

Consumer Debt Cases: The Debt-Buyer Licensing Defense



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PROJECT

If a debt buyer sues you in New York City and is not licensed,
OR is licensed and fails to include the license number in the complaint they filed in court, then you can use that fact to defend yourself in the lawsuit.

What is the law?

New York City Administrative Code 20-490 requires third-party debt buyers to be licensed as debt collection agencies by the Department of Consumer Affairs in order to collect or try to collect debts. The law goes into effect July 16, 2009.

When trying to collect debts in court from consumers, a collection agency must include in the complaint filed with the civil court:

- Name of the collection agency
- Name of the government agency that issues the license, i.e. The Department of Consumer Affairs
- License number issued by the DCA

What does the law mean for your legal case?

If the debt buyer bringing you to court is not licensed, or did not include the required information in the complaint, then you can use this defense to request that the court dismiss the case.

What other collection activities are governed by this law?

In any communication with consumers, debt collection agencies are required to give you:

- A call-back number answered by a person, not a machine
- The name of the agency
- The original owner of the debt
- The name of the person to call back
- The most current amount of the debt

If there is any debt payment schedule or settlement agreement, the debt collector must confirm it in writing within 5 business days.

Debt collection agencies CANNOT:

- Try to contact or collect from you after you have asked them to verify the debt. They must first verify the debt by naming the original creditor and giving the principle balance of the remaining debt and other alleged charges.
- Try to contact or collect from you if the statute of limitations for legal actions has expired on the debt, unless the agency informs you of your legal rights as a consumer.

How can you protect your rights?

- If you are being sued in civil court, make sure to allege the defense "Plaintiff is not licensed or fails to report a license" on your Answer or the Affidavit in Support of the Order to Show Cause.
- If a debt collector violates your rights, you have the right to sue them in federal or state court within **1 year** of the unlawful act.
- Report the problems you are having with the debt collector to the New York City Department of Consumer Affairs:
 - Call 311 or 212-639-6975.
 - Complaint forms are also available online at:
<http://www.nyc.gov/html/dca/html/resources/forms.shtml>.

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