

Guide to Consumer Credit Protection Laws

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Contents

CONTENTS	2
INTRODUCTION	4
THE COST OF CREDIT	5
SHOPPING IS THE FIRST STEP	5
WHAT LAWS APPLY?	5
A COMPARISON.....	6
COST OF OPEN-END CREDIT	6
LEASING COSTS AND TERMS	7
OPEN-END LEASES AND BALLOON PAYMENTS	8
COSTS OF SETTLEMENT ON A HOUSE	8
APPLYING FOR CREDIT	9
<i>Discrimination.....</i>	9
<i>What Law Applies?</i>	9
<i>What Creditors Look For.....</i>	9
INFORMATION THE CREDITOR CAN'T USE	10
SPECIAL RULES.....	10
DISCRIMINATION AGAINST WOMEN	11
IF YOU'RE TURNED DOWN.....	13
CREDIT HISTORIES AND RECORDS.....	14
BUILDING UP A GOOD RECORD	14
WHAT LAWS APPLY?	14
CREDIT HISTORIES FOR WOMEN	15
KEEPING UP CREDIT RECORDS.....	15
OTHER ASPECTS OF USING CREDIT	17
WHAT LAWS APPLY?	17
BILLING ERRORS	17
BILLING ERRORS ALSO INCLUDE:.....	17
DEFECTIVE GOODS OR SERVICES.....	19
PROMPT CREDIT FOR PAYMENTS AND REFUNDS FOR CREDIT BALANCES	19
CANCELING A MORTGAGE	20
LOST OR STOLEN CREDIT CARDS	20
UNSOLICITED CARDS	20
ELECTRONIC FUND TRANSFERS	21
INSTANT MONEY	21
EFT IN OPERATION	21
WHAT LAW APPLIES?	22
HOW EASILY WILL I BE ABLE TO CORRECT ERRORS?	22
WHAT ABOUT LOSS OR THEFT?	23
WHAT ABOUT SOLICITATIONS?.....	24
DO I HAVE TO USE EFT?.....	24
SPECIAL QUESTIONS ABOUT PREAUTHORIZED PLANS	25
COMPLAINING ABOUT CREDIT.....	26
COMPLAINING TO FEDERAL ENFORCEMENT AGENCIES	26
PENALTIES UNDER THE LAWS	27
GLOSSARY	29

SUBJECT INDEX	31
DIRECTORY OF FEDERAL AGENCIES	32
OTHER LENDERS	33
FEDERAL RESERVE BANKS	34
OTHER KNOWLEDGE RESOURCES	35

INTRODUCTION

The Consumer Credit Protection Act of 1968—which launched Truth in Lending—was a landmark piece of legislation. For the first time, creditors had to state the cost of borrowing in a common language so that you—the customer—could figure out exactly what the charges would be, compare costs, and shop around for the credit deal best for you. Since 1968, credit protections have multiplied rapidly.

The concepts of "fair" and "equal" credit have been written into laws that outlaw unfair discrimination in credit transactions; require that consumers be told the reason when credit is denied; let borrowers find out about their credit records; and set up a way to settle billing disputes.

Each law was meant to reduce the problems and confusion surrounding consumer credit which, as it became more widely used in our economy, also grew more complex. Together, these laws set a standard for how individuals are to be treated in their financial dealings.

The laws say, for instance:

- You cannot be turned down for a credit card just because you're a single woman
- You can limit your risk if a credit card is lost or stolen
- You can straighten out errors in your monthly bill without damage to your credit rating
- You won't find credit shut off just because you've reached the age of 65.

But, let the buyer be ware—and aware! It is important to know your rights and how to use them. This guide explains how the consumer credit laws can help you shop for credit, apply for it, keep up your credit standing, and complain about an unfair deal. It explains what you should look for when using credit and what creditors look for before extending credit. It also points out the laws' solutions to discriminatory practices that have made it difficult for women and minorities to get credit.

THE COST OF CREDIT

Shopping is the First Step

You get credit by promising to pay in the future for something you receive in the present. Credit is a convenience. It lets you charge a meal on your credit card, pay for an appliance on the installment plan, take out a loan to buy a house, or pay for schooling or vacations. With credit, you can enjoy your purchase while you're paying for it—or you can make a purchase when you're lacking ready cash.

But there are strings attached to credit too. It usually costs something. And of course what is borrowed must be paid back. If you are thinking of borrowing or opening a credit account, your first step should be to figure out how much it will cost you and whether you can afford it. Then you should shop around for the best terms.

What Laws Apply?

Two laws help you compare costs:

TRUTH IN LENDING requires creditors to give you certain basic information about the cost of buying on credit or taking out a loan. These "disclosures" can help you shop around for the best deal.

CONSUMER LEASING disclosures can help you compare the cost and terms of one lease with another and with the cost and terms of buying for cash or on credit.

The Finance Charge and Annual Percentage Rate (APR) Credit costs vary. By remembering two terms,

you can compare credit prices from different sources. Under Truth in Lending, the creditor must tell you—in writing and before you sign any agreement—the finance charge and the annual percentage rate.

The finance charge is the total dollar amount you pay to use credit. It includes interest costs, and other costs, such as service charges and some credit—related insurance premiums. For example, borrowing \$100 for a year might cost you \$10 in interest. If there were also a service charge of \$1, the finance charge would be \$11.

The annual percentage rate (APR) is the percentage cost (or relative cost) of credit on a yearly basis. This is your key to comparing costs, regardless of the amount of credit or how long you have to repay it:

Again, suppose you borrow \$100 for one year and pay a finance charge of \$10. If you can keep the entire \$100 for the whole year and then pay back \$110 at the end of the year, you are paying an APR of 10 percent. But, if you repay the \$100 and finance charge (a total of \$110) in twelve equal monthly installments, you don't really get to use \$100 for the whole year. In fact, you get to use less and less of that \$100 each month. In this case, the \$10 charge for credit amounts to an APR of 18 percent.

All creditors—banks, stores, car dealers, credit card companies, finance companies—must state the cost of their credit in terms of the finance charge and the APR. Federal law does not set interest rates or other credit charges. But it does require their disclosure so that you

can compare credit costs. The law says these two pieces of information must be shown to you before you sign a credit contract or before you use a credit card.

