

MANAGING



Linda Boelter

Talking with creditors

Where to begin

Before you and your creditors agree on reduced payments or other solutions, determine how much money you have to pay the monthly debts you owe.

Assess your situation

First, figure out how much income you can count on each month and how much you need to pay for essential monthly living expenses. Use the fact sheet in this series *Setting spending priorities/Cómo decidir cuáles son los gastos más importantes*.

Next, you will need to know to whom you owe money, how much money you owe, how much you can afford to pay each creditor, and when you can make payments. Use the fact sheet in this series *Deciding which bills to pay first/Cómo decidir qué cuentas pagar primero*.

Write down your plan for paying your monthly living expenses, and set priorities for paying bills. Then you will have the information you need to talk with your creditors.

Contacting your creditors

Once you have gathered the information you need, contact each creditor. Explain your situation, and ask for their help in working out a solution.

Be prepared to explain...

- The reasons why you cannot make your regular payments.
- Your current reduced monthly income and prospects for future income.
- Other debt payment obligations.
- Your plans to bring debt payments up to date and to keep current, including the amount you will be able to pay each month.

If possible, visit local creditors in person. Visit the loan officer at your bank or credit union, the credit manager of local stores, and the budget counselor at the utility company. Remember to contact creditors like your dentist, doctor, clinic, and hospital.

Contact out-of-town creditors by phone or letter. Be prepared for creditors to try to get you to commit to a payment to them. Plan a possible response such as, "I wish I could make full payments as I have in the past. I am calling because I cannot do that."

Keep a record of the name and title of the person with whom you talked. Follow up the conversation with a letter summarizing the agreement you made with the creditor. Keep copies of your correspondence, as well as any replies.

When writing to creditors, use the "Sample letter to creditors" on page 2 as a guide. Check contracts or statements for the customer service address, which is often different from the billing address.

You can also use this sample letter to guide what you say when talking with a creditor and how you summarize your conversation in the follow-up letter.

When your income drops and you realize you cannot pay all your bills, you must face your debts and communicate with your creditors.

Negotiating solutions depends on your past experience with the people to whom you owe money — **your creditors**. If you have consistently paid bills on time, your creditors will be more cooperative than if you have not made regular payments.

Creditors are in the business of lending money or providing services. They want to keep your business, but they also need to be paid.

Contact your creditors right away. Don't wait for them to contact you. Explain to each creditor how unemployment has reduced your income, and that you cannot keep making complete payments. Frankly discuss your income prospects so you and your creditors can figure out payment solutions.

Most creditors would prefer to receive smaller payments regularly, rather than begin expensive collection procedures.

Sample letter to creditors

Use this example as a guide when writing to or talking with creditors, or summarizing your agreement. Replace the blanks with specific details of your situation.

(Date)

(Company name)

(Company address)

(City, State, Zip)

Attention: Account Representative

Subject: _____ (Your name and account number)

This letter is to inform you that I am currently having some difficult financial problems. I am not able to pay the complete monthly payment on my account because _____. (Reason: recent job loss, seasonal unemployment, etc.)

After taking a careful look at my financial situation, I have set up a realistic budget for essential living expenses and developed a debt repayment plan based on my reduced income. I am contacting all my creditors to explain my situation and to ask for a reduced payment until my situation improves.

I have been paying you \$ _____ monthly (Monthly amount owed) on my account that has a balance of \$ _____. (Total amount owed) I would like to propose a reduced monthly payment of \$ _____ per month. (Monthly amount proposed) This is what I can pay regularly. You can expect the first reduced payment on _____. (Date) I will increase this amount as soon as possible until the debt is totally repaid.

I hope you find this repayment plan acceptable. I look forward to your letter of acknowledgment. Thank you.

Sincerely,

(Sign your name)

(Address)

(City, State, Zip)

Negotiate realistic plans

As you negotiate with each creditor, make sure you will be able to pay the monthly amount in your agreement. Set up a payment plan that both you and the creditor can accept — a plan you can stick to.

