

## Re-aged debt: What it is, how to avoid it

By Jenny Mangelsdorf

Words -- written or spoken -- can be powerful, especially when it comes to dealing with old debt.

When a debt falls past its statute of limitations, the debt is "time-barred" -- that is, collectors cannot successfully sue to collect money owed. However, collectors can reset that statute of limitations based on certain actions by consumers. When that happens, the debt is "[re-aged](#)," which means the clock starts anew on the statute and collectors can once again sue to collect on the debt.

One action that can trigger the re-aging process is making a payment on the debt. The other action is telling or writing to a collector that you intend to make a payment.

"We've seen collection agencies use that to restart the clock," says Becky House, education director at American Financial Solutions, a nonprofit financial education and credit counseling agency.

"Even by just agreeing to make a payment on the telephone, they'll argue you've started the statute of limitations over again," adds Peter Holland, director of the Consumer Protection Clinic at the University of Maryland's Francis King Carey School of Law. "You can get pretty far into the weeds as to whether as a matter of law they're right or not, but they're going to argue that every time, so do not be tricked into saying you'll make a payment."



Under the law, collectors can contact people about time-barred debt. They may or may not be forthcoming about whether the debt is uncollectible. If a debt collector calls, instead of offering information, take theirs, including the name of the collection agency, the caller's name and/or their identification number and, most importantly, when they say the debt became past due. If the caller doesn't give you this information, or you have reason to doubt it, send a [written request for verification of debt](#). The Federal Trade Commission publication, "[Time-Barred Debts: Understanding Your Rights When It Comes to Old Debts](#)," has more details.

### Know your statute(s) of limitations

Some states have different starting points for their [statutes of limitations](#), but that date is typically set when the account becomes past due or when payments stop.

"It may vary a small amount depending on what state you're in, but it will be no earlier than the date you failed to make the payment due," says Tom Pahl, FTC Division of Financial Practices assistant director.

For a credit card debt, usually the statute, which typically runs from three years to seven years, is determined by the state where the credit card holder lives. However, collectors may also use the statute of the state where the credit card was issued. If you have your original contract, check the statute for the state where the card was issued and know that if the issuing state has a longer statute, a collector may try that route.

"If they're arguing a different statute of limitations than the one in your state, they better be able to prove with documents why they say that, and those documents would be the contract," says Holland. Many times, he adds, debt collectors do not have valid documentation.

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— Peter Holland, director  
Consumer Protection Clinic, University of Maryland law school

### Be aware

The Federal Trade Commission in 2012 went to court in an effort to clarify what debt collectors can and cannot do to collect old debt.

The FTC alleged that Asset Acceptance, one of the nation's largest consumer debt buyers, violated several federal laws, including the Fair Debt Collection Practices Act and the Fair Credit Reporting Act, in its collection practices. The action marks the first time the FTC has sued a debt collector collecting on debt beyond the statute of limitations and [resulted in a \\$2.5 million civil penalty](#), the second largest the agency has ever obtained.

"Through the Asset case, we tried to really make the point that debt collectors have to make it clear to consumers that they cannot be sued (for time-barred debt), so they don't pay thinking that they might be," says Pahl.

Even though state and federal agencies have their eye on collection practices and rumors of a voluntary code of ethics travels through the collection industry, awareness is key to avoid re-aging a debt. "We see many of the same exact issues that were named in the Asset lawsuit continuing today," says House.

Steve A. of Englishtown, N.J., found that was the case. Due to a family illness and corresponding bills, he had been unable to pay a debt. "Years later," says Steve, whose last name was withheld, "one of them kept pestering me. Then they went and made a \$1 cash payment and reopened the seven-year statute of limitations." The payment, made in his name, was a dishonest attempt to re-age the debt.

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— Steve A.  
Consumer who had his debt re-aged

His advice: "You have to be somewhat diplomatic and forceful, and know what's going on."

### What to do

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"With so many accounts being bought and sold by successive debt buyers, often they will report the date on which they bought the account as the date of last activity," says Holland. "Hence they have 're-aged' the account."

If you are sued for a time-barred debt, go to court with your documents, including the original contract and statements showing when you stopped making payments to show the debt is time-barred. Holland notes that most people do not show up or contest lawsuits and the vast majority of judges award default judgments based on the collector's documents.

If your debt is re-aged without your permission, or if a collector threatens to sue for a time-barred debt, report it to the FTC's Bureau of Consumer Protection or your state attorney general.

**See related:** [11 tips for dealing with debt collection, collectors](#), [Know your rights: Fair Debt Collection Practices Act](#)