

What should I do if I dispute the amount that I owe to a creditor?

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Well if you live in Massachusetts, you have a new tool to use against a creditor that is collecting the wrong amount. It is 940 Code of Massachusetts Regulations 7.08.

What the new regulation does is require creditors and debt collectors to validate debts that are at least 30 days past due. This means that if a proper dispute is raised, the creditor or debt collector has to provide certain information to support its claim. It further requires a creditor or debt collector to provide a notice to the consumer about this requirement when collecting a debt under such circumstances. The teeth to the regulation are that the debt cannot be collected until it is validated. The theory is that if there is a valid dispute or problem that the validation process will stop the improper collection of the debt. Alternatively, the process will clarify the matter for the consumer, possibly by allowing the consumer to discern exactly what the debt is and how it arose.

The reason that this new regulation is so significant is that the requirement applies to “creditors.” You see, in the debt collection world of law there are generally two kinds of entities, creditors and debt collectors. (There are also debt buyers, but they are more akin to debt collectors for the most part.) These have been defined under the Fair Debt Collection Practices Act (“FDCPA”), which is the federal law governing debt collection and has been fairly unchanged since the 1970’s. Roughly stated, under the FDCPA, a “creditor” is an entity that was originally owed the debt, a “debt collector is not the creditor but is an entity that is in the business of collecting past due debt (usually as an agent of a creditor). The FDCPA only applies to debt collectors and specifically excludes creditors. The FDCPA requires debt collectors to validate debts and this requirement for debt collectors has been long standing and is well known. But, states, so far, have generally regulated the debt collection world with the same distinction as the FDCPA, leaving creditors alone for the most part. Apparently, through this regulation, Massachusetts is the first state to require a “creditor” to validate a past due debt. This is the significance.

If you believe any entity is trying to collect the improper amount or you wish to use this regulation discussed, or any other debt collection law or regulation to your advantage, we suggest that you give us a call to see how we can help.

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