
The Fair Credit Reporting Act

Disclaimer: The following material should not be considered legal advice. When you have a legal question, contact competent legal counsel. Comments are based on a few decades of experience and specialized training provided by NACM and various attorneys relating to FDCPA and collection practices.

The Fair Credit Reporting Act (FCRA) (1971), Title III of the Consumer Credit Protection Act, was designed **to promote the accuracy, fairness and privacy of information in the files of consumer reporting agencies**. In general it regulates the collection, dissemination, and use of consumer credit information and prevents inaccurate or obsolete information from entering or remaining in a credit report.

FCRA requires credit bureaus to adopt reasonable procedures for gathering, maintaining and disseminating information and bars credit bureaus from reporting negative information older than 7 years, except a bankruptcy, which may be reported for 10 years.

If notified of a possible error, the FCRA requires the bureau investigate the allegations within 30 days, review all information provided, remove inaccurate and unverified information, and adopt procedures to keep the information from reappearing. In addition, the law requires that creditors refrain from reporting incorrect information to credit bureaus.

There are many types of consumer reporting agencies, including credit bureaus and specialty agencies (agencies selling information about, e.g., check writing histories, medical records, rental history records).

Consumer reporting agencies

Consumer reporting agencies (CRAs) are entities collecting and disseminating information about consumers to be used for credit evaluation and certain other purposes. They hold consumer credit report databases and have responsibilities under FCRA, including the following:

1. Provide a consumer with information about him or her in the agency's files and take steps to verify the accuracy of information disputed by a consumer. Under the Fair and Accurate Credit Transactions Act (FACTA), a 2003 amendment to the FCRA, consumers are now able to receive one free credit report a year. The report may be requested by telephone, mail or through the government authorized website, www.annualcreditreport.com.
2. If negative information is removed as a result of a consumer's dispute, it may not be reinserted without notifying the consumer within 5 days, in writing.
3. CRAs may not retain negative information for an excessive time period. The FCRA spells out how long negative information, such as late payments, bankruptcies, tax liens, or judgments may stay on a consumer's credit report – typically 7 years from the date of the delinquency, 10 years for bankruptcies, and 7 years from the time they are paid for tax liens.

Information furnishers

As defined by the FCRA, an information furnisher (a company) provides information to a CRA(s). Typically, these are creditors, with which a consumer has some sort of credit agreement (e.g., credit card companies, auto finance companies and mortgage banking institutions). Other providers of information are collection agencies (third-party collectors), state or municipal courts reporting a public record, past and present employers, and bonding companies. Under the FCRA, these information furnishers may only report to a consumer's credit report under the following guidelines:

1. They must provide complete and accurate information to the credit rating agencies.
2. The duty to investigate disputed information from consumers falls on them.
3. They must inform consumers about negative information which has been or is about to be placed on a consumer's credit report within 30 days.

The notice may be placed on a consumer's monthly statement and doesn't need to be sent separately. However, if sent as part as the monthly statement, it needs to be "conspicuous" but not be in bold type. Required wording has been developed by the US Federal Treasury Department.

Notice before negative information is reported: We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report.

Notice after negative information is reported: We have told a credit bureau about a late payment, missed payment or other default on your account. This information may be reflected in your credit report.

While putative database companies like Lexis-Nexis, Westlaw, ChoicePoint, and eFunds do **not** create credit reports, they may gather the same types of information and are subject to FCRA.

Users of the information

Users of CRA information for credit, insurance, or employment purposes must notify the consumer when an adverse action is taken based on such reports. And, they must identify the CRA that provided the report, so that accuracy and completeness of the report may be verified or contested by the consumer.

Civil liability for willful violations of the FCRA

Under section 602 of the Act, a consumer may seek a maximum of \$1,000 in statutory damages, plus actual damages, punitive damages, and reasonable attorney's fees and costs for willful noncompliance with the Act. Any consumer may file suit in state or federal court to enforce the Act.

For more information about the Fair Credit Reporting Act, go to www.ftc.gov/credit or write to: Consumer Response Center, Room 130-A, Federal Trade Commission, 600 Pennsylvania Ave. N.W., Washington, DC 20580.