



# CREDIT, COLLECTIONS AND REPOSSESSION

## FOR FURTHER INFORMATION

The Attorney General's Office provides information and informal mediation to consumers and businesses. If you have a question or want assistance resolving a problem, please contact one of the Consumer Resource Centers listed below.

The Attorney General is prohibited from acting as a private attorney on a complaint. If your complaint demands immediate legal action, you should consider private legal action. Some claims can be heard for nominal fee in Small Claims Court (no attorney necessary). Please contact your local Small Claims Court to determine if your claim meets the current maximum value threshold. If your complaint involves more than the maximum for Small Claims Court, you should seek a private attorney. You might also consider arbitration.

### CONSUMER RESOURCE CENTERS OFFICE OF THE ATTORNEY GENERAL

- Web site.....<http://www.atg.wa.gov/consumer>
- Statewide.....(800) 551-4636  
(800) 833-6384 WA Relay Service
- Bellingham.....(360) 738-6185
- Seattle.....(206) 464-6684
- Spokane.....(509) 456-3123
- Tacoma.....(253) 593-2904
- Vancouver.....(360) 759-2150
- Lemon Law.....(800) 541-8898  
(206) 587-4240 **Seattle**

Consumerline has taped information on a number of consumer related issues. In Washington call (800) 692-5082.

The Attorney General's Office has a policy of providing equal access to its services. If you need to receive the information in this brochure in an alternate format, please call (800) 551-4636. The hearing impaired may call 1-800-833-6384 Statewide.



Provided courtesy of  
Rob McKenna,  
Attorney General of the  
State of Washington

## DEALING WITH DEBTS, COLLECTION AGENCIES AND REPOSSESSIONS

### Can a collection agency contact people I know?

If you have an attorney, a collection agency cannot, by law, contact anyone other than your attorney. If you do not have an attorney, the agency can contact other people only to find out where you live or work. The debt collector cannot tell these people that you owe money. In most cases, the collection agency can contact another person only once. These same rules apply to contact with your employer.

A collection agency can contact a credit-reporting bureau about the debt, but if you have disputed the debt in writing that fact must be included in the report.

### Can the collection agency add charges to my debt?

To determine if the collection agency can add charges onto your debt, consult your original contract. If you agreed to pay "collection agency fees," the agency can add reasonable charges such

as attorney fees, court costs, or credit report fees. If the agency is collecting on a bad check, it can add collection and legal fees as allowed by state law.

### Can I negotiate payment arrangements with the collection company?

A collection agency can demand full payment of the debt. It can, but does not have to, accept a partial payment plan.

A collector can ask that you write a post-dated check, but you cannot be required to do so. If you give a collection agency a post-dated check, under federal law the check cannot be deposited before the date written on it. And if you give the agency a check with the date more than five days in the future, the collector must give you timely written notice before the check is deposited.

### What are things a collection agency can't do?

- Publish lists of people who owe money; use a badge or uniform of a law enforcement agency or claim to be from a government agency
- Use documents that look like court or government documents, telegrams, or emergency messages.
- Make collect phone calls or send collect telegrams.
- Violate postal regulations.
- Threaten to add charges that aren't legal, for example, an interest rate higher than the rate in the original contract.
- Threaten to have a debtor put in jail for bad debt.

- Garnish your wages or take your home or possessions without a court judgment. However, an exception exists for federally guaranteed student loans that are in default.

For more information about what collection agencies can and cannot do, read RCW 19.16.250. Copies of Washington state laws can be found at most public libraries or on the internet at [www.leg.wa.gov](http://www.leg.wa.gov).

## REPOSSESSION

### Facts on repossession

- The buyer does not have to be notified before the repossession occurs.
- The creditor cannot commit a crime, use abusive language, enter a home without permission, or take an item if the owner physically resists.
- Cars can be towed from public or private lots.
- A car can be towed from the owner's driveway if no other car is moved.
- A car cannot be towed from the owner's garage.

### What happens when an item is repossessed?

If you have paid more than 60 percent of the amount of the loan, the creditor must sell, lease, or otherwise dispose of the item, unless the consumer signs a statement after the default that permits the creditor to keep the item in full payment of the loan. The sale must be held within 90 days after it is repossessed. You must be notified of the time and place of the sale.

If you have paid less than 60 percent, the creditor may decide whether the item is to be sold or kept as payment for the loan. You must be notified in writing by the creditor of what will be done. If the

creditor chooses to keep the article, you have 21 days to protest in writing and demand the item be sold.

If a repossessed item is sold, the money from the sale must go to cover the balance of the loan and the costs of the sale and repossession. Any money that remains must be returned to the buyer. If the money from the sale does not cover the loan and expenses, the reposessor is allowed to sue the consumer for the full amount owed, including repossession fees, auction costs and legal fees.

If you want the repossessed item back you have the right to redeem it up until the time it is sold or within 21 days of receiving notice that the creditor is going to keep it. The cost of redeeming the item will depend on the terms of the contract. You may still have to pay for the cost of repossession and attorney's fees.

## WOMEN AND CREDIT

Each year many women are denied credit because they have no credit history. If you are married, tell creditors or stores to report shared accounts in your name as well as your spouse's name. You may have difficulty establishing credit in your name if you have kept all your credit cards in your married name (e.g. Mrs. John Smith). Make sure credit bureaus have a file on you, and that shared accounts listed in your spouse's file are also listed in your file.

Whatever your marital status, you should establish your own credit history. If you've never used credit and are considering doing so, consider opening a checking or savings account in your name; acquire a credit card in your name; or establish a pre-arranged credit line with your bank.

If you are no longer married, you can still apply for credit on the basis of accounts you shared.



