

Consumer Credit

Consumer credit refers to loans to individuals for the purchase of consumer goods and services. You use credit whenever you borrow money, pay for a product in installments, or use a credit card. A *creditor* is someone from which a consumer has borrowed money. Usually creditors are banks, credit unions, or other institutions. For example, when you use a credit card, the card issuer is your creditor until the loan (your credit card balance) is repaid.

Credit is an indicator of your financial trustworthiness. If you have good credit, creditors are generally more willing to lend you money, often at lower rates. If you have bad credit, you may have difficulty getting a loan, a credit card, a place to live, and perhaps even a job. Most creditors use credit scoring to evaluate your credit and to determine whether you are a good risk to repay a loan and make timely payments.

Consumer credit transactions are regulated both by state law and federal statutes, commonly referred to as “truth-in-lending acts,” which give the consumer certain rights and protections with respect to issued credit and credit reporting.

Part I: Credit Cards

Applying for Credit

When you apply for credit, including a credit card, you will likely be asked for information about your past credit history, employment (salary, length, and type of employment), home ownership, and assets. Grantors of credit ask these questions to determine the likelihood that you will be able to live up to the terms of the credit agreement. Factors indicating a steady income, a history of paying your debts on time, and an ability to live within your means enhance the likelihood that you will be granted credit. Creditors also look at the amount of credit you have already been granted by other institutions. If you have a great deal of available credit relative to your income, such as many credit cards with high credit limits, a lender may decline to extend additional credit to you even if you are using your credit responsibly. The creditor is concerned primarily with your ability to repay any debt incurred when credit is extended to you, and if you have a lot of credit already available, a potential lender may doubt your ability to repay your debts if your spending habits change and you start using more of that credit.

Credit card advertisements and/or applications must disclose to you the terms of the credit agreements, including annual percentage rates, applicable finance charges, and any grace period you have to repay what you borrowed. Credit card companies are generally barred from charging interest rates or finance charges that are higher than those that are disclosed.

You have a right to know if your application was accepted or denied within 30 days of filing an application for credit. If your application for credit is denied, or if you are offered credit on terms less favorable than those you applied for, the potential lender must disclose to you the reason for the denial or less favorable offer.

Under the Equal Credit Opportunity Act, lenders are prohibited from denying you credit, or offering you credit on less favorable terms, because of your race, gender, national origin, religion, marital status, or because you receive public assistance income. If you believe you have been discriminated against, you may complain to the creditor and contact the state Attorney General or the U.S. Attorney General’s Office to

determine if the creditor has violated state or federal laws. You may also contact state consumer protection agencies to see if a suit could be brought against the creditor in court.

If you have poor credit or little credit history, you could encounter some difficulties obtaining a credit card or other credit. One option is a secured card. With this type of card, you deposit money in an account and may make purchases up to that amount each month using the credit card. A history of timely payments will help you build a favorable credit history. However, beware of companies that offer advanced fee or guaranteed loans. These companies often request you to send a fee with your application, and often you send the fee but never receive the loan. If you are going to deal with a company offering one of these services, it is a good idea to call the Florida Office of Financial Regulation (www.flofr.com) at (850) 487-9687, or the Better Business Bureau, to find out about the company before you send them any money. The Florida Office of Financial Regulation website also has a complaint form that you can send in for any complaints about financial services.

In some cases, a lender may want you to obtain a co-signer. This is someone who agrees to be equally responsible for the amount of the debt in case you cannot or do not pay the debt. Often, a lender will ask you to obtain a co-signer if you have little, or poor, past credit history. *Before* you act as a co-signer to help someone else obtain credit, you should be aware that courts *will not* recognize a disclaimer of responsibility for the debt made at the time, or after, you agree to accept responsibility for the debt. You are signing a document accepting full responsibility for the debt should the primary borrower not pay, and the lender is relying on that guarantee when extending the credit. Thus, you cannot argue that you were just signing the paperwork to help another individual obtain credit, but did not really intend to accept responsibility for the debt.

Lost or Stolen Cards

If you notice that your credit card has been lost or stolen, you must report the loss to the credit card company as soon as possible. Many companies have toll-free numbers and 24-hour service to deal with these situations. If a thief uses your credit card before you report it missing, you may be held liable for the first \$50 of unauthorized charges on your card. Call first, then follow up with a written notification of the loss (and keep a copy of the letter). Promptly notifying the credit card company will protect you from being held responsible for someone else's misuse of your credit card.

