

LEVEL UP LAW

South Carolina Legal Services

LEVELING UP YOUR LEGAL KNOWLEDGE

Tuesdays at Noon

Disputing Errors in your Credit Report

Clean up your credit for the New Year

South Carolina Legal Services

January 11, 2022

Why is it important to correct errors in your credit report?

Your credit report is one of the most important items in your financial life:

Contains information about where you live and work, how you pay your bills, whether you have been sued, had a lien filed against you, or have filed for bankruptcy.

There are three major companies that gather and sell this information (Equifax, Experian, and TransUnion), sometimes called “credit reporting agencies” or “credit bureaus.”

They determine whether you can obtain a mortgage, credit card, or other credit. Sometimes, they can affect your ability to get insurance or even a job.

What can I do if there is an error in my credit report?

1. Federal law gives you the right to submit a dispute and request an investigation of the error.
2. Under the Fair Credit Reporting Act (FCRA), both the credit reporting agency and the information provider have responsibilities for correcting inaccurate or incomplete information in your report.
3. When you submit a dispute, the credit reporting agency must investigate the items in question – usually within 30 days – unless they consider your dispute frivolous. In most cases, the credit reporting agency will refer the dispute to the creditor, debt collector or other information provider that first supplied the information to the credit reporting agency – called the “furnisher” of the information.
4. The furnisher also has a duty to investigate the dispute you sent to the credit reporting agency. You also have a right to dispute incorrect information directly with the creditor or other furnisher; however, a dispute to the furnisher will NOT give you a right to seek legal relief if the furnisher mishandles your dispute. Only a dispute sent to the credit reporting agency gives you that right.

5. When the investigation is complete, the credit reporting agency must give you the written results and a free copy of your report if the dispute results in a change.
6. If the furnisher finds the disputed information to be inaccurate, it must notify all of the three major credit reporting agencies so that they can correct this information in your file.
7. If an item is changed or deleted, the credit reporting agency cannot put the disputed information back in your file unless the information furnisher verifies that it is accurate and complete.
8. The credit reporting agency must send you written notice that includes the name, address, and phone number of the information furnisher.
9. If you ask, the credit reporting agency must send notices of any corrections to anyone who received your report in the past six months. You can have a corrected copy of your report sent to anyone who received a copy during the past two years for employment purposes

The error in my credit report has not been fixed even after multiple disputes

1. Sometimes a consumer's dispute will not result in the correction of an error, even if the information is actually inaccurate.
2. While the FCRA requires the credit reporting agencies to conduct a "reasonable" investigation, they often only conduct a minimal and token review. They simply take the consumer's dispute, convert it into a two-or three-digit code and send that to the information furnisher.
3. The credit reporting agencies should send to the furnishers any of the documents that consumers would attach to their disputes.
4. Some information furnishers also conduct cursory investigations, merely checking their own computer records, which probably included the error in the first place.
5. Whatever the furnisher sends as a response to a dispute, the credit reporting agencies usually accept it without question. This is sometimes called "parroting" the furnisher. You cannot get the error corrected, even after multiple disputes when they are handling the dispute this way.
6. While this can be very frustrating, it is still important for you to dispute errors in your credit report, and to follow up with more disputes.
 1. The furnisher may be willing to fix the error, either because it actually does find an error or to maintain good customer relations.
 2. If the furnisher does not respond, the credit reporting agency is legally required to delete the disputed information from your credit report.
 3. If the error is not corrected, you have a potential legal claim under the FCRA – but ONLY if you have sent a dispute to the credit reporting agency.

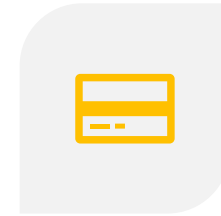
What if the investigation doesn't resolve my dispute?

1. Ask that a statement of the dispute be included in your file and in future reports.
2. Ask the credit reporting agency to provide your statement to anyone who received a copy of your report in the recent past. (You may have to pay a fee for this service).
3. If you tell the information furnisher that you dispute an item, a notice of your dispute must be included any time the furnisher reports the item to a credit reporting agency.
4. You may be able to file a lawsuit under the FCRA against the credit reporting agency and/or the information furnisher.
5. You can file a complaint with the Consumer Financial Protection Bureau (CFPB)
 1. Online: www.consumerfinance.gov/complaint
 2. Phone: (855) 411-CFPB (2372)
 3. Mail: Consumer Financial Protection Bureau P.O. Box 4503 Iowa City, Iowa 52244 You should also file the same complaint with your state Attorney General.

