

# Oregon State Board of Towing

## Tower Collection Activities in Oregon

### Disclaimer:

*This document is an informational and resource guide prepared by the Oregon State Board of Towing.*

*This resource is not intended to be legal or regulatory advice. Reference to federal regulations and state statutes in this document are not meant to be all inclusive, and are not applicable to all collection activities. The reader is reminded that laws and regulations change, are subject to interpretation, and are dependent on context and circumstances.*

*Legal advice should only be provided by an attorney representing you or your organization and the advice should be tailored to the facts and circumstances of the collection event.*

### General:

Debt collectors and repossession agencies must comply with federal and state laws, including the Fair Debt Collection Practices Act.

### State Agencies:

#### *Oregon State Board of Towing*

The Oregon State Board of Towing was established to protect the safety and well-being of the public through enforcement of laws regulating the towing industry.

Current Oregon towing laws administered by the Board are specific to consensual and non-consensual tows and recovery actions authorized by law enforcement, state and local agencies, private property owners, and vehicle owners and operators.

Oregon laws regulating towing do not extend to repossessions. The Board does not administer, regulate or enforce debt collection laws and rules.

The Board's role in debt collection and repossession complaints:

1. Confirm a tow company is operating under a tow business certificate required under ORS 822.205 and OAR 735-154-0000.
2. Act as a conduit of information for the public, tow industry, and others.
3. Does not investigate unlawful debt collection practices or repossession complaints.

#### *Dept. of Consumer and Business Services - Oregon Division of Financial Regulation*

The Division of Financial Regulation (DFR) protects consumers and regulates insurance, depository institutions, trust companies, securities, and consumer financial products and services.

DFR regulates collection agencies and registers third-party collection agencies (companies hired by a creditor to collect debts, including repossession companies.)

Lenders and creditors (including tow companies) who collect their own debt are original creditors and do not require a state-issued registration from DFR.

DFR:

1. Accepts and responds to complaints from creditors experiencing issues with third-party collectors, such as not receiving the money or collateral collected.
2. Verifies required registration of tow companies providing repossession services.
3. Investigates debt collectors and repossession companies who may be unregistered.
4. Does not investigate collection action complaints.

## Oregon Dept. of Justice - Consumer Protection

DOJ's Consumer Protection Division enforces consumer protection laws and invests in consumer education. DOJ does not represent individual consumers in legal actions.

DOJ will accept complaints from consumers in Oregon who:

1. Were victimized by a debt collector.
  2. Believe an individual, company or agency may be engaging in unlawful debt collection practices.
  3. Have issues with the methods the collection agency uses while attempting to collect the debt, such as excessive phone calling or threatening arrest.
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## Collections:

An Oregon tow company can lawfully collect an outstanding debt for an unpaid balance for towing or recovery services, charges, and storage fees. The tow company may contact the customer directly to resolve the debt, hire a collection agency, or take legal action.

### *Ownership of the vehicle:*

In Oregon, a bill of sale is not valid for the purposes of determining the debtor in a collection action.

Ownership of a vehicle is determined by DMV records. Even if the vehicle was sold to another person prior to the tow, the vehicle remains the responsibility of the titled owner as recorded in DMV records until the new owner titles the vehicle in their name.

### *Vehicle titled in Oregon:*

A tower can legally pursue collection actions against the vehicle owner of record in DMV official records, unless the vehicle owner (1) notified DMV of the transfer of ownership within 10 days of selling the vehicle.

### *Vehicle titled outside of Oregon:*

As ownership laws and requirements may vary from state to state, towers should contact the respective state's DMV office to determine lawful ownership requirements for purposes of collection actions.

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## Repossessions

Creditors may hire a tow company to repossess a vehicle when the borrower has defaulted on their payments.

Towers are sub-contractors of the lenders and are required to:

1. Hold an active tow business certificate issued by Oregon DMV.
2. Be registered with DCBS – DFR
3. Follow the federal Fair Debt Collection Practices Act (FDCPA).

