

## **What is the Fair Debt Collection Practices Act?**

The Fair Debt Collection Practices Act (FDCPA) is a federal law that makes it illegal for a debt collector to harass, abuse, mislead, deceive or be unfair to you, whether or not you owe the debt. This law covers personal, family and household debts, but it does not cover business or commercial debts.

## **Who is a debt collector?**

A debt collector is anyone who regularly collects debts for others. The Fair Debt Collection Practices Act doesn't apply to creditors who collect their own debts. In other words, if you owe money to a business, that business is not considered a debt collector. However, a debt collection agency is covered under the FDCPA.

## **How should I deal with debt collectors?**

Only deal with debt collectors in writing. Refuse to talk with them in person or by telephone. Debt collectors prefer to talk to you because it works to **their** advantage. Written communication works to **your** advantage because you have a record of everything that they say. Debt collectors are less likely to use unfair or deceptive tactics if they have to put what they say in writing. Remember that you do not have to communicate with debt collectors, verbally or in writing. Save copies of all

communication between you and the debt collector. It may prove helpful later on. Also, keep written notes every time a debt collector contacts you including the date and time of the contact and what they say.

## **What specific actions are not allowed under the FDCPA?**

Debt collectors cannot harass, oppress or abuse you. For example, a debt collector:

- cannot threaten to physically harm any person or his property;
- cannot call before 8 am or after 9 pm;
- cannot call you at work if they know your employer prohibits such calls;
- cannot repeatedly call to harass you;
- cannot use abusive, profane or threatening language;
- cannot tell others about your debt (except a credit bureau);
- cannot pretend or lead you to believe that they are attorneys or government representatives;
- cannot tell you that you have committed a crime by not paying the debt or that you will be arrested if you don't pay the debt immediately;
- cannot threaten to do things they cannot actually do, or do not intend to do;
- cannot make you accept collect calls or pay telegram fees; and
- must tell you who they are and who they work for when they call.

## **Can I stop a debt collector from contacting me?**

Yes. You can stop a debt collector from contacting you by sending them a "Cease Contact" letter. After receiving the letter, the debt collector cannot contact you again, except to say that you will not be contacted again or to tell you that an action, such as a lawsuit, will be taken. For a sample "Cease Contact" letter, go to [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org). Make sure you keep a copy of all the letters you send to debt collectors and anything you get from them.

## **What if I don't owe some or all of the money the debt collector is trying to collect?**

Within 30 days of first being contacted by the collector, send a letter stating that you do not owe some or all of the money. The collector must then stop collection efforts and prove that you owe the debt. The collector may restart collection efforts only after giving you proof of the debt, such as a copy of the bill. For a sample "Debt Verification" letter, go to [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org). Make sure to keep a copy.

## **What is the debt collector required to tell me about the debt?**

Within 5 days after first contacting you, the debt collector must send you a written notice telling you the amount of money you owe, the name of the creditor, and

what to do if you don't think that you owe the money.

### **What should I do if I think a debt collector is violating the law?**

You should contact an attorney or Montana Legal Services Association. If you sue and win, you may receive up to \$1000 in statutory damages, plus actual damages and attorney fees. You must sue within one year of the violation. However, if you are sued by a collection agency, you may bring up the violation as a counterclaim, and the one year time limit does not apply. Also, you should report any violations to the Montana Consumer Protection Office at (406) 444-4500.

### **What if a creditor contacts me instead of a debt collector?**

If the creditor contacts you instead of a debt collector, then the Fair Debt Collection Practices Act does not apply. However, a creditor who is collecting its own debts may not harass, abuse, mislead, deceive, or be unfair to you. If you don't want to talk with a creditor on the phone, ask that they only contact you in writing and hang up.

For more information about the Fair Debt Collection Practices Act and your rights, see the Money Problems section on [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org).

### **How do I get more help?**

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at [mtlsa.org](http://mtlsa.org);
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

### **What help can I find at MLSA?**

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

### **[www.MontanaLawHelp.org](http://www.MontanaLawHelp.org)**

Need legal information or forms? Visit [www.MontanaLawHelp.org](http://www.MontanaLawHelp.org).

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

### **[www.MTLSA.org](http://www.MTLSA.org)**

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

# **Montana Legal Services Association**

## **Money Problems: Fair Debt Collection**



Providing, protecting, and enhancing access to justice.

Rev. 12/16

