

Commercial Collections Glossary

A

ABA transit number- Every bank has been assigned an identifying number by the American Bankers Association national numerical system. It appears in the upper right corner of a check. The transit number has two parts, divided by a hyphen. The first shows the city, state, or territory in which the bank is located, while the second identifies the bank itself.

acceleration clause- a provision in a contract or other document that gives the creditor the right to hasten payment of the entire debt.

acceptance - with respect to negotiable instruments, the drawee's engagement to honor the draft as presented.

accord and satisfaction - an agreement by which a claim is satisfied and discharged.

account number - a number assigned to each customer or patient of a creditor, used to identify all charges and payments received.

actionable - something which gives rise to a lawsuit.

administrator - one appointed to manage and distribute the estate of a deceased person who has not left a will or where, for some reason, an executor has not been appointed or qualified under his will.

affidavit - a statement sworn to or affirmed before an official who is authorized to administer oaths, usually a notary public.

after-acquired property - property a debtor acquires after the execution of a mortgage or other form of indebtedness and which secure such indebtedness.

agent - a person who acts for another person, who is referred to as the principal.

amicus curiae - friend of the court. A term frequently used with respect to a brief filed on behalf of one not a party to the proceeding, but having an interest in the issue or principle of law to be decided. (Latin)

action - a legal proceeding or lawsuit where one party seeks a remedy.

amount outstanding - the amount owed, including any previous balance due, cash advances drawn, and merchandise purchased within the billing period, plus finance charges. Deducted from this total are any payments and/or merchandise returned.

annual percentage rate (apr) - the amount of finance charges to be applied to the outstanding balance for one year. It is the monthly rate multiplied by 12.

application form - form required by a credit organization providing credit information about the applicant. It serves as the basis for a credit check and final approval.

arbitration - the determination of a dispute by a disinterested third person selected by the disputants.

assets - all property, both real and personal, including cash, bank accounts, automobiles, etc. owned by the debtor or his equity therein, which can be used toward the payment of his debts.

assignment - the transfer of property rights by one person, known as the assignor, to another, known as the assignee.



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assumpsit - a form of action for the recovery of damages for the non-performance of a contract.

attach - legal procedure by which a sheriff takes the debtor's property into custody of the law to hold and safeguard until a court has rendered a decision on the matter.

attachment - taking property into custody of the court, either to secure a judgment or as a method of acquiring jurisdiction.

attestation - the act of witnessing the execution of an instrument.

attorney-in-fact - a person who is authorized by power of attorney to act for another.

authorized signature - the signature(s) of those people who assume responsibility for payment of the account.

automatic stay - a statement prohibiting the creditor from attempting to collect debts owed by an individual or entity who has filed bankruptcy.

available credit - the difference between the credit limit assigned to the consumer's account and the present balance.

award - a decision or result in favor of the claimant.

B

bailment - the delivery of property by one, known as the bailor, to another, known as the bailee, to be held in custody for certain purposes.

balance due – see "amount outstanding."

bankruptcy – a legal process under the federal bankruptcy act by which the assets of a debtor are

liquidated to pay off creditors and to free the debtor from impossible financial obligations. Secured or preferred claims take precedence in the distribution of assets, and distribution is not necessarily proportionate.

bankruptcy liquidation - the conversion of a debtor's allowable assets into cash for distribution to listed creditors.

bankruptcy reform act - legal protection of debtors from creditors.

bequest - a gift of personal property by will.

billing cycle - time from one statement to the next; usually one month.

bill of exchange - a written order, which may be negotiable or non-negotiable, directing one party to pay a certain sum of money to him or a third party.

bill of lading - receipt and contract issued by a common carrier for the shipment of goods.

bill of sale - a written instrument by which one transfers his rights or interest in chattels and goods to another.

blank endorsement - endorsement which consists only of the signature of the endorser and does not state in whose favor it is made.

blue sky laws - state legislation that regulates the issuance and sale of corporate securities.

bona fide - in good faith (Latin).

bona fide purchaser - one who buys property without knowledge or notice of a third party's interest.



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breach of contract - failure to carry out the terms of a contract.

bulk transfer - the transfer of inventory or trade fixtures or a portion thereof not in the regular course of business.

