This publication is intended to provide general information only and is not a substitute for legal advice.

Bill Collection and Debt Repayment

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From Article at GetOutOfDebt.org

Collection agencies collect unpaid debts or locate debtors for others. Debt repayment agencies charge a fee to negotiate payment arrangements for people who owe money.

The *Fair Trading Act* and the *Collection and Debt Repayment Practices Regulation* identify the rules these businesses and the people working for them must follow.

ABOUT THE LEGISLATION

Alberta requires all collection agencies, collectors, debt repayment agencies and debt repayment agents to be licensed under the *Fair Trading Act* and the *Collection and Debt Repayment Practices Regulation*. All locations at which collection or debt repayment activity occurs must be registered on the licence. The agencies are responsible for the behaviour of the collectors they employ.

The legislation does not apply to businesses or people collecting debts for which they are the original creditor or owner of the debt, a lawyer who is collecting a debt for a client, a civil enforcement bailiff or agency while seizing security or people working while licensed under the *Insurance Act*.

The *Fair Trading Act* and the *Collection and Debt Repayment Practices Regulation* can be viewed on the Service Alberta website at www.servicealberta.ca under Consumer Information/Legislation.

If you are having problems paying your bills, contact your creditors as soon as possible.

COLLECTION AGENCIES

If you are having problems paying your bills, contact your creditors as soon as possible. Try to make arrangements with your creditors before your account is turned over to a collection agency.

A collection agency or collector must:

- Use the name that is shown on their licence in all contacts and correspondence related to their collection activities
- Provide you with information about the original creditor and current creditor of the debt and any details of the debt
- Disclose in writing the fee the agency will charge for a non-sufficient funds (NSF) cheque before the submission of the cheque
- Provide a receipt for all cash transactions and payments made in person or at your request
- Give you a statement of account if you ask for it. The statement will show the amounts received and paid out on your account and the balance owing as of the statement date. Agencies only have to give you this information once every six months

A collector may:

- Contact you at home between 7 a.m. and 10 p.m. Alberta time
- Contact your spouse, adult interdependent partner, relative, neighbour, friend or acquaintance to obtain your residential address, personal or employment telephone number
- Contact you at work to discuss your debt unless you ask them not to. If you don't want to be contacted at work, you must make other arrangements to discuss the debt and you must keep those arrangements
- Contact your employer on one occasion to confirm your employment status, business title and the address of the business in preparation for legal proceedings

From Articles at GetOutOfDebt.org

Alberta requires all collection agencies, collectors and debt repayment agencies to be licensed.

A collector may not:

- Call you or members of your household, relatives, friends, neighbours or your employer so often that the number of calls received could be considered harassment
- Use threatening, profane, intimidating or coercive language
- Give any false or misleading information including references to the police or a law firm, credit history, court proceedings, lien or garnishment or imply that the collector or agency is part of a law firm or legal department of the collection agency or client
- Threaten or state an intention to proceed with any legal action where the agency does not have the legal authority and consent of the creditor to do so
- Discuss your debt or the existence of your debt with any person except you (unless you have given your express consent to do so), a guarantor of the debt, the creditor or someone you have identified in writing as your representative. If you want the collector to contact your representative to discuss your debt, you must provide that person's current address and telephone number
- Discuss your debt with a minor child
- Continue to contact you if you inform the agency in writing or any other verifiable means that the debt is in dispute and that you wish the creditor to take you to court
- Continue to contact you if you tell the collector that you are not the debtor unless after investigation, the agency is convinced you are the debtor
- Cancel or alter a repayment arrangement if you have complied with the terms of the arrangement and have not misrepresented your financial circumstances or they have not materially changed
- Make more than three unsolicited contacts in any period of seven consecutive days not including contacts with a third party to locate you or mistaken contacts with a third party or contacts by traditional mail
- Pursue a non-judgment debt where the last payment or written acknowledgement of the debt is more than six years old

Other

- A collector may not suggest that a friend, spouse or other relative is responsible for your debt or ask that person for money unless he or she has accepted responsibility (for example, if he or she co-signed a loan)
- A collector may not threaten to physically harm you, your family or your property. If any collector does this, charges may be laid under the *Criminal Code of Canada*. If this happens, call the police and inform Service Alberta

From Article at GetOutOfDebt.org

- Collection agencies do not have the authority to take your property if you do not pay your bill. However, if the agency sues you and obtains a judgment, they may hire a civil enforcement agency to seize your property. A bailiff who works for a civil enforcement agency is the only person who can seize property

- Collection agencies cannot bring in the police or send you to jail. The police do not become involved in debt collection matters

DEBT REPAYMENT AGENCIES

A debt repayment agency is a business that charges a fee to act for you in negotiating or making arrangements with creditors for you to pay what you owe. This is a voluntary agreement between the debt repayment agency (acting for you) and your creditors. A creditor does not have to accept your payment proposal. Even if a creditor accepts your payment proposal, it can be cancelled if you do not abide by all the terms of the agreement. The creditor can then resume collection activity on your debt.

The agency must tell you within 30 days of being informed by a creditor that the creditor has decided not to participate in or has withdrawn from a debt repayment program.

A debt repayment agency can charge you a one-time administration fee. If your repayment agreement includes a schedule of payments to your creditors, the administration fee cannot be more than the average monthly payment that is set out in the agreement. The agency can also charge 15 per cent of the gross amount of the payments received from you for distribution to your creditors.

If the debt repayment agency successfully negotiates a settlement of a one-time payment with your creditors that is acceptable to you, the agency is allowed to charge a single fee of no more than 10 per cent of the debt owed.

