

DEALING WITH COLLECTION AGENCIES

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In Ontario, collection agencies have to follow certain rules that are set out in the *Collection and Debt Settlement Services Act* and Regulations.

The Regulation provides that, if a debtor sends a collection agency by registered mail, a letter stating that the debtor disputes the debt and suggests that the matter be taken to court, the collection agency shall not thereafter contact or attempt to contact the debtor, unless the debtor consents to the contact.

If a debtor does not intend to pay the debt and if the debtor is insolvent and receives only income which is exempt from garnishment, such as pension income or social assistance payments, it may be a good idea to notify the collection agency of this fact in writing and to provide evidence of this. Collection agencies are generally reluctant to spend money to file a court action when they know that they would not be able to collect on a judgment.

Collection agencies are not permitted to contact the debtor's spouse, relative, friend, neighbour or acquaintance, except for the purpose of obtaining the debtor's home address and telephone number if the collection agency does not already have this information.

Collection agencies are not permitted to contact the debtor's employer unless the contact occurs once only, and is for the sole purpose of confirming the debtor's employment, the debtor's business title and the debtor's business address. Collection agencies can contact a debtor's employer in order to enforce a court judgment.

If a collection agency contacts a person and the person is not a debtor, the person should inform the collection agency that they are not the debtor and ask the agency not to contact them again.

The Regulation also contains rules about when collection agencies can call, how often they can call, and the types of written notice that they must provide to the debtor.

Collection agencies are prohibited from giving false or misleading information or from making misrepresentations. They are not allowed to use threatening, profane, intimidating or course language. Collection agents cannot use excessive, undue or unreasonable pressure, or to otherwise communicate in such a manner and with such frequency as to constitute harassment.

It is quite appropriate for a debtor to try to negotiate a reduction in the amount of the debt or the amount of the interest charged on the debt. Any reduction agreed upon should be confirmed in writing.

In Ontario, the limitation period for starting a court action to collect a debt is two years from the last payment or the last acknowledgement of the debt. If a limitation period is approaching, consider getting legal advice. Once the limitation period has expired, the debt does not disappear. The debt can be revived if an individual makes another payment on the debt or acknowledges the debt. There have been cases where banks who were owed money years ago have seized new deposits made by individuals to pay towards the old, outstanding debt. One alternative to ignoring a debt is to consult with a trustee in bankruptcy about undergoing bankruptcy proceedings.

Individuals with complaints about collection agencies can contact the Consumer Protection Branch as follows:

E-mail: consumer@ontario.ca

Phone:

Toll-free: 1-800-889-9768

In Toronto: 416-326-8800

TTY: 416-229-6086 or 1-877-666-6545

Fax: 416-326-8665

Mail:

Ministry of Consumer Services

Consumer Protection Branch

5775 Yonge Street, Suite 1500

Toronto, ON M7A 2E5

(Walk-in service)