

Vermont Debt Collection Law

Submitted by Spencer B. Lythgoe, Esq.
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The National List currently does not have a member attorney practicing in the state of Vermont who was able to write a white paper for us. If you are a creditor who plans on doing collection business in VT, we wanted to provide answers to at least some of the questions you might have, as well as direct you to some sources you could check out as needed. To that end, we asked attorney Spencer B. Lythgoe to do the research and write the paper for us. He graciously accepted.

Spencer B. Lythgoe is a Utah-licensed attorney. He received a Bachelor's Degree in Mathematics from Brigham Young University and a Juris Doctor from William & Mary School of Law, where he was a member of the William & Mary Law Review. He has worked for over five years as an attorney/law clerk for the Second District Court for the State of Utah in Ogden, where he has performed legal research on a vast range of subjects, including debtor-creditor actions, and drafted numerous written opinions. He was recently hired as an associate at a law firm specializing in debt collection.

I. Vermont Debt Collection Laws

A. Statutes of Limitations

The following table illustrates applicable statutes of limitations in Vermont:

<u>Type of Action</u>	<u>Period</u>	<u>Source</u>
Judgments/Renewals (foreign and domestic)	8 years	12 V.S.A. § 506
Contracts (oral or written)	6 years	12 V.S.A. § 511
Civil actions in general	6 years	12 V.S.A. § 511
Open Accounts	3 years	9A V.S.A. § 3-118(g)
Bad checks	3 years	9A V.S.A. § 3-118(c)
Payment of Wages	2 years	12 V.S.A. § 520

It could be debated whether an action based on credit card debt qualifies as an open account or a written contract, and thus, whether it would be subject to a three- or six-year statute of limitations. However, it is generally interpreted in the law today that actions based on credit card debt are actions based on a written contract.

B. Bad Check Laws and Civil Penalties

Civil penalties for writing a bad check are set forth in [9 V.S.A. § 2311](#). The holder of a bad check is entitled to recover the full amount of the check, plus “court costs, costs of service... bank fees, interest, attorney’s fees, and damages in the amount of \$50.00.” In order to recover attorney’s fees and damages, however, the holder must first have give notice to the writer of the bad check. The writer then has 30 days from the date of notice to pay the full amount of the check plus bank fees and mailing fees. If the writer fails to make payment within 30 days, attorney’s fees and damages attach.

C. General Garnishment Exemptions

Wage garnishment in Vermont is referred to as “trustee process against wages” and is governed by [Chapter 121](#) of the Vermont code. When garnishing wages in Vermont, the general rule is that the greater of 75 percent of the judgment debtor’s weekly disposable earnings or 30 times the federal minimum wage (currently \$217.50) is exempt from garnishment. [12 V.S.A. § 3170\(b\)\(1\)](#). If the debt arose from a consumer credit transaction, the greater of 85 percent of the debtor’s weekly disposable earnings or 40 times the federal minimum wage (currently \$290.00) is exempt. [12 V.S.A. § 3170\(b\)\(2\)](#). Furthermore, the court may order that a greater amount be exempted, if it finds that the debtor’s reasonable weekly expenses exceed the amounts described above. [12 V.S.A. § 3170\(b\)\(3\)](#). Fees relating to garnishment in Vermont are paid by the creditor.

Creditors who obtain a judgment may attach property to the judgment and execute on it as a means of collection. However, Vermont law designates various items of property as exempt from attachment to a judgment. Notable among personal property exemptions are retirement accounts and pensions; Social Security, veteran’s, and disability benefits; alimony and child support; life insurance; up to a \$2,500 interest in motor vehicles; and up to \$700.00 held in the debtor’s bank deposits and accounts. For the complete list of personal property exemptions, see [12 V.S.A. § 2740](#). Additionally, a debtor’s homestead, i.e., the place where he resides, is exempt from attachment and execution, up to \$125,000 in value. [27 V.S.A. § 101](#).

To aid in attaching and executing on debtor-owned property, a creditor may conduct an examination of the debtor, known as a supplemental proceeding. After obtaining a judgment, a creditor may subpoena a debtor, compelling him to appear in court and answer questions regarding his income, bank accounts, real property, and other assets on which the creditor may execute. See rule 69 of the [Vermont Rules of Civil Procedure](#).

II. Debt Collection Licensing, Bonding, and Other Regulations

Lenders are required to be licensed in Vermont in order to make loans. However, Vermont does not require creditors, collection agencies, debt buyers, or Vermont-licensed attorneys to be specially licensed, registered, or bonded in order to engage in debt collection.

For an attorney licensed in another state to engage in litigation practice in Vermont, the attorney must first file a pro hac vice licensing statement with the court administrator and pay a \$200 fee, followed by moving for admission pro hac vice pursuant to rule 79.1(e) of the [Vermont Rules of Civil Procedure](#). See [here](#) for more information.

Debt collectors and creditors should be aware of Vermont's consumer protection act, located in Title 9, [Chapter 63](#) of the Vermont Code.

III. Court Costs

Filing fees in Vermont are uniform state-wide. Civil actions, including collection actions, may be filed in Vermont Superior Court and require a filing fee of \$262.50. Additionally, all post-judgment motions in Superior Court require a filing fee of \$78.75.

Claims up to \$5,000 in value may be filed in small claims court. The filing fee for small claims actions up to \$1000 is \$52.50. Small claims actions from \$1,001-\$5,000 require a filing fee of \$78.75. Post-judgment motions in small claims court carry a fee of \$52.50. Additionally, appeals from small claims court require a filing fee of \$105.00.

See the Vermont Judiciary's [website](#) for a complete list of Vermont court fees.

IV. Process-Serving Options and Costs

Service of process in Vermont may be performed by a sheriff, constable, or other indifferent person specially appointed by a judge to perform service in that case. [12 V.S.A. 691](#), [731](#). Rule 4 of the [Vermont Rules of Civil Procedure](#) governs the manner and time in which process must be served on a defendant.

The statutorily-appointed fee for service of process by sheriffs and constables is \$50, plus mileage costs. [32 V.S.A. 1591](#). Judgment creditors may typically recover costs of service of process as part of the judgment. However, if using a specially-appointed person to perform service, the creditor may not recover

from the debtor a fee for service of process greater than half of what it would have cost to use a sheriff or constable. [12 V.S.A. 733](#).

V. Vermont Case Law of Interest

In [State v. International Collection Services, Inc.](#), 156 Vt. 540 (1991), the Vermont Supreme Court ruled that the Vermont Attorney General was allowed to sue a debt collection agency on behalf of businesses that had been victimized by unfair or deceptive practices, pursuant to Vermont's consumer protection act. The collection agency had argued that the act only protected individuals from consumer fraud, but the court held that the act applied to protect businesses as well.

See also the [VT Statute on Consumer Protection](#).

Please be advised that this is not intended as legal advice. Changes to laws, statutes, regulations and costs can and do occur. We recommend that you contact an attorney for advice specific to your legal matters and your state.

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