There are no other current Oregon laws regulating the repossession industry. The Board cannot provide advice on the validity of a repossession or a borrower's rights and expectations.

As financial institutions and financial contracts have different provisions and agreements, debtors should first contact the lender to resolve any issues with the repossession.

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## Consumer resources

Additional resources available to the public.

### *Federal Resources:*

#### **Consumer Financial Protection Bureau**

<https://www.consumerfinance.gov/complaint>

The Consumer Financial Protection Bureau is a federal government agency created to protect consumers from unfair, deceptive, or abusive practices and to take action against companies that break the law.

#### **The Federal Trade Commission**

[www.ReportFraud.ftc.gov](http://www.ReportFraud.ftc.gov)

The Federal Trade Commission protects the public from deceptive or unfair business practices and from unfair methods of competition through law enforcement, advocacy, research, and education.

### *State Resources:*

#### **Oregon Dept. of Justice – Consumer Protection**

<https://www.doj.state.or.us/consumer-protection/credit-loans-debt/debt-collection>

#### **Oregon Consumer and Business Services Division – Division of Financial Regulation**

<https://dfr.oregon.gov/financial/Pages/index.aspx>

### **Oregon State Board of Towing**

[www.oregon.gov/sbot](http://www.oregon.gov/sbot)

### *Other organizations:*

#### **LawHelp.org**

<https://www.lawhelp.org/find-help/>

LawHelp.org was created to help people without lawyers understand their rights, make informed decisions and connect to help in your local community. LawHelp.org provides referrals to nonprofit legal aid organizations in every state and territory, free legal rights resources, court forms and self-advocacy tools.

#### **National Consumer Law Center**

<https://www.nclc.org/how-to-get-legal-assistance>

#### **Oregon State Bar**

<https://consumerlaw.osbar.org/about-consumer-law>

<https://www.osbar.org/public/legalinfo/consumer.html>

#### **Oregon Consumer League**

<https://oregonconsumerleague.org>

### *Materials:*

- Fair Debt Collection Practices Act
- Fair Debt Collection Practices Act – 2021 Amendment
- FTC Consumer Advice – Vehicle Repossession
- FTC Consumer Advice – Debt Collection FAQs

# Federal Trade Commission Consumer Advice

## Debt Collection FAQs

Original Source: <https://consumer.ftc.gov/articles/debt-collection-faqs>

Is a debt collector calling? What can you do? What are your rights? The Fair Debt Collection Practices Act (FDCPA) makes it illegal for debt collectors to use abusive, unfair, or deceptive practices when they collect debts. Here are some answers to frequently asked questions about your rights.

### What To Know About Debt Collection

#### What types of debts are covered under the law?

You have important rights under the FDCPA for your credit card debt, car loans, medical bills, student loans, mortgage, and other household debts. Business debts are not covered by the FDCPA.

#### Are debt collectors allowed to contact me at any time or place?

No. The law limits how and when a debt collector can contact you about covered debts. There are also ways to stop a debt collector from contacting you (see: **How do I stop a debt collector from contacting me?**)

Debt collectors

- can't contact you before 8 a.m. or after 9 p.m., unless you agree to it
- can't contact you at work if you tell them you're not allowed to get calls there
- can't contact you by email or text message if you ask them to stop
- can't call you more than seven times within a seven-day period or within seven days after talking with you by phone about a particular debt
- can't privately message you on social media if you ask them to stop

#### How are debt collectors allowed to contact me?

Debt collectors can call you, contact you by private message on social media, or send letters, emails, or text messages to collect a debt.

#### What does the debt collector have to tell me about the debt?

A collector has to give you "validation information" about the debt either when they first communicate with you or within five days of the first contact. The collector has to include the following

- their name and mailing address
- the name of the creditor you owe it to

- how much money you owe, written out to include interest, fees, payments, and credits
- what to do if you don't think it's your debt
- your debt collection rights, including your right to get information about the original creditor if you ask for it within 30 days of getting validation information from the collector

## How do I stop a debt collector from contacting me?

Mail a letter to the collection company and ask it to stop contacting you. Keep a copy for yourself. Consider sending the letter by certified mail and paying for a "return receipt." That way, you'll have a record the collector got it.

