

Community Legal Aid

A non-profit law firm serving the legal needs of low-income individuals and families in central northeast Ohio



www.communitylegalaid.org

All you need to know about managing debt and collections

Dealing with debt and creditors can be complicated and tiring. These links are meant to give you the information you need to manage your debt and talk to creditors. Click on the links that are important to you or read through all of the information below.

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What is a creditor and can there be different kinds?

A creditor is a company or a person who you owe money to. Creditors are also sometimes called “lenders,” so if you see this term used, don’t get confused. They are one and the same!

There are different kinds of creditors, and they have different rights and responsibilities.

An “original creditor” is the person or company who loaned you money or credit in the first place. Sometimes, the original creditor will try to collect on a debt by themselves, but most of the time they either hire a debt collection agency or sell your account to a debt buyer.

A debt collection agency is a company who is hired by your original creditor to collect your debt. A debt buyer, on the other hand, actually takes on (or “buys”) your debt, meaning you now owe them, instead of the original collector. You will often be able to tell if your debt has been sold, or if your original creditor has hired a collection agency, because the name of the company calling you or sending letters will be different.

Collection agencies and debt buyers may take you to court, but they don’t have as many rights as an original creditor. For example, if you tell a debt collection agency or debt buyer to stop contacting you, they are required by law to do so. You can find more information on how to do this here.

Another difference for collection agencies and debt buyers in court is the “chain of title,” or how the ownership and documents surrounding your debt are transferred. If it is not done correctly and able to be shown to the court, this can be a defense for you.

What can my creditors take from me?

The first thing to keep in mind is that in most cases, a creditor first needs to sue you in court before they can attempt to collect on the debt. Once they do, the court needs to agree that you owe the debt. So it doesn’t just happen automatically.

To learn more about how to respond to a creditor lawsuit, see the free resources at www.OhioLegalHelp.org.

If this does happen, they may be able to garnish your wages, or take money automatically out of your paycheck, take money out of your bank account, or use your home or property as leverage. In rare situations, they may be able to force you to sell property to pay off your debt.

There are certain types of income a creditor can't take. These are called "uncollectible" income. Some common types of income that are protected from collection efforts are:

1. Social security
2. Unemployment
3. Veterans' benefits
4. Workers' compensation
5. Disability
6. OWB (cash assistance)
7. Child support

Again, most creditors cannot take money from those types of income. But there are a few exceptions, including:

1. if you owe back child support
2. if you owe back taxes
3. if you were paid too much in public benefits, or
4. if you have federally backed student loan debt

Now, if you earn money from a job, you may not be considered "uncollectible," but you still have some protections. A creditor can ask the court to garnish your wages, which lets them take money automatically out of your paycheck, but there is still a limit to how much they can take.

A creditor also can ask the court to make you sell personal property to pay back a debt. This can include things like your home, your vehicle, household goods and furniture, jewelry, or tools you own for a job.

But before they can do that, your property has to be worth over a certain value. Anything below those values is protected from collection efforts, even if you end up filing for bankruptcy. You can see what these values are [here](#).

When thinking about the value of any property you own, don't go by what you paid for the item. Instead, think of its value in terms of what you would actually get if you put it in a garage sale. For example, you may think that your diamond ring is worth a lot of money, but if you took it somewhere that buys jewelry, you might be surprised to find out how little they would pay you for it.

How can I protect my bank account from a creditor?

It is important to know how to protect the money in your bank account from creditors.

A creditor may ask the court if they can take money out of your bank account. This is called a bank attachment, or non-wage garnishment. If you have more than \$500 in your account, this can happen.

Here's what you can expect:

1. The creditor has to let you know they plan to remove this money, and a hearing will be scheduled at the court where the creditor sued you.
2. You should get a notice of that hearing at least 7 days beforehand.

3. You **MUST** tell the court in writing that you want the hearing within 5 days of getting the notice. When you receive the notice from the court, it should include a form for you to fill out, which will inform the court of whether or not you want the hearing. You can see an example of this form [here](#). This sample is based off of the Summit County Clerk of Courts example, but should apply in most situations.
4. When you attend the hearing, bring proof that your money is uncollectible, such as statements showing the money being deposited from a protected source, like cash assistance or social security.
5. You may not be able to access money in this bank account while you wait for the court's decision.

