

Credit Protection Laws

The Consumer Credit Reporting Act and its various amendments was created to give the consumer protection from the inappropriate conduct rampant amongst credit reporting agencies. It was written to force credit reporting agencies to listen to your complaints and perform specific steps to correct any inaccuracies. Without this law, your complaints were often ignored.

Your Rights And The Law

Basically, the Consumer Credit Reporting Act (found below) and a few other amendments not included here grant you, the consumer of credit, many rights. These are:

Right 1: The right to view your credit report - This portion of the law requires that the credit reporting agencies supply you with a full report on your credit transactions at any time you request one. This report will contain every item recorded in their files about you. It may not include every credit item you have but it will include every credit item that they have in their files about you. Additionally, the credit reporting agencies are allowed to charge a reasonable fee for this service if it is being performed at your sole request. However, if you have recently been rejected for credit by a creditor, they will by law send you a copy of your credit report for free if you request it.

Right 2: The right to know who has inquired into your credit file - The law allows you to know every bank, credit card company, employer, etc. who has requested a copy of your credit report. This even includes all the times the credit reporting agency has pulled your file. Every time the credit reporting agency pulls your credit report to fix an error or examine some information, this action is recorded. This information is very valuable in detecting fraud. If your credit report has many inquiries that you don't recognize, someone is probably trying to commit fraud using your social security number.

Right 3: The right to request verification of information you believe is incorrect - This portion of the law allows you to have a negative entry checked multiple times. This guarantees that every time you tell a credit reporting agency an item is incorrect, they will investigate that item. Without this portion of the law, they could refuse to investigate your claims more than one time whether or not your request was legitimate.

Right 4: The right to insert missing data into your credit file - Often you will have credit granted to you that never makes its way into your credit report. This happens for a variety of reasons. You may have been granted credit at a local department store which doesn't report information to a credit reporting agency. Or perhaps you moved to another part of the country and you have credit information that didn't follow you from your old address to your new address. This portion of the law allows you to report all this good credit information to the credit reporting agencies and have it entered into your credit report. The following are examples of the types of information you may want to have added to your credit reports:

* Details on loans, both current and paid off, when you have a good payment history.

- * Credit cards with good payment histories that do not appear on your credit report.
- * Salary increases at your current job or when you switch jobs.
- * Any active accounts which have good payment histories that do not appear on your credit reports.
- * Information related to your mortgage, especially if it is not being reported on your credit report.
- * Settlements on any judgments, tax and IRS liens, disputed bills, etc.

Right 5: The right to automatically remove all detrimental information from your credit report after seven years; 10 years for bankruptcy - This portion of the law guarantees that past financial indiscretions do not follow you for the rest of your life. This process is automatic and is handled by the credit reporting agencies. If you ever find a negative credit item on your credit report over seven years old (10 for bankruptcy), a simple letter reminding the credit reporting agency of this law will get that item instantly removed.

Right 6: The right to place your own personal statement in your credit report - Some of you will have some negative credit due to an extraordinary event such as the loss of a job, sickness, divorce, etc. And, after trying to clean it from your credit report, will find that you were unsuccessful. This portion of the law was written for you. It allows you to have a written statement of 100 words or less placed in your credit report. This can be used to explain to future creditors what caused the bad credit and why it was a one time occurrence.

Right 7: The guarantee of privacy of the information in your credit report from anyone other than legitimate members of the credit reporting agency - This portion of the law states that no one can look at your credit report without your permission. That is why creditors have you sign a form allowing them to examine your credit report. The only exception to this rule is the credit reporting agencies. They are allowed to look at your credit report without your permission only for legitimate business purposes such as updating the information in your file.

Right 8: The right to have your credit report transferred from one area to another any time you move - This provision of the law guarantees that your credit history follows you wherever you go. This allows your hard earned good credit to follow you all over the United States. Unfortunately, it also means that any bad credit you have also follows you across the country.

Right 9: The right to use the small claims court system to resolve any disputes with the credit bureaus about incorrect or inaccurate information in your credit report - This portion of the law gives you the right to your day in court. If something on your credit report is inaccurate and you can't get it repaired through the credit repair process, you have the right to present your evidence in a court of law to resolve the dispute. If the court finds in your favor, the item will be corrected. If not, the item will stay in your credit report.

Right 10: The right to know exactly why you were refused credit - This portion of the law requires that my creditor who refuses you credit must inform you of exactly why you were turned down. This request must be made by you to the creditor within 10 days of

your being turned down for credit.

Right 11: The right to remain silent about bad credit information that does not currently appear in your credit report This provision of the law simply states that you do not have to correct my omissions you find in your credit report, whether positive or negative.