After the loss, review your billing statements carefully. If there are any unauthorized charges, contact the creditor regarding each questionable charge and again, follow up with written notification.

Opting Out of Credit Card Solicitations

You may opt out of receiving pre-screened offers of credit for five years or permanently. You may do this through www.optoutprescreen.com or by calling 1-888-5-OPTOUT.

Servicemembers Civil Relief Act (SCRA)

The Servicemembers Civil Relief Act is a federal statute that allows military members to suspend or postpone certain civil obligations so that they can devote their full attention to military duties.

A military member can cap the interest rate at 6% for all credit card obligations entered into before beginning active duty if the military service materially affects his or her ability to meet the obligations. To qualify, the military member must show that he or she is now on active duty, that the obligation or debt was incurred prior to entry on active duty, and that military service materially affects the member's ability to pay. The military member can do this by sending a letter and a copy of current military orders to the lender requesting relief under the SCRA. The interest rate cap lasts for the duration of active duty service and will apply from the first date of active-duty service.

Part II: Credit Reports

What is a credit report (“consumer file”)?

Credit reporting agencies (CRAs), such as Equifax, Experian, and TransUnion (the three major CRAs), keep consumer files on individuals who borrow money or use credit cards. These files contain information on how you pay your debts, including whether you have declared bankruptcy, missed payments on a loan, or have a history of late payment of bills. Adverse information generally stays on your credit report for 7 years, but bankruptcies may be on your credit report for up to 10 years. It is important to check your credit report periodically to ensure that it is correct, because mistakes in your credit report may adversely affect your ability to obtain additional credit. It is also essential to check your report regularly to help guard against identity theft.

The federal Fair Credit Reporting Act requires that consumers be entitled to a free credit report each year. In the past, consumers generally had to pay for a credit report, except those who lived in states that already provided a free credit report or qualified for a free report based on certain activities within the report. You have the right to know what your credit report says and should get a copy of your free report from each of the three major CRAs each year through the **ONLY** official, government-authorized source by submitting an online request at www.annualcreditreport.com, calling 877-322-8228, or mailing an Annual Credit Report Request form to Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281. If you order a copy of your report by mail or by phone, it will be mailed to you within 2-3 weeks. No matter how you request your report, you can request all three reports at once or obtain one at a time. If you obtain the reports separately throughout the year, you'll be able to monitor your credit throughout the year.

There are numerous other websites and services that advertise “free” reports, but they often come with hidden fees or monthly charges for credit protection services. For a fee, you may also order your reports directly through the CRAs by mail, phone, or on-line.

- TransUnion – www.transunion.com – 1-800-493-2392
- Experian – www.experian.com – 1-888-397-3742
- Equifax – www.equifax.com – 1-800-685-1111

Who has access to your credit report?

Your credit report is not public information. Only people with a genuine need to access the information may do so. This includes you, those you designate in writing, any person who presents a court order or subpoena requiring disclosure of the information, and those who have a legitimate business purpose (typically involving extending credit, insurance, employment, or a government benefit).

What do you do if information on your report is inaccurate?

The Fair Credit Reporting Act establishes procedures for correcting mistakes on your credit report. If you notice an error on your credit report, you should first call the CRA, and then follow up in writing, including copies of your supporting documents. Also contact the creditor that provided the wrong information and again, send copies of your supporting documents. Be sure to keep a copy of all the documentation that you send to the CRAs and creditors. The CRA then usually has 30 days to investigate the disputed item, unless it considers the dispute frivolous. If the investigation confirms an error, the item will be deleted from your credit report. When the investigation is complete, the CRA must give you the written results and a free copy of the report if the dispute results in a change.

If the dispute is not resolved to your satisfaction, you have the right to add an explanation to your credit report and can also ask the CRA to provide this explanation to anyone who received a copy of your report in the recent past. However, you may need to pay a fee for this service.

If you suspect identity theft, you may want to close any compromised accounts, file a police report, and file a report with the Federal Trade Commission, and/or place a fraud alert on your credit report.

Part III: Debt Collection

If you obtain credit and use that credit, you then become a debtor, and the person from whom you borrowed is your creditor. You have an obligation to repay your debts. If you do not, not only may the creditor report negative information about you to a CRA, but it also may take steps to collect the debt.

Debts may be secured or unsecured. If a debt is secured, this means you provided something as collateral, or security, for the payment of the debt. This means that if you do not pay your debt, the creditor may take action to seize or repossess the collateral. If the amount of debt is more than the value of the collateral, the creditor may then sue you for the shortfall. If a debt is unsecured, the creditor will have to sue you and obtain a judgment for the amount of the debt. If you do not pay that judgment, you may be found in contempt of court. If you are a military member, you may receive certain protections with respect to default judgments under the Servicemembers Civil Relief Act.

