



The Basics

## 'Zombie' debt is hard to kill

There's a hot new growth industry: companies that buy ancient bad debts for pennies and squeeze you to pay. Here's how to get them off your back.

By [Liz Pulliam Weston](#)

An identity thief victimized Nancy Rose 10 years ago, running up a \$5,045 bill on a credit card account in her name.

Rose, a Baton Rouge saleswoman, battled collection agencies for years over the bogus account. They harassed her by phone and trashed her credit report. She'd no sooner convince one that the debt wasn't hers than the account would be sold to another and the calls would start all over again.

At last, with the help of attorney David Szwak, she sued the most recent -- and aggressive -- collection agency for numerous violations of federal laws. She accused the company of falsifying records, pursuing the debt when the agency knew it wasn't valid and illegally reporting the same account twice to the credit bureaus. The collection agency settled for \$40,000, according to Rose and Szwak. They thought they had finally won the war.

That was in 2003. Three years later, Rose got a letter in the mail -- from a new collection agency, dunning her for the same \$5,045 debt.

"It never ends," Rose said.

### There's money in old debt

A decade ago, few creditors tried to collect on old accounts, figuring it wasn't worth the effort.

Today, however, collecting on old debts is a rapidly expanding industry. Aggressive companies can buy charged-off credit card accounts from the original lenders for pennies on the dollar or less. Then, they use credit-scoring and other new technologies to identify which debtors are most likely to pay. The players in this "junk debt" market range from fly-by-night outfits to well-established companies funded by Wall Street investors.

It's a business that's exploded in recent years as collectors discover gold in old bills. Debt buyers are expected to snap up \$110 billion in face value of delinquent debt this year, said Paul Legrady, director of research for Kaulkin Ginsberg, a company that advises the debt collection industry. That's twice what was purchased in 2000.

Among the signs of the industry's growth:

Asset Acceptance Capital, one of the nation's largest debt buyers, saw its revenues quadruple between 2001 and 2005, to \$252.7 million, while profits rose from \$18.9 million to \$51.3 million.

In the same period, profits at Portfolio Recovery Associates rose more than six-fold, from \$5.6 million to \$36.8 million. Revenues quintupled, from \$32.3 million to \$148.5 million.

Encore Capital Group experienced similar sharp increases with \$221.8 million in revenues in 2005, compared to \$47.8 million in 2001. The company rose from a \$10 million loss in 2001 to a profit of \$31.1 million in 2005.

Arrow Financial Services, at one time the country's largest debt buyer, was acquired by Sallie Mae in 2004, making the student lender the nation's largest collection agency.

Your old debts sold for 3 cents on the dollar

Buyer	Bought debt worth:	Paid:	Cents on \$
Asset Acceptance	\$4.2 billion	\$102.3 million	2.4
Encore Capital Group	\$5.9 billion	\$195.6 million	3.3
Portfolio Recovery Associates	\$5.3 billion	\$149.6 million	2.8

Source: 2005 SEC filings.

The amount that companies pay for bad debt depends on the type of account and its age. Interestingly, all the growth has led to increased competition, Legrady said, which has bid up prices for old debt. Since 2003, "fresh" debt -- the kind that has recently been written off by the original creditor and not yet placed with a collection agency -- costs a penny or two more for each dollar of face value.

But the price is still pretty cheap. In general:

Debts that are delinquent but not yet charged off by the original creditor can be purchased for up to 12 cents on the dollar, Legrady said.

Accounts that have recently been charged off: 7 to 9 cents on the dollar.

Accounts that are slightly older and on which a collection agency or two has already taken a whack: 1 to 3 cents on the dollar.

Years-old, out-of-statute debts: A penny or less.

The oldest debt is by far the cheapest, sometimes costing the collector 25 cents for every \$100 in face value. If the collector can convince the borrower to cough up even \$1, the company has made back its costs.

### Opportunity frequently turns into abuse

Where some are finding profits, though, others are spotting abuses. The Federal Trade Commission received more complaints in 2005 about third-party debt collectors than any other industry, and the number of complaints -- 66,627 -- was six times higher than in 1999.

The FTC has sued several collection agencies over their practices. In 2004, NCO Group -- a major buyer of old debt -- agreed to pay a then-record \$1.5 million civil fine after the FTC accused it of reporting inaccurate information to credit bureaus. In 2005, the FTC won a \$10.2 million judgment against National Check Control for, among other violations, threatening consumers with lawsuits and jail for purported debts. In many cases, the consumer didn't owe the debt, or the amount had been vastly inflated.

Consumer attorneys contend such violations of the federal Fair Credit Reporting Act and the Fair Debt Collection Practices Act are widespread, and becoming worse.

"I don't advocate people not paying their bills," said attorney Szwak, co-owner of the [MyFairCredit.com](http://MyFairCredit.com) Web site. "But there's an element of the debt collections field that is rabid." Some collectors, he said, "will go to any lengths to harass people and defraud them."

### How consumers are abused

Among the worst practices attorneys have seen:

Badgering consumers for debts they don't owe, that have already been paid or that were legally erased in bankruptcy court.

Suing or threatening to sue over debts even though the statute of limitations has long expired.

