

CHAPTER 13

Consumer Information

This chapter will prepare you for the many types of transactions you make as a consumer. It discusses credit purchases, collection agencies and debts. This chapter will also alert you to the legal consequences of signing contracts and how to cancel them in various situations, such as door-to-door sales and home repairs.

Warranties and your rights to use them and to complain about defective products are important issues in consumer law. This chapter discusses the different types of warranties a product may have. It also explains how to complain effectively to a business that sold you a defective product.

People of all ages should be aware of the many different types of schemes, frauds and rip-offs. Schemes involving hearing aid purchases, misleading advertising, pre-paid burial plans, insurance and door-to-door sales are often aimed at older adults. Older adults are also prime targets for “identity theft”—having their names and good credit used by thieves. This chapter will give you useful tips on how to recognize and avoid such fraud.

Finally, this chapter discusses how to report your lost or stolen credit and automatic teller cards.

The following information briefly discusses some of your rights as a consumer. **It is not a complete listing of all laws that help consumers.**

General Advice

1. Carefully choose the people or companies with whom you do business.
2. When choosing a business, consider how long it has been in business, what its reputation is in the community, how stable and secure the business is, and whether or not you can get repairs or your money back if the products you buy are defective.
3. Do not buy anything under pressure. **YOU CAN SAY NO.**
4. Be careful if the seller is offering you a “one time only – take it or leave it” deal. The more urgent the sales pitch, the less likely it is a legitimate transaction.

5. Generally, you have three business days to change your mind about “door-to-door” purchases, even if you signed an agreement. However, there is no grace period for most other purchases.
6. You do not have to pay for anything that comes in the mail if you did not order it.
7. Be careful about giving your credit card number, Medicare number or Social Security number to anyone, especially if the person contacts you by telephone. (Listen to Tel-Law topic 1046, “Consumer Law,” for more information.)

Credit Purchases

Buying on time or buying on credit means that you borrow the amount needed to purchase the item or service. You agree to pay back the money plus a finance charge (interest). This extra charge is the cost of paying for the item or service over time instead of in one payment.

Important Terms

Amount Financed: The cost of a purchase not including interest. Also called the principal amount.

Annual Percentage Rate: The rate of interest you pay per year for using credit.

Cash Price: The cost of a product or service paid in full with cash at the time of the purchase.

Creditor: The person or company you owe money to.

Finance Charge: The total dollar amount of the interest you must pay for buying a product or service on credit.

Payment Total: The total amount you pay for a product or service. This includes the cost plus the finance charge.

When using retail credit cards, you must pay a monthly finance charge on your unpaid balance. If you pay for purchases within 25 to 30 days you can often avoid paying the finance charge. This depends on your credit card agreement. Some credit cards have a finance charge from the date of purchase.

Consumer contracts must show the finance terms as required by the **Truth in Lending Act** and **Federal Reserve Board Regulation Z**. The Truth in Lending Act requires businesses that use credit to show, in writing, your credit costs. When you buy on credit, you must receive a written statement showing the amount financed, annual percentage rate, finance charge and payment total. The statement must include all of this information before you sign. If the terms are not shown, you may be able to recover damages from the seller. (For more information, listen to Tel-Law topics 1016, “Your Rights and Responsibilities When Applying for Credit or Loans,” and 1020, “Equal Credit Opportunity.”)

Collection Agencies

If you cannot make your credit payments or pay other bills, the seller, loan company or bank may turn over your debt to a **collection agency**. A collection agency is a business that tries to collect debts. A collection agency can use any legal means to collect money you owe.