C

caveat emptor - let the buyer beware (Latin). In the absence of a warranty, a buyer purchases goods at his own risk, unless the seller is guilty of fraud.

certiorari - a writ of a higher court issued to a lower court directing the lower court to transmit its proceedings for review. In most cases, the U.S. Supreme Court requires an application for certiorari to be made to it before it will hear an appeal from a lower court.

charge-off - method for writing off bad debt losses due to bankruptcy, death, or inability to repay the debt.

chattel- any type of personal property, as distinguished from real property.

chattel mortgage - indebtedness secured by chattels, title and possession of which may be in the debtor's possession but which may pass to the creditor upon the debtor's default.

chose - a thing; personal property.

chose in action - property not in possession, but a right of action for such possession. A claim or right to recover a debt or damages.

claim - an account for money due that has been placed by a credit grantor with a collection agency for collection.

claimant - person filing a claim. Also called petitioner or plaintiff (see "client").

clerk - the administrative officer in charge of small claims court; also assists the public in filing claims.

client - credit grantor who has placed his past-due accounts with a collection agency and has authorized them to proceed with the collection of such items. Some states prohibit the use of the term "client" in referring to creditors, and in such cases the term "claimant" is used.

collateral security - a separate obligation given to secure the performance of the primary obligation in a contract.

commissions - fees received by an agency for collecting an account(s). Amount of fee is usually a percentage of the amount collected as agreed upon by the creditor and the agency at the time the account was placed for collection.

common carrier - one whose business it is to transport passengers or freight for the public.

consideration - the required element in all contracts by which a legal right or promise is exchanged for the act or promise of another person.

consignment - the shipment of goods or chattel by means of a common carrier from one person, known as the consignor, or another person, known as the consignee. Also, the transfer of property to another for sale.



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community property - a legal right in some states that gives each spouse joint title to all personal and real property acquired after marriage. Debts incurred by either the husband or wife prior to marriage cannot be collected out of such community property.

consumer - any person who buys and uses products and services for personal or household use.

consumer agreement - a written understanding between the credit grantor and the consumer stating terms and conditions for payment.

consumer credit - a general term used to describe personal loans, personal finance, installment loans or revolving credit that is extended to individuals or small businesses. Usually there is a monthly repayment schedule.

Consumer Credit Counseling Service (CCCS) - a non-profit organization that counsels consumers who need assistance in handling their finances.

Consumer Credit Protection Act - provides for the regulation of the disclosure of the cost of credit, limits garnishment of wages, prohibits extortionate interest collections and gives consumers a voice in the content and use of consumer credit reports. Of special interest to the collection industry are Title I—Truth-In-Lending Act; Title III—Wage Garnishment; and Regulation Z.

contract - a binding agreement between two or more persons or businesses creating rights and duties.

conveyance - the transfer of an interest in realty; a deed. May sometimes include leases and mortgages.

copyright - the exclusive right granted by the federal government to publish and reproduce copies of writings and drawings.

counterclaim - a claim asserted by the defendant against whom suit is instituted.

covenant - a promise by one person made to another.

credit - an advance of credit, cash, merchandise or some other commodity in exchange for an agreement to pay at a future date, plus interest charges, if so agreed.

credit bureau - business organization whose function is to gather credit information regarding individuals living within a given community and to make such information available to businesses within the community to be used by them in determining whether or not to extend credit.

credit limit - dollar amount assigned to an individual account that cannot be exceeded.

creditor (credit grantor) - any party to whom money is owed by another.

credit risks - an evaluation of a person's payment potential. Arrived at by analyzing information obtained about a person's past credit history, current financial picture and repayment capability.

D

debit - an amount of money owed by a consumer.

debtor - an individual, firm, partnership or corporation who owes money.



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decedent - a person who has died. Used in connection with wills, estates and inheritances.

default judgment - granted by the court when the defendant fails to file an answer or to appear to defend himself against the claims of the plaintiff.

delinquent - any past due obligation.

devise - the gift of real property in a will.

dishonor- the non-payment of a negotiable instrument on its due date.

dispute - disagreement.

draft - a bill of exchange.

drawee - the person on whom a bill of exchange is drawn.

drawer - the person who draws a bill of exchange.

E

easement - the right of one person to use the land of another for a specific purpose without obtaining possession thereof.

Equal Credit Opportunity Act - legislation that makes discrimination in consumer credit lending illegal.

eminent domain - the power of the sovereign government to take private property for public purposes.

equity of redemption - the right of a mortgagor to redeem his property after the mortgage is past due.

escrow - the delivery of a deed or of personal property to a third party for delivery to the recipient thereof upon the happening of certain conditions.

estoppel - the rule of law which precludes a person from denying certain facts because of previous inconsistent conduct or statements.