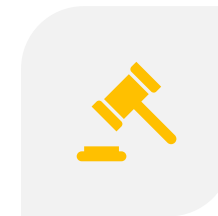
Ten Tips for submitting disputes



YOUR DISPUTE MAY NOT
GET RESULTS FROM THE
FURNISHER OR CREDIT
REPORTING AGENCY.



YOU CAN STILL PURSUE
YOUR RIGHTS UNDER THE
FAIR CREDIT REPORTING
ACT.



FOLLOW THESE TIPS TO
PRESERVE YOUR LEGAL
RIGHTS UNDER THE FCRA.

1. Request an Investigation in Writing, Return Receipt Requested (Consider Not Using the Credit Reporting Agency's Website)

1. The FCRA does not require that you request an investigation in writing, but it is better to do it in writing so you have a record of your dispute.
 1. keep copies of all correspondence
 2. follow up a telephone request with a written confirmation.
 3. send the request by certified mail, return receipt requested.
2. Telephone disputes do not create an adequate record in the event you need to follow up a failed dispute with a lawsuit.
 1. You will not be able to provide documentary support of the dispute by telephone.
 2. The FCRA requires national credit reporting agencies to maintain a toll-free number for consumers, but telephone access is not always consistent.

2. Order another Report and Review It for New Errors

1. Make sure you have the most recent information, as the information in your file is constantly changing as new data is added each month.
2. If you first spot an error in a credit report from a creditor, but don't see it in the more recent report directly from the credit reporting agency, don't assume the error is gone.
3. Creditors sometimes get credit reports with more information than the ones sent directly to consumers, including information that might even belong to another consumer. (lenders are allowed to order credit reports using less identifying information or broader criteria than when consumers order reports about themselves)
4. Review the more recent report for any new errors, including seemingly minor ones such as a misspelled name or incorrect address. (These errors may be the sign of a bigger problem called a "mixed file," which is when the information of two different consumers gets mixed up into one file).
5. Make a copy of the credit report, and then circle the items that are inaccurate and put a number next to each. Use those numbers when you describe your dispute in your letter to the credit reporting agency.

3. Don't Be Limited by Credit Reporting Agency Forms

1. When you receive your credit report, you'll also receive a dispute form that the credit reporting agencies encourage you to use.
 1. These forms attempt to
 1. pigeon hole the dispute into one of several general types, and discourage you from submitting a detailed dispute.
 2. provide a list of choices via a "check box" format choices which seem to limit your dispute options.
 3. Avoid the form, or supplement it with additional written details and documents.
 4. Internet disputes confine you to a similar list of check boxes, and should be avoided.
2. You can submit documentation with an online dispute, but keeping a copy of your dispute might be tricky with an online dispute.

4. Keep a File of All Communications

A request for investigation may be the beginning of a long process with the credit reporting agency. They might ignore or fail to follow up as promised.

It is important to keep copies of everything you send to the credit reporting agencies. Set up a file that has all correspondence sent to and received from the credit reporting agency, and keep any proof that it received your correspondence (green cards from certified mail or proof of other delivery options).

Also keep notes of all telephone calls, with date, time and name of who you spoke to.

5. Notify the Creditor or Other Furnisher of the Dispute

1. You should directly notify the creditor or other furnisher of the disputed information at the same time you notify the credit reporting agency.
2. The important notice of dispute is the one submitted to the credit reporting agency, because that is the right you can legally enforce if your rights are violated under the FCRA.
3. Sending a copy of the dispute to the furnisher helps to prevent any arguments that the notice from the credit reporting agency was not adequate for the furnisher to conduct a reasonable investigation.
4. Send the copy of the dispute to the address for the furnisher listed on your credit report. If no address is listed, contact the furnisher and ask for the correct address to send your letter. If the furnisher does not give you an address, you can send your letter to any business address for that furnisher. (Keep notes of this conversation)

6. Send a Dispute to All Three Major Credit Reporting Agencies

1. It is usually not enough to dispute an error at one credit reporting agency. Request a credit report from at least Experian, TransUnion, and Equifax, and dispute errors individually with each of these three companies.
2. A furnisher supplying incorrect information to one of these agencies will often supply the same incorrect information to the other two. Correcting your file with one of these three might not lead to correction at the other two.
3. Sometimes, a creditor or other business might deny your application based on a credit report received from a company which is not one of the three major credit reporting agencies (such as a type of company called a “reseller”) You should submit a dispute over inaccurate information with both the reseller who supplied the credit report, and directly with the three major credit reporting agencies.

