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A GUIDE TO THE LAW IN ALBERTA REGARDING

UNPAID FINES AND DEBT COLLECTION

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GENERAL

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TYPES OF FINES

Any level of government (the City, the Province, or the Federal Government) has the right to impose a fine as a punishment for an offence. Each level of government has different ways to ensure that the fines are paid.

1. City/Municipal fines

Are imposed when you have violated a city by-law. These include parking tickets or jaywalking tickets. These fines are handled by the City of Edmonton.

2. Provincial fines

Are imposed when you have violated a provincial law. These include speeding tickets, public intoxication and hunting and wildlife violations. These fines are dealt with in the Traffic Division of Provincial Court by the Crown prosecutor.

3. Federal fines

Are imposed when you have violated a federal law. Impaired driving, theft, assault or any other criminal charge can result in a fine. In addition, many other federal statutes can impose fines (for example, environmental statutes). These fines are dealt with in the Criminal Division of Provincial Court by the Crown prosecutor.

PAYING OFF A FINE

It is *always* in your best interest to pay off a fine as quickly as possible. This does not necessarily mean that all fines should be paid immediately after being charged. Any fine, including parking and speeding tickets, are in effect *at the time that you are found guilty*, not at the time that the violation ticket is issued. You have the right to dispute any charge brought against you and to require the Crown to prove its case to the court.

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Most **city fines** do not require a court appearance, but instead have a due date on them. If the fine is paid before the due date, then you are deemed to have entered a guilty plea, and the matter is resolved.

Many **provincial** violations and all **criminal** charges require a court appearance. If you plead or are found guilty, the judge or commissioner will decide if a fine is appropriate, and if so, how much the fine will be.

TIME TO PAY

If you cannot pay the entire amount of the fine at the time you are found guilty, then you can ask for time to pay.

If you are in a Criminal Court, you ask the Judge. If you have violated a Provincial statute or City by-law, you ask the Justice of the Peace or Traffic Commissioner (whoever finds you guilty or accepts the plea).

In granting time to pay, the *amount of the fine, severity of the offence and your ability to pay* are taken into consideration. Sometimes a set payment schedule will be imposed, other times there will be a date set to pay off the amount.

The most important thing to do if time is allowed to pay a fine is to start making payments as soon as possible. Even if you can only afford a little bit each week, start making payments as soon as you can. There are two main reasons for doing this:

- a. Paying small amounts over time will be easier than trying to save up all of the money on the due date.
- b. If the full amount has not been paid at the time it is due, it is possible to extend the time given to pay. This decision is at the discretion of the Court (the judge or traffic commissioner), and will more likely be granted if some payment efforts have been made.

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1. Fine Option Program

If you do not have a source of income, you may enrol in the Fine Option Program. This program allows you to pay off a fine on an hourly basis by doing some type of community service work, which is paid at minimum wage. The Fine Option Program is operated by the provincial government, but can also be used to pay City Fines

WHAT HAPPENS IF I DO NOT PAY MY FINE?

This depends on who issued the fine in the first place, the amount of the fine and the severity of the offence. Unpaid fines can result in a range of penalties.

If you do not pay **City** or **Provincial** fines, you may not be able to register a vehicle or renew a driver's license until the amounts are paid. If there are multiple violations or a large fine that has not been paid, there is a chance that a warrant will be issued, and that you may be arrested and held in custody.

Unpaid **Criminal** fines carry severe consequences. Each criminal fine carries "Days in Default", which are the number of days a person will spend in jail if the fine is not paid at the due date. The bottom line is if you do not pay criminal fines on time, there is a good chance that you will go to jail.

OWING A DEBT: COLLECTION AGENCIES

1. What are collection agencies?

Generally collection agencies are companies that try to collect money for other people or companies, or help debtors make payment arrangements. They can collect your property if it has been used as security or collateral for a loan.

2. How do collection agencies work?

Collection agencies are usually paid a flat fee or a commission for the debts they recover. Most companies (*creditors*) will try to collect a debt first (by sending past due notices, bills, or making phone calls) before hiring a collection agency.

The people who work for collection agencies and actually try to recover the debts are called *collectors*. Most collectors have at least part, if not all, of their salary paid on commission based on the amount of money they are able to recover. Since collection agencies and collectors are paid on commission, they are often more persistent and aggressive when trying to collect debts.

3. Why do creditors use collection agencies?

Money. The bottom line is that it is cheaper for a company to hire a collection agency than it is to hire lawyers to sue debtors. Collection agencies may only get paid if they recover money, but lawyers charge by the hour. Collection agencies may also be more successful in collecting debts because being paid on commission gives them an interest in getting money.

