



**UNDERSTANDING
YOUR RIGHTS:
THE FAIR CREDIT
REPORTING ACT**

THE
KIM LAW FIRM
LLC

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CONTENTS

- 4** What is the Fair Credit Reporting Act (FCRA)?
- 6** Your Rights Under the FCRA
- 9** Unique Rights Afforded to Identity Theft Victims and Military Personnel
- 12** Why These Rights Matter – The Importance of a Good Credit Score and Report
- 13** Improving Your Credit Score
- 15** Vetting Organizations that Supposedly Improve Your Credit
- 17** Inaccuracies on Your Credit Report? Send Out Dispute Letters
- 21** Legal Options Available to Consumers If an Agency Fails to Comply with the FCRA

CREDIT CORRECTION

Understanding Your Rights Under The Fair Credit Reporting Act

WHAT IS THE FAIR CREDIT REPORTING ACT (FCRA)?

The Fair Credit Reporting Act (FCRA) is a federal law codified in 15 U.S. Code § 1681 governing how credit reporting agencies handle and assess your credit information. The law is designed to help consumers by protecting the overall veracity of your credit information.

The FCRA mandates that credit reporting agencies, along with the companies that send information to these agencies, ensure a fair and accurate credit report. In addition, these agencies are required to keep your information private and only disclose when legally required to do so, or if you waive your privacy right to a third party. Embedded in the FCRA are a set of protections afforded to consumer to access and correct any mistakes and inaccurate delinquencies or credit lines listed on your credit report. The FCRA also provides consumers with civil legal remedies if a credit reporting agency or information furnisher violates the provisions set forth in the FCRA.

If you or a loved one is having difficulty correcting a mistake on

your credit report and it has caused you to suffer by missing out on an employment opportunity, rent an apartment, obtain financing for a purchase, or some other related harm, you should speak to a FCRA lawyer about your legal options. There is more information about your legal rights in this guide. For now, however, let's continue with the overview of the FCRA.

Congress passed the FCRA in 1970 and numerous amendments have been made to the law throughout the years. For example, three smaller acts have been embedded and interwoven with the FCRA. These federal laws include the Credit Card Accountability, Responsibility, and Disclosure Act (Credit CARD Act), the Dodd-Frank Act; and the Fair and Accurate Credit Transactions Act (FACTA). These three laws may be somewhat "smaller" than the FCRA but are extremely important for consumers.

Under the Credit CARD Act, credit card companies are prohibited from arbitrarily increasing the interest rate on an existing balance on your credit card. The Credit CARD Act also mandates a 45-day notice period prior to a credit card company increasing the interest rate on a new balance. This is important for consumers who are struggling with identity theft or an inaccuracy on their credit report that may be lowering their overall credit score. Why? Because credit card companies routinely use your credit score to determine what interest rate they offer you for a credit card. Therefore, the Credit CARD Act helps prevent a situation where a credit card company suddenly jacks up the interest rate because your credit score dropped.

Along with the Credit CARD Act, the FCRA contains provisions from the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). This 2010 federal law put in place a regulatory structure to help ensure consumers receive clear and

dependable information about their credit report and overall credit score.

In addition to Dodd-Frank containing pro-consumer regulations regarding their credit information, the FCRA contains the FACTA. This is an extremely important federal law for victims of identity theft. The FACTA outlines the rights afforded to consumers whose finances have been detrimentally affected by an identity thief and sets forth protocols for repairing the damage to your credit report. The FACTA also contains provisions assisting active duty military personnel with protecting their credit information. These provisions are explored more in-depth later in this guide.

Okay, so that was a very broad overview of the FCRA. Now let's move on to the key elements of the law that are meant to help you.