These 11 points pretty much summarize your fights under the Consumer Credit Reporting Act. Certain points are actively used to repair your credit and others are used to make sum you me treated fairly by the credit system

TITLE VI - CONSUMER CREDIT REPORTING

A copy of the main body of the Consumer Credit Reporting Act as it relates to credit repair is presented below. It is included so you know exactly how the law is written.

Section 601. Short title

This title may be cited as the Fair Credit Reporting Act

Section 602. Findings and purpose

(a) The Congress makes the following findings:

(1) The banking system is dependent upon fair and accurate credit reporting. Inaccurate credit reports directly impair the efficiency of the banking system, and unfair credit reporting methods undermine the public confidence which is essential to the continued functioning of the banking system. (2) An elaborate mechanism has been developed for investigating and evaluating creditworthiness, credit standing, credit capacity, character, and general reputation of consumers. (3) Consumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers. (4) There is a need to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for a consumer's right to privacy.

(b) It is the purpose of this title to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information in accordance with the requirements of this title.

Section 603. Definitions and rules of construction

(a) Definitions and rules of construction set forth in this section are applicable for the purposes of this title

(b) The term 'person' means any individual, partnership, corporation, trust, estate, cooperative, association, government or governments] subdivision or agency, or other entity.

(c) The term 'consumer' means an individual.

(d) The term 'consumer report' means any written, oral, or other communication of any information by a consumer reporting agency hewing on a consumer's credit worthiness,

credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for (1) credit or insurance to be used primarily for personal, family, or household purposes, or (2) employment purposes, or (3) other purposes authorized under section 604. The term does not include (A) my report containing information solely as to transactions or experiences between the consumer and the person making the report; (B) any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device; or (C) any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made and such person makes the disclosures to the consumer required under section 615

(e) The term 'investigative consumer report' means a consumer report or portion thereof in which information on a consumer's character, general reputation, personal characteristics, or mode of living is obtained through personal interviews with neighbors, friends, or associates of the consumer reported on or with others with whom he is acquainted or who may have knowledge concerning any such items of information. However, such information shall not include specific factual information on a consumer's credit record obtained directly from a creditor of the consumer or from a consumer reporting agency when such information was obtained directly from a creditor of the consumer or from the consumer.

(f) The term 'consumer reporting agency' means any person which, for monetary fees, does, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Section 604. Permissible purposes of reports

A consumer reporting agency may furnish a consumer report under the following circumstances and no other

- (1) In response to the order of a court having jurisdiction to issue such an order.
- (2) In accordance with the written instructions of the consumer to whom it relates.
- (3) To a person which it has reason to believe--
 - (A) intends to use the information in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of the consumer; or
 - (B) intends to use the information for employment purposes; or
 - (C) intends to use the information in connection with the underwriting of insurance involving the consumer; or
 - (D) intends to use the information in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or
 - (E) otherwise has a legitimate business need for the information in connection with a business transaction involving the consumer.

Section 605. Obsolete information

(a) Except as authorized under subsection (b), no consumer reporting agency may make any consumer report containing any of the following items of information

(1) Cases under title II of the United States Code or under the Bankruptcy Act that, from the date of entry of the order for relief or the date of adjudication, as the cause may be, antedate, the report by more than 10 years.

(2) Suits and judgments which, from date of entry, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Paid tax liens which, from date of payment, antedate the report by more than seven years.

(4) Accounts placed for collection or charged to profit and loss which antedate the report by more than seven years.

(5) Records of arrest, indictment, or conviction of crime, which, from date of disposition, release, or parole, antedate the report by more than seven years.

(6) Any other adverse item of information which antedates the report by more than seven years.

(b) The provisions of subsection (a) are not applicable in the case of any consumer credit report to be used in connection with--

(1) a credit transaction involving, or which may reasonably be expected to involve, a principal amount of \$50,000 or more;

(2) the underwriting of life insurance involving, or which may reasonably be expected to involve, a face amount of \$50,000 or more; or (3) the employment of any individual at an annual salary which equals, or which may reasonably be expected to equal \$20,000, or more.

Section 606. Disclosure of investigative consumer reports

(a) A person may not procure or cause to be prepared an investigative consumer report on any consumer unless--

(1) it is clearly and accurately disclosed to the consumer that an investigative consumer report including information as to his character, general reputation, personal characteristics, and mode of living, whichever are applicable, may be made, and such disclosure (A) is made in a writing mailed, or otherwise delivered, to the consumer, not later than three days after the date on which the report was first requested, and (B) includes a statement informing the consumer of his right to request the additional disclosures provided for under subsection (b) of this section; or

(2) the report is to be used for employment purposes for which the Consumer has no specifically applied.