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## CREDIT REPORTS

### What's in your credit report?

- Personally identifiable information including your name, address, marital status, your date of birth, number of dependents, previous address, and Social Security number.
- Employment information including your present position, length of employment, income and previous job.
- Credit history consists of your credit experiences with specific creditors.
- Public Records including civil suits and judgments, bankruptcy records, or other legal proceedings recorded by a court.

### How long will information stay on the report?

Under the federal Fair Credit Reporting Act and the state law (RCW 19.182), consumer reporting agencies may keep correct and verifiable information in your file for seven years, and 10-years in the case of bankruptcy.

### There are a few exceptions:

- If you apply for a job that pays more than \$75,000 per year, the reporting agency may provide all the information it has, including items over seven years old.
- Information reported because of an application for more than \$50,000 worth of credit or life insurance.
- Information concerning lawsuits or judgments against you can be retained in your file for seven years or until the statute of limitations expires, whichever is longer. Under Washington's law, a judgment can remain on your report for a ten-year period after it is entered. If the judgment is renewed, it can remain for an additional 10-year period.

### Who can request my credit report?

Any business, individual, or government agency may request a credit report on an individual, for its legitimate business need including considering whether to extend credit; review or collect on an account; consider employment; underwrite insurance; enter into a potential partnership; investigate a security clearance; or enter into a lease. Reports may also be issued at the written request of the consumer or a court.

### What if I'm denied credit?

If you are denied credit, you have a right, by law, to a written notice specifying the reasons. The creditor must tell you whether you were denied credit because you have "no credit file" with the credit reporting agency, or because the agency says you have "delinquent obligations." This law requires creditors to consider, upon request, additional information you might supply about your credit history.

### How can I review my credit report?

Upon request, a credit reporting agency must disclose to you all of its information and the sources of that information. This includes identification of anyone who obtained reports for employment purposes in the past two years, plus the names of all others who requested credit reports or other information about you in the last six months.

You may either make an appointment to review your file or request the information over the phone. In either case, you will need to establish your identity. The credit reporting agency must provide you with a free copy of your file if you have been denied credit within the last 30 days. Consumers can also receive one free credit report every 12 months under the federal Fair and Accurate Credit Transactions Act or FACT Act. For more information on the FACT Act visit the Federal Trade Commission's website at [www.ftc.gov](http://www.ftc.gov).

You can also contact one of the three primary credit reporting agencies and request a copy at any time - charges for the reports vary.

### Equifax

[www.equifax.com](http://www.equifax.com) - (800) 685-1111

### Experian

[www.experian.com](http://www.experian.com) - (888) 397-3742

### TransUnion

[www.transunion.com](http://www.transunion.com) - (800) 916-8800

### Is there a process for correcting an error in my credit file?

Notify the credit reporting agency if you've discovered an error in your file. The agency is required to investigate the items in question within 30 business days after they have been notified of a problem. If the new investigation reveals an error, or if the disputed information cannot be verified, a corrected version will be sent, at your request, to anyone who received the report in the past six months. Job applicants can have corrected reports sent to anyone who received a copy during the past two years.

If the new investigation does not solve the problem, you may have the agency include your version of the disputed information on your file. This written explanation or summary must be 100 words or less. This statement will be included in all future copies of your report.

## HOW TO DEAL WITH YOUR DEBTS

Once you've obtained credit, it's easy to be overwhelmed. You may overspend, become ill, or lose your job, making it difficult to keep up with your bills. If you cannot resolve your credit problems alone or you need additional assistance, you may wish to contact an agency like the National Foundation for Consumer Counseling ([www.nfcc.org](http://www.nfcc.org)). This is a non-profit organization that provides member agencies by location for consumers who are in debt. A counselor from one of these member agencies will help you set up a budget and reduce your reliance on credit. They can also, in the right circumstances, assist in arranging a repayment plan between you and your creditors. The toll free number for 24 hour automated office

listings is (800) 388-2227. Some consumers turn to companies that claim they can fix credit problems. These companies, sometimes called "credit repair clinics," often make misleading promises to consumers - such as promising to remove a bankruptcy from their credit report - and charge high fees for doing the same things consumers can do on their own. You need not pay to learn what is in your credit file or to correct inaccurate information. If you have legal questions regarding the benefits and consequences of bankruptcy, consult an attorney through the Washington State Bar Association. The WSBA can direct you to attorneys with expertise in specific areas of the law. The toll-free number is (800) 945-9722.

Similarly, some consumers try to reduce their debts by paying so-called debt reduction companies to help them get out of the red. These services advertise on the Internet and charge exorbitant fees for work consumers can do on their own. The "debt reduction" promises often come at a high price to the unsuspecting consumer when the service is never provided or these firms promise more help than they can deliver.

## COLLECTION AGENCIES

This section summarizes portions of the state's collection agency law (RCW 19.16) and the federal Fair Debt Collections Practices Act (15 USC 1692).

These laws apply to businesses that collect debts for other businesses. They do not apply to a firm that collects its own past-due accounts.

### When can a collection agency contact me?

The first time a collection agency contacts you, it must give its name, address, and the name of the original creditor (the business or person you owe money to). It must also tell you in writing the amount of the debt and any fees that have been added, such as interest or collection fees. You must also be informed of your right to dispute the information.

- A collection agency cannot call or write to you more than three times a week. Only one of those calls can be at work. You cannot be called between 9 p.m. and 7:30 a.m.
- A collection agency cannot harass, intimidate, threaten, or embarrass you. It cannot threaten violence, criminal prosecution, or use offensive language.
- If you send a written statement requesting a collection agency to stop, it cannot continue to call or write to you to demand payment.

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