Credit Reporting Rights in Housing Law

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What is a Credit Report - Practically?

- Credit history, which includes
  - Lines of Credit
  - Timely and Late Payments
  - Delinquencies
  - Collections
  - Bankruptcies
  - Personal Identifying Information
  - Inquiries
- Used to access creditworthiness by potential creditors
- NOT credit score

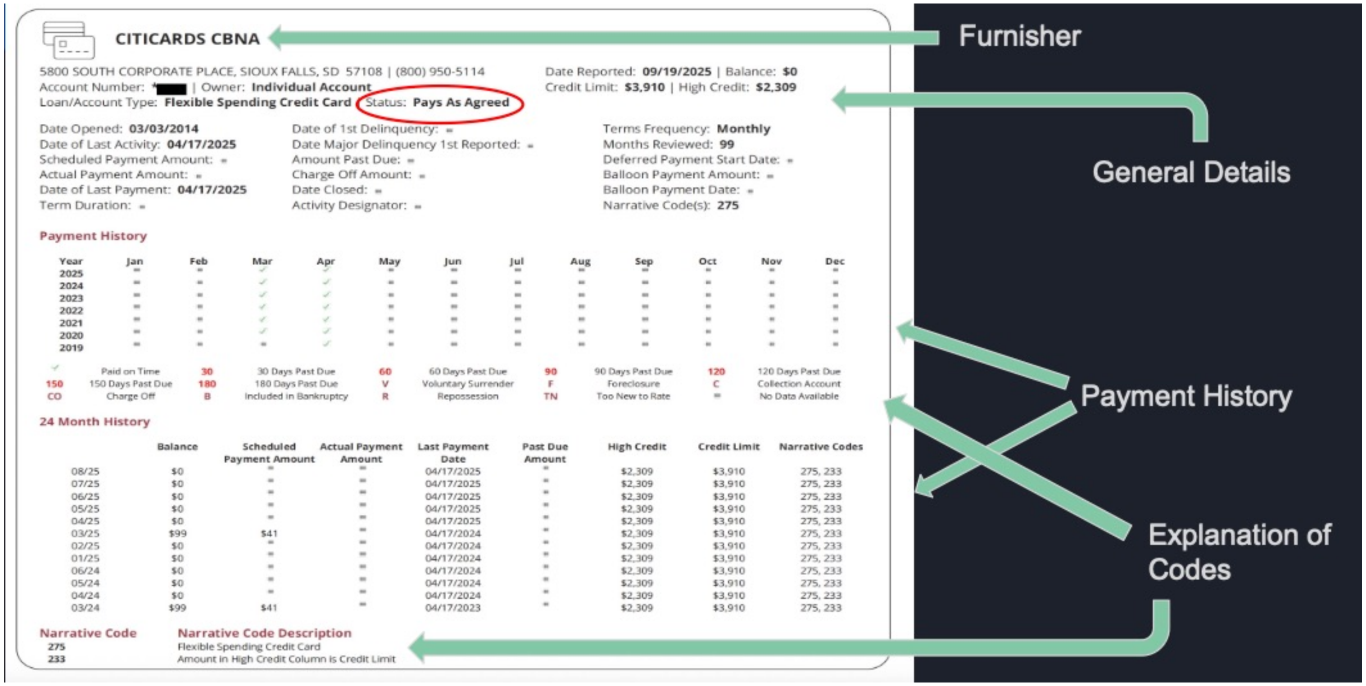
What is a Credit Report – Legally?

15 U.S.C. § 1681a(d) Consumer Report

(1) In general.—The term “consumer report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer’s eligibility for—

- **(A)** credit or insurance to be used primarily for personal, family, or household purposes;
- **(B)** employment purposes; or
- **(C)** any other purpose authorized under section 1681b of this title

Overview of Credit Report



CITICARDS CBNA

5800 SOUTH CORPORATE PLACE, SIOUX FALLS, SD 57108 | (800) 950-5114
Account Number: *[redacted] | Owner: **Individual Account**
Loan/Account Type: **Flexible Spending Credit Card** Status: **Pays As Agreed**

Date Reported: **09/19/2025** | Balance: **$0**
Credit Limit: **$3,910** | High Credit: **$2,309**

Date Opened: **03/03/2014**
Date of Last Activity: **04/17/2025**
Scheduled Payment Amount: -
Actual Payment Amount: -
Date of Last Payment: **04/17/2025**
Term Duration: -