A Comparison

Even when you understand the terms a creditor is offering, it's easy to underestimate the difference in dollars that different terms can make. Suppose you're buying a \$7,500 car. You put \$1,500 down, and need to borrow \$6,000. Compare the three credit arrangements on the next page.

How do these choices stack up? The answer depends partly on what you need. The lowest cost loan is available from Creditor A. If you were looking for lower monthly payments, you could get them by paying the loan off over a longer period of time. However, you would have to pay more in total costs. A loan from Creditor B—also at a 14 percent APR, but for four years—will add about \$488 to your finance charge. If that four-year loan were available only from Creditor C, the APR of 15 percent would add another \$145 or so to your finance charges as compared with Creditor B.

Other terms—such as the size of the down payment—will also make a difference. Be sure to look at all the terms before you make your choice.

Cost of Open-end Credit

Open-end credit includes bank and department store credit cards, gasoline company cards, home equity lines, and checkoverdraft accounts that let you write checks for

more than your actual balance with the bank. Open-end credit can be used again and again, generally until you reach a certain prearranged borrowing limit. Truth in Lending requires that open-end creditors tell you the terms of the credit plan so that you can shop and compare the costs involved.

When you're shopping for an open-end plan, the APR you're told represents only the periodic rate that you will be charged—figured on a yearly basis. (For instance, a creditor that charges 1% percent interest each month would quote you an APR of 18 percent.) Annual membership fees, transaction charges, and points, for example, are listed separately; they are not included in the APR. Keep this in mind and compare all the costs involved in the plans, not just the APR.

Creditors must tell you when finance charges begin on your account, so you know how much time you have to pay your bill before a finance charge is added. Creditors may give you a 25-day grace period, for example, to pay your balance in full before making you pay a finance charge.

Creditors also must tell you the method they use to figure the balance on which you pay a finance charge; the interest rate they charge is applied to this balance to come up with the finance charge. Creditors use a number of different methods to arrive at the balance. Study them carefully; they can significantly affect your finance charge.

Some creditors, for instance, take the amount you owed at the

beginning of the billing cycle, and subtract any payments you made during that cycle. Purchases are not counted. This is called the adjusted balance method.

Another is the previous balance method. Creditors simply use the amount owed at the beginning of the billing cycle to come up with the finance charge.

Under one of the most common methods—the average daily balance method—creditors add your balances for each day in the billing cycle and then divide that total by the number of days in the cycle.

Payments made during the cycle are subtracted in arriving at the daily amounts, and, depending on the plan, new purchases may or may not be included. Under another method—the two-cycle average daily balance method—creditors use the average daily balances for two billing cycles to compute your finance charge. Again, payments will be taken into account in figuring the balances, but new purchases may or may not be included.

Be aware that the amount of the finance charge may vary considerably depending on the method used, even for the same pattern of purchases and payments.

If you receive a credit card offer or an application, the creditor must give you information about the APR and other important terms of the plan at that time. Likewise, with a home equity plan, information must be given to you with an application.

Truth in Lending does not set the rates or tell the creditor how to calculate finance charges—it only

requires that the creditor tell you the method that it uses. You should ask for an explanation of any terms you don't understand.

Leasing Costs and Terms

Leasing gives you temporary use of property in return for periodic payments. It has become a popular alternative to buying—under certain circumstances. For instance, you might consider leasing furniture for an apartment you'll use only for a year. The Consumer Leasing law requires leasing companies to give you the facts about the costs and terms of their contracts, to help you decide whether leasing is a good idea.

The law applies to personal property leased to you for more than four months for personal, family, or household use. It covers, for example, long-term rentals of cars, furniture, and appliances, but not daily car rentals or leases for apartments.

Before you agree to a lease, the leasing company must give you a written statement of costs, including the amount of any security deposit, the amount of your monthly payments, and the amount you must pay for licensing, registration, taxes, and maintenance.

The company must also give you a written statement about terms, including any insurance you need, any guarantees, information about who is responsible for servicing the property, any standards for its wear and tear, and whether or not you have an option to buy the property.

Open-end Leases and Balloon Payments

Your costs will depend on whether you choose an open-end lease or a closed-end lease. Open-end leases usually mean lower monthly payments than closed-end leases, but you may owe a large extra payment—often called a balloon payment—based on the value of the property when you return it.

Suppose you lease a car under a three-year open-end lease. The leasing company estimates the car will be worth \$4,000 after three years of normal use. If you bring back the car in a condition that makes it worth only \$3,500, you may owe a balloon payment of \$500. The leasing company must tell you whether you may owe a balloon payment and how it will be calculated. You should also know:

- you have the right to an independent appraisal of the property's worth at the end of the lease. You must pay the appraiser's fee, however.
- a balloon payment is usually limited to no more than three times the average monthly payment. If your monthly payment is \$ 200, your balloon payment wouldn't be more than \$600—unless, for example, the property has received more than average wear and tear (for instance, if you drove a car more than average mileage).

Closed-end leases usually have higher monthly payment than open-

end leases, but there is no balloon payment at the end of the lease.

Costs of Settlement on a House

A house is probably the single largest credit purchase for most consumers—and one of the most complicated. The Real Estate Settlement Procedures Act, like Truth in Lending, is a disclosure law. The Act, administered by the Department of Housing and Urban Development, requires the lender to give you, in advance, certain information about the costs you will pay when you close the loan.

This event is called settlement or closing, and the law helps you shop for lower settlement costs. To find out more about it, write to:

Deputy Assistant Secretary for Housing
Attention: RESPA Enforcement
U.S. Department of Housing and Urban Development
451 Seventh Street, S.W. Room 5241
Washington, D.C. 20410
(202) 708-4560

A Federal Reserve pamphlet, entitled "A Consumer's Guide to Mortgage Closing Costs," also contains useful information for consumers.

APPLYING FOR CREDIT

Discrimination

When you're ready to apply for credit, you should know what creditors think is important in deciding whether you're creditworthy. You should also know what they cannot legally consider in their decisions.

What Law Applies?

EQUAL CREDIT OPPORTUNITY ACT requires that all credit applicants be considered on the basis of their actual qualifications for credit and not be turned away because of certain personal characteristics.

What Creditors Look For

The Three C's. Creditors look for an ability to repay debt and a willingness to do so—and sometimes for a little extra security to protect their loans. They speak of the three C's of credit-capacity, character, and collateral.