Money in your bank account may also be protected if it comes only from a protected source of income. You can learn more about protected sources of income [here](#). For example, if the only money in your account comes from social security, then the creditor cannot take it, but you need to prove to the court that it's protected. Take bank statements, award letters, and any other related proof that shows the money in the account is uncollectible.

This brings up a very important point about bank accounts. If you share an account with someone else, it is quite possible money can be taken from both of you. For example, if you get money from social security, but your significant other puts their paycheck in the same bank account, your money may be taken. Even though your social security money is "uncollectible," the other person's paycheck is collectible. And when the money goes into the same account, it's no longer protected. This is called "co-mingling" funds. If this is your situation, it's a good idea to keep separate accounts to keep this from happening.

How do I manage my debt?

You may have seen ads for debt consolidation companies who claim to reduce your overall debt and negotiate with your creditors. While there are good companies who do this, there are also a lot of scams. What happens is that you may end up paying less to creditors, but the company will charge you fees, which means over time, you owe just as much, if not more, than your original debts.

If you do have some money to pay on debts, but can't pay everything at once, look into working with a non-profit credit counseling agency such as Apprisen. They may be able to help you lower interest rates and work out a repayment plan that fits your budget. While there are fees for this service, it is based on your income, and some clients end up not paying anything for the help. You can learn more about Apprisen's debt management program [here](#).

Non-profit credit counseling agencies like Apprisen, and many local United Ways, also provide budgeting and financial coaching that can help you stay on your feet financially. You can learn more by checking out your local United Way or calling 211.

Another option for managing debt is to work directly with your creditors. This is a great choice if you only have a few debts. It is possible they will reduce interest or cancel late fees if you can agree to a payment plan that you can live with.

It is important to make sure you can actually make the payment. Do not agree to something that you can't afford. Sometimes you can feel a lot of pressure during a collection call, and it can be tempting just to agree to something without knowing whether or not you can stick with it. Don't allow a creditor to pressure you into something you really can't afford.

If you agree to a payment arrangement, it is likely they will want your bank information to automatically take the payment out of your account each month. It can be difficult to stop these payments once they start, and your bank may charge you a fee to stop them, so be sure you can live with any payments you set up directly with a creditor.

Can I make creditors stop calling me?

We know it can be stressful hearing from the same creditors day-in and day-out. You can feel a lot of pressure to pay something, even though you can't afford it. The threat of a lawsuit sounds scary and it can seem overwhelming when your phone never seems to stop ringing.

You can make those calls stop. All you need to do is send the creditor a "cease contact" letter, asking them to stop calling you about the debt. Many creditors are required to stop calling you

after getting a letter like this. It is important to note, however, that this does not apply to original creditors. You may still send a cease contact letter to an original creditor, and the collection calls may stop, but there is nothing you can do legally if they don't. You can find more information about the different types of creditors **here**.

You can find an example of this type of letter [here](#). You can also find other resources at www.OhioLegalHelp.org

How can I get a free copy of my credit report?

When dealing with debt, it's important to know everything that's out there. You may have debts from the past you've forgotten about. Or, someone may have stolen your identity and created debts in your name.

The easiest way to find all this out is to look at your credit report.

Your credit report is a summary report kept by credit agencies that contain all your debt information in one place. The agencies then give you a number, or "score," that tells potential creditors how reliable you are for paying off debt.

Every American citizen is required by law to receive a free credit report each year. To request yours, visit www.annualcreditreport.com. There, you can request to receive a mail-in form. Once you get to the website, you'll see a tab at the top that says "Request Yours Now." You can also get the mail-in form by calling (877) 322-8228.

It's important to know that this report may not include your actual credit score, unless you request that specifically. But it will list all your debts.

Experian, Equifax, and Transunion are also offering [free weekly credit](#) reports through April of 2021.

