

Fair Credit Billing

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Has a department store's computer ever billed you for merchandise you returned or never received? Has a credit card company ever charged you twice for the same item or failed to properly credit a payment made on your account? Credit billing errors are easy to resolve if you know how to use the Fair Credit Billing Act (FCBA).

CREDIT TRANSACTIONS COVERED BY FCBA

The FCBA generally applies only to **"open end" credit accounts**. Open-end accounts include credit cards and revolving charge accounts (such as department store accounts). The periodic bills or billing statements you receive (usually monthly) for such accounts are covered by the FCBA. The Act does not apply to a loan or credit sale that is paid according to a fixed schedule until the entire amount is paid back.

TYPES OF DISPUTES COVERED

The FCBA settlement procedure applies only to disputes over "billing errors" on periodic statements such as the following:

- Charges not made by you or anyone authorized to use your account (federal law limits your liability for unauthorized charges to \$50);
- Charges with incorrect dates or amounts;
- Charges for goods or services you did not accept or which were not delivered as agreed;
- Computational or similar errors;
- Failure to properly reflect payments or other credits, such as returns;
- Not mailing or delivering bills to your current address (provided you give a change of address, in writing, at least 20 days before the billing period ends); and
- Charges for which you request an explanation or written proof of purchase.

USING THE SETTLEMENT PROCEDURE

To be protected under the law, you must send a written billing error notice to the creditor. Write to the creditor at the address given for "billing inquiries," not the address for sending your payments (see sample letter on ftc.gov; exact link listed in "Resources" below). Your notice must **reach the creditor within 60 days** after the first bill containing the error was mailed to you. Send the notice to the address provided on the bill for "billing inquiries" (not, for example, the address for sending in payments, or to the store unless the bill says that's where it should be sent). In your letter, you must include the following information:

- (1) Your name, address, and account number
- (2) A statement that you believe the bill contains a billing error and the dollar amount involved
- (3) The reasons why you believe there is a mistake.

It's a good idea to send the letter by certified mail with a return receipt requested. That way you'll have proof of the dates of mailing and receipt. You may also send copies of sales slips or other documents, but keep the originals for your records. Remember to keep a copy of your dispute letter.

WHAT MUST THE CREDITOR DO?

The creditor must acknowledge your dispute in writing within 30 days of receiving it. Within two billing cycles (but not more than 90 days), the creditor must conduct a reasonable investigation and either correct the mistake or explain why the bill is believed to be correct.

WHAT HAPPENS WHILE A BILL IS BEING DISPUTED?

You may withhold payment of the amount in dispute, including the affected portions of minimum payments and finance charges, until the dispute is resolved. You are still required to pay any part of the bill which is not disputed, including finance and other charges on undisputed amounts. While the FCBA dispute settlement procedure is going on, the creditor may not take legal or other action to collect the amount in dispute. Your account may not be closed or restricted in any way, except that the disputed amount may be applied against your credit limit.

WHAT ABOUT YOUR CREDIT RATING?

While a bill is being disputed, the creditor may not threaten to damage your credit rating or report you as delinquent to anyone. However, the creditor is permitted to report that you are disputing your bill. It is a violation of the Equal Credit Opportunity Act (ECOA) for a creditor to discriminate against you as a credit applicant or deny credit simply because you exercised your rights under FCBA to dispute a bill.

IF THE CREDITOR MAKES A MISTAKE

If your bill is found to contain a billing error, the creditor must write you explaining the corrections to be made on your account. In addition to crediting your account with the amount you owed, the creditor must remove all finance charges, late fees, or other charges relating the error. If the creditor concludes that you owe part of the disputed amount, this must be explained in writing.

IF THE BILL IS CORRECT

If the creditor investigates and still believes the bill is correct, you must be told promptly in writing how much you owe and why. You may also ask for copies of relevant documents. At this point, you will owe the disputed amount, plus any finance charges that accumulated while it was disputed. You may also have to pay the minimum payment amount missed because of the dispute.

IF YOU STILL DISAGREE

Even after the FCBA dispute settlement procedure has ended, you may still believe the bill is wrong. If so, **write the creditor within 10 days after receiving the explanation** and say you still refuse to pay the disputed amount. **At this point, the creditor may begin collection procedures.** However, if the creditor reports you to credit bureaus as delinquent, she must also state you dispute that you owe the money, and the creditor must inform you who receives these reports.

YOUR RIGHTS AS A DEBTOR

Businesses that offer “open end” credit also have other obligations under the FCBA. An “open-end” creditor must: (1) give you written notice when you open a new account – and at certain other times – that describes your right to dispute billing errors, (2) provide a statement for each billing period in which you owe (or the creditor owes you) more than one dollar, (3) send you your bill at least 14 days before payment is due if your payment is due by a certain date under penalty of additional charges, (4) credit all payments to your account the day they are received, unless no

extra charges result from your failure to pay on time, (5) promptly credit or refund overpayments and other amounts owed to your account.

IF THE CREDITOR DOESN'T FOLLOW FCBA

Any creditor who fails to follow the FCBA dispute settlement procedures may not collect the amount in dispute, or any finance charges on it up to \$50.00, even if the bill turns out to be correct. For example, this penalty would apply if a creditor acknowledges your complaint in 45 days (15 days too late) or takes more than two billing cycles to resolve the dispute. It also applies if a creditor threatens to report (or does report) your non-payment to anyone.

YOU CAN ALSO SUE

You can sue a creditor who violates any FCBA provision. If you win, you may be awarded damages resulting from the violation, plus twice the amount of any finance charges (from \$500.00 up to \$5,000.00). The court may also order the creditor to pay your attorney's fees and costs. Ask your attorney about Small Claims Court.

REPORTING FCBA VIOLATIONS

The Federal Trade Commission (FTC) enforces the FCBA for virtually all creditors (except banks). If you would like more information or would like to file a complaint, contact the FTC at 1-877-382-4357 or online at <http://www.ftc.gov>.

RESOURCES:

- FCBA, 15 U.S.C. §1666.
- FTC at 1-877-382-4357 or online at
- <http://www.ftc.gov>
- <http://www.consumer.ftc.gov/articles/0219-faircredit-billing>

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