Here are some options you might request when negotiating with your creditors:

- Reduce the monthly payment.
- Reduce or drop charges for late payments.
- Refinance the loan at a lower interest rate.
- Pay interest only on the loan until you can resume making monthly payments.
- Defer payment for a short specified time when you expect to get called back to work.
- Request permission to sell the item and use the cash to repay — or partially repay — the debt.

Not all creditors will accept alternative payment plans. However, they will be more likely to work with you if you contact them before they contact you.

Tell your creditors about any changes that could affect your payment agreement. If you fail to follow the plan you and your creditor agreed on, that creditor will be less likely to work with you again. You will also hurt your ability to get credit in the future, or find credit and loans much more expensive.

What if negotiation fails?

If you owe a large amount of money — and if your creditors will not accept reduced payments — you may have to consider a more extreme option such as filing for bankruptcy.

See the fact sheet in this series *Deciding if bankruptcy is an option for you/Cómo determinar si la protección por bancarrota es una buena opción para usted.*

What if you don't pay your bills?

In Wisconsin, you are considered to be in **default** on an installment loan when an amount greater than one payment is unpaid more than ten days after the due date. You are in default on a credit card or other open-ended account if you fail to make two required payments when due within a 12-month period.

If you miss a payment: You will face increasing pressure to pay. First, you will receive a letter reminding you that you missed a payment and asking you to pay promptly. After that, you may receive a more direct letter or phone call demanding payment.

If you still have not paid your bills: Your creditors will turn your unpaid bills over to their collection department or an independent collection agency. Since a collection agency gets paid on the amount collected, they will be very persistent about contacting you.

The federal Fair Debt Collections Practices Act prohibits debt collectors from harassing you, using abusive or threatening language, calling at unusual hours or at work if your employer forbids this, or discussing your financial situation with others.

If a creditor or collection agency calls you...

- **Keep a record.** Ask the caller's name. Write down the creditor's name; the collection agency's name, address, and phone number; and the amount they say you owe. Write down the date and time of each call.
- **Remain calm.** Explain your current financial situation and how much of the bill you can pay according to your repayment plan.
- **Dispute debts in writing.** If you believe you do not owe the amount claimed or disagree with the caller in other ways, make your reasons known promptly in writing to both the creditor and the collection agency. Request a written statement of your account. Always keep copies of your correspondence for future reference.
- **Do not panic about threats to "ruin your credit rating."** Since a creditor is already contacting you, chances are your late or non-payment has already been reported to the credit reporting agency with whom they do business and would be listed under collections currently outstanding for you.
- **Stop persistent calls.** If calls continue about a debt you cannot pay, send the collection agency a letter by certified mail telling them not to contact you further. After receiving your letter, the collector can only call to inform you what legal action they plan to take against you.

If you believe a collector or creditor has violated your rights, you can file a complaint. Request a complaint form at (800) 452-3328 [toll-free (English only)] or 264-7969 (in Madison). Or write to:

Wisconsin Department of Financial Institutions
Division of Corporate & Consumer Services
P.O. Box 8041
Madison, WI 53708-8041

Keep in mind that agency staff will only act on complaints filed in writing or submitted through their web site at: www.wdfi.org.

Creditors' options

Myth: Many people wrongly believe that as long as they pay a creditor something — even just \$1.00 — the creditor cannot take any legal action against them.

Reality: The truth is that you are responsible for abiding by the contract you signed. For example, if the contract calls for a payment of \$150.00 per month, that is what you must pay unless the creditor has agreed to modify the terms.

Actions the creditor can take if you are in default are written into the loan contract or credit card agreement.

If you fail to make payments: The creditor may decide to initiate a lawsuit by filing a complaint. As the defendant, you receive a summons or notification that a complaint has been filed against you. The case may be settled in small claims court or civil court, depending on the amount you owe.

If you do not respond or lose the case: The court will issue a judgment against you — for you to pay the amount you owe plus court costs and attorney fees.

After obtaining a judgment, creditors can...