YOUR RIGHTS UNDER THE FCRA

The FCRA contains specific rights afforded to consumers. Below is a brief summary:

- You have the right to be informed when specific information in your credit report is used against you in making a decision to extend you a line of credit, provide you with insurance, to not extend an offer of employment, etc. Any entity making an adverse determination based on your credit report **must** also give you the name, address, and phone number of the agency that provided the detrimental information. This enables you to reach out to the agency to explore more in-depth where the detrimental information originated.

- You have the right to know what is in your credit report. This means you should not just request your credit score and accept that score on face value. You have the right to get all the information that is in the files of a consumer reporting agency. If you exercise this right, you must provide proper identification to ensure your privacy rights and identity are protected. This “file disclosure request” should be free of charge, in most cases. In fact, you have the right to make a file disclosure request, for free, in the following specific circumstances: (i) an adverse decision has been made against you because of information in your credit report, (ii) your identity was stolen and your credit report contains false information; and (iii) you are unemployed, but expect to apply for employment within 60 days. You are entitled to one free file disclosure every 12 months from each nationwide credit bureau.
- You have the right to request a credit score from consumer reporting agencies (e.g., Experian, Equifax, Trans Union, etc.) that create these scores. However, you will probably have to pay to obtain the score. In most cases, the fee is a nominal amount; usually less than \$50, depending on the agency you are requesting the score from.
- You have the right to challenge incomplete, inaccurate, and outright false information that may be in your credit report. When you exercise this right through a report dispute, a credit reporting agency is obligated to investigate your dispute, unless it is deemed frivolous.
- You have the right to withhold consent for credit reports to be provided to employers. This means a credit rating agency cannot simply give out your credit information to your employer, or a potential employer, without your express

written consent.

- You have the right to limit solicitations made by companies offering you credit and insurance based on information in your credit report. These “prescreened” offers for credit and insurance must include a toll-free phone number you can call so you can remove your name and address from the offer list.
- You have the right to seek monetary damages if you have evidence that a company or entity violated the provisions of the FCRA. For example, if a potential employer requests your credit information without your consent and a credit reporting agency complies, that is an express violation of the law and you may be able to file suit in state or federal court for damages that may result (e.g., loss of the employment opportunity, mental anguish, etc.).
- The FCRA mandates that credit reporting agencies must correct, or totally remove, information that is determined to be inaccurate, incomplete, or unverifiable. Once a determination is made as to the veracity of the information, the agency typically has around one month (i.e. 30 days) to remove the inaccurate, incomplete or unverified information from your credit report.
- Consumer reporting agencies are prohibited from reporting negative information that is old and outdated. For example, a credit reporting agency may not report a bankruptcy from over ten years ago or negative information that arose longer than seven years ago.
- Access to your credit report is not open to anyone and everyone. In fact, a credit reporting agency can only disclose

information to people, businesses, or other entities with a valid need or when you have provided express written consent for a person, business, or other entity to access your credit information.

UNIQUE RIGHTS AFFORDED TO IDENTITY THEFT VICTIMS AND MILITARY PERSONNEL

The FCRA specifically sets forth certain rights available to victim of identity theft. Someone is considered a victim of identity theft when another person uses your name, Social Security number, date of birth, or other identifying information, without your consent or authority, to commit fraud. Here is an overview of the rights designed to help you recover from identity theft:

- You have the right to ask that credit bureaus place a “fraud alert” in your file to let potential creditors and others know that you may be a victim of identity theft. A fraud alert can make it more difficult for someone to get credit in your name because it tells creditors to follow certain procedures to protect you.
- You only have to request a fraud alert with just one of the “big 3” consumer reporting agencies (i.e. Equifax, TransUnion, Experian). As soon as one credit reporting agency processes your fraud alert, it is obligated to notify the other two, which then also must place fraud alerts in your file.
- An initial fraud alert stays in you file for approximately 90 days. You can request an extended alert that remains in

your file for seven years. To place either of these alerts, a consumer reporting agency will require you to provide appropriate proof of your identity, which may include your Social Security number. If you ask for an extended alert, you will also have to provide an identity theft report. An identity theft report includes a copy of a report you have filed with a federal, state, or local law enforcement agency, and additional information a consumer reporting agency may require you to submit.