(b) Any person who procures or causes to be prepared an investigative consumer report on any consumer shall, upon written request made by the consumer within a reasonable period of time after the receipt by him of the disclosure required by subsection (a)(1), shall make a complete and accurate disclosure of the nature and scope of the investigation requested. This disclosure shall be made in a writing mailed, or otherwise delivered, to the consumer not later than five days after the date on which the request for such disclosure was received from the consumer or such report was first requested, whichever

is the later.

(c) No person may be held liable for any violation of subsection (a) or (b) of this section if he shows by a preponderance of the evidence that at the time of the violation he maintained reasonable procedures to assure compliance with subsection (a) or (b),

Section 607. Compliance procedures

(a) Every consumer reporting agency shall maintain reasonable procedures designed to avoid violations of section 605 and to limit the furnishing of consumer reports to the purposes listed under section 604. These procedures shall require that prospective users of the information identify themselves, certify the purposes for which the information is sought, and certify that the information will be used for no other purpose. Every consumer reporting agency shall make a reasonable effort to verify the identity of a new prospective user and the uses certified by such prospective user prior to furnishing such user a consumer report. No consumer reporting agency may furnish a consumer report to any person if it has reasonable grounds for believing that the consumer report will not be used for a purpose listed in section 604.

(b) Whenever a consumer reporting agency prepares a consumer report it shall follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the report relates.

Section 608. Disclosures to governmental agencies

Notwithstanding the provisions of section 604, a Consumer reporting agency may furnish identifying information respecting any consumer, limited to his name, address, former address, places of employment, or former places of employment, to a governmental agency.

Section 609. Disclosures to consumers

(a) Every consumer reporting agency shall, upon request and proper identification of any consumer, clearly and accurately disclose to the consumer

(1) The nature and substance of all information (except medical information in its files on the consumer at the time of the request.

(2) The sources of the information; except that the sources of information acquired solely for use in preparing an investigative consumer report and actually used for no other purpose need not be disclosed: Provided, That in the event an action is brought under this title, such sources shall be available to the plaintiff under appropriate discovery procedures in the court in which the action is brought.

(3) The recipients of my consumer report on the consumer which it has furnished- -

(A) for employment purposes within a two-year period preceding the request, and

(B) for my other purpose within the six-month period preceding the request.

(b) The requirements of subsection (a) respecting the disclosure of sources of information and the recipients of consumer reports do not apply to information received or consumer reports furnished prior to the effective date of this title except to the extent that the matter involved is contained in the files of the consumer reporting agency on that date.

Section 610. Conditions of disclosure to consumers

- (a) A consumer reporting agency shall make the disclosures required under section 609 during normal business hours and on reasonable notice.
- (b) The disclosures required under section 609 shall be made to the consumer--
 - (1) in person if he appears in person and furnishes proper identification; or
 - (2) by telephone if he has made a written request, with proper identification, for telephone disclosure and the toll charge, if any, for the telephone call is prepaid by or charged directly to the consumer.
- (c) Any consumer reporting agency shall provide trained personnel to explain to the consumer my information furnished to him pursuant to section 609.
- (d) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer reporting agency may require the consumer to furnish a written statement granting permission to the consumer reporting agency to discuss the consumer's file in such person's presence.
- (e) Except as provided in sections 616 and 617, no consumer my bring my action or proceeding in the nature of defamation, invasion of privacy, or negligence with respect to the reporting of information against any consumer reporting agency, any user of information, or any person who furnishes information to a consumer reporting agency, based on information disclosed pursuant to section 609, 610, or 615, except as to false information furnished with malice or willful intent to injure such consumer.

Section 611. Procedure in case of disputed accuracy

- (a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is directly conveyed to the consumer reporting agency by the consumer, the consumer reporting agency shall within a reasonable period of time re investigate and record the current status of that information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If after such reinvestigation such information is found to be inaccurate or can no longer be verified, the consumer reporting agency shall promptly delete such information. The presence of contradictory information in the consumer's file does not in and of itself constitute reasonable grounds for believing the dispute is frivolous or irrelevant.
- (b) If the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer reporting agency may limit such statements to not mom than one hundred words if it provides the consumer with assistance in writing a clear summary of the dispute.
- (c) Whenever a statement of a dispute is filed, unless there is reasonable grounds to believe that it is frivolous or irrelevant, the consumer reporting agency shall, in my subsequent consumer report containing the information in question, clearly note that it is disputed by the consumer and provide either the consumers statement or a clear and accurate codification or summary thereof.
- (d) Following any deletion of information which is found to be inaccurate or whose accuracy can no longer be verified or any notation as to disputed information, the consumer reporting agency shall, at the request of the consumer, furnish notification that the item has been deleted or the statement. codification or summary pursuant to subsection (b) or (c) to any person specifically designated by the consumer who has

within two years prior thereto received a consumer report for employment purposes, or within six months prior thereto received a consumer report for any other purpose, which contained the deleted or disputed information, The consumer reporting agency shall clearly and conspicuously disclose to the consumer his rights to make such a request. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

