When the Debt Collector Calls

A Practical Guide to Your Rights, Your Next Steps and What the Law Requires of Collectors

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CHAPTER 1

Who Is Contacting You

Three kinds of companies commonly contact people about unpaid bills. The first is the original creditor, the business that extended the credit in the first place. A bank that issued a credit card is an example. The second is a debt collector, a company that collects debts owed to someone else. The third is a debt buyer, a company that buys old debts and then tries to collect them.

The main federal law on collection practices is the Fair Debt Collection Practices Act, and it treats these three companies in different ways. The Federal Trade Commission explains that the law covers household debts, such as credit cards, auto loans, medical bills, student loans and mortgages. It does not cover business debts.

Regulation F, the federal debt collection rule, defines a debt collector as a person whose principal purpose is the collection of debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due to someone else. It also reaches a creditor that, while collecting its own debts, uses a name other than its own that would indicate that a third person is collecting. Original creditors collecting under their own names are therefore generally outside the definition. Debt buyers are a closer question, and whether a buyer counts depends on details such as whether collecting debts is its principal purpose. A reader who needs a firm answer about a specific company should ask a lawyer.

For a reader who just received a call or letter, the useful step is simpler. Find out exactly who is calling, which company they say the debt is owed to, and how they say it began. A real collector can answer those questions. A scam caller often cannot.

The Federal Trade Commission gives two warnings about unfamiliar collectors. A person can talk to a collector at least once to confirm whether the debt is really theirs. Along with that, the FTC says to be careful about sharing personal or financial information, especially with a collector the person does not already know. Taken together, those points suggest a plan. Ask who is calling, ask for the details in writing, and hold back account numbers and payment information until the debt is confirmed.

Write down every contact. Record the date, the time, the name the caller gave, the company, the phone number that showed on the screen and what was said. A notebook or a note on a phone works. Keep every letter, and keep the envelope too, since the postmark can show when a letter was sent. These record-keeping steps are practical advice, and they pay off in every later chapter.

Be wary of anyone who demands immediate payment by a method that leaves no record, who refuses to put anything in writing, or who threatens something that cannot legally happen. The FTC lists several things a real collector may not do, and chapter 5 covers them. A legitimate request survives a written follow-up, and a scam usually does not. That rule of thumb is practical advice.