This treatise provides information and advice to attorneys and other advocates on various consumer reporting issues. Subjects covered by this treatise include the following: what constitutes a “consumer report” and “consumer reporting agency”; how to obtain consumer reports; the consumer reporting industry, including both credit reporting and specialty reporting agencies; inaccurate consumer reports and how to correct them; restrictions and time limitations on information in credit reports; the legal obligations of those who furnish information to consumer reporting agencies; permissible purposes required to obtain consumer reports; notices required by the Fair Credit Reporting Act (FCRA); FCRA identity theft protections; FCRA litigation; government enforcement; the credit reporting implications of disputing debts with creditors; counseling consumers with blemished or incomplete credit histories; credit repair organizations; credit scores; and privacy issues relating to credit reports and other financial information. Most consumer problems will inevitably implicate consumer reporting issues; this treatise attempts to cover the most significant of these.

The growth of the credit and consumer reporting industry has paralleled the exponential growth in the availability of credit and personal information about consumers. Data brokers, check service companies, tenant screening agencies, employment reporting and background check companies, mortgage reporting agencies, collection service companies, and others all maintain consumer files that creditors, employers, and others use to make decisions about access to credit, employment, insurance, and other financial necessities for consumers. Each of the Big Three nationwide consumer reporting agencies enters about 1.3 billion pieces of information on consumers into its database—or about four billion pieces of information collectively. This growth in the availability and sharing of credit and personal information on consumers has also resulted in problems such as theft of identity and reduced consumer privacy for financial and other information.

Consumers face many challenges in managing their credit and personal information, including finding out who has received their information, how those users have employed the information to determine their access to credit or employment or other benefits, what consumers can do to correct errors, and how to handle resistance by consumer reporting agencies or others to clearing inaccuracies contained in their reports. In addition, consumers face numerous risks to the security of their credit information, including identity theft. Finally consumers must deal with the widespread use of credit scores and the effect such scores have on access to, and the cost of, credit, financial services, and products.

A good credit history is a significant asset for many consumers. Information contained in a consumer’s credit reporting file affects their access to home mortgages, car loans, credit cards, utility services, residential tenancies, employment, and insurance. In addition, it can control the rate at which consumers may obtain credit. Many consumers misunderstand the data that is included in their credit history and the effect of an adverse credit history. This treatise clarifies many of these issues. For example, a debt collector’s threat to ruin someone’s credit rating often is taken quite seriously by consumers, but rarely should have any effect on when the consumer pays a bill. Moreover, consumers often have valid defenses to a debt that would justify withholding payment from creditors. They nevertheless fail to do so because they fear hurting their credit record. The best strategy may run counter to a consumer’s instinctive response: disputing a credit obligation may be the best way to clear up an adverse credit record.

Consumers often have no idea what information about themselves is in a consumer reporting agency’s files. They should be encouraged to examine their files, as credit files frequently contain errors, some of them sufficiently significant to cause credit to be denied or to cost more. This treatise explains how consumers can determine if their credit history or other consumer report is adversely affecting them, which items in their reports are not permitted to be there because they are outdated or fail to meet some restriction for information, and which approaches will most effectively correct inaccurate or incomplete information. This treatise also explains the protections that consumers can invoke under the FCRA when they have been the victims of identity theft.

Correcting inaccurate or otherwise prohibited information can be accomplished short of litigation, but this treatise explains consumer litigation rights where errors are not corrected or where a consumer has already incurred an injury. Litigation opportunities also arise where parties use a consumer report without a permissible purpose. This treatise also explains the claims available (and not available) against those who furnish inaccurate information to consumer reporting agencies and fail to properly reinvestigate disputes from consumers. These claims and litigation strategies are discussed in detail in this treatise.

This treatise also explores methods of cleaning up a consumer’s credit record. These involve consumer strategies targeted at consumer reporting agencies (CRAs), users of the reports, and those who furnish information about the consumer to CRAs. Cleaning up a credit record also involves, as an essential part of any settlement of a dispute with a creditor, resolving with that creditor how the creditor will report the dispute to a CRA. This treatise also discusses credit repair organizations and the general federal and state laws governing these entities that promise to clear or repair consumers’ bad credit.

Creditors and others who use credit reporting information often rely on credit scores or other risk assessments to make credit
decisions. Use of credit scores is not a new phenomenon, but it raises questions about its fairness, accuracy, and potential adverse effect on consumers. This treatise discusses how credit scores are developed and used, and how consumers can both learn about and improve their credit scores.

Protecting consumer privacy is a longstanding goal for policymakers and is one of the primary purposes of the FCRA. This treatise includes a general discussion of consumer financial privacy and how it is affected by the credit reporting industry. Also included in this treatise are discussions of applicable federal and state statutes, common law tort claims, and identity theft laws that consumers may utilize to protect their privacy. In addition, “data brokers” have developed highly sophisticated databases of consumer information, which may or may not fall within the scope of the FCRA, the Gramm-Leach-Bliley Act, or other laws and regulations intended to protect consumer data. The issues of consumer privacy, as well as accountability raised by “data broker” activities, are discussed in Chapter 18 [1], infra.

Footnotes


Source: National Consumer Law Center, Fair Credit Reporting [9th ed.], updated at www.nclc.org/library
Source URL: https://library.nclc.org/fcr/010102-0

Links
[1] https://library.nclc.org/nclc/link/FCR.18