#### FEDERAL RESERVE BANK OF NEW YORK

Circular No. 8491 January 5, 1979

#### FAIR DEBT COLLECTION PRACTICES

To All Financial Institutions, and Others Concerned, in the Second Federal Reserve District:

Enclosed is a pamphlet, entitled "Fair Debt Collection Practices," produced by this Bank in conjunction with our new Consumer Credit Information (CCI) program.

This pamphlet, based on the Fair Debt Collection Practices Act which took effect in March 1978, discusses to whom the Act applies and the procedures creditors may and may not use in connection with collection of debt incurred for personal, family, or household purposes.

The CCI program is designed to assist both creditors and borrowers in understanding their rights and responsibilities in credit transactions. It is intended to serve as a resource for all those concerned with consumer credit, and I hope I can count on your cooperation in the distribution of materials as they become available.

Additional copies of the pamphlet are available without charge from our Public Information Department.

I welcome your comments and suggestions about our new program.

PAUL A. VOLCKER,

President.

fair debt collection practice/

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## it's the law...

On March 20, 1978, the Fair Debt Collection Practices Act took effect. It is one of a series of laws enacted by Congress in recent years to protect consumers in credit transactions. This law is intended to stop abusive practices engaged in by some debt collectors.

### scope...

The Fair Debt Collection Practices Act covers collection of any debt incurred for personal, family, or household purposes.

The Act applies to:

- ... any person in the business of collecting debts owed to others;
- . . . any creditor who, collecting from his own debtors, uses a name other than his own;
- ... anyone who regularly collects or attempts to collect debts for another.

But not all debt collectors are subject to the Act. It does not apply to banks, other lenders, or businesses which collect their own accounts, using their own names.

Nor does it cover them when they collect an isolated debt for another.

# locating a debtor...

A covered debt collector may contact a person other than the debtor only to discover or verify the debtor's location.

In doing so, the collector must:

- identify himself, but he can identify his employer only if expressly requested to do so;
- ... not reveal the consumer's indebtedness;
- ... not use a post card or in any way reveal his debt collection activity;
- ... not communicate with that person more than once unless reasonably necessary.

If the collector learns the identity of an attorney who is representing the debtor, the contact must be with that attorney.

## contacting a debtor...

The law, of course, allows a collector to make reasonable efforts to communicate with a debtor bout his debt.

A covered collector may *not* contact a debtor about his obligation:

- at an inconvenient or unusual time (the hours between 8 a.m. and 9 p.m. are considered to be convenient);
- ... at an inconvenient place;
- ... at his place of employment if it is known the employer prohibits such contact;
- ... if an attorney is known to represent the debtor.

Contact also may not be made after the debtor notifies the collector in writing that he refuses to pay a debt or objects to the contacts; except contact may be made to explain the possible consequences to the debtor.

# prohibited tactics...

The law prohibits harassing, oppressing, or abusive conduct in connection with collection of a debt. This includes, but is not limited to:

- ... the use or threat of violence or harm to the person, his reputation, or property;
- ... use of obscene language;
- ... publicizing the debt;
- ... annoying or repetitive telephone calls;
- ... anonymous phone calls;
- ... false, deceptive, or misleading representations as to the collector's identity;
- ... false representations of the status of the debt and the consequences of nonpayment;
- ... failure to adequately disclose the reason for contacting the consumer;
- ... collecting an additional fee not authorized by law or the terms of the debt agreement;
- accepting a check postdated by more than five days except under specified written conditions;
- ... charging the debtor with collect calls or telegram fees;
- ... communicating by post card.

This pamphlet is not intended to be a complete or official summary of the Fair Debt Collection Practices Act.

# validating debt...

Within five days after contacting a debtor about paying his debt, the collector must send him a written notice informing him:

- ... of the amount of the debt;
- ... of the name of the creditor;
- . . . that the debt will be assumed to be valid unless disputed within 30 days;
- . . . that, if disputed, the collector will verify it and send a copy of the verification or of a judgment against the consumer;
- . . . that upon request the name and address of the original creditor (if changed) will be provided.

During a period when a debt is being verified, the collector may not attempt to obtain payment.

# legal remedies...

Any debt collector who intentionally does not comply with this law may be sued by the debtor for actual damages; for additional damages as allowed by a court up to \$1,000 (or the lesser of \$500,000 or 1 percent of net worth in a class action) and be liable for court costs and reasonable attorney's fees.

### enforcement...

Responsibility for enforcing the law is shared by the following Federal agencies:

Federal Trade Commission
Comptroller of the Currency
Federal Reserve System
Federal Deposit Insurance Corporation
Federal Home Loan Bank Board
National Credit Union Administration
Interstate Commerce Commission
Civil Aeronautics Board
Secretary of Agriculture

Consumers may contact the appropriate agency for further information or for assistance in resolving a problem.

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Text—
Courtesy of:
Federal Reserve Bank of Philadelphia



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