

Glossary of Common Debt Collection Terms

September 2020

About the Glossary

To help consumers during the debt collection process, the Department of Consumer and Worker Protection (DCWP)* created this glossary, which includes commonly used terms in debt collection communications plus references (laws, agencies) important for consumers to know. Bilingual glossaries in the top 10 languages spoken by New Yorkers with limited English proficiency are available at nyc.gov/dca

Note:

- *Italicized words* in descriptions are also defined in the glossary.
- Unless stated otherwise, all descriptions reflect New York City laws and rules.
- This glossary is not intended as legal advice.

*DCWP is the Agency's new name. In all references, DCWP also means DCA (Department of Consumer Affairs), the Agency's old name. The Agency is in the process of implementing the legal name change in public information. In the meantime, DCWP and DCA are the same City Agency.

Glossary

A

Abusive language

Swear words (or curse words) or any words that insult or offend.

A *debt collector* may not use abusive language when attempting to collect a *debt*. This includes in writing or when speaking to consumers.

Account

A record or file of a *debt*.

A *debt collector* often refers to an account when claiming a consumer owes money.

Accrued interest

The amount of *interest* (cost to borrow money or purchase goods and services on credit) added to a *debt*, which increases the amount of money a borrower owes.

Consumers have a right to request an *itemization of a debt* showing accrued interest and to *dispute a debt*.

Arrears

An unpaid and overdue *debt*.

B

Bankruptcy discharge

A court order that means a consumer does not have to pay a *debt* and a *creditor* or *collector* may no longer attempt to collect the debt.

Better Business Bureau (BBB)

A private nonprofit organization that promotes ethical marketplace practices.

In addition to filing a complaint with DCWP, consumers can file a complaint about a *debt collector* with BBB.

DCWP:

Call 311 or visit nyc.gov/dca

BBB:

Visit bbb.org and click “File a Complaint.”

C

Cease communication letter

A letter a consumer may send to a *debt collector* demanding that the collector stop any further contact with the consumer about an *account*.

A consumer may send the letter at any time in the *collection* process.

Instructions and a template Cease Debt Collection Communication Letter are available at nyc.gov/dca

Charge off

Any amount that a *creditor* no longer expects to be repaid and writes off as a bad debt for accounting purposes even though the debt is still owed.

A charge off appears on a consumer's *credit report*.

Collection

The process of seeking money claimed to be owed.

Debt collectors must obey federal, State, and New York City laws and rules about what they can and cannot do in the collection process.

Collection fees

A fee (or charge) that a *debt collector* adds to the amount it attempts to collect from a consumer. The fee must be authorized by an agreement or permitted by law.

Consumers have a right to request an *itemization of a debt* showing any collection fees and to *dispute a debt*.

Collector (See Debt collector)

Communication disclosures

In all letters and conversations with consumers, *debt collectors* must disclose:

- a call-back number to a phone that is answered by a natural person;
- the name of the debt collector;
- the *original creditor* of the debt;
- the name of the person to call back; and
- the amount of the *debt* at the time of the communication.

In all letters to consumers, debt collectors must include their *DCWP license number*. An example is 1234567-DCA.

Consumer Financial Protection Bureau (CFPB)

A U.S. government agency that enforces federal consumer financial laws and protects consumers in the financial marketplace.

In addition to filing a complaint with DCWP, consumers can file a complaint about a *debt collector* with CFPB.

DCWP:

Call 311 or visit nyc.gov/dca

CFPB:

Visit consumerfinance.gov and click "Submit a Complaint."

Consumer Reporting Agencies (CRA)

(See **Credit Bureaus**)

Contact and call frequency restrictions

A *debt collector* may contact a consumer at most two times in a seven-day period and only between 8:00 a.m. and 9:00 p.m. Eastern Standard Time (EST).

Debt collectors may not contact consumers at work if the collector is aware that a consumer's employer does not allow such contact.

Contest a debt (See **Dispute a debt**)

Credit

The ability of a consumer to borrow money with the promise to repay it, plus any interest and fees, at a later date. As examples, credit includes loans and credit cards.