Illegally "re-aging" debts on credit reports. The collectors tell credit bureaus that an old debt is, in fact, a new one. The goal: To extend the seven-year limit on reporting negative items and put more pressure on the consumer.

Promising to delete a negative mark from the consumer's credit report in exchange for a token payment. Not only does the collector fail to follow through, but the payment can revive the statute of limitations and lead to a lawsuit. Even if the collector does back off, the unpaid debt could be sold to another company that might renew collection activity.

Bait-and-switch credit cards. Some credit card companies have offered borrowers low-rate credit cards and then tacked old, charged-off debts -- often purchased from other lenders -- onto the balance. The card issuers typically insist they disclosed that the old debts would come with the cards, Szwak said, but the borrowers say no such disclosure was made.

Verbally abusing and harassing consumers. My readers have reported being cursed, berated and called repeatedly despite requests to stop -- all violations of federal laws.

Mickey, a Virginia resident, said he was the target of "colorful words" when he told a collection agency to cease bothering him about an old debt. Mickey stopped paying on his \$4,000 Discover card balance in 1994; the account no longer appears on his credit report and the statute of limitations ended years ago.

"They would usually start out with a normal tone. ... It went downhill fast," Mickey said. "They were calling a couple of times a day for awhile."

### Sometimes, it's smarter just to hang up

Consumer advocates say this is exactly the kind of behavior Congress and state lawmakers were trying to prevent when they put curbs on collection behaviors such as statutes of limitations, the seven-year credit reporting limit and prohibitions against abusive collection practices.

"We don't have debtors' prisons," Szwak said. "We have laws to protect people from being harassed by debt collectors for the rest of their lives."

In fact, paying these old debts -- or even talking to the collection agency about them -- can make a bad situation worse.

As mentioned above, the smallest payment can revive the statute of limitations in some states, leading to more aggressive collections and lawsuits. Even acknowledging that the debt is yours can restart the clock in some jurisdictions.

That's why Robin Leonard, author of "[Money Troubles: Legal Strategies to Cope with Your Debts](#)," advises consumers simply to put the phone down and walk away if collectors call about an out-of-statute debt. (This [chart at Bankrate.com](#) summarizes state statutes of limitations, but details can vary by state.)

In the past, paying an old debt potentially could wreak havoc on a consumer's credit. Such a payment could update a delinquency so that it looked more recent and took a heavier toll on a credit score, the three-digit number lenders use to gauge credit-worthiness. That's less likely to happen these days, because the company that creates the leading credit score, the FICO, worked with credit bureaus to iron out that particular wrinkle in the formula. But paying the debt is no guarantee that the nightmare will stop. The collector may decide that if you're willing to pay at all, you could be made to pay more. Settling a debt for a smaller amount than the collector says you owe could result in another agency trying to collect the unpaid portion. Or the collector might inform the Internal Revenue Service (IRS) that you've received "income" in the form of forgiven debt.

Even if you manage to wrangle written promises from the collector that none of the above will happen, you would have to be willing to go to court if the agency reneged -- and possibly face an unsympathetic judge or one who doesn't know much about collections law.

### How to fight back

If you're being contacted about an old debt, here's what consumer attorneys advise:

**Know the statute of limitations.** If you racked up a debt in another state, you might want to check the statute of limitations there as well. But generally, it's the statute of your current state that applies. If the statute has expired, the collection agencies' legal remedies are limited.

**Know your rights.** Credit and debt collections can be an extremely complicated area of the law. Consider arming yourself with a book such as Leonard's "Money Troubles" and -- if the amounts at stake are considerable or the level of harassment unbearable -- consider contacting an attorney. The National Association of Consumer Advocates can provide referrals.

**Consider ignoring the call.** If the statute of limitations has expired, Szwak said, put the phone down and walk away. There's little to gain and a lot to lose if you keep talking. You could inadvertently extend the statute of limitations or find yourself roped into a repayment agreement that might not be in your best interest. "The debt collector is a lot smarter than (consumers) are, a lot more savvy," he said. "They don't have any obligation to tell you your rights."

**Write them.** If ignoring them isn't working, consider writing a letter demanding the agency stop contacting you. Send it certified mail, return receipt requested. Federal law requires them to comply with your request. Make sure in the letter you specifically say that you aren't acknowledging you owe the debt.

**Negotiate carefully.** If the statute of limitations hasn't expired, you may want to negotiate a settlement rather than risk a lawsuit. (Again, a lawyer's advice could come in handy here.)

**Keep an eye on your credit report.** If a collection agency tries to repost an old debt or lie about the date it went delinquent, you'll need to fight back vigorously. Dispute the entry with the credit bureaus and with the collection agency.

If the collector persists in its deception, you can demand that the collector produce a copy of the

documentation that created the debt, such as the credit card agreement you originally signed, along with an account history, said consumer attorney Daniel Edelman of Chicago. Chances are the collector won't have this documentation, and continuing to report the account without providing proof that you owe the money is a violation of the Fair Debt Collection Practices Act, Edelman said.

Again, an attorney experienced in debt collection law might prove helpful in particularly difficult cases.

*Liz Pulliam Weston's column appears every Monday and Thursday, exclusively on MSN Money. She also answers reader questions in the [Your Money message board](#).*