7. Be Careful When Describing an Account Number

1. Your dispute notice should include adequate identification about yourself, identify the account or other item being disputed, and explain why it is disputed. Your description needs to be broad enough to encompass the disputed account even if the number changes. Otherwise, the credit reporting agency may take the disputes literally, and do nothing more than what is expressly requested.
 1. For example, if you write, “I have never had a Capital One credit card, so delete Capital One account #55943200,” the credit reporting agency will only delete an account with that number, and not other Capital One accounts listed on your credit report (or former Capital One accounts now listed as something else).
2. Many furnishers change account numbers after an initial dispute is made, and disputing just the old account number might not affect these new accounts.
3. Other times, the account number in your monthly statement is different than the number used in your file at the credit reporting agency (or by a debt collector to which the debt is transferred). To prevent these problems, your dispute should describe the full range of accounts the dispute covers.
 1. For example, “I have never had a Capital One credit card. Any MBNA account in my credit file is not mine and should be deleted. This includes account number 55943200, as well as any other account you may be reporting, as well as any account that may be reported by any debt collector who is reporting an account that was formerly a Capital One account.”

8. Include All Documentary Evidence and Suggest Investigative Steps the Credit Reporting Agency Should Take

1. Your notice of dispute should include all documentary evidence and other information that supports your claim. If your creditor has provided a letter or statement confirming its understanding that the reported information was inaccurate, the letter should be provided with the dispute to the credit reporting. Make sure to send copies of these documents; keep the originals.
2. It is not a requirement, but you could also suggest what steps the credit reporting agency could take to best accomplish the investigation.
 1. If your dispute is that you never opened an account with a particular creditor, you could request that the credit reporting agency obtain a copy of the application or contract from the furnisher.
 2. You should also provide the name and contact information of any witnesses who support your dispute. For example, if you have been in direct contact with a creditor's customer service representative who agreed with your position, the dispute letter could provide the name and address of that person.
 3. You could request that the credit reporting agency manually send the dispute directly to that person. If the dispute concerns a public record, a request for investigation could include the name and telephone number of the court clerk.
 4. If there was prior litigation involved, the dispute letter could include the name and telephone number of the attorney who previously represented the creditor.

9. Include Information Questioning the Furnisher's Accuracy in Other Contexts

1. Some furnishers, especially debt collectors, have been the subject of complaints or lawsuits by other consumers, or even government agencies, for inaccurate information.
2. A dispute letter should include any information like that you can find, which raises questions about the accuracy of the furnisher's information in general.
3. Good sources for this information:
 1. Consumer Financial Protection Bureau (CFPB)
www.consumefinance.gov
 2. Federal Trade Commission (FTC)
www.ftc.gov

Note:

The CFPB website has a consumer complaint database where you can look up how many complaints have been filed against a particular creditor or debt collector:
www.consumerfinance.gov/complaintdatabase

10. If You Agree to Pay a Debt, Ask for Negative Information to Be Deleted

1. If you are willing to pay part or all of a debt, either immediately or in installments, that appears on your credit report as a negative item, it is important to get a written agreement from the debt collector or creditor to delete the negative information.
2. Simply paying off a debt will not remove the information from your credit report. Some creditors or debt collectors will refuse to remove the information. Be persistent and they will likely remove it eventually.

When DIY tips don't do the trick: Hire a Lawyer

1. If you still cannot get an error fixed after sending multiple disputes to the credit reporting agencies, you may want to think about hiring a lawyer.
2. It is best to hire a lawyer experienced in handling FCRA cases on behalf of consumers. The FCRA is a complicated statute full of pitfalls for inexperienced practitioners.
 1. For example, some of the requirements of the FCRA do not permit consumers to seek redress in court for their violation. A common DIY mistake is to sue under one of these provisions.
3. To find a lawyer in South Carolina, check the website for the National Association of Consumer Advocates website where you can find a list of consumer lawyers handling FCRA cases: www.consumeradvocates.org

S.C. Legal Services Contact Information

Legal Aid Telephone Intake Service

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