Date of 1st Delinquency: -
Date Major Delinquency 1st Reported: -
Amount Past Due: -
Charge Off Amount: -
Date Closed: -
Activity Designator: -

Terms Frequency: **Monthly**
Months Reviewed: **99**
Deferred Payment Start Date: -
Balloon Payment Amount: -
Balloon Payment Date: -
Narrative Code(s): **275**

Payment History

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2025	-	-	✓	✓	-	-	-	-	-	-	-	-
2024	-	-	✓	✓	-	-	-	-	-	-	-	-
2023	-	-	✓	✓	-	-	-	-	-	-	-	-
2022	-	-	✓	✓	-	-	-	-	-	-	-	-
2021	-	-	✓	✓	-	-	-	-	-	-	-	-
2020	-	-	✓	✓	-	-	-	-	-	-	-	-
2019	-	-	-	✓	-	-	-	-	-	-	-	-

✓	Paid on Time	30	30 Days Past Due	60	60 Days Past Due	90	90 Days Past Due	120	120 Days Past Due
150	150 Days Past Due	180	180 Days Past Due	V	Voluntary Surrender	F	Foreclosure	C	Collection Account
CO	Charge Off	B	Included in Bankruptcy	R	Repossession	TN	Too New to Rate	-	No Data Available

24 Month History

	Balance	Scheduled Payment Amount	Actual Payment Amount	Last Payment Date	Past Due Amount	High Credit	Credit Limit	Narrative Codes
08/25	$0	-	-	04/17/2025	-	$2,309	$3,910	275, 233
07/25	$0	-	-	04/17/2025	-	$2,309	$3,910	275, 233
06/25	$0	-	-	04/17/2025	-	$2,309	$3,910	275, 233
05/25	$0	-	-	04/17/2025	-	$2,309	$3,910	275, 233
04/25	$0	-	-	04/17/2025	-	$2,309	$3,910	275, 233
03/25	$99	$41	-	04/17/2024	-	$2,309	$3,910	275, 233
02/25	$0	-	-	04/17/2024	-	$2,309	$3,910	275, 233
01/25	$0	-	-	04/17/2024	-	$2,309	$3,910	275, 233
06/24	$0	-	-	04/17/2024	-	$2,309	$3,910	275, 233
05/24	$0	-	-	04/17/2024	-	$2,309	$3,910	275, 233
04/24	$0	-	-	04/17/2024	-	$2,309	$3,910	275, 233
03/24	$99	$41	-	04/17/2023	-	$2,309	$3,910	275, 233

Narrative Code	Narrative Code Description
275	Flexible Spending Credit Card
233	Amount in High Credit Column is Credit Limit

Sample of different types of claims

- CRA duty to investigate (15 U.S.C. § 1681i)
- Furnisher duty to investigate upon indirect dispute (15 U.S.C. § s-2(b))
- Procedures to ensure accuracy (15 U.S.C. §1681e(b))
- Impermissible pull (15 U.S.C. § 1681b(f))
- Obsolete information (15 U.S.C. § 1681c)
- Not providing disclosure (15 U.S.C. §§ 1681g, 1681j)
- Employment Screening (15 U.S.C. § 1681b(b)(3))
- Identity Theft Blocking (15 U.S.C. § 1681c-2)

Pop Quiz

- According to the FTC, what percentage of Americans have credit report errors that might affect their credit scores?
  - A. 1%
  - B. 5%
  - C. 10%
  - D. 25%

Pop Quiz - Answer

- According to the FTC, what percentage of Americans have credit report errors that might affect their credit scores?

Answer: D. 25%

The FRCA

- The FCRA was passed in 1970
- Confers right to “completeness” and “accuracy” in credit reports
- Attorneys’ fees and punitive damages

Who can be sued under the FCRA

- Credit Reporting Agencies – not the focus of today's presentation
  - For failing to maintain reasonable procedures designed to assure maximum possible accuracy of the reported information
  - For failing to reinvestigate a dispute after receiving a response from a furnisher
- Furnishers
  - For failing to investigate a dispute from the Credit Reporting Agencies

Consumer Reporting Agencies: major players and others

- Big 3: TransUnion, Equifax, Experian
- Other notables: LexisNexis, Innovis
- Specialty CRAs
  - NCTUE (utilities)
  - CLUE (insurance)
  - RealPage (rental history)
  - FirstAdvantage (employment/background check)

Consumer Reports in housing

- A credit report from a credit bureau, such as Trans Union, Experian, and Equifax or an affiliated company;
- A report from a tenant screening company that describes the applicant's rental history based on reports from previous landlords or housing court records;
- A report from a background check company that describes the applicant's criminal history;
- A report from a tenant screening company that describes the applicant's rental history and criminal history, and also includes a credit report;
- A risk score or recommendation from a tenant screening company about the applicant based on criteria selected; and
- A report from a reference checking service that contacts previous landlords, employers, or other parties listed on the rental application on behalf of the rental property owner.