- As discussed earlier, you have the right to free copies of your credit file. An initial fraud alert entitles you to a copy of all the information in your credit report at each of the three big credit reporting agencies. An extended alert gives you the right to two free file disclosures in a 12-month period after the alert has been initiated. These additional disclosures may help you detect signs of fraud, for example, whether fraudulent accounts have been opened in your name or whether someone has reported a change in your address.
- In a 12-month period, you also have the right to a free copy of the information in your file from any credit reporting agency, if you believe it has inaccurate information due to identity theft.
- You have the right to get documents relating to fraudulent transactions made using your personal information. A creditor or other business must give you copies of applications and other documents related to the transactions and accounts opened as a result of the theft. This request should be made in writing and you will need to provide proof of your identity, a police report, and an affidavit before the company will give you these documents.

- You have the right to obtain information from a debt collector. In fact, a debt collector must provide you with certain information about the alleged debt you suspect was incurred in your name by an identity thief. This information includes the name of the company extending the credit and the amount owed. You also have the right to ask that a credit bureau block this information from your credit report. Once a debt resulting from identity theft has been blocked, a person or business with notice of the block may not sell, transfer, or place the debt for collection. For example, an identity thief may run up thousands of dollars in bills on a credit card taken out in your name and not pay the bill. Information about the unpaid credit card bill may appear on your credit report. Should you decide to ask a consumer reporting agency to block the reporting of this information, you must identify the information to block, and provide the credit bureau with proof of your identity and a copy of your identity theft report. If the credit bureau declines your requested information block, they are obligated to notify you.
- You have the right to prevent businesses, such as credit card companies, from reporting information about you to a credit bureau if you believe the negative information was the result of an identity thief. To exercise this right, you must send a request to the business that reports the information to the credit bureau. The business will expect you to identify what information you do not want reported and to provide an identity theft report.

Serving in the Military

If you or a loved one is currently serving in the military, you have

a special right afforded under [Section 605\(A\)\(c\) of the FCRA](#). This section allows you to set up an “active duty alert.” This allows you to be alerted if any sudden changes to your credit information occurs while you are deployed or serving abroad. This provision is extremely important since there have been disturbing reports of brave men and women who came home from serving our country only to discover that their identities were stolen and their credit was decimated. This provision is meant to help prevent such an occurrence.

WHY THESE RIGHTS MATTER - THE IMPORTANCE OF A GOOD CREDIT SCORE AND REPORT

The U.S. economy, and the economies of most other industrialized nations, run almost exclusively on credit. This means that if you are applying for a home mortgage loan, a student loan, a small business loan, your credit score and report are vitally important. Heck, even just buying lunch can be put on credit, so having good credit can literally impact your daily life

Three Digits with Tremendous Impact

Your “creditworthiness” is routinely determined by your three-digit credit score, [according to Bankrate.com](#). If you have a high credit score, you will likely have an easier time accessing credit and may wind up paying far less in interest, as opposed to someone with a low credit score. Each credit agency has its own calculus for arriving at a particular credit score. However, scores typically range from 301 to 850, with 301 being the lowest possible score and 850 being the highest possible score, [according to credit.com](#). In most cases, a consumer is

considered to have “excellent credit” if their score is 750 or higher. You have “good credit” if your score is between 700 and 749 and “fair credit” if your score is between 650 and 699. Once you get below 650, you are in the “poor” and “bad” credit territory.

A low credit score with a credit report featuring a myriad of delinquent payments, bankruptcies, etc. can have a major detrimental effect on your financial health. You may be unable to qualify for specific loans and you will likely pay a higher interest rate on the credit you qualify for. Even if you are not applying for credit, a low credit score can have a big impact on your life. As mentioned previously, your credit information can be used as a factor in whether or not you can rent an apartment, buy a home, qualify for a specific job, etc. Why? Because your credit score and information can be used as an implication that you may be irresponsible or reckless when it comes to important decisions, such as paying a bill on time. You may think it is unreasonable for an employer to place weight on an arbitrary three-digit number, but it is allowed under the law for your credit score to be considered in these types of major decisions.

