

FAIR CREDIT REPORTING ACT

JB LANGLEY-EUSTIS LAW CENTER

The Federal Fair Credit Reporting Act (FCRA) is designed to promote accuracy, fairness, and privacy of information in the files of every "consumer reporting agency" (CRA). The term "consumer reporting agency" means any person or organization which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or evaluates consumer credit information or other information on consumers for the purpose of preparing or furnishing consumer reports. Most CRAs are credit bureaus that gather and sell information about you -- such as if you pay your bills on time or have filed bankruptcy -- to creditors, employers, landlords, and other businesses. The complete text of the FCRA can be found at 15 U.S.C. § 1681 et seq.

"Consumer reports" are any written, oral or other communication of information by a CRA discussing 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 as a factor to establish eligibility for (A) credit; or insurance primarily for personal, or household purposes; or (B) employment purposes. Personal information collected includes your name, birth date, Social Security number, employer and spouse's name, income, home ownership, employment history and previous address.

The FCRA gives consumers specific rights, as outlined below. Consumers may have additional rights under state law. Some of the FCRA rights include:

You must be told if information in your file has been used against you.

Anyone who uses information from a CRA to take action against you -- such as denying an application for credit, insurance, or employment -- must tell you, and give you the name, address, and phone number of the CRA that provided the consumer report.

You can find out what is in your file.

You may request and obtain all the information about you in the files of a consumer reporting agency (your "file disclosure"). You will be required to provide proper identification, which may include your Social Security number. In many cases, the disclosure will be free. You are entitled to a free file disclosure if:

1. A person has taken adverse action against you because of information in your credit report;
2. You are the victim of identity theft and place a fraud alert in your file;

3. Your file contains inaccurate information as a result of fraud;
4. You are on public assistance;
5. You are unemployed but expect to apply for employment within 60 days.

In addition, all consumers are entitled to one free disclosure every 12 months upon request from each nationwide credit bureau and from nationwide specialty consumer reporting agencies. See www.annualcreditreport.com to learn how to request a copy of your credit report from the nationwide credit bureaus.

You have the right to ask for a credit score.

Credit scores are numerical summaries of your credit-worthiness based on information from credit bureaus. You may request a credit score from consumer reporting agencies that create scores or distribute scores used in residential real property loans, but you will have to pay for it. In some mortgage transactions, you will receive credit score information for free from the mortgage lender.

You can dispute inaccurate information with the CRA.

You must tell the CRA in writing what information you think is inaccurate and provide copies of documents that support your position. If you tell a CRA that your file contains inaccurate information, the CRA must investigate the items (usually within 30 days) by presenting to its information source all relevant evidence you submit unless your dispute is frivolous. The source must review your evidence and report its findings to the CRA. (The source also must advise national CRAs -- to which it has provided the data -- of any error.) The CRA must give you a written report of the investigation, and a copy of your report if the investigation results in any change. If the CRA's investigation does not resolve the dispute, you may add a brief statement to your file. The CRA must normally include a summary of your statement in future reports. If an item is deleted or a dispute statement is filed, you may ask that anyone who has recently received your report be notified of the change.

Inaccurate information must be corrected.

A CRA must remove or correct inaccurate or unverified information from its files, usually within 30 days after you dispute it. **However, the CRA is not required to remove accurate data from your file**

unless it is outdated (as described below) or cannot be verified. If your dispute results in any change to your report, the CRA cannot reinsert into your file a disputed item unless the information source verifies its accuracy and completeness. In addition, the CRA must give you a written notice telling you it has reinserted the item. The notice must include the name, address and phone number of the information source.

You can dispute inaccurate items with the source of the information.

If you tell anyone -- such as a creditor who reports to a CRA -- that you dispute an item, they may not then report the information to a CRA without including a notice of your dispute. In addition, once you've notified the source of the error in writing, it may not continue to report the information if it is, in fact, an error.

If the investigation does not resolve your dispute, you can ask that a statement of the dispute be included in your file and in future reports.

Outdated information may not be reported.

In most cases, a CRA may not report negative information that is more than seven years old or ten years for bankruptcies.

Access to your file is limited.

A CRA may provide information about you only to people with a need recognized by the FCRA -- usually to consider an application with a creditor, insurer, employer, landlord, or other business.

A CRA may not give out information about you to your employer, or prospective employer, without your written consent. A CRA may not report medical information about you to creditors, insurers, or employers without your permission.

Creditors and insurers may use file information as the basis for sending you unsolicited offers of credit or insurance. Such offers must include a toll-free phone number for you to call if you want your name and address removed from future lists. If you call, you must be kept off the lists for two years.

You may seek damages from violators.

If a CRA, a user, or (in some cases) a provider of CRA data, violates the FCRA, you may sue them in state or federal court.

The FCRA gives several different federal agencies authority to enforce the FCRA. For questions regarding credit reporting agencies, credit reports, and

the FCRA, contact the Federal Trade Commission, Consumer Response Center - FCRA, Washington, DC 20580, or phone (877) 382-4357 or call the Langley Law Center at 764-3278 or Ft. Eustis Legal Assistance office at (757) 878-3031.

Building a Better Credit Report

1. Ensure that the information in your file is accurate, as explained above.
2. If negative information in your report is accurate, only the passage of time can assure its removal.
3. If you have been told that you were denied credit because of an "insufficient credit file" or "no credit file" and you have accounts with creditors that do not appear in your credit file, ask the consumer reporting companies to add this information to future reports. Many consumer reporting companies will add such verifiable accounts for a fee.
4. Contact your creditors immediately if you're having trouble making ends meet and explain the situation to try to work out a modified payment plan that reduces your payments to a more manageable level.

Note: The information in this handout is general in nature. It is not to be used as a substitute for legal advice from an attorney regarding individual situations.