F

factor - one who has received goods or merchandise for sale on behalf of another. Fair Credit Billing Act- federal law requiring credit grantors to give a detailed explanation of finance charges. Also describes how credit grantors are to resolve billing errors within a specified period of time.

Fair Credit Reporting Act - federal law that makes certain credit reports on individuals are fair, current and accurate. Also gives consumers the right to examine their credit records and correct any errors.

Fair Debt Collection Practices Act - federal law eliminating deceptive and abusive collection activities, limiting the amount of communication with a delinquent consumer and prohibiting harassment.

fee simple - absolute ownership of real property.

fixture - a chattel that has been affixed to real estate and may or may not be severable therefore without injury to the property.

foreclosure - the legal act by which the owner of a mortgage cuts off the rights or interest of the mortgagor in the mortgaged property.

forward - the sending of an account by one agency to another with instructions to proceed with the collection activity. The agency sending the claim is the "forwarder," agency receiving the claim is the "forwardee."



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franchise - a license, privilege or right granted by a sovereign.

fraud - intentional false statements or concealment of facts that, if known, would have affected a decision in either accepting or rejecting a consumer's credit application.

G

garnishment - the legal process by which property due a defendant in the hands of a third party is attached by a plaintiff.

guaranty - a contract by which one undertakes to be liable for the debt of another person in the event of his default.

I

inchoate - not yet completed or finished. Used in reference to rights that have not become absolute, such as a wife's inchoate right of dower during the lifetime of her husband.

indemnity - compensation paid for sustained or anticipated damage or loss.

indorsement - the signature of the person transferring a negotiable instrument. Also, endorsement.

insolvent - inability to pay one's debts.

insufficient funds (nsf) - banking term indicating that an account does not contain sufficient money to cover a check or checks.

interest - the amount paid by a debtor for the use of the creditor's money for a given length of time. All states have statutes limiting the amount of interest that can be charged on a debt.

intestate - a person who dies without a valid will.

J

joint liability - liability imposed upon two or more persons.

joint tenancy - ownership of property by two or more persons with the survivor taking the interest of the deceased.

L

laches - an unreasonable delay. Notwithstanding the provisions of statutes of limitations, a court of equity may deny relief because of laches on the part of a litigant.

legal guardian - individual appointed by the court to handle and affairs of another who is incapable of caring for himself.

liable - being held accountable by law to compensate creditors for products or services provided.

liabilities - all debts and obligations owed by a given individual, firm, partnership or corporation.

lien - the right to satisfy a debt out of certain property owned by the debtor.

liquidated damages - the amount agreed upon between the parties as to the loss or damage sustained in the event of a breach of contract.

lis pendens - a pending suit. An instrument filed or recorded in a court or registry office that affords public notice of the pendency of action, such as a proceeding to foreclose a mortgage.

loan - contract between a borrower and lender governing the extension of credit.



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I.s. - an abbreviation following a signature to take the place of a seal.

M

minor - a person who has not reached legal maturity.

mortgage - a conditional conveyance of property to a creditor as security for a debt.

N

negligence - the failure by a reasonable person to use sufficient care, diligence and required for the protection of others from injury or damage.

negotiate – the working out of a plan of settlement with the debtor as to the manner in which he is to pay the account.

negotiable - that species of property that can be transferred by indorsement and delivery or by delivery alone.

net worth - a person's or business' total assets minus liabilities.

nisi prius - a term to denote courts or terms of court held for the trial of civil actions with a jury.

nominal damages - the award of a small sum where no serious loss or damage has been sustained.

notary public - a public officer empowered to administer oaths and take acknowledgments.

P

per capita-by the head. In law of descent and distribution, this term is used to indicate the right of descendants to take share equally as members of a class who have the same relationship with one another.

per curiam - by the court. Generally used to denote the opinion or decision of the court as a whole rather than that of a single judge.

per stirpes - by trunk or root. In the law of descent and distribution, this term is used to indicate the right of descendants to take shares by representation of a deceased parent.

perjury - a false statement made under oath.

personal property - all rights and interest owned in goods or chattels or against another person as distinguished from ownership of real estate.

personal guarantee - person(s), usually an officer(s) of a corporation, who will guarantee payment in the event the corporation defaults on the obligation.

pledge - bailment of personal property to secure a debt.

preference - paying or securing to one or more creditors, by an insolvent debtor, of all or a part of their claim to the exclusion of other creditors. Also, a right acquired by a creditor by statute or legal proceeding to have his claim satisfied out of the debtor's assets before other creditors.

prima facie - at first view (Latin). Evidence sufficient in law to establish a fact unless rebutted.

process server - person over the age of 18 who delivers a summons and complaint.

postdated check - check bearing a future date. Not considered valid until that date is reached.

posting date - date a transaction is charged or credited to a person's account.