A collection agency has the same rights and responsibilities as the creditor or seller who originally had your debt. The Fair Debt Collection Practices Act and the Oregon Unlawful Debt Collection Practices Act control the collection agency's activities. These statutes prohibit a collection agency from making threats or harassing you. The collection agency cannot do the following:

1. Threaten criminal prosecution;
2. Continue calling or writing after you told the agency, in writing, that you do not want to be contacted;
3. Call your friends or neighbors;
4. Contact you or your boss at work if the collection agency knows your boss prohibits these types of calls;
5. Call you before 8:00 a.m. or after 9:00 p.m. your time, or use harassment or scare tactics;
6. Threaten to take your property or garnish your wages without first filing a lawsuit and giving you a chance to defend yourself; or
7. Threaten to foreclose on your house, unless there is a court judgment entered against you for more than \$3,000.

Debts

If you owe a creditor money, he or she usually has the right to demand that you pay it all. You are not legally excused from your debts because you have lost your job or other income, are sick, or cannot afford to pay. A creditor can still sue you for the whole amount even if you offer to pay part of the total or actually do pay \$5 or \$10 per month. (This may be different if the creditor has agreed to let you make partial payments and you haven't missed any.)

If you miss a payment, pay less than the agreed amount, are late on a payment, or do something else that violates a written contract regarding the payments, the seller or creditor may have the right to demand payment of the full balance you owe on the debt. In this case, the creditor also may have the right to repossess the item you are making payments on.

If a loan company, bank, collection agency or creditor sues you, it can get a **judgment** against you in court. A judgment is a court decision that you owe the money. The judgment does not order you to pay the debt, but it does give the judgment holder some ways to collect the judgment. It is lawful for the judgment holder to put a lien on your real property, garnish your wages or bank account, or take personal property. However, the judgment holder cannot take certain property protected by

law. This property is known as **exempt property**. Examples of exempt property include:

- Social Security, other government benefits and pensions, which are exempt even when placed in a bank account;
- Household goods with a market value of less than \$3,000. **Market value** is the cost a willing buyer would pay for a product “as is;”
- An automobile with a market value of less than \$2,150;
- Clothing and jewelry with a market value of less than \$1,800;
- All prescribed health aids;
- The first \$30,000 of equity in your house, or \$39,600 if you are married; and
- All net wages if you earn less than a certain amount each week. If you earn more than a certain amount, a creditor cannot garnish more than 25 percent of your total net wages.

A creditor who has a judgment against you may try to take your property even though it is exempt. If this happens, you must file a **claim of exemption** with the court. The creditor or the court should mail you the proper forms. This form will list your exempt property and stop the creditor from taking it. It is free to file the claim of exemption, but you must act very quickly to protect your property.

The legislature may change the amounts of these exemptions. If anyone sues you, contact an attorney immediately. If you take no action, you may automatically lose the case. (Listen to Tel-Law topic 1021, “Debtors’ Rights.”)

Contracts

Before signing any contract, **read all of it**. If you do not understand certain parts, **ask questions**. Insist that the sales clerk let you take home a copy of the contract before you sign it. Do not do business with a sales clerk who refuses to give you a copy of the contract before you sign it.

If you and the seller make an oral agreement, be sure the written contract includes it. If the oral agreements are not in the contract, use a pen and write them on the contract. You **and** the seller should initial or sign next to the added terms. This addition to the written contract will prevent misunderstandings about the oral agreements.

Do not sign a contract if you feel pressured or rushed to sign: someone in a hurry to make you sign should always make you suspicious. Remember to get—in writing—any right to cancel the contract that the seller promises you. You usually can cancel contracts **only** from door-to-door sales. Most other contracts are binding on you as soon as you sign. Never sign a contract with blank spaces that can be filled in later.

Do not sign a contract that takes away your legal rights unless you know what you are giving up and agree to give it up. Insist that all guarantees and warranties be in writing. Keep copies of all contracts, receipts, payment records and letters you send about the product or service.

Before you sign a sales contract, ask yourself these questions:

1. Do I really want what I am buying?
2. Do I understand the contract I am about to sign?
3. Do I know the total price, including interest and other charges, I will have to pay?
4. Do I know how many payments I will have to make?
5. Can I get the same thing at another store for a cheaper price?
6. Am I getting any guarantees from the store on the product I am buying? (**Note: Get all guarantees in writing!**)
7. Can I afford to make the payments the contract requires, even if other, unexpected needs come up?

