

# YOUR RIGHTS AS A DEBTOR



**Office of the Staff Judge  
Advocate  
Eielson AFB, Alaska**

**354 FW/JA**  
Legal Assistance & Preventive  
Law  
Pamphlet Series

## INTRODUCTION

If you are behind in paying your bills, or a creditor's records mistakenly make it appear that you are, a debt collector may attempt to contact you. There are a number of Federal and State statutes that provide protections to people who experience difficulties repaying their debts.

*The Fair Debt Collection Practices Act (FDCPA);*

*The Fair Credit Reporting Act (FCRA);*

*The Fair Credit Billing Act (FCBA);*

*and the Servicemembers' Civil Relief Act of 2003 (SCRA).*

## THE FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

**As amended by Public Law 104-208, 110 Stat. 3009 (30 September 1996)**

The FDCPA prohibits debt collectors from using abusive, unfair, or deceptive practices to collect from you. Under the FDCPA, a debt collector is someone who regularly collects debts owed to others. This includes collection agencies, lawyers who collect debts on a regular basis, and companies that buy delinquent debts and then try to collect them. The FDCPA specifically prohibits debt collectors from communicating with a consumer or the consumer's family:

- at unusual or inconvenient times or places -- before 8:00 a.m. and after 9:00 p.m. are considered inconvenient times;
- at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication;
- after the consumer notifies the debt collector in writing that he refuses to pay the debt or that he wishes the debt collector to cease

further communication with the consumer, except that the debt collector may notify the consumer that the debt collector intends to invoke a specific remedy; and

- if a debtor is represented by an attorney with regards to the debt, and the debt collector can easily identify the attorney's name and address.

## THE FAIR CREDIT REPORTING ACT (FCRA)

**15 USC 1681 (September 2012)**

Consumers are afforded further protection under the FCRA. The purpose of the FCRA is twofold. First, it ensures that credit reporting agencies are fair to the consumer. Second, it requires reporting agencies to provide accurate and up-to-date information. Any reference to a declaration of bankruptcy should be deleted after 10 years. After seven years all other unfavorable information should not appear on credit reports.

Under FCRA you have the right to obtain the identity of anyone who has requested your credit report for employment purposes within the past two years. You may also find out who has requested your report for other purposes within the past six months. You have the right to dispute the accuracy of their credit reports. A credit reporting agency must investigate any reasonable dispute raised by a consumer. If the consumer still disputes the information after the agency has investigated, the consumer may add a short statement to his report and the agency must provide notice on the report that the information is disputed.

## **THE FAIR CREDIT BILLING ACT (FCBA) 15 USC 1601 (9 July 1986)**

The FCBA offers consumers protection against errors on their bills. The FCBA applies to “open end” credit accounts, like credit cards, and revolving charge accounts, like department store accounts. It does not cover installment contracts – loans or extensions of credit you repay on a fixed schedule. You should always review your billing statements with care. If you do find an error you must write the card issuer to notify them of the error. This notice must be received within 60 days after the issuer mailed the first bill with the error.

The letter should include your name, account number, the date, type, and dollar amount of the charge you are disputing and why you feel there is a mistake. You should also ask the issuer for proof if they contend the bill is correct. Your letter should be sent to the specific address for billing inquiries designated by the card issuer; this address may be different than the address where you mail your payments. Send your letter certified mail and ask for a return receipt so you can have proof of what the card issuer received.

The card issuer must acknowledge your letter, in writing, within 30 days after receipt, unless the problem is already resolved. The issuer also must conduct an investigation, and either explain why the bill is accurate or correct the error within 90 days. If the issuer contends the bill is correct, then documents providing proof of this must be included in the issuer’s response.

## **SERVICEMEMBERS CIVIL RELIEF ACT (SCRA) 50 USC 501-597b**

SCRA is designed to ensure that servicemembers are not disadvantaged either legally or financially when serving their country. Under SCRA, a credit agency may not identify a member’s status as guard or reserve because such information may cause a lender to deny or revoke credit, change credit terms, or view the credit report negatively against the member. Additionally, under SCRA members may reduce the interest rates of any financial obligation (credit card, loan, mortgage) individually or jointly entered into before entering active duty to six percent. The reduced interest rate is effective only during the period of active duty. The reduced interest rate does not apply to financial obligations entered into or incurred while on active duty.

## **ALASKA UNFAIR TRADE PRACTICES AND CONSUMER PROTECTION ACT**

The Alaska Unfair Trade Practices and Consumer Protection Act prevents debt collectors from using unfair and deceptive practices when collecting a debt. The law does not, however, forgive any legitimate debt you may owe. Debt collectors cannot harass or abuse you when attempting to collect a debt. This means a debt collector cannot threaten violence, use obscene language and profanity, or repeatedly call you with the intent to harass or annoy you. If you have been contacted by a debtor collector who has not treated you fairly or whose activities violate the law, you can file a complaint with the Consumer Protection

Unit of the Attorney General’s Office. The complaint form is available at:  
[http://www.law.state.ak.us/departments/civil/consumer/cp\\_complaint.html](http://www.law.state.ak.us/departments/civil/consumer/cp_complaint.html)

## **CONCLUSION**

Be aggressive with all of your debts and ensure that you know all your rights. If you have any questions as to what you should do in your particular circumstance, take the time to see one of your legal assistance attorneys at the Legal Office.



**This pamphlet provides basic information on debtor’s rights. It is not intended to take the place of legal advice from a Judge Advocate. Please contact the 354th Fighter Wing Legal Office for questions and further information.**

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