Many debts contain what is called an “acceleration clause.” This means that if you miss a specified number of payments, or default on the debt, the creditor may demand immediate repayment of the entire debt, not just the missed payments (this is especially common in mortgages, but may exist in other types of debts as well). Always read your loan agreements to determine whether they contain an acceleration clause. If you have a secured debt with an acceleration clause, and the creditor invokes that clause, you will not be able to prevent repossession of the collateral simply by paying the missed payments. Instead, you will have to pay the entire balance of the debt.

What if I cannot pay my debts?

Always contact your creditors if you know you will not be able to make a payment on a debt. If the problem is short term, or if the agreed periodic payments are too high for you to pay, the creditor may be willing to work with you to determine an alternate payment schedule that will prevent you from defaulting on the debt. For instance, the creditor may agree to allow you to pay less each month, but extend the payments over a greater amount of time. However, creditors are **not** required to work out an alternate payment plan with you; they can demand that you stick to the original payment terms and sue you for defaulting if you do not abide by those terms. Most creditors will work with you though if they believe you will eventually pay back the debt, because it is in their interest to do so. A court judgment will not get the creditor its money if the debtor does not have the money to satisfy the judgment.

Also consider going to a financial counselor to resolve your financial problems. You should consider taking advantage of the free services of the Eglin AFB Airman & Family Readiness Center (**webpage at www.eglinforcesupport.com or Like on Facebook at Eglin Airman & Family Readiness Center or Call (850) 882-9060/61**) for help establishing a monthly budget, learning money-saving techniques, and determining the best way to tackle your debt. Be wary of credit counseling and repair services that offer quick solutions to credit problems, as some may charge you for services that you can do yourself for little to no cost or may charge high or hidden fees that only cause more debt.

If the problem is indeed severe, such as your amassing significant debts that you do not believe you will ever be able to repay, you may want to speak to an attorney and consider whether bankruptcy is appropriate in your situation. However, this option should be considered only as a last resort because of the negative effects on your ability to obtain credit in the future. Also, not all debts are dischargeable in bankruptcy (for instance, judgments against you for personal injuries, and federally guaranteed student loans debts are not dischargeable).

Are there restrictions on what creditors and collection agencies can do to collect a debt?

Yes. The federal government has passed laws, including the Fair Debt Collection Practices Act, to prevent creditors and collection agencies from abusing and harassing consumers. Florida Statutes §559.72 provides similar protections.

Debt collectors may only call you at home between 8 a.m. and 9 p.m. local time, unless you agree otherwise, and must identify themselves to you on the phone. Within five days after a collector first contacts you, the collector must send you a written validation notice telling you how much money is owed, the name of the creditor, and how to proceed if you do not think you owe the money.

Debt collectors may not communicate with parties other than you, your spouse, your attorney, and in some cases, a credit reporting agency. They must also communicate only with your attorney and not you directly, if an attorney represents you regarding your debt. Collectors may not call you at work if they are informed that your employer does not allow such communication. A debt collector may not call your parents (if you are an adult) or other relatives in reference to collecting the debt. Furthermore, if you notify a debt collector in writing that you do not wish to receive further communications, the collector must cease contacting you except to inform you that the collection efforts are being terminated, that the collector may invoke a specific legal remedy, or that the debt collector in fact intends to invoke a specific remedy (*e.g.*, the debt collector intends to seek repossession of an item or to initiate court action).

Debt collectors may not use threats of violence or other criminal means to harm you, your family, your property, or your reputation. They may not use obscene language and may not call you repeatedly or continuously with the intent to annoy, abuse, or harass you. They may not falsely represent the amount or nature of the debt, tell you that you may be imprisoned if you do not pay the debt or that any property will be garnished, repossessed, or seized, unless they would in fact have a legal right to undertake these actions.

If you have trouble dealing with a creditor, CRA, or credit bureau, you should contact the Florida Division of Consumer Services (1-800-HELP-FLA), the Florida Office of Financial Regulation's Division of Finance (850-487-9687), or the Federal Trade Commission. You may also research or file complaints at the Federal Trade Commission's website at www.ftc.gov/sentinel.

The material in this handout represents general legal advice. Since the law is continually changing, some provisions in this pamphlet may be out of date. It is always best to consult an attorney about your legal rights and responsibilities regarding your particular case.