Warranties

Products come with instructions and information about your consumer rights. This information explains your rights if the product is defective, damages property or injures people.

Warranties explain the obligations of the manufacturer or the seller if the product is defective. Products will come with either an **express** or **implied** warranty. Express warranties are written or oral. An implied warranty is not written, but is one that the customer may assume is present in most products. Unless the product specifically excludes use of it, the implied warranty assures that the product will be of good quality and can be used for the purpose it was made. Warranties usually last from 30 days to one or more years. During this time, you can have the seller repair or replace a defective product. However, some warranties cover the failure of only certain parts. Other warranties cover products only for a short time.

Keep your sales receipt to prove you bought the product within the warranty period. Often, warranty registration cards come with the product. If the warranty is a full warranty, you do not have to return the registration card to be protected. The seller giving the full warranty must repair any defects without charge.

Ask an attorney if you have problems getting your products repaired or replaced. (Listen to Tel-Law topic 1047, "Liability for Defective Products.")

Complaints About Merchandise

If you buy defective goods, send a written complaint to the business that sold them. Be specific about the problem. Include copies, **not the originals**, of your receipt, check, bills, warranties or other documents. Note the following important tips:

1. Tell the seller what you want.
2. Provide your name, address and telephone number.

3. Send the letter as soon as possible after the problem arises.
4. Send the letter to the complaint department, the company president or the customer service department. You may send the letter to all three.
5. Keep a copy of letters you send. Note the date you send the letter so you know how long the business takes to respond.
6. Allow a reasonable time for response.
7. If you do not receive a response, write another letter. Tell the business that you will seek help from one or more consumer agencies. Contact the Better Business Bureau; local newspaper, radio or TV station; consumer action programs; or the Attorney General's consumer protection division.
8. If you owe money for defective merchandise that has not been repaired or replaced by the seller, you may not have to continue payments.
9. If the amount of the dispute is small, you may sue in small claims court, which does not require an attorney.
10. If the amounts involved are large, the case is complex, or you are being sued, contact a lawyer immediately. If you are sued in small claims court, you must respond to the complaint within 14 days of the date you were served. If you are sued in circuit court, you must respond within 30 days of the date you were served. If you are sued and do not file a response before the deadline, you may automatically lose the case.

Protection from Schemes, Frauds and Rip-offs

Hearing Aid Purchases

Have your doctor test your hearing before you decide to buy a hearing aid or replace an old one.

Do not believe ads offering an effective hearing aid at a bargain price. You may not get the value expected.

Shop around and compare prices.

Bait and Switch

An ad lures you into the store to buy something available only in limited quantities. Once you get to the store, a salesperson tries to sell you a more expensive item than the one advertised.

If the advertised item is the bargain you expected, do not let the salesperson convince you to spend more on something else.

Stores must have enough stock of an advertised product to satisfy reasonable public demand. If the product is out of stock, insist on a "raincheck" so that you can still take advantage of the sale price later on.

Pre-Paid Burial Plans

Read the policy carefully and understand it before you invest in the plan.

Make sure you understand any conditions before you receive your purchase.

Under some plans, you will receive the benefits no matter how long you have made payments. Other plans require you to pay a set amount before you receive any benefits.

Insurance

Do not purchase coverage you do not need or coverage that duplicates what you already have.

Before buying or changing coverage, discuss your plans with someone you trust. (See Chapter 12 for more information about insurance.)

Pigeon-Drop

This scheme takes advantage of older adults by getting them to trust the person running the scam. A person may promise to give you money or valuable property only if you give your own money to him or her to hold as collateral. The person takes your money and then disappears. A variant of this scheme appears often on the Internet, where a “deposed prince” or other dignitary from a foreign country must find a safe place to keep money, “knows” you are trustworthy, and gets you to turn over your bank account number so as to “deposit” the money there. Instead of having extra money in your account, you then learn that you have no money in your account: the “prince” has absconded with it.