Capacity. Can you repay the debt? Creditors ask for employment information: your occupation, how long you've worked, and how much you earn. They also want to know your expenses: how many dependents you have, whether you pay alimony or child support, and the amount of your other obligations.

Character. Will you repay the debt? Creditors will look at your credit history (see chapter on Credit Histories and Records): how much you owe, how often you borrow, whether you pay bills on time, and

whether you live within your means. They also look for signs of stability: how long you've lived at your present address, whether you own or rent, and length of your present employment.

Collateral. Is the creditor fully protected if you fail to repay? Creditors want to know what you may have that could be used to back up or secure your loan, and what sources you have for repaying debt other than income, such as savings, investments, or property.

Creditors use different combinations of these facts in reaching their decisions. Some set unusually high standards and other simply do not make certain kinds of loans. Creditors also use different kinds of rating systems. Some rely strictly on their own instinct and experience. Others use a "credit-scoring" or statistical system to predict whether you're a good credit risk. They assign a certain number of points to each of the various characteristics that have proved to be reliable signs that a borrower will repay. Then, they rate you on this scale. And so, different creditors may reach different conclusions based on the same set of facts. One may find you an acceptable risk, while another may deny you a loan.

Information the Creditor Can't Use

The Equal Credit Opportunity Act does not guarantee that you will get credit. You must still pass the creditor's tests of creditworthiness. But the creditor must apply these tests fairly, impartially, and without discriminating against you on any of the following grounds: age, gender, marital status, race, color, religion, national origin, because you receive public income such as veterans benefits, welfare or Social Security, or because you exercise your rights under Federal credit laws such as filing a billing error notice with a creditor. This means that a creditor may not use any of those grounds as a reason to:

- discourage you from applying for a loan
- refuse you a loan if you qualify; or
- lend you money on terms different from those granted another person with similar income, expenses, credit history, and collateral.

Special Rules

Age. In the past, many older persons have complained about being denied credit just because they were over a certain age. Or when they retired, they often found their credit suddenly cut off or reduced. So the law is very specific about how a person's age may be used in credit decisions. A creditor may ask your age, but if you're old enough to sign a binding contract (usually 18 or 21 years old depending on state law), a creditor may not:

- turn you down or offer you less credit just because of your age;
- ignore your retirement income in rating your application
- close your credit account or require you to reapply for it just because you reach a certain age or retire
- deny you credit or close your account because credit life insurance or other credit-related insurance is not available to persons your age.

Creditors may "score" your age in a credit scoring system, but if you are 62 or older you must be given at least as many points for age as any person under 62.

Because individuals' financial situations can change at different ages, the law lets creditors consider certain information related to age—such as how long until you retire or how long your income will continue. An older applicant might not qualify for a large loan with a 5 percent down payment on a risky venture, but might qualify for a smaller loan—with a bigger down payment—secured by good collateral.

Remember that while declining income may be a handicap if you are older, you can usually offer a solid credit history to your advantage. The creditor has to look at all the facts and apply the usual standards of creditworthiness to your particular situation.

Public Assistance. You may not be denied credit just because you receive Social Security or public assistance (such as Aid to Families with Dependent Children). But—as is the case with age—certain

information related to this source of income could clearly affect creditworthiness. So, a creditor may consider such things as how old your dependents are (because you may lose benefits when they reach a certain age); or whether you will continue to meet the residency requirements for receiving benefits.

This information helps the creditor determine the likelihood that your public assistance income will continue.

Housing Loans. The Equal Credit Opportunity Act covers your application for a mortgage or home improvement loan. It bans discrimination because of such characteristics as your race, color, gender, or because of the race or national origin of the people in the neighborhood where you live or want to buy your home. Nor may creditors use any appraisal of the value of the property that considers the race of the people in the neighborhood.

In addition, you are entitled to receive a copy of an appraisal report that you paid for in connection with an application for credit, if a you make a written request for thereport.

Discrimination Against Women

Both men and women are protected from discrimination based on gender or marital status. But many of the law's provisions were designed to stop particular abuses that generally made it difficult for women to get credit. For example, the idea that single women ignore their debts when they marry, or that a woman's income "doesn't count" because

she'll leave work to have children, now is unlawful in credit transactions.

The general rule is that you may not be denied credit just because you are a woman, or just because you are married, single, widowed, divorced, or separated. Here are some important protections:

Gender and Marital Status.

Usually, creditors may not ask your gender on an application form (one exception is on a loan to buy or build a home). You do not have to use Miss, Mrs., or Ms. with your name on a credit application. But, in some cases, a creditor may ask whether you are married, unmarried, or separated (unmarried includes single, divorced, and widowed).

Child-bearing Plans. Creditors may not ask about your birth control practices or whether you plan to have children, and they may not assume anything about those plans.

Income and Alimony. The creditor must count all of your income, even income from part-time employment. Child support and alimony payments are a primary source of income for many women. You don't have to disclose these kinds of income, but if you do creditors must count them.

Telephones. Creditors may not consider whether you have a telephone listing in your name because this would discriminate against many married women. (You may be asked if there's a telephone in your home.) A creditor may consider whether income is steady and reliable, so be prepared to show that you can count on uninterrupted income—particularly if the source is alimony payments or part-time wages.

Your Own Accounts. Many married women used to be turned down when they asked for credit in their own name. Or, a husband had to cosign an account—agree to pay if the wife didn't—even when a woman's own income could easily repay the loan. Single women couldn't get loans because they were thought to be somehow less reliable than other applicants. You now have a fight to your own credit, based on your own credit records and earnings. Your own credit means a separate account or loan in your own name—not a joint account with your husband or a duplicate card on his account. Here are the rules:

- Creditors may not refuse to open an account just because of your gender or marital status.
- You can choose to use your first name and maiden name (Mary Smith); your first name and husband's last name (Mary Jones); or a combined last name (Mary Smith-Jones).
- If you're creditworthy, a creditor may not ask your husband to cosign your

account, with certain exceptions when property rights are involved.

- Creditors may not ask for information about your husband or ex-husband when you apply for your own credit based on your own income—unless that income is alimony, child support, or separate maintenance payments from your spouse or former spouse. This last rule, of course, does not apply if your husband is going to use your account or be responsible for paying your debts on the account, or if you live in a community property state. (Community property states are: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin.)