Once the collection company gets your letter, it can only contact you to confirm it will stop contacting you in the future or to tell you it plans to take a specific action, like filing a lawsuit. If an attorney is representing you, tell the collector. The collector must communicate with your attorney, not you, unless the attorney doesn't respond to the collector's communications within a reasonable time.

But consider talking to the collector at least once, especially if you don't think you owe the debt or can't repay it immediately. That way, you might be able to confirm whether it's really yours or find out more about the amount owed. To avoid [debt collection scammers](#), don't share your personal or financial information until you've gotten validation information or are already familiar with the collector.

## Can a debt collector contact anyone else about my debt?

Generally, a debt collector can't discuss your debt with anyone but you or your spouse. If you've told the collector an attorney is representing you, the collector must contact the attorney. A collection company can contact other people to find out your address, your home phone number, and where you work, but usually it can't contact them more than once, and it can never tell them you owe a debt.

## What if I don't think I owe the debt?

Once you get the validation information (see **What does the debt collector have to tell me about the debt**), if you still don't recognize a debt, or don't think the debt is yours, send the debt collector a dispute letter. Say you don't owe some or all of the money, and ask for verification of the debt.

Make sure to send the dispute letter within 30 days. Once the collection company gets the letter, it must stop trying to collect the debt until it sends you written verification of

the debt, like a copy of the original bill for the amount you owe. Consider sending your letter by certified mail and requesting a return receipt to show that the collector got it. Keep a copy of the letter for your records.

If you don't dispute the debt within 30 days of getting the validation information, the debt collector will assume the debt is legitimate.

## What are debt collectors not allowed to do?

Collectors can't harass you. For example, collectors

- can't threaten to hurt you
- can't use obscene or profane language
- can't call you more than seven times within a seven-day period, or within seven days after talking with you on the phone about a particular debt

Collectors can't lie. For example, collectors

- can't tell you that you owe a different amount than what you actually owe
- can't pretend to be an attorney or from the government
- can't tell you that you'll be arrested, or claim they'll take legal action against you if it's not true

Collectors can't treat you unfairly. For example, collectors

- can't try to collect interest, fees, or other charges on top of the amount you owe, unless the original contract or a law says they can
- can't deposit a post-dated check early
- can't publicly reveal your debts, including by sending postcards or putting information on envelopes

## What To Know About Repaying Debts

### Am I able to control which debts my payments apply to?

Yes. If a debt collector is trying to collect more than one debt from you, the collector must apply any payment you make to the debt you choose. A debt collector can't apply a payment to a debt you say you don't owe.

### Can a debt collector report my debt to a credit reporting company?

Yes, but a debt collector must take one of the following actions before reporting a debt to a credit reporting company

- talk to you by phone or in person about the debt



- mail a letter or send an electronic communication about the debt, such as a validation notice, and wait for a reasonable amount of time, usually 14 days, in case it's returned as undeliverable

## What To Know About Lawsuits and Garnishment

### What happens if a debt collector sues me?

If a debt collection lawsuit is filed against you, respond by the date specified in the court papers. You are allowed to respond either personally or through your attorney. To preserve your rights, respond and don't ignore the lawsuit. To learn more, read [What To Do if a Debt Collector Sues You](#).

### Can a debt collector take money from my paycheck or bank account?

Yes, but the collector must first sue you to get a court order — called a garnishment — that says it can take money from your paycheck to pay your debts. A collector also can get a court order to take money from your bank account. Don't ignore a lawsuit, or you might lose the chance to fight a court order.

### Can a debt collector take money from my federal benefits?

Many federal benefits are generally exempt from court-ordered garnishment and states have their own laws about which state benefits can be garnished.

