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Rogue debt collectors – how to fight them

- Story Highlights
- Better Business Bureau: Debt collector complaints up 43 percent
- Collections are top industry for Federal Trade Commission complaints
- Rules bar collectors from threatening or harassing debtors
- They can't use profane language or publicize your debt

By Jen Haley
CNN

(CNN) -- If you've faced a financial catastrophe -- an illness or job layoff -- and you've fallen behind on some bills, you're well aware that debt collectors are eager to collect those payments.

But some collectors go over the line, threatening to have the person arrested, making improper bank withdrawals, intimidating people and making harassing phone calls.

In one case a collector threatened to call a woman's place of work "until she lost her job," according to the National Consumer Law Center.

In another case, a collector threatened to send the police to the person's workplace to arrest them, said Joe Ridout of Consumer Action.

The Better Business Bureau received a complaint about a debt collector contacting someone's grandmother four-to-five times a day, using threats like, "if she dies, then her life insurance can pay this debt off."

John Fugate, a Texas consumer attorney relates a story about a rogue debt collector. The debt collector told the "9-year-old child of my college friend, who is the victim of identity theft, that they were going to take her mommy away forever."

Complaints about debt collection agencies are on the rise. The Federal Trade Commission said they received more complaints against debt collectors than against any other industry for at least the past three years. And for the past five years, complaints are up about 43 percent according to the Better Business Bureau.

Some of the most common complaints from consumers include collectors using vulgar language, trying to collect more than they're owed, sharing the consumer's debt information with friends and family or trying to collect extra fees, like late fees or court costs.

That's not to say all debt collectors are resorting to these illegal tactics. ACA International is one of the largest credit and collection industry trade groups and it maintains a code of ethics that prohibits this kind of behavior.

And ethical debt collectors are necessary. According to a study cited by the company, the collection industry saved the average American household \$351 in 2005. That is how much money households would have spent if businesses were forced to raise prices to cover bad debt. The bottom line here is that if you owe money, you should make every effort to pay off the debt.

But you still need to know your rights. "Most people are not aware of their rights. And unfortunately debt collectors take advantage of that fact," says Joe Ridout of Consumer Action.

Here's some expert advice on how to fight back against unethical collectors. The Fair Debt Collection Practices Act requires that debt collectors treat you fairly. This doesn't mean you won't have to pay your legitimate debt. But here are some basic rights:

- A debt collector cannot call you before 8 a.m. or after 9 p.m., unless you agree.
- You cannot be contacted at work if the collector knows your employer disapproves.
- If you don't want to hear from a debt collector, write a letter telling them to stop. By law, they have to. Remember, the debt won't go away and you can still be sued.

- The debt collector can contact your attorney -- if you have one. If not, your friends and family can be asked about how to get in touch with you.
- A debt collector can't misrepresent the amount of your debt.
- A debt collector also cannot use profane or threatening language
- Debt collectors can't say that they will put a lien on your property or file a lawsuit unless the agency really means to do that and it's legal.
- Collectors can't legally claim federal benefits, such as Social Security or your retirement accounts, like your IRA or 401(k).

Once you're contacted by phone, you have the right to get a notice that outlines your debt, whom you owe money to, and what action to take if you don't owe the money. Keep in mind that a debt collector can collect a debt owed by an ex-spouse. If the debt was incurred while you married, you may be liable for the debt after a divorce even if the divorce papers state your spouse is responsible for paying off the debt.

If you've been contacted by a debt collector, but you don't think you owe a debt, you must write a return letter stating that the debt is not yours within 30 days. Once a collector receives your letter, they should send you proof of the debt, such as a copy of the bill. Don't be coerced into paying a debt you don't owe. If you do pay just to get rid of the debt collectors, it's an admission of guilt, and it will have a negative impact on your credit score.

Keep in mind that some debt has an expiration date. There is a limit to how long collectors can legally collect your debt. Generally this limit - called the statute of limitations - can range from three to 15 years according to Ridout. Check with your state's attorney general's office to find out the limit in your state. You can find out who to contact at www.naag.org.

Sometimes debt collectors will try to collect on this old debt called zombie debt because it never goes away. Make sure you don't accept a new credit offer from a creditor you never repaid. Once that creditor renews your credit relationship, the clock starts ticking all over again on your state's statute of limitations.

If you think you've been treated unfairly by a debt collector, take action. File a complaint with the Federal Trade Commission at 877-FTC-HELP or go to www.ftc.gov. You should also contact your state attorney general's office.

You also have the right to sue a debt collector in state or federal court within a year of the date the law is violated. A victory will allow you to recover money for the damages you suffered plus an additional amount up to \$1,000. A group may also sue a collector and for damages up to \$500,000, or one percent of the collector's net worth, whichever is less.

And the federal government plays by slightly different rules. In 1996, Congress passed the Debt Collection Improvement Act which allows the government to take a portion of federal retirement, federal salary and Social Security benefit checks to cover non-tax debts owed to the government.

There are some debts that you can't get rid of. If you don't pay your federal student loans for example, debt collectors can garnish your Social Security wages and prevent you from renewing any state licenses according to Mark Kantrowitz of Finaid.org. Debt collectors can even dip into your tax refund. Other debts like past-due child support and federal tax liens tend to stick with you.

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