- **Change in Marital Status.** Married women have sometimes faced severe hardships when cut off from credit after their husbands died. Single women have had accounts closed when they married, and married women have had accounts closed after a divorce. The law says that creditors may not make you reapply for credit just because you marry or become widowed or divorced. Nor may they close your account or change the terms of your account on these grounds. There must be some sign that your creditworthiness has changed. For example, creditors may ask you to reapply if you relied on your ex-husband's income to get credit in the first place. Setting up your own account protects you by giving you your own history of how you handle debt, to rely on if your financial situation changes because you are widowed or divorced. If you're getting married and plan to take your husband's surname, write to your creditors and tell them if you want to keep a separate account.

days after your application has been completed whether your loan has been approved or not. If credit is denied, this notice must be in writing and it must explain the specific reasons why you were denied credit or tell you of your right to ask for an explanation. You have the same rights if an account you have had is closed. If you are denied credit, be sure to find out why. Remember, you may have to ask the creditors for this explanation. It may be that the creditor thinks you have requested more money than you can repay on your income. It may be that you have not been employed or lived long enough in the community. You can discuss terms with the creditor and ways to improve your creditworthiness. The next chapter explains how to improve your ability to get credit.

If you think you have been discriminated against, cite the law to the lender. If the lender still says no without a satisfactory explanation, you may contact a Federal enforcement agency for assistance or bring legal action as described in the last chapter of this handbook.

If You're Turned Down.

Remember, your gender or race may not be used to discourage you from applying for a loan. And creditors may not hold up or otherwise delay your application on those grounds. Under the Equal Credit Opportunity Act, you must be notified within 30

CREDIT HISTORIES AND RECORDS

Building Up a Good Record

On your first attempt to get credit, you may face a common frustration: sometimes it seems you have to already have credit to get credit. Some creditors will look only at your salary and job and the other financial information you put on your application. But most also want to know about your track record in handling credit—how reliably you've repaid past debts. They turn to the records kept by credit bureaus or credit reporting agencies whose business is to collect and store information about borrowers that is routinely supplied by many lenders. These records include the amount of credit you have received and how faithfully you've paid it back. Here are several ways you can begin to build up a good credit history:

- Open a checking account or a savings account, or both. These do not begin your credit file, but may be checked as evidence that you have money and know how to manage it. Cancelled checks can be used to show you pay utility bills or rent regularly, a sign of reliability.
- Apply for a department store credit card. Repaying credit card bills on time is a plus in credit histories.
- Ask whether you may deposit funds with a financial institution to serve as collateral for a credit card; some institutions will issue a

credit card with a credit limit usually no greater than the amount on deposit.

- If you're new in town, write for a summary of any credit record kept by a credit bureau in your former town. (Ask the bank or department store in your old hometown for the name of the agency it reports to.)
- If you don't qualify on the basis of your own credit standing, offer to have someone cosign your application.
- If you're turned down, find out why and try to clear up any misunderstandings.

What Laws Apply?

The following laws can help you start your credit history and keep your record accurate:

- THE EQUAL CREDIT OPPORTUNITY ACT gives women a way to start their own credit history and identity.
- THE FAIR CREDIT REPORTING ACT sets up a procedure for correcting mistakes on your credit record.

Credit Histories for Women

Under the Equal Credit Opportunity Act, reports to credit bureaus must be made in the names of both husband and wife if both use an account or are responsible for repaying the debt. Some women who are divorced or widowed might not have separate credit histories because in the past credit accounts were listed in their husband's name only. But they can still benefit from this record. Under the Equal Credit Opportunity Act, creditors must consider the credit history of accounts women have held jointly with their husbands. Creditors must also look at the record of any account held only in the husband's name if a woman can show it also reflects her own creditworthiness. If the record is unfavorable—if an ex-husband was a bad credit risk—she can try to show that the record does not reflect her own reputation. Remember that a wife may also open her own account to be sure of starting her own credit history.

Here's an example:

Mary Jones, when married to John Jones, always paid their credit card bills on time and from their joint checking account. But the card was issued in John's name, and the credit bureau kept all records in John's name. Now Mary is a widow and wants to take out a new card, but she's told she has no credit history. To benefit from the good credit record already on the books in John's name, Mary should point out that she handled all accounts properly when she was married and

that bills were paid by checks from their joint checking account.

Keeping Up Credit Records

Mistakes on your credit record—sometimes mistaken identities—can cloud your credit future. Your credit rating is important, so be sure credit bureau records are complete and accurate. The Fair Credit Reporting Act says that you must be told what's in your credit file and have any errors corrected.

Negative Information. If a lender refuses you credit because of unfavorable information in your credit report, you have a right to the name and address of the agency that keeps your report. Then, you may either request information from the credit bureau by mail or in person. You will not get an exact copy of the file, but you will at least learn what's in the report. The law also says that the credit bureau must help you interpret the data—because it's raw data that takes experience to analyze. If you're questioning a credit refusal made within the past 30 days, the bureau is not allowed to charge a fee for giving you information.

Any error that you find must be investigated by the credit bureau with the creditor who supplied the data. The bureau will remove from your credit file any errors the creditor admits are there. If you disagree with the findings, you can file a short statement in your record giving your side of the story. Future reports to creditors must include this statement or a summary of it.

Old Information. Sometimes credit information is too old to give a good picture of your financial reputation. There is a limit on how long certain kinds of information may be kept in your file:

- Bankruptcies must be taken off your credit history after 10 years.
- Suits and judgments, tax liens, arrest records, and most other kinds of unfavorable information must be dropped after 7 years. Your credit record may not be given to anyone who does not have a legitimate business need for it. Stores to which you are applying for credit or prospective employers may examine your record; curious neighbors may not.

Billing Mistakes. In the next chapter, you will find the steps to take if there's an error on your bill. By following these steps, you can protect your credit rating.

OTHER ASPECTS OF USING CREDIT

The best way to keep up your credit standing is to repay all debts on time. But there may be complications. To protect your credit rating, you should learn how to correct mistakes and misunderstandings that can tangle up your credit accounts.

When there's a snag, first try to deal directly with the creditor. The credit laws can help you settle your complaints without a hassle.

What Laws Apply?

