house or garage, call the police. However, if you leave personal property such as your car in front of your house or in your driveway where the creditor can find it, the item can be repossessed easily. If a creditor threatens to repossess your personal property, it is

How much money can be protected?

Some money is automatically protected – whichever of these amounts is higher:

- Two months' worth of your **direct deposits** of pension or government benefits, wages, child support, alimony; or
- \$1,000.

If you keep more than the protected amount in your bank account, the debt collector may try to take that money through a *bank execution*. You will be able to get that money back if you file an *exemption claim form* at the courthouse.

Letter D

[Your address]

[Today's date]

[Name of creditor or collection agency]

[Address of creditor or collection agency]

Re: Exempt Income - Account Number: [Account number]

To Whom it May Concern:

This letter is to notify you that I do not wish you to call, write, or visit me at home or work about the money you claim I owe. This letter is also to advise you that all of my income is exempt from collection as established by law.

Sincerely,

[Your signature, date, and printed name]

Include your account number and make a copy of the letter for your records.

What happens next?

If they send proof but you think it is wrong, send them another letter along with

- proof that you paid, or
- proof that the debt is not yours.

If they continue to try to collect from you, you can get help from Statewide Legal Services by applying online at <http://apply.slsct.org>. If you are 60 or over, call the Consumer Law Project for Elders at 1-800-296-1467 for free legal assistance. You can also talk to a private lawyer.

If they do not send proof, you don't need to do anything. They must stop contacting you.

What if I owe the debt but I cannot afford to pay it?

Debt collectors will try to pressure you into agreeing to pay more than you can afford.

If you cannot afford to pay the full amount, send the amount you can afford every month, even if they say it is not enough. If you make a payment each month, it may stop them from suing you for the full amount of the debt.

If you cannot afford to pay anything and you want them to stop contacting you, you can write a letter that looks like **Letter B** on the next page.

Include your account number and make a copy of the letter for your records. Once they get your letter, a **creditor** is still allowed to contact you, but often they will stop. A **collection agency** is only allowed to contact you to tell you what they will do next. For example, they may say they will sue you in court or that they won't contact you again.

Important:

You still owe the money even if they stop contacting you. They can sue you to try to collect the debt you owe.

Letter B

[Your address]

[Today's date]

[Name of creditor or collection agency]

[Address of creditor or collection agency]

Re: Contact Request - Account Number: [account number]

To Whom it May Concern:

This letter is to notify you that I do not wish you to call, write, or visit me at home or work about the money you claim I owe.

Sincerely,

[Your signature, date, and printed name]

What can debt collectors do when they are trying to collect?

Debt collectors can call you to ask for their money and they can send letters demanding payment, but there are limits on what they can do. You do not need to listen to their demands. You can hang up the phone or send a letter telling them to stop contacting you (see **Letter B**, above).

If you receive any type of execution, here are some places where you can get help:

- ▶ If you are 60 or over, call the Consumer Law Project for Elders at 1-800-296-1467.
- ▶ Apply online for help from Statewide Legal Services: www.apply.slsct.org.
- ▶ Get help at a Court Service Center at your local courthouse.
- ▶ Talk to a private lawyer.

Is any of the money in my bank account protected?

Some of the money in your bank account may be exempt (meaning it cannot be taken from you), but you may have to file papers in court to protect it.

Debt collectors cannot take money from your bank account if it is a direct deposit and comes from

- Social Security benefits (retirement, disability, survivor);
- unemployment benefits;
- disability benefits (SSI and SSD);
- state welfare;
- child support;
- alimony; or
- pension.

If you think your money is protected, write a letter to the debt collector that says your income is exempt and that you don't want to be contacted (see **Letter D** on the next page). Make a copy of the letter and keep it for yourself.

What if the debt collector sues me?

The debt collector will have you served with legal papers. You must respond to the lawsuit or the debt collector will win.

What can the debt collector do if they win in court?

If the debt collector sues you and wins, the court will decide that you owe the debt and order you to pay a certain amount of money each week. If you don't pay the court-ordered amount each week, the debt collector can ask for a court order to take your property or money from your pay or bank account. Some of your money and pay are protected. See below for more information.