Federal benefits that are generally exempt from garnishment (except to pay delinquent taxes, child/spousal support, or student loans) include

- Social Security benefits
- Supplemental Security Income benefits
- Veterans benefits
- Federal student aid
- Military annuities and survivors' benefits
- Benefits from the Office of Personnel Management
- Railroad retirement benefits
- Federal emergency disaster assistance

## What To Know About Old Debts

### What if my debt is old?

Debt doesn't usually go away, but debt collectors do have a limited amount of time to sue you to collect on a debt. This time period is called the "statute of limitations," and it usually starts when you miss a payment on a debt. After the statute of limitations runs out, your unpaid debt is considered "time-barred."

How long the statute of limitations lasts depends on what kind of debt it is and the law in your state — or the state specified in your credit contract or agreement creating the



debt. In some states, if you make a payment or even acknowledge in writing that you owe the debt, the clock resets and a new statute of limitations period begins. In that case, your debt is no longer time-barred.

### Can a debt collector sue me about a time-barred debt?

If a debt is time-barred, it's against the law for a debt collector to sue you for not paying it. If you do get sued for a time-barred debt, tell the judge that the statute of limitations has run out.

### Can a debt collector contact me about a time-barred debt?

Sometimes. It depends on which state you live in. Some state laws say it's illegal for a debt collector to contact you about a time-barred debt, but other states allow it. Either way, they can't sue or threaten you over it.

If you're in a state where a debt collector can contact you about a time-barred debt, they can keep contacting you by phone, email, or letter to try to collect what you owe. If you want to stop a collector from contacting you, send your request by mail. Consider sending the letter by certified mail and paying for a "return receipt." That way, you'll have a record the collector got it.

If you live in a state where a debt collector can't contact you about a time-barred debt — and they reach out to you — learn more about reporting it.

### What if I'm not sure if my debt is time-barred?

Start by asking the collection company what its records show about when you made your last payment. When you have that information research online your state's statute of limitations on your debt. You might also contact [your state attorney general's office](#) or a local [legal aid office](#) in your state to confirm that information.

If the statute of limitations has run out, your unpaid debt is time-barred.

When you ask about your debt, remember that in some states if you acknowledge in writing that you owe the debt, the clock resets and a new statute of limitations period begins.

### Does a time-barred debt stay on my credit report?

Yes. Negative information — like past-due debts — can generally stay on your credit report for seven years.

## Do I have to pay a debt that's considered time-barred?

It's up to you. Consider talking to an attorney before you decide. Your choices are to

- **Pay nothing.** The collector can't sue you, but can keep contacting you unless you send a letter by mail telling the collector to stop contacting you.
- **Make a partial payment.** In some states, if you pay any amount on a time-barred debt, or even promise to pay, the debt is "revived." That means the clock resets, and a new statute of limitations begins. The collector might be able to sue you to collect the full amount of the debt, which may include extra interest and fees.
- **Pay off the debt.** Some collectors will accept less than what you owe to settle a debt. Before you make any payment to settle a debt, get a signed letter from the collector that says the amount you're paying settles the entire debt — and you no longer owe anything for that debt. Keep the letter and a record of any payments you make to pay off the debt.

Remember that paying off an old debt may not erase it from your [credit history](#). Also, if you settle the debt, some collectors will report that on your credit report to show you didn't pay the full amount.

## What happens if I'm sued for a time-barred debt?

Don't ignore the [lawsuit](#). Consider talking to an attorney. Show up on the day of your case and tell the court the debt is time-barred. To prove this, bring a copy of the debt information from the collector or anything that shows the date of your last payment.

## How To Report a Debt Collector

### Where do I report a debt collector for doing something illegal?

Report any problems you have with a debt collector to

- your [state attorney general's office](#)
- the [Federal Trade Commission](#)
- the [Consumer Financial Protection Bureau](#)

Many states have their own debt collection laws that are different from federal laws. Your [state attorney general's office](#) can help you determine your rights under your state's law.

## What are my options if I think a debt collector broke the law?

Besides reporting them, you have the option to sue a collector in a state or federal court. You have to file your lawsuit within one year of when the collector broke the law. If you lost wages or had medical bills because of things the debt collector did, you have the option to sue for those damages. If you can't prove damages, the judge can still

award you up to \$1,000, plus reimburse you for attorney's fees and court costs. However, even if a court finds a debt collector violated the FDCPA, you may still owe the debt.