FAIR CREDIT BILLING ACT sets up procedures requiring creditors to promptly correct billing mistakes; allowing you to withhold payments on defective goods; and requiring creditors to promptly credit your payments.

IN LENDING gives you three days to change your mind about certain credit transactions that use your home as collateral; it also limits your risk on lost or stolen credit cards.

Billing Errors

Month after month John Jones was billed for a lawn mower he never ordered and never got. Finally, he tore up his bill and mailed back the pieces—just to try to explain things to a person instead of a computer.

There's a more effective, easier way to straighten out these errors. The Fair Credit Billing Act requires creditors to correct errors promptly and without damage to your credit rating.

A Case of Error. The law defines a billing error as any charge:

- for something you didn't buy or for a purchase made by someone not authorized to use your account;
- that is not properly identified on your bill or is for an amount different from the actual purchase price or was entered on a date different from the purchase date
- for something that you did not accept on delivery or that was not delivered according to agreement.

Billing errors also include:

- errors in arithmetic;
- failure to show a payment or other credit to your account;
- failure to mail the bill to your current address, if you told the creditor about an address change at least 20 days before the end of the billing period;
- a questionable item, or an item for which you need more information.

In Case of Error: If you think your bill is wrong, or want more information about it, follow these steps:

1. Notify the creditor in writing within 60 days after the first bill was mailed that showed the error. Be sure to write to the address the creditor lists for billing inquiries and to tell the creditor:

- your name and account number;

- that you believe the bill contains an error and why you believe it is wrong; and
- the date and suspected amount of the error or the item you want explained.

2. Pay all parts of the bill that are not in dispute. But, while waiting for an answer, you do not have to pay the amount in question (the "disputed amount") or any minimum payments or finance charges that apply to it.

The creditor must acknowledge your letter within 30 days, unless the problem can be resolved within that time. Within two billing periods—but in no case longer than 90 days—either your account must be corrected or you must be told why the creditor believes the bill is correct.

If the creditor made a mistake, you do not pay any finance charges on the disputed amount. Your account must be corrected, and you must be sent an explanation of any amount you still owe.

If no error is found, the creditor must send you an explanation of the reasons for that finding and promptly send a statement of what you owe, which may include any finance charges that have accumulated and any minimum payments you missed while you were questioning the bill. You then have the time usually given on your type of account to pay any balance, but not less than 10 days.

3. If you still are not satisfied, you should notify the creditor in writing within the time allowed to pay your bill.

Maintaining Your Credit Rating. A creditor may not threaten your credit

rating while you're resolving a billing dispute. Once you have written about a possible error, a creditor must not give out information to other creditors or credit bureaus that would hurt your credit reputation. And, until your complaint is answered, the creditor also may not take any action to collect the disputed amount.

After the creditor has explained the bill, if you do not pay in the time allowed, you may be reported as delinquent on the amount in dispute and the creditor may take action to collect. Even so, you can still disagree in writing. Then the creditor must report that you have challenged your bill and give you the name and address of each person who has received information about your account. When the matter is settled, the creditor must report the outcome to each person who has received information. Remember that you may also place your own side of the story in your credit record.

Defective Goods or Services

Your new sofa arrives with only three legs. You try to return it; no luck. You ask the merchant to repair or replace it; still no luck. The Fair Credit Billing Act allows you to withhold payment on any damaged or poor quality goods or services purchased with a credit card, as long as you have made a real attempt to solve the problem with the merchant.

This right may be limited if the card was a bank or travel and entertainment card or any card not issued by the store where you made your purchase. In such cases, the sale:

- must have been for more than \$50; and
- must have taken place in your home state or within 100 miles of your home address.

Prompt Credit for Payments and Refunds for Credit Balances

Some creditors will not charge a finance charge if you pay your account within a certain period of time. In this case, it is especially important that you get your bills, and get credit for paying them, promptly. Check your statements to make sure your creditor follows these rules:

Billing. Look at the date on the postmark. If your account is one on which no finance or other charge is added before a certain due date, then creditors must mail their statements at least 14 days before payment is due.

Crediting. Look at the payment date entered on the statement. Creditors must credit payments on the day they arrive, as long as you pay according to payment instructions. This means, for example, sending your payment to the address listed on the bill.

Credit Balances. If a credit balance results on your account (for example, because you pay more than the amount you owe, or you return a purchase and the purchase price is credited to your account), the creditor must make a refund to you. The refund must be made within seven business days after your written request, or automatically if the credit balance is still in existence after six months.

Canceling a Mortgage

Truth in Lending gives you a chance to change your mind on one important kind of transaction—when you use your home as security for a credit transaction. For example, when you are financing a major repair or remodeling and use your home as security, you have three business days, usually after you sign a contract, to think about the transaction and to cancel it if you wish. The creditor must give you written notice of your right to cancel, and, if you decide to cancel, you must notify the creditor in writing within the three-day period. The creditor must then return all fees paid and cancel the security interest in your home. No contractor may start work on your home, and no lender may pay you or the contractor until the three days are up. If you must have the credit immediately to meet a financial emergency, you may give up your right to cancel by providing a written explanation of the circumstances.

The right to cancel (or right of rescission) was provided to protect you against hasty decisions—or decisions made under pressure—that might put your home at risk if you are unable to repay the loan. The law does not apply to a mortgage to finance the purchase of your home; for that, you commit yourself as soon as you sign the mortgage contract. And, if you use your home to secure an open-end credit line—a home equity line, for instance—you have the right to cancel when you open the account or when your security interest or credit limit is increased. (In the case

of an increase, only the increase would be cancelled.)

Lost or Stolen Credit Cards

If your wallet is stolen, your greatest cost may be inconvenience, because your liability on lost or stolen cards is limited under Truth in Lending. You do not have to pay for any unauthorized charges made after you notify the card company of loss or theft of your card. So keep a list of your credit card numbers and notify card issuers immediately if your card is lost or stolen. The most you will have to pay for unauthorized charges is \$50 on each card—even if someone runs up several hundred dollars worth of charges before you report a card missing.

Unsolicited Cards

It is illegal for card issuers to send you a credit card unless you ask for or agree to receive one. However, a card issuer may send, without your request, a new card to replace an expiring one.