IMPROVING YOUR CREDIT SCORE

If your credit score suddenly dropped, or you noticed errors on your credit, the key is to be proactive. Do not just accept a low credit score on face value or just accept an inaccuracy. Taking action is absolutely necessary. Here are some important steps you can take:

1. Dispute false and inaccurate information

We will discuss the steps necessary to properly dispute false and inaccurate information in your credit report later in the guide. Nevertheless, it is important to stress the importance of proactively disputing false and inaccurate information. You should send letters to all of the credit agencies challenging the problematic information. Not only does this put the credit agencies on notice, but it creates a paper trail you can point to if you need the services of an FCRA lawyer to pursue monetary damages.

2. Request a “good faith adjustment”

Even if you failed to pay a credit card bill on time, you can take steps to mitigate the damage. You could request that a creditor essentially erase the debt by writing a letter offering to pay the remaining balance in exchange for the creditor reporting the account as “paid as agreed” or maybe even remove it altogether. (Note: Get the creditor to agree in writing before you make the payment.) You can also request a good faith adjustment from your credit card company. This type of request can be very effective if you have been a long-term card holder and only recently had a hiccup with a late payment. Some creditors are willing to work with long-time customers and will work with you to remove the negative information related to a late payment, missed payment, etc

3. Check the accuracy of your credit limits

Make sure your credit report is up-to-date when it comes to your reported credit limits. You do not want it to look as though

you are maxing out a credit card. This is especially important if you recently requested a credit limit increase. Sometimes, the increase is not properly reflected in your report so a high balance on the older lower limit can create the perception that you are about to max out your credit card, even if you know your limit is now much higher. If the card issuer forgot to mention your newly bumped-up credit limit, request that this be done.

4. Be vigilant of your credit utilization ratio

A big factor in determining your credit score is your credit utilization ratio. This is a calculation based on the amount of total credit available to you and the percentage of that credit you are utilizing. Generally, your credit utilization ratio should be no more than 30 percent. For example, if you have an American Express card with a \$5,000 credit limit and you regularly carry a balance of \$4,500 per month, a credit bureau will look negatively on such a utilization of your available credit limit.

If your credit score is lower than you like, you may be tempted to contact a “credit repair” company. Before you make that call or send the quick contact form online, be sure to thoroughly vet the company you are considering. Why? Keep reading...

VETTING ORGANIZATIONS THAT SUPPOSEDLY IMPROVE YOUR CREDIT

There are numerous organizations on television, radio, and the internet claiming they can magically “repair” your credit report. Many consumers believe credit repair companies have methods

and strategies for getting rid of information that are known only to these companies. If you are considering using one of these companies because you think they have some kind of V.I.P. pass to fixing credit report, do not waste your money or time. There is nothing these repair companies can legally do that you cannot do yourself. In many cases, hiring a credit repair company is the equivalent of hiring a consultant to tie your shoes. Totally unnecessary for something you can probably do on your own.

For example, you can get your credit report, at no cost, once a year from each of the major credit reporting agencies. Under the FCRA, you can dispute negative information contained in your report. If the negative information is not verified at the source, the FCRA requires the agencies remove that information within 30 days.

Even if you are feeling overwhelmed and just want someone else to work on correcting negative information on your credit report, you need to be extremely careful and avoid paying a scam credit repair company who will take your money and do nothing to actually fix your credit issues. Here are some scam tactics to watch out for:

- The company demands you to pay for credit repair services before they provide any services. If you encounter one of these companies, do not whip out your credit card. This is totally wrong - credit repair companies cannot require you to pay until they have completed their services.
- The company recommends that you not contact a credit reporting company directly.
- The company recommends you dispute accurate information in your credit report.

