

THE FAIR CREDIT BILLING ACT



JOINT BASE ANDREWS LAW CENTER

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If you have ever been hassled by a credit department's computer, you know how frustrating it can be to receive bills for the wrong amount.

The Fair Credit Billing Act (FCBA) covers billing errors involving open-end consumer credit transactions, such as with credit cards and store charge accounts. The FCBA establishes procedures for complaining about billing errors and requires creditors to respond to such complaints. Under the law, creditors must either correct the error or explain any rejection of the billing error complaint.

Billing errors include:

- Unauthorized charges;
- Charges for items that you did not accept or that were not delivered;
- Bills mailed to the wrong address, provided that the creditor received notice of the change of address at least 20 days before the billing cycle ended;
- Math errors or failure to credit your account;
- Charges that list the wrong date or amount; and
- Charges for which you sent the creditor a letter which included a statement that the bill contained an error and a request for an explanation or proof of purchase.

Please note that a dispute over the "quality" of goods is not a billing error under the FCBA.

IN CASE OF ERROR

If you think your bill contains an error or want more information about it, send a letter so that it reaches your creditor within 60 days after the bill was mailed. Be sure to include: your name and account number, and a statement that you believe the bill contains an error, including the amount of the alleged error and an explanation of why you believe there is an error.

While you are 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. You still must pay, however, all parts of the bill that are not in dispute.

The creditor must acknowledge your letter in writing within 30 days of receiving it. The creditor then must conduct a reasonable investigation, unless the creditor corrects the account as requested or the consumer withdraws the complaint.

If an error is found, your account must be corrected and credited within two billing cycles (90 days max.) and you must be notified with a correction notice. You do not have to pay any finance charges on the disputed amount.

If the creditor determines that you still owe part of the disputed amount, the creditor must notify you promptly of when payment is due and how much you owe. You may request documents proving you owe the money.

If the creditor determines that the bill contains no error, the debtor must be notified promptly of how much you owe. At this point, the amount may include finance charges that accumulated and any minimum payments that you missed while you were questioning your bill.

Until the billing error is resolved under FCBA procedures, a creditor may not take any action to collect the disputed amount, restrict or close your account, or threaten your credit rating or report you as delinquent while your bill is in dispute. A creditor may, however, seek collection of unpaid, undisputed accounts and may decrease your credit limit by the amount in dispute. Further, if a creditor follows the FCBA dispute procedures and the consumer still claims an error, the creditor may report the delinquency to a credit reporting agency, provided the creditor also reports that the amount is in dispute, notifies the debtor, and promptly reports any resolution of the matter.

PENALTIES

You can sue a creditor who violates the FCBA. If you win, you may be awarded damages, plus twice the amount of any finance charge—as long as it is between \$100 and \$1,000. The court may also order the creditor to pay your attorney's fees and costs. If possible, hire a lawyer who is willing to accept the amount awarded to you by the court as the entire fee for representing you. Some lawyers may not take your

case unless you agree to pay a fee (win or lose) or add to the court-awarded amount if it is too low.

CONCLUSION

Creditors must provide you with a complete statement of your FCBA billing rights when you first open an account and at least once annually. For further information on the FCBA and a sample letter to send to your creditor if you encounter billing errors, please visit: <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre16.shtm>. If you need further assistance with your credit report or have FCBA questions, schedule an appointment with a legal assistance attorney by calling (240) 612-5750.