ELECTRONIC FUND TRANSFERS

Instant Money

On his way home last Friday night, John Jones realized he had no cash for the weekend. The bank was closed, but John had his bank debit card and the code to use it. He inserted the card into an automated teller machine outside the front door of the bank; then, using a number keyboard, he entered his code and pressed the buttons for a withdrawal of \$50. John's cash was dispensed automatically from the machine, and his bank account was electronically debited for the \$50 cash withdrawal.

John's debit card is just one way to use electronic fund transfer (EFT) systems that allow payment between parties by substituting an electronic signal for cash or checks.

Are we heading for a checkless society? Probably not. But a dent in the number of paper checks in the country's banking system—or a reduction in the rate at which that number has been growing—is clearly one advantage to electronic banking.

Today, the cost of moving checks through the banking system is estimated to be approximately 80 cents per check, including the costs of paper, printing, and mailing. Moreover, checks—except your own check presented at your own bank—take time to cash: time for delivery, endorsement, presentation to another person's bank, and winding through various stations in the check clearing system. Technology now can lower the costs of the payment

mechanism and make it more efficient and convenient by reducing paperwork.

EFT in Operation

The national payment mechanism moves money between accounts in a fast, paperless way. These are some examples of EFT systems in operation:

Teller Machines (ATMs).

Consumers can do their banking without the assistance of a teller, as John Jones did to get cash, or to make deposits, pay bills, or transfer funds from one account to another electronically. These machines are used with a debit or EFT card and a code, which is often called a personal identification number or "PIN."

(POS) Transactions. Some EFT cards can be used when shopping to allow the transfer of funds from the consumer's account to the merchant's. To pay for a purchase, the consumer presents an EFT card instead of a check or cash. Money is taken out of the consumer's account and put into the merchant's account electronically.

Preauthorized Transfers. This is a method of automatically depositing to or withdrawing funds from an individual's account, when the account holder authorizes the bank or a third party (such as an employer) to do so. For example, consumers can authorize direct electronic deposit of wages, Social Security or dividend payments to their accounts. Or, they can authorize financial institutions to make regular, ongoing payments of insurance, mortgage, utility or other bills.

Telephone Transfers. Consumers can transfer funds from one account to another—from savings to checking, for example—or can order payment of specific bills by phone.

What Law Applies?

THE ELECTRONIC FUND TRANSFER ACT gives consumers answers to several basic questions about using EFT services. A check is a piece of paper with information that authorizes a bank to withdraw a certain amount of money from one person's account and pay that amount to another person. Most consumer questions center on the fact that EFT systems transmit the information without the paper. Thus, they ask:

- What record—what evidence—will I have of my transactions?
- How easily will I be able to correct errors?
- What if someone steals money from my account?
- What about solicitations?
- Do I have to use EFT services?

Here are the answers the EFT Act gives to consumer questions about these systems.

What Record Will I Have of My Transactions?

A cancelled check is permanent proof that a payment has been made. Is proof of payment available with EFT services? The answer is yes. If you use an ATM to withdraw money or make deposits, or a point-of-sale terminal to pay for a purchase, you can get a written receipt—much like the sales receipt you get with a cash purchase—showing the amount of the transfer, the date it was made, and other information. This receipt is your record of transfers initiated at an electronic terminal.

Your periodic bank statement must also show all electronic transfers to and from your account, including those made with debit cards, by a preauthorized arrangement, or under a telephone transfer plan. It will also name the party to whom payment has been made and show any fees for EFT services (or the total amount charged for account maintenance) and your opening and closing balances.

Your monthly statement is proof of payment to another person, your record for tax or other purposes, and your way of checking and reconciling EFT transactions with your bank balance.

How Easily Will I Be Able to Correct Errors?

The way to report errors is somewhat different with EFT services than it is with credit cards.

But, as with credit cards, financial institutions must investigate and correct promptly any EFT errors you report. If you believe there has been an error in an electronic fund transfer relating to your account:

1. Write or call your financial institution immediately if possible, but no later than 60 days from the date the first statement that you think shows an error was mailed to you. Give your name and account number and explain why you believe there is an error, what kind of error, and the dollar amount and date in question. If you call, you may be asked to send this information in writing within 10 business days.

2. The financial institution must promptly investigate an error and resolve it within 45 days. However, if the financial institution takes longer than 10 business days to complete its investigation, generally it must put back into your account the amount in question while it finishes the investigation. (The time periods are longer for POS debit card transactions and for any EFT transaction initiated outside the United States.) In the meantime, you will have full use of the funds in question.

3. The financial institution must notify you of the results of its investigation. If there was an error, the institution must correct it promptly—for example, by making a recredit final. If it finds no error, the financial institution must explain in writing why it believes no error occurred and let you know that it has deducted any amount recredited during the investigation. You may ask for

copies of documents relied on in the investigation.

What About Loss or Theft?

It's important to be aware of the potential risk in using an EFT card, which differs from the risk on a credit card. On lost or stolen credit cards, your loss is limited to \$50 per card. On an EFT card, your liability for an unauthorized withdrawal can vary:

- Your loss is limited to \$50 if you notify the financial institution within two business days after learning of loss or theft of your card or code.
- But, you could lose as much as \$500 if you do not tell the card issuer within two business days after learning of the loss or theft.
- If you do not report an unauthorized transfer that appears on your statement within 60 days after the statement is mailed to you, you risk unlimited loss on transfers made after the 60-day period. That means you could lose all the money in your account plus your maximum overdraft line of credit.

Example:

On Monday, John's debit card and secret code were stolen. On Tuesday, the thief withdrew \$250, all the money John had in his checking account. Five days later, the thief withdrew another \$500, triggering John's overdraft line of credit. John didn't realize his card was stolen until he received a statement from

the bank, showing withdrawals of \$750 he did not make. He called the bank right away. John's liability is \$50.

Now suppose that when John got his bank statement he didn't look at it and didn't call the bank. Seventy days after the statement was mailed to John, the thief withdrew another \$1,000, reaching the limit on John's line of credit. In this case, John would be liable for \$1,050 (\$50 for transfers before the end of the 60 days; \$1,000 for transfers made more than 60 days after the statement was mailed).

What About Solicitations?