Credit Bureaus

(also *Credit Reporting Agencies, Consumer Reporting Agencies*)

Private companies that collect and share consumer credit information and make it available on *credit reports*.

The main credit bureaus in the U.S. are Equifax, Experian, and TransUnion.

Consumers can dispute incorrect information on their credit report, including if they have been a victim of identity theft.

Credit Report

A record of a consumer's credit history, as reported by creditors and other sources, including:

- employment;
- addresses;
- credit inquiries;
- credit cards and loans;
- *accounts*;
- liens;
- *wage garnishments*; and
- other data.

Consumers can request free credit reports at [AnnualCreditReport.com](https://www.annualcreditreport.com). Due to COVID-19, consumers can get free online reports more frequently than once a year. Monitor the website for updates.

Credit Reporting Agencies

(See **Credit Bureaus**)

Creditor

(also *Original Creditor*)

A person, company, or entity to whom the *debt* is claimed to be owed. The original creditor is the person or business that provided the original service, product, or credit that is the source of a debt collection attempt.

A creditor may collect debt on its own or use third-party *debt collectors* to attempt to collect a debt.

Current balance

(also *Outstanding balance*)

The total amount claimed to be owed.

Consumers have a right to request an *itemization of a debt* that shows the current or outstanding balance.

D

DCWP license number

A number assigned by DCWP to a licensed *debt collector*. An example is 1234567-DCA.

Debt collectors must include their DCWP license number on all written communications.

Debt

The money a consumer owes, or is alleged to owe, a *creditor*.

Consumer debt is debt related to personal, family, or household purposes.

Consumers have a right to request an *itemization of a debt* and to *dispute a debt*.

Debt collector

(also *Collector, Debt Collection Agency*)

A private company or person—including a debt collection attorney or law firm—that attempts to collect personal or household debt from New York City residents. The debt collector may:

- own the debt (purchased from a *creditor*) and collect for itself; OR
- be hired by a creditor or other company to assist in collecting the debt.

Both in-State and out-of-State debt collectors must have an active DCWP license and obey New York City laws and rules. To verify if a debt collector is licensed, consumers can:

- Visit nyc.gov/dca and click “Search for a DCA Licensee” in the For Consumers & Workers module.
- Contact 311 (212-NEW-YORK outside NYC) and say “Business Background Check.”

Debt settlement or payment plan

An agreement by the *debt collector* to accept from the consumer an amount less than the originally claimed balance either as a payment in full or as scheduled partial payments.

The debt collector must send the consumer, within five business days, a letter confirming the agreement which must include:

- name and address of the consumer;
- date the agreement was made;
- name of the *original creditor*;
- amount due and the due date of each payment;
- name of the debt collector;
- name of the debt collector employee, or employee’s supervisor, who reached the agreement;
- address where the consumer should mail payments; and
- any other terms or conditions of the agreement

Debtor

A consumer who owes or is claimed to owe money to a *creditor*.

Default

(also *Defaulting on a debt*)

Failure to meet the repayment obligations on a *debt*.

A default can occur when a consumer:

- is unable to make timely payments;
- misses payments; or
- avoids or stops making payments.

Defaulting on a debt (See **Default**)

Delinquent debt

An *account* on which a payment is past due.

A *creditor* may report the past due account to a *credit bureau*.

If an account becomes sufficiently delinquent, the consumer may be in *default* and a creditor may *charge off* the account.

Dispute a debt

(also *Contest a debt*)

Consumers who do not recognize a *debt* or do not agree that they owe the amount of debt claimed may contest all or part of the debt verbally and/or in writing.

Under federal, State, and New York City laws, in disputing a debt, consumers have a right to:

- say they do not recognize the debt or owe the debt as claimed;
- request the name and address of the *original creditor* if different from the current one; and
- request that the *debt collector* provide information to show that the debt belongs to the consumer and/or that the amount is correct. (See *verification of a debt*.)

E

Exempt funds

Money that may not be taken by most *creditors* or *debt collectors* to satisfy a *judgment*.

