

Nebraska Debt Collection Laws

Submitted by Kent A. Schroeder, Partner, Ross, Schroeder & George, LLC

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Published by The National List of Attorneys

www.nationallist.com

Kent A. Schroeder, a partner at Ross, Schroeder & George, LLC, in Kearney, Nebraska, has practiced law in Nebraska for over 40 years. He received his Bachelor's Degree at Iowa State University and his Juris Doctor from the University of Nebraska College of Law. Mr. Schroeder's caseload is diverse but his primary area of practice is domestic litigation. He also serves on the Board of Regents for the University of Nebraska.

I. Foundational Debt Collection Laws

a. Statute of Limitations:

An action for open accounts, written contracts and foreign judgments must be brought within five years.

See [Neb. Rev. Stat. § 25-205\(1\)](#)

b. Bad check laws and civil penalties:

If the bad check is for an amount greater than \$500, the person who passed the check may be charged with a felony. If the amount is less than \$500, the person can be charged with a misdemeanor. The aggregate amount of any series of checks passed in the same county within sixty days may be used in determining the classification of the offense. See [Neb. Rev. Stat. § 28-611](#). In a civil action to recover on a bad check, the applicant may recover damages resulting from the breach, including incidental but not consequential damages. See [Neb. Rev. Stat. U.C.C. § 5-111\(b\)](#).

c. General garnishment exemptions

Wages subject to garnishment under [Neb. Rev. Stat. § 25-1558](#) are not to exceed the lesser of the following: (1) twenty-five percent of the defendants disposable income for that week; (2) the amount by which the defendants disposable earnings for that week exceed thirty times the federal minimum wage; (3) fifteen percent of the defendants disposable income, if the individual is a head of a family.

The pension of every resident who became disabled in the service of the United States as a soldier, sailor or marine, and app property hereafter purchased and improved exclusively with such pension money, not exceeding two thousand dollars, is exempt from levy and sale upon execution or attachment. See [Neb. Rev. Stat. § 25-1559](#).

Except for cases of child support, all payments that are made as compensation for personal injuries or death, whether such payments are a lump sum or structured, shall be exempt from attachment, garnishment, or other legal or equitable process and from all claims of creditors of the beneficiary or the beneficiary's surviving dependents. See [Neb. Rev. Stat. § 25-1563](#).

Personal property that is exempt from exemption, attachment, or sale includes: (1) the immediate personal possessions of the debtor and his or her family; (2) all necessary wearing apparel of the debtor and his or her family; (3) the debtor's interest, not to exceed an aggregate fair market value of \$1,500, in household furnishings, household goods, household computers, household appliances, books, or musical instruments that are held primarily for personal, family, or household use of such debtor or the dependents of such debtor; (4) the debtor's interest, not to exceed an aggregate fair market value of \$2,400, in implements, tools, or professional books or supplies held for use in the principal trade or business of such debtor or his or her family, which may include one motor vehicle used by the debtor in connection with his or her principal trade or business or to commute to and from his or her principal place of trade or business; and (5) the debtor's interest in any professionally prescribed health aids for such debtor or the dependents of such debtor. See [Neb. Rev. Stat. § 25-1556](#).

II. Debt Collection Licensing, and Bonding Requirements

a. Creditor/Lender

Lenders who loan money under the Nebraska Installment Loan Act must meet its licensing and bonding requirements. The installment loan license application fee is \$500 ([Neb. Rev. Stat. § 45-1008](#)) and a \$50,000 bond is required ([Neb. Rev. Stat. § 45-1007](#)).

A sales finance license is necessary for companies that purchase and service retail installment contracts. An application fee of \$150 is required ([Neb. Rev. Stat. § 45-348](#)) along with a bond for \$50,000 ([Neb. Rev. Stat. § 45-346](#)).

b. Collection Agency

The licensing requirements for collection agencies are found in the Collection Agency Act, [Neb. Rev. Stat. § 45-601](#) et seq. The Act provides that a person, corporation, or association shall not conduct or operate a collection agency or conduct collection agency business without first having obtained a license as provided in the act. Any person, firm, or corporation that conducts collection business without such a license is guilty of a Class III misdemeanor for each day that such unlawful business was conducted. A regular employee of a duly licensed collection agency need not procure a collection agency license. A collection agency licensed in another state and residing in another state is not prohibited from communicating with a debtor in Nebraska. See [Neb. Rev. Stat. § 45-601](#).