A financial institution may send you an EFT card that is VALID FOR USE only if you ask for one, or to replace or renew an expiring card. The financial institution must also give you the following information about your rights and responsibilities:

- A notice of your liability in case the card is lost or stolen
- A telephone number for reporting loss or theft of the card or an unauthorized transfer
- A description of its error resolution procedures
- The kinds of electronic fund transfers you may make and any limits on the frequency or dollar amounts of such transfers
- Any charge by the institution for using EFT services
- Your right to receive records of electronic fund transfers
- How to stop payment of a preauthorized transfer

- The financial institution's liability to you for any failure
- Failure to make or to stop transfers
- The conditions under which a financial institution will give information to third parties about your account.

Generally, you must also get advance notice of any change in the account that would increase your costs or liability, or limit transfers.

A financial institution may send you a card you did not request only if the card is NOT VALID FOR USE. An "unsolicited" card can be validated only at your request and only after the institution makes sure that you are the person whose name is on the card. It must also be sent with instructions on how to dispose of an unwanted card.

Do I Have to Use EFT?

The EFT Act forbids a creditor from requiring you to repay a loan or other credit by EFT, except in the case of overdraft checking plans. And, although your employer or a government agency can require you to receive your salary or a government benefit by electronic transfer, you have the right to choose the financial institution that will receive your funds.

Special Questions About Preauthorized Plans

Q. How will I know a preauthorized credit has been made?

A. There are various ways you may be notified. Notice may be given by your employer (or whoever is sending the funds) that the deposit has been sent to your financial institution. Otherwise, a financial institution may provide notice when it has received the credit or will send you a notice only when it has not received the funds. Financial institutions also have the option of giving you a telephone number you can call to check on a preauthorized credit.

Q. How do I stop a preauthorized payment?

A. You may stop any preauthorized payment by calling or writing the financial institution, so that your order is received at least three business days before the payment date. Written confirmation of a telephone notice to stop payment may be required.

Q. If the payments I preauthorize vary in amount from month to month, how will I know how much will be transferred out of my account?

A. You have the right to be notified of all varying payments at least 10 days in advance. Or, you may choose to specify a range of amounts and to be told only when a transfer falls outside that range. You may also choose to be told only when a transfer differs by a certain amount from the previous payment to the same company.

Q. Do the EFT Act protections apply to all preauthorized plans?

A. No. They do not apply to automatic transfers from your account to the institution that holds your account or vice versa. For example, they do not apply to automatic payments made on a mortgage held by the financial institution where you have your EFT account. The EFT Act also does not apply to automatic transfers among your accounts at one financial institution.

COMPLAINING ABOUT CREDIT

Complaining to Federal Enforcement Agencies

First try to solve your problem directly with a creditor. Only if that fails should you bring more formal complaint procedures. Here's the way to file a complaint with the Federal agencies responsible for carrying out consumer credit protection laws.

Complaints About Banks. If you have a complaint about a bank in connection with any of the Federal credit laws—or if you think any part of your business with a bank has been handled in an unfair or deceptive way—you may get advice and help from the Federal Reserve. The practice you complain about does not have to be covered by Federal law. Furthermore, you don't have to be a customer of the bank to file a complaint.

You should submit your complaint—in writing whenever possible—to the Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Reserve Bank nearest you, as listed on page 43 of this handbook. Be sure to describe the bank practice you are complaining about and give the name and address of the bank involved.

The Federal Reserve will write back within 15 days—sometimes with an answer, sometimes telling you that more time is needed to handle your complaint. The additional time

is required when complex issues are involved or when the complaint will be investigated by a Federal Reserve Bank. When this is the case, the Federal Reserve will try to keep you informed about the progress being made.

The Board supervises only state—chartered banks that are members of the Federal Reserve System. It will refer complaints about other institutions to the appropriate Federal regulatory agency and let you know where your complaint has been referred.

Penalties Under the Laws

You may also take legal action against a creditor. If you decide to bring a lawsuit, here are the penalties a creditor must pay if you win.

Truth in Lending and Consumer Leasing Acts.

If any creditor fails to disclose information required under these Acts, or gives inaccurate information, or does not comply with the rules about credit cards or the right to cancel certain home—secured loans, you as an individual may sue for actual damages—any money loss you suffer. In addition, you can sue for twice the finance charge in the case of certain credit disclosures, or, if a lease is concerned, 25 percent of total monthly payments. In either case, the least the court may award you if you win is \$100, and the most is \$1,000. In any lawsuit that you win, you are entitled to reimbursement for court costs and attorney's fees.

Class action suits are also permitted. A class action suit is one filed on behalf of a group of people with similar claims. Equal Credit Opportunity Act. If you think you can prove that a creditor has discriminated against you for any reason prohibited by the Act, you as an individual may sue for actual damages plus punitive damages—that is, damages for the fact that the law has been violated—of up to \$10,000. In a successful lawsuit, the court will award you court costs and a reasonable amount for attorney's fees. Class action suits are also permitted.

Fair Credit Billing Act. A creditor who breaks the rules for the correction of billing errors automatically loses the amount owed on the item in question and any finance charges on it, up to a combined total of \$50—even if the bill was correct. You as an individual may also sue for actual damages plus twice the amount of any finance charges, but in any case not less than \$100 nor more than \$1,000. You are also entitled to court costs and attorney's fees in a successful lawsuit. Class action suits are also permitted.

Fair Credit Reporting Act. You may sue any credit reporting agency or creditor for breaking the rules about who may see your credit records or for not correcting errors in your file. Again, you are entitled to actual damages, plus punitive damages that the court may allow if the violation is proved to have been intentional. In any successful lawsuit, you will also be awarded court costs and attorney's fees. A person who obtains a credit report without proper authorization—or an employee of a credit reporting agency who gives a credit report to unauthorized persons—may be fined up to \$5,000 or imprisoned for one year, or both.

Electronic Fund Transfer Act. If a financial institution does not follow the provisions of the EFT Act, you may sue for actual damages (or in certain cases when the institution fails to correct an error or recredit an account, for three times actual damages) plus punitive damages of not less than \$100 nor more than \$1,000. You are also entitled to court costs and attorney's fees in a successful lawsuit. Class action suits are also permitted.

If an institution fails to make an electronic fund transfer, or to stop payment of a preauthorized transfer when properly instructed by you to do so, you may sue for all damages that result from the failure.

