

OFFICE OF CONSUMER PROTECTION

Confessed Judgment Clauses & Debt Collection

March 5, 2021

With the current pandemic and its impact on finances, [debt collection](#) and related court filings are expected to rise. One tool used may be confessed judgments which are [disfavored in Maryland](#). These clauses are illegal in *consumer* contracts in Maryland. However, that may not stop an unscrupulous creditor or debt collector from trying to use one as a negotiation mechanism. Consumers need to be aware of what these clauses are, how they work to their detriment, before signing documents.



What is it?

A confessed judgment clause is a provision in an agreement that states that a creditor can obtain a judgment against a consumer without following regular court procedures. The creditor does not have to take you to court to collect, and you cannot raise **any** defenses. In short, if you fail to pay the agreed upon amount, the creditor can just file the paperwork in court, without sending you notice in advance, resulting in a judgment that the creditor can enforce with [garnishment](#).

This should be distinguished from a “Consent Judgment” that a creditor, attorney or *judge* may ask you to sign once in court. Beware of *lawyers*



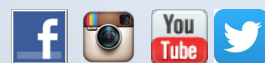
Ensuring Integrity in our Marketplace



If you have been a victim of a scam, or if you have any questions about a merchant’s activities, please contact the Office of Consumer Protection.

100 Maryland Avenue
Suite 3600
Rockville, MD 20850
Main: 240.777.3636
Tip Line: 240.777.3681
Fax: 240.777.3768

You can also file a complaint online by clicking [HERE](#)



sending you a Consent Judgment before a Court hearing. OCP has heard of lawyers offering Consent or Confessed Judgments in exchange for not filing in Court—even after they have already filed.

Maryland Law

[Maryland's Consumer Protection Act](#) provides definitions of what are considered unfair, abusive, or deceptive trade practices. Specifically, [§13-301\(12\)](#) states that using a contract in a consumer transaction that contains a confessed judgment clause waiving the consumer's right to assert a legal defense to an action, is an unfair or deceptive trade practice, and is thus prohibited under this Act. What is, and is not, a consumer contract will be an issue to discuss with a lawyer.

Debt collectors are [required to be licensed](#) under Maryland law. You have the right to challenge the debt *in writing* within 30 days of first contact. If the debt collector does verify the debt to your satisfaction, and you choose to negotiate with them, any settlement should be *in writing*, and in compliance with the Consumer Protection Act. If you do not feel comfortable with a debt collector's calls or tactic, you always have the right to send a letter to the company telling them to stop contacting you.

If you face garnishment, know that there are some limits to what can, and cannot be, garnished. The [Maryland Access to Justice Commission](#) provides a detailed webinar on your rights. If you need credit counselors or financial coaches, you can start with [Consumer Credit Counseling Services](#) or the [Cash Campaign of Maryland](#).

Read Agreements Carefully

Maybe you are behind on an obligation. You want to try to work things out with the creditor or debt collector. They are willing to negotiate a

deal and are even willing to accept less than what you owe to resolve the debt. But they want you to sign an agreement documenting the terms which may have many paragraphs of legal jargon. While you may think the terms of the deal are all in your favor, you need to watch out for any traps in the final written agreement. Do not trade the promise of a lower payment for the danger of a confessed judgment.



What You Should Know

In Maryland, a creditor or debt collector can only get a judgment against a consumer after filing *and* winning in a court. In a trial, the creditor must prove you owe the debt. There are many possible defenses you can raise, (preferably in writing) including:

- ✓ you don't owe the debt,
- ✓ a payment plan is already in place,
- ✓ the debt is too old for the creditor to pursue,
- ✓ the creditor did not provide the necessary documents to prove the debt,
- ✓ the debt was discharged in bankruptcy,
- ✓ the suit was filed in the wrong court, or
- ✓ that you were a victim of identity theft.

These are only some of the defenses you can raise. Any clause stating otherwise is illegal and should not be part of any negotiation or agreement. Do not allow creditors to bully you into accepting or signing anything you are not comfortable with or do not understand. Do not be afraid to reach out to a lawyer, credit counselor or financial coach *before* you sign if you have questions or concerns.