The Collection Agency Licensing Board processes applications for a collection agency license. If the applicant is an individual, the applicant must provide his or her social security number. The board investigates the qualifications of each applicant. Based on this investigation, the board may issue a license upon the payment of the licensing fee, or reject the application. See [Neb. Rev. Stat. § 45-605](#). The application fee for a collection agency license is fixed by the Board and is not to exceed \$250. See [Neb. Rev. Stat. § 45-606](#).

Each applicant for a collection agency license must furnish a surety bond for \$15,000 for agencies having 16 or more licensed solicitors, \$10,000 for any agency having 5-15 licensed solicitors, and \$5,000 for any agency having less than 5 solicitors. See [Neb. Rev. Stat. § 45-608](#).

c. A lawyer not admitted in Nebraska.

An attorney who is admitted and regularly practices in another state or territory may, on motion, be admitted to practice in Nebraska for the purpose of said business, only provided that the attorney associates with a Nebraska attorney. Association with a Nebraska attorney is not necessary if the visiting attorney practices in a state that allows a Nebraska attorney the same privilege. See [Neb. Rev. Stat. § 7-103](#).

III. Secure vs. Unsecure Collection Matters

a. Secured Creditor

A secured creditor may repossess the debtor's property and sell such property in an effort to satisfy the debt. Such repossession must not breach the peace. The creditor must provide notice of the sale of such property, and the sale must be conducted in a commercially reasonable manner.

b. Unsecured Creditor

An unsecured creditor must first obtain a judgment before it can obtain an interest in the debtor's property or garnish the debtor's bank accounts or wages.

IV. Court Fees

Filing fees in Nebraska are set by the Legislature and are uniform. The fee to file in County Court is \$45. The fee to file in District Court is \$82.

IV. Process-serving and Other Court Costs

- a. **Sheriff:** Sheriff's offices in Nebraska fees for serving process vary but typically range from \$25-\$50 plus mileage.
- b. **Process Server:** Private process servers typically charge between \$35 and \$50 plus mileage.
- c. **Garnishment Fees:** The garnishment fee is \$5.
- d. **Debtor Exams:** There is a \$5 fee for a debtor exam.

V. Recent Significant Case Law

It was recently held that a former state highway patrol officer's pension was not subject to garnishment to satisfy a civil judgment entered against him in favor of his former step-daughter, who he had sexually abused. The Supreme Court of Nebraska reasoned that any exception to the pension exemption was a matter for the Legislature. [*J.M. v. Hobbs*, 281 Neb. 539 \(Neb. 2011\)](#).

VII. Ethics Opinions

The following ethics advisory opinions pertaining to collections have been rendered by Nebraska's Lawyer's Advisory Committee:

82-2: An attorney may not ethically participate in the operation or management of an agency which solicits accounts for collection, when he will be retained by the agency to collect those accounts; and, if the attorney also is a part-time county attorney, additional ethical considerations involving a conflict of interest may be involved.

73-8: It is not ethical for an attorney for a judgment creditor to demand from an unrepresented judgment debtor, whose wages the judgment creditor has garnished, a sum in excess of the amount the judgment creditor can take in the garnishment process in exchange for an immediate release of the garnishment order.

76-2: It is improper for any attorney to appear on behalf of a client before the governing board of a public institution or to contact the administrative officials of the institution to promote collection of a judgment against the institution, where the institution is represented by legal counsel without the consent of the institution's legal counsel.

86-3: An attorney may charge interest on past due accounts for legal services with the client's agreement. Such agreement must: (1) Be in writing; (2) Be entered into prior to or early in the provision of legal

services; (3) Clearly state a reasonable rate of interest; (4) Clearly set out when the account will become past due and subject to the interest charge, but not less than 30 days after the billing date.

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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