Online Purchasing

If you must purchase an item or a service by using your credit card on the Internet, avoid giving your card information to a seller who has solicited you with an online ad. Do Internet business only with known entities that you seek out, and then provide the information only if the business provides a “secure access” connection. Always print out a copy of your order and the company’s acknowledgment of the order.

Door-to-Door Sales

You do not have to talk to door-to-door salespeople or let them into your house. If you do not want to buy anything, simply ask the salesperson to leave.

If you decide to sign a sales contract, the salesperson must give you a notice explaining your rights to cancel the contract. It must also show where to send the cancellation notice.

Ask for a copy of any document you sign and the notice of your rights to cancel the contract. Keep a copy of your written notice.

You can cancel the sale even if you paid cash, but you must act fast. Send a letter (stating the date) to the company before three business days have passed to inform it you are canceling the sale. Be sure to keep a copy of the letter. You cannot cancel the sale if the purchase was under \$25.

Call a lawyer if you need help canceling a sale.

Telephone Sales

The telephone is one of the most effective weapons crooks use to take advantage of seniors. To avoid being hounded by telephone solicitors, you can join the national “do not call” registry. (See Resources at end of chapter.) The registry makes it illegal for commercial callers to contact you against your wishes. The national registry is free.

If you don’t mind listening to telephone sales pitches, be careful not to give out any identifying information about yourself that can be used to get your money or misuse your credit through identity theft. (See Chapter 14 for more information about protecting yourself from this serious crime.)

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- Choose very carefully the person you hire to repair your home.
- Ask for examples of his or her past work and references from previous customers.
- Check with several different people to see if you can find a cheaper price for the same type of work.
- Get the repair person’s full name, address, phone number and automobile license number. If the person is a licensed contractor, plumber, electrician, etc., get the number of the license. Ask if the repair person is bonded and registered with the State of Oregon Construction Contractors Board (also called the Builders Board). If he or she is registered, you can complain to the board if the job is not done well.
- If you have a choice between a worker who is licensed or bonded and one who is not, you are usually safer with the licensed or bonded worker.
- Before you decide to hire someone to do your home repairs, get a written estimate from the repair person. The estimate will show how much the work will cost. This is very important to prevent problems later.
- If you have work done on your home, and the workers or suppliers are not paid, they can file liens against your home. They can do this even if you have paid the person you made the contract with. Get receipts showing that the suppliers and subcontractors have been paid before you pay the contractor.
- If you are dissatisfied with the work of a licensed contractor, you can ask for help resolving the dispute over the work from the Oregon Real Estate Agency.

Home Repairs on Credit

If you are going to pay for repairs on credit, find out if the repair person wants a mortgage on your home to guarantee payment. Consider this very carefully before you agree to a mortgage.

The Truth in Lending Act lets a consumer cancel some contracts. The consumer must cancel within three business days from the day he or she signed the contract. The contract may be canceled within three days if it has the following:

1. Either a finance charge or payment in more than four installments; and
2. A mortgage, lien or other security interest in the consumer's home.

The contractor must give you a written notice explaining your right to cancel the contract. You can use this notice to let the contractor know you want to cancel. You must mail the notice, or your own letter, before midnight of the third business day after you signed the contract.

If you cannot make payments to a repair person (or contractor) who has a mortgage on your home, he or she can force the sale of your home. The repair person can do this to get the bill paid.

If someone threatens to take your home from you, call an attorney immediately.

Lost Credit Cards and Automatic Teller Cards

You must tell the credit card issuer as soon as you are aware that your credit card is missing. After you call the company, write a letter. The letter should include your credit card number and the date and time you telephoned the company to report the loss or theft. Be sure to keep a copy of the letter.

The Truth in Lending Act protects consumers in this situation. If you tell the company before someone else uses your card, you will not have to pay for the charges that person makes. If you tell the card issuer after someone else uses your card, you will not have to pay more than \$50. Generally, you are not held responsible for charges resulting from illegal use of your credit card.

