



## Legal Aid

This brochure was prepared by the Maryland Legal Aid Bureau, Inc. ("Legal Aid"), a non-profit organization dedicated to providing high quality legal advocacy to protect and advance human rights for individuals, families, and communities.

### Who should read this brochure?

This brochure is for people in Maryland who have unsecured consumer debt.

**Unsecured** consumer debt includes most credit cards, medical bills, and personal loans. Many people have problems paying debts because of emergencies or other reasons. This can lead to problems with creditors and debt collectors. This brochure tells you about the rights you have when you can't pay your debts.

This brochure does not include information about **secured** debt, such as a mortgage loan on your house, or a loan where the creditor has a lien on your car. This brochure does not apply to debts owed to the government, such as taxes or student loans, child support debts, or court ordered restitution. If you are having problems paying these types of debts, you

should contact Legal Aid or another attorney for advice.

### What will happen if I can't pay my debts? Can I be put in jail?

You can't be put in jail for not paying a consumer debt. There is no such thing as a "debtors' prison." If you can't afford to pay a consumer debt, the law limits what a creditor can do to collect it. Failure to pay other types of debt, such as child support or restitution ordered after a criminal conviction, may result in jail time.

### What will an unsecured creditor do if I don't pay a debt?

If you don't pay a debt, the creditor may call you or write you to ask you to pay the debt. The creditor may send your debt to a collection agency. The collection agency will also call and write. Sometimes these calls or letters can be harassing. If you don't want to get any more calls or letters, you can write a letter to the collection agency and ask it to stop contacting you.

### Common terms you should know

**Debt:** Money you owe for goods, services or credit you receive.

**Creditor:** The person or company to whom you owe money.

**Judgment:** A final court order that states whether you owe money to a creditor and how much you owe.

**Secured Debt:** Money you owe to a creditor who has a lien on your property, such as a mortgage or a car loan.

**Unsecured Debt:** Money you owe to a creditor who doesn't have a lien on any of your property; this includes most credit card debts, medical bills, telephone bills, and personal loans.

### For more help, contact:

#### Maryland Legal Aid

410-951-7777

800-999-8904

or

Call our **Maryland Senior Legal Helpline**

800-896-4213

#### TTY Users:

Call Maryland Relay, Dial 7-1-1

# Debt Collection: Know Your Rights



**If a creditor offers me a payment agreement, do I have to set up a payment plan?**

You can set up a payment agreement with a creditor if you can afford to pay the debt. You are not required to set up a payment plan. If you can't afford to make the payments, you shouldn't agree to a payment plan.

**How will not paying a debt affect my credit?**

When you don't pay a debt, most creditors report it to the national credit bureaus. This is how you get "bad credit." If your credit is bad, you may have trouble renting an apartment, buying a car, getting insurance, or getting a loan. It may also make it harder for you to get a job.

**If I don't pay a debt, can the creditor take me to court?**

Yes. If you don't pay, the creditor may file a lawsuit against you. If the creditor wins the lawsuit, it will get a **judgment**. A judgment is a final court order that states you owe money to the creditor.

**Can a creditor take my Social Security or government assistance?**

No. Government benefits are protected from creditors. These benefits include Social Security, Supplemental Security Income (SSI), Veterans' benefits, Unemployment benefits, Workers' Compensation, and Temporary Cash Assistance. In addition, private disability income benefits and most pensions are protected. This means creditors can't legally take them.

**Can a creditor take the money in my bank account?**

If a creditor has a judgment against you, it can ask the court for the money in your bank account. This may result in the bank freezing your account and paying the money to the creditor. However, you can stop a creditor from taking your money if you have \$6,000 or less in your account or if the money in your account is from Social Security or other government or retirement benefits. If your bank account is frozen, you will need to file a paper called a "motion" with the court to get to your money. You should contact Legal Aid or another lawyer right away to get help. You should file within 30 days to get the most protection.

**Can a creditor take my wages?**

If a creditor has a judgment against you, it can ask the court to order your employer to "garnish" your wages. When wages are garnished, your employer pays part of your wages directly to the creditor. Your wages cannot be garnished if your disposable wages are less than 30 times the minimum hourly wage per week.\* In any event, no more than 25% of your disposable wages can be garnished. This means that you will receive at least 75% of your disposable wages. Your disposable wages are your wages after subtracting the required deductions for federal, state, and local taxes, Social Security, unemployment insurance, State employee retirement systems, and health insurance.

\*This means your wages can't be garnished if you make less than \$217.50 per week.

**Can a creditor take my personal property, like my furniture or clothes?**

If a creditor has a judgment against you, it can ask the court to have the sheriff take or "levy" some of your personal property. Then, the creditor can ask that the sheriff sell this

property, and pay the money from that sale to the creditor. It is very unusual for a creditor try to sell your personal property, because it costs more to sell than the property is worth.

Creditors cannot sell any of your property unless the "fair market value" of all of your property is more than \$7,000. The "fair market value" is the money you could get for the property in its current condition, if you sold it at an estate or yard sale. It is NOT what you paid for the property.

**REMEMBER:**

A creditor cannot try to take any of your property or income unless the creditor has filed a lawsuit against you in court and has gotten a judgment from the court.

**We want you to know your rights!**

This brochure contains general information about your rights, but it is not meant to be legal advice. We make every effort to keep this information up to date. However, the law sometimes changes. If you want information about your specific situation, or you have a pending legal case, you should contact Legal Aid or another attorney.