Consumers may choose to use exempt funds to pay a *debt*, but a creditor or debt collector cannot freeze or forcibly take these funds from consumers' bank accounts to pay a judgment.

Exempt Income Protection Act (EIPA)

New York State law that automatically protects a certain amount of money in a consumer's bank account from being frozen or taken by *debt collectors*.

Under the EIPA, if any funds in a consumer's bank account are frozen, the bank must provide the consumer with certain forms, called Exemption Claim Forms. The consumer may use these forms to claim that the frozen funds are exempt.

The following funds (in alphabetical order) are typically exempt from being frozen or garnished:

- Black lung benefits
- Child support payments
- Public assistance (for example, Temporary Assistance for Needy Families)
- Public or private pensions
- Railroad Retirement Board benefits
- Social Security, including retirement, survivors, and Disability benefits
- Spousal support or maintenance
- Supplemental Security Income
- Unemployment Insurance
- Veterans Affairs benefits
- Workers' compensation

F

Fair and Accurate Credit Transaction Act (FACTA)

Federal law that allows consumers to request and obtain a free *credit report* once every 12 months from each of the three nationwide consumer *credit bureaus*.

Note: Due to COVID-19, consumers can visit [AnnualCreditReport.com](https://www.annualcreditreport.com) to get free online reports more frequently than once a year. Monitor the website for updates.

Fair Credit Reporting Act (FCRA)

Federal law that promotes the accuracy, fairness, and privacy of information in the files of *consumer reporting agencies* and gives consumers the right to see their own *credit reports* and to dispute errors.

Fair Debt Collection Practices Act (FDCPA)

Federal law governing *collection* activity by *debt collectors* that:

- prohibits abusive practices in the collection of consumer debts;
- prohibits unfair and deceptive debt collection practices; and
- gives consumers the right to *dispute a debt* and get a *validation notice* to ensure the accuracy of an alleged debt.

The Act also:

- creates guidelines for how debt collectors may conduct business;
- defines consumer rights when dealing with debt collectors; and
- includes penalties and remedies for violations of the Act.

Fake debt (See **Phantom debt**)

Federal Trade Commission (FTC)

A federal government agency that enforces consumer protection and U.S. antitrust laws.

In addition to filing a complaint with DCWP, consumers can file a complaint about a *debt collector* with the FTC.

DCWP:

Call 311 or visit nyc.gov/dca

FTC:

Visit ftc.gov/complaint or call toll-free 1-877-FTC-HELP (1-877-382-4357).

G

Garnishment / Income Execution

The act of requiring a *debtor's* employer to withhold a portion of the debtor's wages to pay a *creditor* that has obtained a court order. Unless otherwise authorized by law, a *debt collector* must obtain a court order or *judgment* to carry out a garnishment or income execution.

H

Harassment

The use of pressure, annoyance, intimidation, or abuse in the attempted collection of a *debt*.

Debt collectors may not harass consumers. Examples of illegal conduct are:

- using or threatening to use violence to harm a person, their reputation, or their property;
- threatening someone with a criminal warrant;
- using obscene, profane, or *abusive language*; and
- causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously.

I

Interest

The cost of borrowing money or buying goods or services on *credit*. It is typically calculated as a percentage of the amount due.

Itemization of a debt

A list or breakdown that must include:

- amount of the debt when the *original creditor* sent it to collection;
- amount of any *accrued interest*;
- amount of any other *collection fees* and charges; and
- any payments made by the consumer.

A *debt collector* must give consumers an itemization of each debt upon request.

J

Judgment

An order issued by a court stating the outcome of a lawsuit.

L

Limited English Proficient (LEP)

A term that refers to individuals who do not speak English as their primary language and who have a limited ability to read, speak, write, or understand English.

M

Mini-Miranda Warning

A statement that *debt collectors* must use at the beginning of any communication with a consumer, both in letters and calls. The warning lets consumers know that anything they say and any information they give may be used to collect the *debt*, including in court.

Most debt collectors record *collection* calls.

Misrepresentation

The use of false, deceptive, or misleading practices in debt collection.