Three step process

- Obtain consumer report
- Dispute inaccurate information
- Litigation

How to help someone get their credit report

- Free option: annualcreditreport.com
  - Download and save report
- Paid option: myfico.com
- Free (but sometimes incomplete) services like Credit Karma

- https://www.realpage.com/support/consumer/

- NOTE: always have the consumer pull their own report or get written permission if you are going to pull it

Dispute Process

- Consumer sends a dispute letter to the Credit Reporting Agency
- The Credit Reporting Agency forwards the dispute to the Furnisher using an ACDV
- The furnisher has a duty to investigate the dispute
- The furnisher sends the dispute results to the Credit Reporting Agency using an ACDV
- The Credit Reporting Agency sends the dispute results to the Consumer
- NOTE: Direct disputes do not give you standing under the FCRA

Dispute Letters - tips

- Be as specific as possible
- Clearly identify the inaccuracies
- Provide proof of inaccuracies if possible
- Draft in plain English
- Provide a copy of SS card and utility bill with current address
- Send certified mail, return receipt requested

File disputes directly with the CRAs

- Required for § 1681i and § 1681s-2b liability
- Actionable violations of the FCRA generally only exist if a dispute has been filed and a CRA or furnisher has failed to perform a reasonable investigation

§ 1681s-2b: Data furnisher obligations must provide accurate and complete information to CRA’s under the FCRA

- § 1681s–2(b): “After receiving notice pursuant to section 1681i(a)(2) of this title of a dispute with regard to the completeness or accuracy of any information provided by a person to a consumer reporting agency, the [furnisher of information] shall—
  - (A) conduct an investigation with respect to the disputed information;
  - (D) if the investigation finds that the information is incomplete or inaccurate, report those results to all other consumer reporting agencies to which the person furnished the information . . .
  - (E) if an item of information disputed by a consumer is found to be inaccurate or incomplete or cannot be verified after any reinvestigation . . . promptly—
    - (i)modify that item of information;
    - (ii)delete that item of information; or
    - (iii)permanently block the reporting of that item of information.

When incorrect information remains after the dispute

- Options to
  - Send subsequent dispute
  - File FCRA lawsuit

If reported information is from a debt collector

- Option to give direct notice (skipping the dispute process) and then sue under the Fair Debt Collection Practices Act if incorrect information remains
  - 15 USC 1692e(8): Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

What are damages?

- Standing (Spokeo, Ramirez)
- Negligent vs. Willful
  - 15 U.S.C. § 1681o (willful): actuals, statutory, punitive, atty's fees
  - 15 U.S.C. § 1681n (negligent): actuals, atty's fees
- Not necessarily limited to denial of credit
  - Withdrawal from credit market
  - Lost credit opportunities
- Adverse action notice
  - Reasons
  - Which CRA
- Pitfalls
  - Too attenuated

Adverse Action Notice

- Required to be sent if:
  - A rental application is rejected
  - Increase in rent
  - Increase in deposit
  - Requirement of co-signer
  - or any other adverse action based partly or complete on information in a consumer report

- Can be in writing, electronic, or oral

Adverse Action Notice (cont.)

An adverse action notice tells people about their rights to see information being reported about them and to dispute inaccurate information. The notice must include:

- the name, address, and phone number of the CRA that supplied the report;
- a statement that the CRA that supplied the report did not make the decision to take the unfavorable action and can't give specific reasons for it; and
- a notice of the person's right to dispute the accuracy or completeness of any information the CRA furnished, and to get a free report from the CRA if the person asks for it within 60 days.

Adverse Action Notice (cont.)

If credit score was used for the decision, the adverse action notice must be a written or electronic notice that includes:

- The credit score
- A description of the score (its source, the date it was created, and the range of scores under that credit model) and
- The key factors that adversely affected the credit score, listed in the order of their importance based on their effect on the credit score.