Many banks and savings and loan associations give customers plastic cards that let customers withdraw money from their checking or savings accounts by using automatic teller machines, or ATMs. If your ATM or debit card is lost or stolen, call your bank immediately. If you do this, you can prevent someone from illegally using your card and stealing your money. If you delay, you may lose all of the money taken from your account. Also, never put any personal identification number where a thief can find it. Tell the police and the bank immediately if your card is taken in a theft or robbery. (See Chapter 14 for more information on protection from crime.)

Older adults can now get a free copy annually of their credit reports. They can do this to verify that no unauthorized person is using their identity information. To order a report, see the resources section at the end of this chapter.

Resources

See **General Resource List** for AAA/SPD offices, legal aid offices, OSB Tel-Law service and more.

Annual Credit Report Request Service

PO Box 105281
Atlanta, GA 30348-5281
877-322-8228
www.annualcreditreport.com

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Better Business Bureau

333 SW Fifth, Suite 503
Portland, OR 97204
503-226-3981
www.thebbb.org

Consumer Protection Section

To file a consumer complaint, contact:

State of Oregon Department of Justice
Financial Fraud/Consumer Protection Section
1162 Court Street NE
Salem, OR 97301
503-378-4320 (from Salem)
503-229-5576 (from Portland)
877-877-9392 (from elsewhere)
E-mail: consumer.hotline@doj.state.or.us
www.doj.state.or.us (for complaint forms online)

Division of Finance and Corporate Securities

For information about investment fraud, write or call:

Oregon Department of Consumer & Business Services
Division of Finance & Corporate Securities
350 Winter Street NE, Room 410
PO Box 14480
Salem, OR 97309
503-378-4140, 503-378-4387 or 866-814-9710
www.dfcs.oregon.gov

National Do Not Call Registry Information

888-382-1222; TTY: 866-290-4236

The following websites have information on the national registry:
www.donotcall.gov, www.ftc.gov and www.fcc.gov/cgb/donotcall.

Oregon Senior Financial Abuse Coalition

Preventing and Responding to Senior Financial Abuse in Oregon (AARP 2005) is a free resource guide available from the Oregon Governor's Commission on Senior Services.

500 Summer Street NE
Salem, OR 97301
800-282-8096

Oregon State Bar Tel-Law Topics

1046 - Consumer Law

1047 - Liability for Defective Products

1016 - Your Rights and Responsibilities When Applying for Credit or Loans

1020 - Equal Credit Opportunity

1021 - Debtors' Rights

503-620-3000 or 800-452-4776
www.osbar.org

Glossary of Terms

Amount Financed: *Also called principal amount. The amount of a purchase on credit without adding interest.*

Annual Percentage Rate: *The yearly interest rate.*

Cash Price: *The cost of a purchase paid in full with cash.*

Claim of Exemption: *A form you complete and send to court if a creditor tries to take your exempt property.*

Collection Agency: *A business that tries to collect debts.*

Creditor: *The person or company you owe money to.*

Exempt Property: *Property the law protects from being taken away if a loan company, bank, collection agency or creditor sues.*

Express Warranty: *A written or oral warranty.*

Federal Reserve Board Regulation Z: *A rule that works with the Truth in Lending Act to ensure all credit card terms are shown in writing.*

Finance Charge: *The cost of interest you pay for using credit.*

Implied Warranty: *An unwritten warranty. It is one that a customer may assume is present in most products, and it implies the product will be of good quality and can be used for the purpose it was made.*

Judgment: *A court decision that you owe money to a party who sues you. It is not a court order to pay the money.*

Market Value: *The cost a willing buyer would pay for a product or service.*

Payment Total: *The amount you pay for a purchase over time. It includes the principal cost plus the finance charge.*

Truth in Lending Act: *This requires businesses offering credit to show, in writing, what the credit use will cost.*

Warranty: *A guarantee—written, oral or implied—that explains the obligations of the manufacturer or the seller if a product is defective.*

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