

Title:

For your Information (FYI) - Bankruptcy

Word Count:

943

Summary:

Many people have a spending problem, especially when using 'plastic' or a line of credit. We all need to know that creditors and the collection agencies they hire should follow strict rules when attempting to collect on loans.

Keywords:

dept consolidation,bankruptcy,bankruptcy law,bill  
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finance,house refinance,home loan

Article Body:

People view bankruptcy as a wake up call and well they should because that means they hit the bottom of the barrel and are now scratching the bottom - for more cash! If you believe misery loves company, be secure in the knowledge that there are at least 1.5 million people in there with you, that's how many filed for bankruptcy in the last year. Anyone can over-extend themselves and many do for more reasons than I could count.

Filing for bankruptcy is not only used by the lower and middle class but the rich as well. Famous people have fallen into the hole and climbed out, people like:

Donald Trump, Filed in 1990 - Kim Basinger, in 1993 - Burt Reynolds, in 1996 Rembrandt, in 1656. I am not sure about the last one; he may still be trying to dig his way out!

In the old days they would send people to debtors prison or even put them to death (not in America though), treating them like criminals. In these more civilized times the government not only banned this kind of barbaric action but made into law rules to protect us.

The bankruptcy code, also known by title 2 of the United States code (11 U.S.C.,101-1330), has been put into place to protect the rights of the individual and corporations, giving them a fighting chance against dept collectors, bankruptcy courts having the final word. There are basically two kinds of dept, secured an unsecured. Secured is where the creditor has some kind

of collateral, be it your car, boat, house, or any material thing of value that they can take possession of if the dept is not paid. Unsecured is simply just the opposite, where the creditor has no collateral at all. In this case if the dept is not paid all they can do is use a collection agency where they call you day and night. Also you have to watch out with an unsecured dept because if the balance is large enough the creditor can put a lean on your property by getting a court order. This will prevent anyone from selling their house and moving away in an attempt to hide from creditors.

If you or anyone you know is behind on payments there is something they should know. Since 1997 the government stepped in to stop dept collectors and collection agencies from harassing and threatening people in the middle of the night and using unethical collection practices. The Fair Debt Collection Practices Act (FDCPA) makes collections agencies follow certain guidelines. These are things collectors must do:

- \*Stop contacting you if the request is in writing and you dispute the dept in writing.

- \*Within 5 days of there first contact they must send you a letter stating the outstanding dept and creditor.

- \*If you want to dispute all or part of the dept the collection agency must stop contacting you until the creditor responds to your inquiry.

- \*If the collection agency wants to take you to court for the dept owed on behalf of the creditor it should summon you to the county where you now live or where you first signed the contract.

Now, don't be alarmed just because a creditor threatens to sue you because most times it is just meant to scare people into paying on depts.

Under the act (FDCPA) there are many things collection agencies can't do, some of which are:

- \*No calling you at work

- \*Indicating they may be working with the federal government

- \*No calling your friends or family

- \*Implying that you may go to jail, garnish your paychecks unless the dept holder plans to do it

Our government, in its infinite wisdom reasoned a long time ago that if they send everyone to jail there is zero change of collecting on any dept on behalf of a creditor. You probably have heard of someone that has had there wages garnished, that is creditors who get a court order to take a piece of their check until the dept is paid. This is a common practice in states that allow wage garnishment and there is little you can do about it except for contacting an attorney. Did you know if you have an unpaid school loan or owe the IRS they

don't even need a court order to garnish wages, even in states that normally don't allow this? You can bet on it, they can also take your tax refunds!

As for personal property, in cases like a store dept (store credit card, personal check or payment plan) on an item like major appliances or furniture you may have bought they still need a court order to take it back, unless you let them in anyway. That's right! If you let them in without a court order they can come and get it back! Many times it is just not worth it for them to repossess items because they have to go through the process of getting a court order and pay someone to carry it out. Also it may be harder to sell a used item that may be stained or damaged. One final word on this point, remember on secured loans and cars there is a definite risk of repossession if the loan (mortgage or car finance) is not paid. There is usually too much money involved here for creditors to lose so these payments should be on top of your 'to pay' list!

If you find collectors are not playing by the rules you should call an attorney or the Federal Trade Commission's response center at 1-877-382-4357 (FTC-HELP) You can check out FDCPS's website at [www.ftc.gov/os/statutes/fdcpa/dcpact.htm](http://www.ftc.gov/os/statutes/fdcpa/dcpact.htm) for more info.