Need help finding a lawyer to sue a collector? Check out [LawHelp.org](https://www.lawhelp.org).

# Federal Trade Commission Consumer Advice

## Vehicle Repossession

Original Source: <https://consumer.ftc.gov/articles/vehicle-repossession>

If you don't make your car payments on time, your lender might have the right to take your car without going to court or telling you first. Here's what to do if you can't make car payments or if your car is repossessed.

### Talking to Your Lender

If you're having trouble making car payments, contact your lender as soon as possible. Don't wait for the company to repossess your car. Many lenders will work with customers if they think you'll be able to pay soon, even if the payments are slightly late.

You might be able to negotiate a delay in your payment or a revised schedule of payments. If you've experienced a natural disaster, like an earthquake, hurricane, or tornado, your lender might be willing to defer your payments, offer extended repayment plans, give grace periods, waive late fees, or postpone repossession. But if you reach an agreement to change your original contract, get it in writing to avoid questions later.

If you don't reach an agreement, your lender may demand that you return the car. If you agree to a "voluntary repossession," you might pay less in fees. But even if you return the car voluntarily, you're still responsible for paying the difference between what you owe on your contract and what your lender gets for selling the car. The lender might call that the "deficiency". And, even with a voluntary repossession, your creditor still may put the late payments or repossession on your credit report.

Learn more about how to deal with debt at [www.ftc.gov/debt](http://www.ftc.gov/debt)

### When a Lender Can Take Your Car

In many states, your lender can take your car as soon as you default on your loan or lease. Your contract should say what could put you in default, but not making a payment on time is a typical example.

Once you're in default, the lender might be able to repossess your car at any time, without notice, and come onto your property to take it. But the lender can't "breach the peace" when they take it. In some states, breaching the peace means using physical force, threatening to use force, or even removing your car from a closed garage without your permission.

## Electronic Disabling Devices

When you got your car loan, the lender might've had a device installed on your car that keeps it from starting — sometimes called a “starter interrupt” or “kill switch” — if you don't make your payments on time.

Depending on your contract with the lender and your state's laws, using a kill switch might be considered the same as a repossession, or might be seen as a breach of the peace. How your state treats the use of these devices could affect your rights. Contact your state attorney general if you have questions.

## What Happens After Vehicle Repossession

After your vehicle is repossessed, your lender can either keep it to cover your debt or sell it. In some states, your lender has to let you know what will happen. For example, if the car will be sold at a public auction, your state's laws might require the lender to tell you when and where the auction will happen so you can be there and bid. If the lender sells the car privately, you might have a right to know the date of the sale.

Either way, you might be entitled to buy back the vehicle by

- paying the full amount you owe, which typically includes your past due payments, the entire remaining debt, and costs related to the repossession (like storage, sale preparation, and attorney fees), or
- bidding on it at the repossession sale

Some states have laws that let you “reinstate” your loan by paying the past-due amount plus your lender's repossession expenses.

## Personal Property in the Vehicle

Your lender can't keep or sell personal property found inside your repossessed vehicle at least until a certain amount of time has passed, which will depend on your state's laws. In some states, your lender has to tell you what personal items were found in your car and how to get them back.

## Paying the Deficiency

The difference between what you owe on your contract (plus certain expenses) and what your lender gets for selling the car is called a deficiency.

For example, if you owe \$15,000 on the car and your lender sells it for \$8,000, the deficiency is \$7,000 plus any other fees you owe under the contract — like fees related

to the repossession, early termination of your lease, or early payoff of your financing. In most states, your lender can sue you for a deficiency judgment to collect the balance owed, as long as it followed the rules for repossession and sale.

In rare cases, if your lender sells your car for more than what you owe (including the lender's expenses), the difference is called a "surplus" and the lender might be required to give you the surplus funds.

## Report a Problem

Contact your state attorney general or local consumer protection agency to learn more about your rights and specific repossession requirements in your state, and to report lenders who aren't following the rules.