

Overwhelmed by Debts?

MANY PEOPLE ask for legal advice because they are in debt and can't pay their bills. This brochure summarizes what creditors can do to a person in that situation.

What can collection agencies do to collect a debt?

Creditors and collection agencies can write, call, and even visit you, asking you to pay the bill, but it is illegal for them to harass you or make false or deceptive threats. It is also illegal for them to tell other people about the debt or call you at work if you have notified them in writing not to do so. If you feel you are being harassed, look for the brochure *Debt Collection Practices*.

Can my property be repossessed?

If you cannot afford to pay your creditors, they can repossess any property that you put up to back the loan (collateral). A creditor must give you advance notice before repossessing a mobile home or personal property, but not before repossessing a vehicle. For more information, look for the brochure titled *Repossessions*.

What should I do if I am sued for a debt?

If you do not pay a bill voluntarily, your creditor can sue you. If there is any question about whether you owe the amount the creditor claims, you need to act promptly to present your defense to the court. If you are sued in Magisterial Court and disagree with the claim, you should attend the hearing with any witnesses, documents, or other evidence that help prove you are right. Tell the Magisterial District Judge's office in advance that

you plan to attend the hearing. If you lose, you have 30 days to appeal. Note: Different rules may apply if your landlord sues you for a debt for rent.

If you are sued in Common Pleas Court and disagree with the claim, you need to file a written answer within 20 days after the complaint is given to you. It is hard to handle a case in Common Pleas Court without a lawyer, so you should try to get legal advice or representation.

If you do not defend yourself when you are sued, the court will rule that you owe the amount the creditor has claimed. The court's ruling that you owe the money is called a judgment against you.

Levies and Executions

If a creditor wins a lawsuit against you, the creditor can have the court, a sheriff, or a constable take your property and sell it to pay the debt. This is called a levy or an execution sale. This can only be done after the creditor wins a lawsuit against you.

Property that your creditors can have taken includes:

- **Bank accounts.** Creditors can have the court take money out of your checking or savings account if they sue you and win. But many funds in bank accounts (social security benefits, for example) can't be taken if the money is automatically deposited into your account. If you receive a notice that a creditor is trying to take money from your bank account, you must act immediately. Consult a lawyer or follow the instructions on the papers you receive.

- **Personal property and real estate.** If they sue you and win, creditors can have a sheriff or constable sell real estate and personal property such as furniture, household goods, vehicles, equipment, and other possessions you own. But clothing and some other types of personal property cannot be taken and sold. In addition, you can keep \$300 worth of property. (Husband and wife can keep a total of \$600 worth of property. Also, property owned jointly by husband and wife can be taken only if both of them owe the debt.) If you receive a notice that the sheriff or constable is planning to sell property of yours to pay a debt, see a lawyer immediately. If you cannot get a lawyer, follow the instructions on the papers you receive.

Can my wages or other income be taken to pay a debt?

Your creditors cannot take any public benefits you receive, such as welfare, unemployment compensation, social security, and SSI. Most creditors cannot take wages you earn in Pennsylvania, except for a few special kinds of debts such as child support, student loans, and judgments for damage to a rental unit. Even in those limited cases, the creditor can only take a certain amount of your wages. (Wages earned in other states may be taken by any creditor who sues you and wins.)

Can I lose my driver's license because of my debts?

You can lose your driver's license if you don't pay a debt that you owe because of an automobile accident. In some cases, you can keep your license, or get it back, while you pay the debt in installments. If the creditor won't agree to a payment plan, you can ask the court to order it.

Can I be sent to jail because of my debts?

You can't be prosecuted criminally or be sent to jail for failing to pay ordinary debts. (You can, however, be criminally prosecuted for failing to pay some special kinds of debts such as child support, fines, or debts caused by fraud, bad checks, or theft.) Your children can't be taken from you because you are in debt, as long as you are providing a good home for them.

What should I do if I can't pay all my debts?

If you can't pay all your debts, give first priority to expenses that are necessary to keep a roof over your head, food on the table, and your job. Pay the most important debts—mortgage, rent, utility bills, fines, child support, and car payments, for example. Give lower priority to creditors who can do less to you—even if they are calling you and harassing you.

If there is nothing that creditors can take—no wages earned outside Pennsylvania, no income that is not exempt, no collateral, no bank accounts, no property worth more than \$300—then you are *collection proof* and your creditors just have to wait until your financial situation improves.

If you are in danger of losing essential property or rights because of debts, you might want to consider bankruptcy.

THESE RULES apply to most debts. Some of the rules are different for debts such as taxes, student loans, and child support.

REMEMBER

The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

To Find Legal Help, visit:



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For more information on this issue and other topics visit:

PALawHelp.org

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