Does Debt Have an Expiration Date

Written by John Ulzheimer

Consumers rarely set out to create credit problems for themselves. Most people don’t wake up thinking, “Today is a great day to stop paying my bills. Let’s see how quickly I can trash my credit scores.” Instead, bad credit and debt problems tend to come from either bad luck or poor planning on the part of the consumer.

Unfortunately, the world of credit reporting is self-policing and credit mistakes can haunt a consumer for many years. Creditors and the credit bureaus rarely accept excuses, even legitimate excuses, for unpaid debt.

And while the lenders’ decision to report late payments to the credit bureaus is voluntary, it’s so consistent that it seems mandatory.

Thankfully in most cases delinquent debt is not able to haunt consumers forever. There are strict time limits that control how long a creditor may legally pursue a consumer for unpaid debt.

However, as with many credit and debt related topics, there is a lot of confusion on the subject and most people do not truly understand the time limits associated with unpaid debt. Take a look at five overlooked facts regarding unpaid debt and how long they can hang around your neck:

1. The two clocks

When a consumer promises to pay back a debt based on terms they’ve executed, it’s called a “promissory note.”

This note gives creditors the right to attempt to collect said debt in the event of a default. Should a consumer become delinquent on payments then the creditor can take actions to compel the consumer to pay.

These actions put pressure on the consumer to pay back the debt and include tactics like (A) reporting negative information to the credit bureaus, (B) selling it to a collection agency/debt buyer or even (C) suing the consumer.

All of the collection tactics above are governed by time limits. The statutes of limitation that govern the pursuit of unpaid debts are often informally referred to as “clocks.” There are two statutes of limitation (SOL) clocks involved in protecting consumers who have defaulted.

The first clock controls debt collection and the second clock controls credit reporting. Although both SOL clocks are concerned with the same event — an unpaid debt incurred by a consumer — the clocks are completely separate and do not influence one another whatsoever.

2. Time-barred debt

The first SOL clock concerns how long a creditor is allowed to file a lawsuit against a consumer in an attempt to collect an unpaid debt.

Once the SOL for lawsuit-based debt collection has passed, the debt is referred to as being “time-barred.” When a debt becomes time-barred the creditor no longer has the ability to sue the consumer in an effort to collect, although some will try.

Debt becomes time-barred based upon the state laws where the consumer lived in when the debt was initially incurred, or the state law that governs the promissory note, which is also normally the state were the consumer lived when incurring the debt.

Each state sets its own SOL clock for when debts become time-barred. The SOL clocks range from 3-15 years. Here is a cheat sheet:

<table>
<thead>
<tr>
<th># of Years Before a Debt Becomes Time-Barred:</th>
<th>State:</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>KY and OH</td>
</tr>
<tr>
<td>10</td>
<td>IL, IN, IA, LA, MO, WV, WY</td>
</tr>
</tbody>
</table>
3. Time-barred debt exceptions

Certain types of debt, namely federal student loans and tax liens, will never become time-barred. In other words, there is no SOL clock and no expiration date for the collection of these obligations.

A consumer may not technically be sued for these financial obligations, but there are other actions that can be taken in an attempt to collect these debts that are just as nasty as a lawsuit.

Consumers with defaulted federal student loans can have their wages garnished, their tax refunds seized, and even their estates can be responsible for satisfying the unpaid debt in the event of their death.

Additionally, there are ways for consumers to accidentally restart the SOL clock on previously time-barred collections. For example, if a consumer lived in Maryland when an unpaid debt was incurred then the debt would become time-barred after three years. However, if that same consumer decided to make a payment on the debt (rather than paying or settling the debt in full) then the SOL clock for debt collection would be re-started allowing the creditor another three years to sue, should they desire to do so.

4. Credit reporting

The second SOL clock is the credit reporting statute of limitations which, again, has nothing to do with the SOL when a debt becomes time barred.

The credit reporting SOL clock is governed by the Fair Credit Reporting Act. The FCRA dictates when an item must be purged from a consumer’s credit report based on the type of account or financial obligation. Here is another cheat sheet to help:

<table>
<thead>
<tr>
<th># of Years an Item Is Allowed to Remain on a Consumer’s Credit Report:</th>
<th>Type of Item:</th>
</tr>
</thead>
</table>
| Indefinitely                                                   | • Unpaid Tax Liens  
|                                                               | • Unpaid Federal Student Loans |
| 10 Years                                                       | • Chapter 7 Bankruptcies (10 Years from Date Filed)  
|                                                               | • Chapter 13 Bankruptcies (7 Years from Discharge Date, 10 Years Max) |
| 7 Years                                                        | • Charge-Offs  
|                                                               | • Judgments  
|                                                               | • Collections  
|                                                               | • Foreclosures  
|                                                               | • Repossessions  
|                                                               | • Released Tax Liens  
|                                                               | • Late Payments  |

If a debt was incurred by a consumer living in the state of Maryland, for example, the debt would become time-barred after a short three years. However, the debt could still legally remain on the consumer’s credit report for another four years before the account would be deleted.
Nothing can restart the credit reporting SOL. When it has reached its maximum allowed number of years, it has to be permanently removed.

5. Exceptions

You may have noted on the credit reporting chart that there are definitely some exceptions to the rule when it comes to the credit reporting SOL clock. Just as is the case with time-barred debts, there are certain types of financial obligations that are not required to be removed from a consumer’s credit reports until they have been paid and satisfied.

Since there is no SOL clock associated with these types of unpaid items they can legally remain on a consumer’s credit reports forever, although the credit bureaus could choose to remove them earlier as a matter of policy.

The FCRA does not require defaulted student loans and unpaid tax liens (both state and federal) to be removed from a consumer’s credit reports, ever. In fact, the FCRA is completely silent on the subject of federal student loans and credit reporting SOLs.

The credit reporting of defaulted federal student loans is addressed by the Higher Education Act, which allows them to remain on a consumer’s credit report indefinitely. The FCRA specifically states that federal tax liens are not to be removed from credit reports until seven years from the date that the lien is released.