A debt collector can...	
Take money from your pay (a <i>wage execution</i>)...	...unless your weekly take-home pay is less than 40 times the minimum wage (\$404 as of 2018).
Take money from your bank account (a <i>bank execution</i>)...	...unless your money is protected because it is a direct deposit and is from <ul style="list-style-type: none"> ● government benefits such as Social Security or unemployment, ● child support, ● alimony, or ● pension.
Take your property (a <i>property execution</i>)...	...unless you rent or you don't have any property to take.

See next page for details on bank accounts.

Things debt collectors CAN do:



- Talk about your debt with your spouse and your lawyer (if you told them your lawyer's name).
- Call your employer to make sure that you work there or to get your contact information.
- Sue you in court.

Debt collectors can do other things, depending on who the debt collector is.

- **Your landlord can evict you** if you don't pay your rent. See the legal aid booklet: *Evictions and Lockouts*.
- **Your utility company can shut off service** unless you pay the minimum amount due each month. However, the utility company cannot cut off service if
 - you have a *life threatening condition*, or
 - it is winter (November 1 to May 1) and you qualify for *hardship status*. For more information, see the legal aid booklet: *Help with Utility Problems*.
- **The bank can take your house by foreclosure** if you don't pay your mortgage. For more information, see the legal aid booklet: *Foreclosure: Your Rights and Options*.
- **The seller you bought an item from can repossess**, or take back, the item (for example, a car can be repossessed — see page 13 for more information).

There are many things debt collectors cannot do.

They cannot abuse you, harass you, lie, or threaten you. They cannot talk about your debt to other people (including your neighbors, friends, relatives, or employer). If they do any of these actions or those listed on the next page, they are breaking the law.

Things debt collectors CANNOT do:



- Use abusive or bad language. Hang up if they swear at you, call you names, or speak to you abusively.
- Call you an unreasonable number of times. They cannot keep calling over and over until you pick up.
- Call you before 8 a.m. or after 9 p.m.
- Call you at work if you have asked them to stop.
- Threaten to harm you, your property, your reputation, or someone else.
- Threaten to tell someone about your debt.
- Talk to others about your debt without your permission.
- Say that they will sue you when they do not plan to.
- Lie about who they are or pretend to be a lawyer or the government.
- Suggest that you have committed a crime, that you will be arrested, or that you will go to jail if you don't pay.
- Lie and say that the papers they sent you are legal papers from the court.
- Suggest that they can take your benefits money (such as Social Security disability, pension, retirement, child support, alimony, or other protected funds).
- Ask you to pay more than you owe.
- Share your debt information in other ways. For example, they cannot
 - send you a postcard with information about your debt,
 - put anything on an envelope that indicates the letter inside is about your debt,
 - print information about your debts in newspapers or magazines, or
 - make you accept collect calls or pay for telegrams.

What if I need help dealing with a debt collector?

- If you are 60 or over, call the Consumer Law Project for Elders at 1-800-296-1467 for free legal assistance.
- You can get help from Statewide Legal Services by applying online at <http://apply.slsct.org>.
- You can contact a private lawyer for assistance.

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

- You may be able to sue the debt collector for breaking the law and get some money from the debt collector.
- You can file a complaint with these agencies by writing a letter (see **Letter C**, below):

**Consumer Affairs Division
State Banking Department**
www.ct.gov/dob
1-800-831-7225

**Federal Trade Commission
Debt Collection Practices**
www.ftccomplaintassistant.gov
1-877-382-4357

Letter C

[Your address and today's date]

[Name and address of the agency you're writing to]

Re: Collection Practices of: [Name & address of debt collector]

To Whom it May Concern:

I would like to file a formal complaint against [name of debt collection company] for actions taken while trying to collect a debt from me. My complaint is as follows: [Write what the debt collection company did to break the law.]

Please investigate this matter and have these practices stopped. You can contact me at [your phone number].

Sincerely,

[Your printed name, signature, address, and the date]