

What if I think they violated the law?

INQUIRIES

The first thing that you must do is send a written inquiry to the credit card company and/or retailer who you think made an error. You have to give them time to respond to your inquiry before you can take legal action against them.

POLICE REPORTS

If your credit card has been stolen you must file a police report in addition to notifying the credit card company. The credit card company can not hold you responsible for charges made after the report of a stolen credit card.

REPORT TO STATE AGENCIES

You should also report suspected violations of state and federal law to the Attorney General's Office. Contact information is listed on this brochure.

LAWSUITS

After you have done all of the above you should consult an attorney to see if you can sue for damages.

Where can I go for Help?

Consult an attorney if you think that your rights have been violated. Also contact the state agencies listed on this brochure. But remember that they can't give you legal advice about your particular situation. If you qualify, you can get **free legal advice** about your case through Inland Counties Legal Services.

Rights to Remember:

1. You can't be discriminated against in the extension or altering of credit on a prohibited basis.
2. You have to send written inquiries in 60 days from the erroneous bill.
3. A retailer has 60 days and a credit card company has 90 days to respond to the inquiry.
4. Once you send an inquiry your credit report can't show the disputed amount as a debt.
5. Statutory damages & attorney fees are available for violations of several federal laws.

Resources

Legal Services Corporation (www.lsc.gov) Their mission is to promote equal access to justice in our nation and to provide high quality civil legal assistance to low-income persons. 3333 K Street, NW, 3rd Floor Washington, DC 20007-3522 (202) 295-1500

California Attorney General (www.ag.ca.gov) Assistance and guidance in filing consumer complaints. (800) 952-5225

California Department of Consumer Affairs (www.dca.ca.gov) The department takes consumer complaints. (800) 952-5210

California Department of Corporations (www.corp.ca.gov) This department is where you report Banks or retailers for violating the law. (866) 275-2677 or 866 ASK CORP

Inland Counties Legal Services

Riverside Office: (951) 368-2555
Indio Office: (760) 342-1591
San Bernardino Office: (909) 884-8615
Rancho Cucamonga Office: (909) 980-0982
Victorville Office: (760) 241-7073

About This Publication

This publication was created by Inland Counties Legal Services (ICLS) Consumer Unit and made possible by a grant from the State Bar of California Equal Access Fund.

This Publication is NOT Legal Advice

This publication is a general overview of your rights and remedies dealing with Credit Cards. This is not legal advice. If you need specific legal advice you should consult an attorney. Changes in the law could effect the information in this guide.

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CREDIT CARD

PROTECTIONS IN CALIFORNIA AND WHAT ARE YOUR RIGHTS?



AND HOW TO DEFEND THEM

Inland Counties Legal Services
Consumer Unit
Serving Riverside and San Bernardino Counties

What Law Covers Credit Cards?

Also known as Open-End Credit, Credit Cards are covered by both state and federal laws. The California law covering Credit Cards is found in the Civil Code Section 1747-1748.7. Credit card transactions are also governed by Federal laws that include the Truth in Lending Act (TILA), the Fair Credit Billing Act (FCBA), the Equal Credit Opportunity Act (ECOA), and the Consumer Credit Protection Act (CCPA), among others.

WHAT FEES CAN BE CHARGED? MAXIMUM APR?

A credit card agreement is a contract between you and the bank issuing the card. So the rate is something you agree to with the Bank. Of course, you don't have much ability to negotiate the rate. The Bank offers a rate and you either accept it or reject it. States have usury laws restricting the amount of interest that can be charged on a loan. But the US Supreme Court allowed all banks everywhere to be able to charge rates far in excess of state usury laws in the mid 1980's. So state usury laws no longer restrict credit card interest rates.

WHAT CAN'T CREDIT CARD COMPANIES DO?

Credit card companies cannot discriminate in giving you credit on certain prohibited basis:

- Race/National Origin/Color
- Religion
- Sex/Marital Status/Age
- Public Assistance Income
- Exercising rights under Consumer Credit Protection Act
- Redlining

Redlining is the practice of rejecting credit to people in certain geographical areas or giving only high interest credit to people in certain geographical areas.

- Also, after granting credit a company can't discriminate in changes to your billing or account status on any of the above prohibited bases.
- Go more than 90 days before responding to your written inquiry about an error in your bill.

What can't retailers do?

Under California law retailers who accept your payment by means of a credit card can't do the following:

- Ask you to give personal information (address & phone number) on a credit card receipt unless you're making a deposit in case of future default, or for cash advances.
- Print more than the last five digits of the card on any receipt, unless handwriting is necessary to record the charge.
- Impose a surcharge for using a credit card.
- Go more than 60 days before responding to your written inquiry about an error in the bill.

Examples of Remedies under Federal Law

ECOA VIOLATIONS

If you think you have been discriminated against on one of the prohibited bases, you can sue in State or Federal Court under the ECOA. Under that federal law, you could win actual damages, punitive damages (up to \$10,000) equitable relief and attorney's fees.

TRUTH IN LENDING ACT (TILA) NOTICES

Credit Cards in California are also governed by the federal Truth in Lending Act which is a law that requires the reporting of all finance charges and the expression of all charges as an Annual Percentage Rate or APR on the loan. Specifically, credit card issuers must give you:

1. A full disclosure of the total amount of any fees charged for the deferred deposit transaction, expressed both in United States currency and as an APR as required under the Federal Truth In Lending Act and its regulations.
2. A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations.

While the state law requires an APR calculation only as an example, TILA requires that you be given a specific and accurate calculation of the APR of the loan based on all finance charges. TILA notice requirements are extremely important, because they give you the right to rescind the contract. Normally you have three days to rescind the loan agreement if you received the TILA notices at the time you signed. HOWEVER, if you didn't receive the TILA notices you may be able to rescind for up to three (3) years and get your finance charges returned.

How do you know if your interest payment is being calculated correctly?

How is Interest Calculated:

The general calculation formula most financial institutions use to determine the amount of interest to be charged is $APR/100 \times ADB/365 \times \text{number of days revolved}$. Take the Annual Percentage Rate (APR) and divide by 100 then multiply to the amount of the average daily balance divided by 365 and then take this total and multiply by the total number of days the amount revolved before payment was made on the account.

True Actuarial Average Daily Balance

Periodic interest rate x (previous monthly balance + purchases - payments - credits), weighted as of the day they occurred.

Ending Balance

Periodic rate x (previous monthly balance + purchases - credit - payments).

Straight Average Daily Balance

Periodic rate x (previous monthly balance + purchases - payments - credits) weighted as of the day they occurred, unless previous balance is paid in full.

Previous Balance

Periodic rate x (previous monthly balance before addition of purchases or subtraction of credits).

Modified Average Daily Balance

Periodic interest rate x (previous monthly balance - payments - credits), weighted as of the day they occurred.

Adjusted Balance

Periodic interest rate x (previous monthly balance - payments - credits).