4. Regulation and Licensing of Collection Agencies

All collection agencies and collectors have to be licensed by the province. They are heavily regulated and under close supervision of the Minister of Fair Trade.

If you are contacted by a collector, you can ask for their license information, and can verify it with the government to make sure it is legitimate.

LIMITATIONS ON COLLECTION AGENCIES

The *Fair Trading Act* and the *Collection and Debt Repayment Practices Regulation* set out what collection agencies are not allowed to do to collect a debt. The most important limitations are:

- a. The collection agency cannot threaten or physically harm a debtor's friends or family in any form.
- b. They cannot try to collect the money by using a different name than what appears on their license. You have the right to know both the real name and the name of the agency that the collector works for.
- c. The collection agency cannot make arrangements with the debtor to collect less than the total debt owed as full and final settlement without prior written approval of the creditor. Collectors cannot tell you that they will accept part of the debt and leave you alone.
- d. Make any personal calls for the purpose of demanding payment of a debt on any day except during the hours of 7 am and 10 pm.
- e. Directly or indirectly threaten or state an intention to proceed with any action for which that collection agency or the collector does not have lawful authority. See below on whether or not collection agencies can sue you.
- f. Make telephone calls or personal calls of such nature or with such frequency as to constitute harassment of the debtor, the debtor's spouse, or any member of the debtor's family or household.
- g. Give any person, directly or indirectly, by implication or otherwise, false or misleading information.
- h. Continue to contact a person if that person has informed the agency that he or she is not the actual debtor, unless the collector takes all reasonable precautions to ensure that person is the debtor.
- i. Contact the debtor's employer, spouse, relatives, neighbours or friends unless: the collection agency contacts the employer for the purposes of verifying employment; or the contact is made for the purpose of obtaining the debtor's address or telephone number.
- j. Contact the debtor at the debtor's place of employment if the debtor requests that the collection agency or the collector not contact the debtor there. However, you must

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make other arrangements to discuss the debt, and you must keep those other arrangements

- k. Discuss the debt with any person other than the debtor or creditor of the debt, unless the collector is trying to obtain information respecting the debtor.
- l. Indicate to the debtor or any person contacted by the collector that the collector is part of a law firm or the legal department of a business.

2. Who do these rules apply to?

These rules only apply to collection agencies and collectors, and do not apply to businesses collecting their own debts, lawyers collecting a debt for a client, a civil enforcement agency or bailiff collecting a money judgment, and people working and licensed under the *Insurance Act*.

3. Can a collection agency threaten to sue you?

Generally no. Most creditors do not assign debts to collection agencies, but just contract with them to get the money. Therefore, the money is still owed to the original creditor, and the collection agency is just a way to recover the money.

Assignment of a debt is different. By assigning a debt, the original creditor (for example, Visa) gives its legal rights regarding the debt to a third party (a collection agency). The third party then can act as if the debtor owed them the money in the first place. Assignments can be done as a gift, or in exchange for a fee.

The main difference in collecting a debt that has been assigned is that the collector has a right to sue to recover an assigned debt. If the debt has not been assigned, then the collector has no legal right to sue (or threaten to sue).

4. Can a collection agency take your property?

Not normally. Collection agencies can only take property that has been put up as security (for example, using a car as collateral in

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order to get a loan). Property can be seized by a civil enforcement bailiff who works for a civil enforcement agency.

5. Can collection agencies send you to jail?

No. The police do not become involved in debt collection.

PROTECTING YOURSELF FROM COLLECTION AGENCIES

Keep track of your debts. If you cannot pay a debt, contact your creditor early and try to arrange a payment schedule before they send it to a collection agency.

1. What should I do if I have been mistreated?

Get as much information as you can about the person collecting the debt (name, agency, collection license number) and contact the Alberta Government Services - Consumer Services Division: (780) 427-4088 or 1-800-427-4088.

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REFERRAL NUMBERS

Student Legal Services [780] 492-2226
www.slsedmonton.com

Fine Option Program 310-0000

Alberta Registries [780] 427-7013
www.e-registry.ca

Lawyer Referral Service 1-800-661-1095
www.lawsocietyalberta.com/publicservices/lawyerReferralService.cfm

Legal Aid Society of Alberta [780] 427-7575
www.legalaid.ab.ca

Traffic Court Clerk - Edmonton [780] 427-4724

Criminal Court Clerk - Edmonton [780] 427-7868

City of Edmonton Parking Ticket Inquiries [780] 596-5161

Alberta Government Services - Consumer Services Division
. [780] 427-4088
. 1-800-427-4088
www.servicealberta.ca

Credit Counselling Services of Alberta [780] 423-5265
www.creditcounselling.com