- The company recommends creating a new credit identity.

You also need to be aware of the fact that, under federal law, credit repair companies are required to give you a copy of the “Consumer Credit File Rights Under State and Federal Law ” before you sign any contract or agreement. These companies are also required to give you a written contract that spelling out your rights and obligations.

A credit repair company’s contract for service must specify:

- The full legal name and business address of the company.
- An in-depth description of what specific services the company will be performing on your behalf.
- Specific terms for payment, including the total cost.
- A timeline detailing when their services will be complete.
- Any guarantees offered to you.

But, as mentioned at the very beginning of this section, you can dispute false and inaccurate information in your credit report without hiring a repair company. You can take steps on your own to get this information corrected and, in many cases, taking action can actually correct the problematic information.

INACCURACIES ON YOUR CREDIT REPORT? SEND OUT DISPUTE LETTERS

An important step you need to take if you notice false,

inaccurate, or incomplete information in your credit report is to mail a letter to the credit agency requesting that the information be removed. This should be a **printed letter featuring your signature**. Many credit agencies offer you the ability to send a dispute online. However, initiating a dispute online is a big mistake. Why? Because many online dispute forms contain hidden arbitration clauses which can actually take away specific rights available to you. These arbitration clauses are generally buried in the “terms and agreement” section that you are required to click before you can initiate a dispute request. When you click that you accept their terms, you are essentially giving up your right to sue the credit agency if they did something wrong. Do not fall for this trap.

An arbitration clause means that any dispute arising from the credit agency’s action will be decided at an arbitration hearing by a single arbitrator, rather than a jury of your peers. Arbitration hearings typically tilt in favor of the business, as opposed to the consumer, since the arbitrator makes their money by having more arbitrations and those arbitrations are sought by the credit agencies.

So, the lesson is – type, sign and mail a dispute letter to the agency. This allows you to avoid mandatory arbitration if you need to challenge the credit bureau’s actions while putting the agency on notice of your dispute.

In terms of the content of the letter, keep it simple and straightforward. This letter is not the time for you to find your inner-lawyer. Do not cite to case law or use fancy words. Just get to the point and set forth why the information in their report is inaccurate.

In addition to writing clearly, you need to make sure you include enough information to support your dispute claim. This means you should attach whatever evidence you have available to substantiate your dispute. The evidence serves two purposes. First, it strengthens your claim and will help expedite a correction on your report. When a consumer only fills out a dispute form online, they typically do not include any attachments, which gives the agency the leeway to simply argue, “we did not have enough information to make a determination on your dispute.”

When you include evidence with your letter, you squash that argument. In addition, this evidence may become extremely important if you need to go to court to prove that a credit bureau failed to timely correct a piece of information that is false, inaccurate, or incomplete.

Along with sending a general notice of your dispute, include a separate letter that fully explains the rationale behind your request. This is another advantage to sending a printed letter. Many online dispute forms only give you just enough room to state your dispute and nothing further. This limited response area will not help in getting your dispute resolved efficiently. A printed letter with in-depth information will actually enable you to get your dispute resolved more quickly.

If you notice multiple errors and inaccuracies on your report, separate your disputes into multiple letters and mail them separately. This is because each dispute is filed individually with the credit reporting agencies. This means if you send just one letter with a list of errors, some agencies may only correct the first error and ignore the rest. If you send multiple letters with each letter specifically addressing a single error, you increase the likelihood that all of the errors will be investigated and,

hopefully, fixed expeditiously.

You should also write separate letters to each credit bureau that is reporting the inaccurate, false, or incomplete information. Do not send one big dispute letter addressed to all three bureaus. There is no legal obligation on the credit bureaus to notify each other of the dispute.

You should mail your dispute letter to the credit agencies and the data furnisher (i.e. the company or entity claiming you are delinquent on a payment, missed a payment, etc.).