Debt collectors may not make misrepresentations to consumers, including:

- falsely representing or implying that the debt collector is an attorney, legal office, government agency, marshal, or sheriff;
- falsely representing or implying that the consumer committed a crime, or that nonpayment of any debt will result in the consumer's arrest or imprisonment or the seizure, *garnishment*, attachment, or sale of the consumer's property or wages unless the action is lawful and the debt collector or *creditor* intends to pursue it; or
- reporting, or threatening to report, inaccurate credit information to a *credit bureau*.

O

Original Creditor (See **Creditor**)

Outstanding Balance (See **Current Balance**)

P

Payday Loans

A high-interest loan borrowed against a consumer's next paycheck.

Payday loans are illegal in New York.

Phantom debt (also *Fake debt*)

Debt that is entirely made up and that a consumer does not owe.

Phantom debt schemes have typically involved individuals or businesses that use fictitious names that imply they are lawyers or affiliated with a law firm. The schemers threaten serious consequences if consumers don't pay, including:

- being sued;
- being arrested at work;
- having a bank account closed;
- having wages *garnished*; or
- being forced to appear in court.

The schemers generally do not hold DCWP licenses.

Consumers have a right to request *verification of a debt* from *debt collectors*.

Principal

The initial amount of the *debt* or the amount that remains unpaid by a consumer. It does not include *collection fees* and *interest*.

S

Statute of Limitations

(also *Time-barred debt*)

A certain time after which a *debt collector* may no longer sue a consumer to collect a *debt*.

Debt collectors may not attempt to collect an old debt whose statute of limitations passed unless they tell consumers:

- the legal time limit (statute of limitations) to sue to collect the debt has expired;
- consumers do not have to admit to owing the debt, promise to pay the debt, or give up rights regarding the statute of limitations;
- if sued, consumers may defend the case by informing the court that the statute of limitations has expired to prevent the *creditor* from obtaining a *judgment*; and
- any payment consumers make on an old debt will restart the creditor's right to sue.

Substantiation of a debt

(See **Verification of a debt**)

Time-barred debt (See Statute of Limitations)

Tradeline

A term for a credit *account* on a consumer's *credit report*. There is a separate tradeline each time a consumer is approved for *credit*. Tradelines include, but are not limited to:

- credit limit;
- current balance;
- payment history; and
- lender names and addresses.

Validation Notice

A letter a *debt collector* must give consumers within five days after first contacting them that contains general information about the *debt* and consumer rights.

This notice must tell consumers they have a right to *dispute a debt* and to request *verification of a debt* from the debt collector. Other required disclosures include:

- the amount of the debt;
- the name of the current *creditor*;
- a statement that, upon consumer request and within 30 days, the debt collector will provide the name and address of the *original creditor*;
- the address where consumers should mail a letter to dispute a debt;
- the debt collector's *DCWP license number*;
- the name of the debt collector as it appears on the DCWP license;
- a call-back number to a phone that is answered by a natural person;
- the name of the person to call back;
- if the consumer may obtain from the debt collector any communications in a language other than English;
- a statement that this glossary of common debt collection terms is available in multiple languages on the DCWP website nyc.gov/dca.

Verification of a debt

(also *Substantiation of a debt*)

A consumer has a right to request that the *debt collector* provide documentation to show that the *debt* belongs to the consumer and/or that the amount is correct.

In response to a consumer's request for verification of the debt, the debt collector must do the following:

- Provide written documentation from the *creditor*—not the creditor's debt collector—confirming the debt. An example is a copy of a final statement (bill) by the *original creditor* showing the amount owed.
- Stop all *collection* activity and consumer contact until the verification is provided.

Zombie debt

Debt that is very old and no longer owed but that a *debt collector* suddenly seeks to collect.

Zombie debt may include:

- debt already settled;
- debt from a *bankruptcy discharge*;
- *time-barred debt*,
- debt that no longer shows up on a consumer's *credit report*; and
- debt never owed.

Consumers have a right to *dispute a debt* and request that the debt collector provide *verification of a debt*.