Glossary

Annual Percentage Rate (APR)—The cost of credit as a yearly rate.

Appraisal Fee—The charge for estimating the value of property offered as security.

Asset—Property that can be used to repay debt, such as stocks and bonds or a car.

Automated Teller Machines (ATMs)—Electronic terminals located on bank premises or elsewhere, through which customers of financial institutions may make deposits, withdrawals, or other transactions as they would through a bank teller.

Balloon Payment—A large extra payment that may be charged at the end of a loan or lease.

Billing Error—Any mistake in your monthly statement as defined by the Fair Credit Billing Act.

Business Days—Check with your institution to find out what days it counts as business days under the Truth in Lending and Electronic Fund Transfer Acts.

Collateral—Property offered to support a loan and subject to seizure if you default.

Cosigner—Another person who signs your loan and assumes equal responsibility for it.

Credit—The right granted by a creditor to pay in the future in order to buy or borrow in the present; a sum of money due a person or business.

Credit Bureau—An agency that keeps your credit record.

Credit Card—Any card, plate, or coupon book used from time to time or over and over again to borrow money or buy goods or services on credit.

Credit History—The record of how you've borrowed and repaid debts.

Creditor—A person or business from whom you borrow or to whom you owe money.

Credit-related Insurance—Health, life, or accident insurance designed to pay the outstanding balance of debt.

Credit Scoring System—A statistical system used to rate credit applicants according to various characteristics relevant to creditworthiness.

Creditworthiness—Past and future ability to repay debts.

Debit Card (EFT Card)—A plastic card, looks similar to a credit card, that consumers may use to make purchases, withdrawals, or other types of electronic fund transfers.

Default—Failure to repay a loan or otherwise meet the terms of your credit agreement.

Disclosures—Information that must be given to consumers about their financial dealings.

Elderly Applicant—As defined in the Equal Credit Opportunity Act, a person 62 or older.

Electronic Fund Transfer (EFT) Systems—A variety of systems and technologies for transferring funds electronically rather than by check.

Finance Charge—The total dollar amount credit will cost.

Home Equity Line of Credit—A form of open-end credit in which the home serves as collateral.

Joint Account—A credit account held by two or more people so that all can use the account and all assume legal responsibility to repay.

Late Payment—A payment made later than agreed upon in a credit contract and on which additional charges may be imposed.

Lessee—A person who signs a lease to get temporary use of property.

Lessor—A company that provides temporary use of property usually in return for periodic payment.

Liability on an Account—Legal responsibility to repay debt.

Open-End Credit—A line of credit that may be used over and over again, including credit cards, overdraft credit accounts, and home equity lines.

Open-End Lease—A lease which may involve a balloon payment based on the value of the property when it is returned.

Overdraft Checking—A line of credit that allows you to write checks or draw funds by means of an EFT card for more than your actual balance, with an interest charge on the overdraft.

Point-of-Sale (POS)—A method by which consumers can pay for purchases by having their deposit accounts debited electronically without the use of checks.

Points and Origination Fees—Points are finance charges paid at the

beginning of a mortgage in addition to monthly interest. One point equals one percent of the loan amount. An origination fee covers the lender's work in preparing your mortgage loan.

Punitive Damages—Damages awarded by a court above actual damages as punishment for a violation of law.

Rescission—The cancellation or "unwinding" of a contract.

Security—Property pledged to the creditor in case of a default on a loan; see collateral.

Security Interest—The creditor's right to take property or a portion of property offered as security.

Service Charge—A component of some finance charges, such as the fee for triggering an overdraft checking account into use.

Subject Index

- Age
- Alimony and Support Payments
- APR
- Balloon Payment
- Billing Errors
- Cancellation (Rescission)
- Change in Marital Status
- Complaints
- Confidentiality
- Consumer Leasing
- Correcting Errors
- Cosigners
- Credit Applications
- Credit Bureaus
- Credit Cards
- Credit Histories
- Credit Laws
- Credit Records
- Credit Records
- Credit Scoring
- Crediting of Payments
- Creditworthiness
- Debit Cards
- Defective Merchandise
- Denials of Credit
- Discrimination
- Division of Consumer and Community Affairs
- EFT
- Electronic Fund Transfers
- Enforcement Agencies
- Equal Credit Opportunity
- Errors on Account
- Fair Credit Billing
- Fair Credit Reporting
- Finance Charge
- Housing Loans
- Information About Spouse
- Leasing
- Liability for Loss or Theft
- Liability for Loss or Theft
- Open-end Credit
- Penalties
- Point-of-Sale
- Preauthorized Transfers
- Public Assistance
- Record of Transaction
- Reserve Banks
- Separate Accounts
- Settlement Costs
- Time Limits on Information
- Truth in Lending
- Women

Directory of Federal Agencies

National Banks Compliance
Management
Office of the Comptroller of the
Currency
250 E Street, S.W.
Mail Stop 7-5
Washington, D.C. 20219
(202) 874-4820

State Member Banks of the Federal
Reserve System
Division of Consumer and
Community Affairs
Federal Reserve Board
Washington, D.C. 20551
(202) 452-3693

Nonmember Federally Insured State
Banks
Office of Consumer Programs
Federal Deposit Insurance Corp.
Washington, D.C. 20456
(202) 898-3536 or (800) 934-FDIC

Savings and Loan Associations
Division of Consumer and Civil
Rights
Office of Community Investment
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
(202) 906-6237

Federal Credit Unions
Office of Public and Congressional
Affairs
Office of Consumer Programs
National Credit Union Administration
1776 G Street, N.W.
Washington, D.C. 20456
(202) 682-9640

Other Lenders

Division of Credit Practices
Bureau of Consumer Protection
Federal Trade Commission
Washington, D.C. 20580
(202) 326-3233

Department of Justice
Civil Division
Office of Consumer Litigation
550 11th St., N.W.

The Todd Building
Room No. 6114
Washington, D.C. 20530
(202) 514-6786

Federal Reserve Banks

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As this course is about consumer credit, we conclude it with one final piece of advice: contact your local bank before developing any loan strategies or making any large purchases. See what they have to offer—banks have rolled out many new products in recent years, and there may be one that suits you perfectly. Also, see what advice your local bank might give. Make use of their experience and their training, and you'll sleep better. In the meantime, be sure to review this document so you know your rights under the law.