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power of attorney - legal document granting one party's right to act on behalf of another.

previous balance - account balance as of the last billing period.

probate - legal process that determines the legality of a will and addresses all questions pertaining to that will.

R

ratification - the approval of the acts of another taken on one's behalf.

real property - land and everything that is permanently affixed to it.

receiver - a person appointed by the court to take custody over property in litigation or insolvency.

reclamation - a term used in bankruptcy to denote a right or proceeding on the part of a person having title to property to recover the same when in possession of the bankrupt, debtor, receiver or trustee.

Regulation Z - gives the Federal Trade Commission the responsibility of enforcing the Truth-in-Lending Act with respect to businesses that are not aligned with other federal regulatory agencies specified in the Act.

remit - act of transmitting the client's share of collections made on his behalf.

replevin - an action to recover the possession of personal property taken or withheld from the owner unlawfully.

rescission - the annulment of a contract in which both parties are returned to their former positions.

res adjudicate (or res judicata) - a matter which has been decided. This is a legal doctrine to the effect that once an issue has been finally decided between the parties of a court of competent jurisdiction, it cannot thereafter be litigated by those parties in a new proceeding before the same or any other court.

revolving credit - accounts on which the payment on any amount is less than the total balance and the remaining balance is carried forward and is subject to applicable finance charges.

S

satisfaction - written evidence of the payment of a debt. satisfaction of judgment-written evidence of the payment of the judgment.

seal - originally a wax impression, but today consisting of any written figure or form.

service charge - fee charged by a credit grantor for unusual circumstances such as insufficient check charges or duplicate statements.

settlement - a compromise by the plaintiff and defendant to resolve problems.

set-off - a claim that one person has against another who has a claim against him.

skip - any debtor whose present whereabouts are not known.

solvent - a good financial condition of an individual, firm or corporation enabling them to pay their debts.

statute of frauds - a term applied to various statutes requiring agreements to be in writing.



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statute of limitations - a law limiting the lengths of time within which a lawsuit must be commenced or the right to sue is lost.

stay - temporary delay in any court proceedings.

stop payment - depositor's instructions not to honor a specific check.

subrogation - the substitution of one person in place of a creditor, whose rights he acquires.

summons - notice that a case is being prepared against you at a certain time and day. If you don't appear, the person asking for the award will win by default.

surety - a person who agrees to be liable for the debt or contractual obligations of another.

T

tenancy in common - the common and undivided ownership of property.

tenancy by the entirety - the joint ownership of property by a husband and wife.

testate - having made and left a valid will.

testator - a person who makes a will.

title - legal evidence showing property ownership.

Title III or garnishment – see "garnishment."

tort - a private or civil wrong exclusive of a breach of contract.

tortious - wrongful; having the quality or nature of a tort.

trustee - person to whom property has been assigned under the terms of a trust.

Truth in Lending Act - Title I of the federal Consumer Credit Protection Act which states that creditors must disclose certain basic information so consumers know what credit costs. Disclosure is required before credit is extended and, at times, in periodic billing statements. Prescribed standards in credit advertising must also be met.

Truth in Lending Disclosures - "insert" sent to customers at periodic intervals containing information regarding finance charges, service charges, minimum payment schedule, customer obligations and Fair Credit Billing Act requirements for disputed items.

turnover proceeding - a summary proceeding authorized under the provisions of the Bankruptcy Act requiring a bankrupt to turn over property to a receiver or trustee for administration. It may also be used in connection with property belonging to the bankrupt held by a third person.

U

ultra vires - the unauthorized acts of a corporation in violation of its charter (Latin).

underwriter - a person who insures another.

unsecured loans - credit extended without collateral.

updating - modifying a file with current information.

usury - charging excessive or punitive interest.

V

venue - in law, the county, district or other place where a case is tried. In many cases, the law specifies the venue with particularity, such as the county of residence of one of the parties. The venue



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may be changed for the convenience of witnesses or other reasons.

verification - process by which records are confirmed through direct contact with the consumer.

W

waiver - the relinquishment or refusal to accept some right or benefit. A waiver may result from an express agreement, by the act of a party or by failure to take appropriate action when required.

warranty - the representation that an article has certain properties, the breach of which subjects one to financial liability.

writ - court order demanding that a specific thing be done.