- **Repossess the collateral.** The creditor seizes the property or asset you used as **collateral** — security for the loan. If sale of the property brings less than the amount you owe, you must pay the difference.
- **Garnish your wages or bank account.** The creditor can get a court order that requires your employer to withhold part of your wages and to pay the creditor. With a court order, a creditor can also seize money in excess of \$1,000 on deposit at your financial institution.
- **Foreclose on real estate.** If you do not make your mortgage payments for several months, your lender can **foreclose** — force the sale of your home to pay off the loan. You are responsible for paying legal fees and the difference between the selling price and the amount you owe.

All of these actions are serious and could jeopardize your ability to get credit.

From the date of your last payment, the Wisconsin statute of limitations gives creditors:

- 6 years for debt collection
- 20 years for judgments

A judgment remains on your credit report for seven years.

Remember: You can improve your relationship with creditors and reduce your chances of being called by collection agencies. Talk with your creditors to work out solutions before you fall behind in your payments. By arranging to pay on time, you also avoid costly penalties, late fees, and negative reports on your credit record.

Resources

Know your rights

Look for these consumer guides online or at your local public library. If you do not have a computer, most libraries have one you can use.

Detweiler, Gerri. *The Ultimate Credit Handbook: How to Cut Your Debt and Have a Lifetime of Great Credit*. 3rd ed. New York: Plume/Penguin, 2003.

Leonard, Robin. *Money Troubles: Legal Strategies to Cope with Your Debts*, 9th ed. Berkeley, CA: Nolo Press, 2003.

National Consumer Law Center. *Surviving Debt: A Guide for Consumers*. Boston: NCLC Publications, 2002:
www.consumerlaw.org/publications/guides/surviving_debt.shtml.

Nickel, Gudrun M. *Your Rights When You Owe Too Much*. Naperville, IL: Sphinx Publishing, 2001.

Wisconsin Department of Financial Institutions. *Wisconsin Consumer Act: Consumer Credit Topics of Interest*. Retrieved June 2004:
www.wdfi.org/wca/consumer_credit/credit_guides/default.htm.

For help talking with creditors...

See these money management fact sheets in this series, in English or Spanish:

Setting spending priorities (B3459-01)/
Cómo decidir cuáles son los gastos más importantes (B3459-01S)

Strategies for spending less (B3459-02)/
Cómo gastar menos (B3459-02S)

Deciding which bills to pay first (B3459-03)/
Cómo decidir qué cuentas pagar primero (B3459-03S)

Talking with creditors (B3459-04)/
Comunicación con los acreedores (B3459-04S)

Keeping a roof overhead (B3459-05)/
Cómo asegurarse de que la familia tenga donde cobijarse (B3459-05S)

Meeting your insurance needs (B3459-06)/
Cómo pagar por el seguro que necesita (B3459-06S)

Bartering (B3459-07)/
El trueque (B3459-07S)

Making the most of what you have (B3459-08)/
Cómo sacar el mayor provecho de lo que tiene (B3459-08S)

Deciding if bankruptcy is an option for you (B3459-09)/
Cómo decidir si la protección por bancarrota es una buena opción para usted (B3459-09S)

Taking care of yourself (B3459-10)/
Cómo satisfacer las necesidades personales (B3459-10S)

How you can help when mom or dad is unemployed (B3459-11)/
Cómo puedes ayudar cuando tu papá o tu mamá está sin empleo (B3459-11S)

Helping children cope (B3459-12)/
Cómo ayudarles a los niños a sobrellevar las dificultades (B3459-12S)

Community agencies that can help (B3459-13)/
Las agencias comunitarias pueden ayudar (B3459-13S)

Looking for a job—Watch out for scams (B3459-14)/
Búsqueda de trabajo—Tenga cuidado con las estafas (B3459-14S)

Where to go for help finding a job (B3459-15)/
Dónde conseguir ayuda para encontrar empleo (B3459-15S)

Starting your own business (B3459-16)/
Cómo iniciar su propio negocio (B3459-16S)



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