Notifying the data furnisher is important since they are required, under federal law, to fully investigate a credit information dispute that is filed with the furnisher. If they fail to investigate, they could be fined by the Consumer Financial Protection Bureau.

Be sure to make copies of all correspondence and keep copies of your dispute letters. Again, this will help you keep track of the dispute request and is important evidence you can use later if you have to escalate the matter to litigation.

You should also send your dispute letter by certified mail. Sending the letter certified squashes any claim by the credit agency or data furnisher that they did not get your correspondence. Having the certified card that a company rep signed validating receipt of your letter will end any claim that they did not get your letter.

So let's say you sent out dispute letters and no action has been taken. Well, in this scenario, you have legal options under the FCRA and you should not hesitate to exercise those legal rights.

LEGAL OPTIONS AVAILABLE TO CONSUMERS IF AN AGENCY FAILS TO COMPLY WITH THE FCRA

If a credit bureau like Trans Union and a data furnisher like American Express fail to correct an error in your credit report, they may be in violation of the FCRA and you have the right to file a civil claim against them. When these companies are served with a Complaint requiring them to respond with a written answer detailing their conduct, they may suddenly take very quick action to correct the false or inaccurate information.

If the credit bureau or data furnisher continues to drag their feet and are adversely effected, whether it be your inability to obtain a line of credit, apply for a job, apply for an apartment, etc. you can recover actual damages for the harm you have suffered.

After you dispute the false or inaccurate information on your credit report, and it remains, then any damages you can prove may be compensable by a jury in federal court.

Damages available under the FCRA include emotional distress, mental anguish, economic loss, etc. Along with compensatory damages, you can recover the cost of hiring a FCRA attorney.

Yes, you read that correctly – you can ask that the credit bureau and/or the data furnisher pay your attorney's fees. As you may expect, the big credit bureaus likes Equifax, Experian, etc. do not want to pay a big attorney fee. This was intentional since the prospect of paying your attorney's fees encourages the credit bureaus and data furnishers to go ahead and fix the problematic information on your credit report.

In addition to compensatory damages and attorney's fees, you have the right to pursue punitive and statutory damages if there is evidence that the misconduct of the credit bureau or data furnisher was intentional or reckless. Punitive damages are also known as "punishment damages" meant to send a signal to the wrongdoer, and others in the same position, from ever acting similarly in the future.

A prime example of was a federal lawsuit filed a woman in Oregon who sued Equifax for ignoring her plea to correct an inaccurate credit report. The evidence in this case showed that Equifax let the woman's false information languish on her credit report for two years. A jury awarded the woman \$180,000 in compensatory damages and \$18.4 million in punitive damages finding Equifax's actions reprehensible. A federal judge later reduced the punitive damage award to \$1.62 million, but this amount is still quite substantial, and rightfully so. Imagine the missed opportunities and detriment to the plaintiff's credit during those two years. Her financial health and well-being was seriously damaged.

Along with compensatory damages, attorney's fees, and punitive damages, the FCRA allows you to pursue statutory damages of up to \$1000 per documented violation. An itemization of the potential FCRA violations would be best done by your FCRA attorney.

CONTACT THE KIM LAW FIRM, LLC

If you or a loved one was harmed by the failure of a credit reporting agency or data furnisher to correct false or inaccurate information on your credit report, or your privacy rights were violated by the unauthorized disclosure of your credit information, contact the experienced FCRA attorneys at the Kim Law Firm, LLC. Our firm has its own “big 3” - drive, integrity, and dedication. We serve all of our clients with drive, integrity and dedication to top-notch representation. After you have read through this report, take a moment to [contact the firm either by phone or online](#). The firm’s phone number is 855-996-6342, the website can be found at www.thekimlawfirmllc.com, and we have offices in Philadelphia, Pennsylvania and in Cherry Hill, New Jersey.