A debt repayment agency must give you a signed copy of your contract before providing any services. If the agency fails to do this, it cannot charge you any fees, commissions or disbursement costs for the services.

From Article at GetOutOfDebt.org

Collection agencies do not have the authority to take your property if you do not pay your bill.

CONTRACT REQUIREMENTS

A debt repayment contract must:

- Be in writing, dated and signed by you and the debt repayment agency
- Include your name, address and telephone number and the name, address, telephone number and if available the fax and e-mail address of the debt repayment agency
- Describe all the services that will be provided
- Itemize all the fees you are required to pay
- List all creditors that will be paid under the agreement
- State the total amount you owe, the amount of each payment, the schedule of payments and the total number of payments for each creditor

A debt repayment agent or agency may not:

- Charge any fee for an NSF cheque unless the agency has disclosed in writing prior to the submission of the cheque that a fee will be charged
- Make any arrangement with you to accept a sum of money that is less than the amount of the balance that is due and owing to a creditor as a final settlement without the prior express consent of the creditor
- Give any false or misleading information including references to the police or law firm, credit history, court proceedings, lien or garnishment
- Lend you money to pay your debts
- Offer to pay or give you any other form of compensation for entering into a debt repayment agreement
- Collect any fee for referring or assisting you to obtain an extension of credit from a lender, creditor or service provider
- Fail to provide a receipt for all cash transactions or payments made in person or at your request
- Discuss your debt or the existence of your debt with any person except you, a guarantor of the debt, your representative or the creditor of the debt
- Make a claim for breach of contract if you cancel the repayment agreement

From Article at GetOutOfDebt.org

MONEY MENTORS, (formerly CREDIT COUNSELLING SERVICES OF ALBERTA)

Money Mentors is a not-for-profit consumer debt counselling service that offers a number of debt repayment options. It is the only organization in Alberta legislated to provide the Orderly Payment of Debts (OPD) program.

Under the OPD program, Money Mentors makes an application to the court on your behalf for a consolidation order. This order will allow you to make payments, which Money Mentors will distribute *pro rata* to your unsecured creditors. A consolidation order protects you from some legal actions. The interest rate is reduced to five per cent. Payment schedules are based on your ability to pay. Most secured credit (such as property mortgages or car loans) cannot go on OPD. If you choose to go on the program, you can maintain secured credit payments outside of the OPD program, but you cannot get any new credit.

If you default while on OPD, the court will make an order permitting all registered creditors to proceed independently to enforce their claims. They do not have to sue you to proceed with legal action to collect the debt.

For more information on the OPD program contact Money Mentors Toll-free in Alberta - 1-888-294-0076.

RECORDS

Collection and debt repayment agencies must create and maintain records of all their activities relating to collection or debt repayment. This includes, but is not limited to:

- Contacts with creditors and debtors
- Receipts and disbursements
- Trust accounts
- Telephone calls
- Agreements
- Authorizations from creditors to sue or accept a settlement on a debt
- All correspondence
- History of a debt and negotiations with creditors

Records must be retained for a minimum of three years after the date the record was made.

Keep your own records of how much you have paid on your debts, who you paid, when you made payments, the form of payment you used (cash, cheque, debit card, money order, etc.), who you talked to about your debt and any payment arrangements you agreed to. Make sure you are able to verify (by receipts, cancelled cheques, etc.) any payment you made to an agency or creditor.

From Article at GetOutOfDebt.org

GENERAL INFORMATION

Creditors may take action to seize your property through a civil enforcement agency without the need for a judgment if:

- You have bought items through a time sales agreement and you are behind or have not made any payments
- The creditor is secured by a chattel mortgage and you have payment arrears
- The debt is rent owed to a landlord

Keep your own records of how much you have paid on your debts.

MAINTENANCE ENFORCEMENT PROGRAM

The Maintenance Enforcement Program (MEP) in Alberta can use a variety of enforcement procedures to collect payments for spousal and child support such as:

- Attaching money from wages and bank accounts
- Seizing personal assets
- Placing liens on property
- Reporting the lack of payment to a credit reporting agency

MEP may withhold motor vehicle services (such as driver's licences, abstracts and vehicle registrations) for failure to comply with maintenance orders. Debts arising from fraud or writing a cheque when you know you don't have enough money in your bank account to cover the cheque are criminal offences and may lead to a jail term.

Clients can access the MEP Info Line by calling 780-422-5555 in Edmonton or 310-0000 for toll-free access anywhere in Alberta. Clients should have their seven digit MEP account number and Personal Identification Number (PIN) available when using the Internet service or calling.

From Article at GetOutOfDebt.org

FOR MORE IMFORMATION

For more information about bill collection and debt repayment contact

Consumer Contact Centre
Edmonton: 780-427-4088
Toll-free in Alberta: 1-877-427-4088
www.servicealberta.ca

Tipsheets
www.servicealberta.ca>Consumer Information>
Tipsheets-Consumer Information

The tipsheet: What Creditors Can Do if You Don't Pay has information about the legal steps creditors must take to collect a debt.

Queen's Printer Bookstore
The Act(s) and regulation(s) may be purchased from the Queen's Printer Bookstore: 10611 - 98 Avenue, Edmonton, Alberta T5K 2P7
Edmonton: 780-427-4952
Toll-free in Alberta: 310-0000 then 780-427-4952
These are also free for you to download in the "pdf" or "html" formats at www.qp.alberta.ca

A current version of this and other consumer tipsheets are available at the Service Alberta website www.servicealberta.ca. Most public libraries have Internet access if you don't have access at home.

If you need more copies of this tipsheet, you have permission to photocopy.

From Article at GetOutOfDebt.org