Section 612. Charges for certain disclosures

A consumer reporting agency shall make all disclosures pursuant to section 609 and furnish all consumer reports pursuant to section 61 1 (d) without charge to the customer if, within thirty days after receipt by such consumer of a notification pursuant to section 615 or notification from a debt collection agency affiliated with such consumer reporting agency stating that the consumer's credit rating may be or has been adversely affected, the consumer makes a request under section 609 or 611 (d). Otherwise, the consumer reporting agency may impose a reasonable charge on the consumer for making disclosure to such consumer pursuant to section 609, the charge for which shall be indicated to the consumer prior to making disclosure; and for furnishing notifications, statements, summaries, or codifications to person designated by the consumer pursuant to section 61 1 (d), the charge for which shall be indicated to the consumer prior to furnishing such information and shall not exceed the charge that the consumer reporting agency would impose on each designated recipient for a consumer report except that no charge may be made for notifying such persons of the deletion of information which is found to be inaccurate or which can no longer be verified.

Section 613. Public record information for employment purposes

A consumer reporting agency which furnishes a consumer report for employment purposes and which for that purpose compiles and reports items of information on consumers which are matters of public record and are likely to have an adverse effect upon a consumer's ability to obtain employment shall--

(1) at the time such public record information is reported to the user of such consumer report, notify the consumer of the fact that public record information is being reported by the consumer reporting agency, together with the name and address of the person to whom such information is being reported; or

(2) maintain strict procedures designed to insure that whenever public record information which is likely to have an adverse effect on a consumer's ability to obtain employment is reported it is complete and up to date. For purposes of this paragraph, items of public record relating to arrests, indictments, convictions, suits, tax liens, and outstanding judgments shall be considered up to date if the current public record status of the item at the time of the report is reported.

Section 614. Restrictions on investigative consumer reports

Whenever a consumer reporting agency prepares an investigative consumer report, no adverse information in the consumer report (other than information which is a matter of public record) may be included in a subsequent consumer report unless such adverse information has been verified in the process of making such subsequent consumer report,

or the adverse information was received within the three-month period preceding the date the subsequent report is furnished,

Section 615. Requirements on users of consumer reports

(a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer report from a consumer reporting agency, the user of the consumer report shall so advise the consumer against whom such adverse action has been taken and supply the name and address of the consumer reporting agency making the report.

(b) Whenever credit for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased wither wholly or partly because of information obtained from a person other than a consumer reporting agency bearing upon the consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, the user of such information shall, within a reasonable period of time, upon the consumer's written request for the reasons for such adverse action received within sixty days after learning of such adverse action, disclose the nature of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(c) No person shall be held liable for any violations of this section if he shows by a preponderance of the evidence that at the time of the alleged violation, he maintained reasonable procedures to assure compliance with the provisions of subsections (a) and (b).

Section 616. Civil liability for willful noncompliance

Any consumer reporting agency or user of information which willfully fails to comply with any requirement imposed under this title with respect to any consumer is liable to that consumer in an amount equal to the sum of--

- (1) any actual damages sustained by the consumer as a result of the failure;
- (2) such amount of punitive damages as the court may allow; and
- (3) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorneys fees as determined by the court.

Section 617. Civil liability for negligent noncompliance

Any consumer reporting agency or user of information which is negligent in failing to comply with any requirement imposed under this title with respect to my consumer is liable to that consumer in an amount equal to the sum of--

- (1) any actual damages sustained by the consumer as a result of the failure;
- (2) in the case of any successful action to enforce any liability under this section, the costs of the action together with reasonable attorney's fees as determined by the court.

Section 618. Jurisdiction of courts; limitation of actions

An action to enforce any liability created under this title may be brought in any

appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within two years from the date on which the liability arises, except that where a defendant has materially and willfully misrepresented any information required under this title to be disclosed to an individual and the information so misrepresented is material to the establishment of the defendant's liability to that individual under this title, the action may be brought at any time within two years after the discovery by the individual of the misrepresentation.

Section 619. Obtaining information under false pretenses

Any person who knowingly and willfully obtains information on a consumer from a consumer reporting agency under false pretenses shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

Section 620. Unauthorized disclosures by officers or employees

Any officer or employee of a consumer reporting agency who knowingly and willfully provides information concerning an individual from the agency's files to a person not authorized to receive that information shall be fined not more than \$5,000 or imprisoned not more than one year, or both.