

September 17, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex M)
600 Pennsylvania Avenue NW
Washington, DC 20580

Re: Comments to FTC's Request for Information from the Public, Summary of Rights and Notices of Duties Under the Fair Credit Reporting Act; Proposed Rule; Request for Comment

These comments are written on behalf of the National Association of Professional Background Screeners (NAPBS), a national association that represents over 700 member companies engaged in employment and tenant background screening across the United States. Our member companies range from Fortune 100 companies to small local businesses, conducting millions of pre-employment and tenant background checks each year as part of the hiring and leasing process. It is important to note that many of our regular members, the pre-employment screening and tenant screening companies, are small businesses which employ less than 15 employees.

NAPBS' experience with the Federal Trade Commission (FTC or Commission) and the Fair Credit Reporting Act (FCRA or the Act) is extensive. Our knowledge of the requirements for compliance and enforcement of the FCRA is comprehensive, especially given that most members of NAPBS are consumer reporting agencies (CRAs). As such, we are committed not only to our own compliance responsibilities under the FCRA, but also in assisting our end-user customers and consumers with understanding their rights and obligations under the Act. It is with this knowledge and experience that we provide the following comments and suggestions.

With respect to the Supplementary Information section of the Proposed Rule, Section III. Request for Comments:

Summary of Rights (Appendix F)

NAPBS believes the existing Summary of Rights has been effective in informing consumers about their rights under the FCRA. While the current Summary of Rights properly defines terms such as "Consumer" and "Investigative Consumer Reports", and completely delineates the rights of consumers under the FCRA, we are concerned that not all of a consumer's rights are captured in the proposed version. We are further concerned that several terms in the proposed version are not accurate and may in fact create unnecessary confusion.

First, the proposed version does not include all of the rights that a consumer has with respect to his/her consumer report. For example, the proposed version **does not** clearly and sufficiently describe a consumer's ability to dispute inaccurate consumer report information with both the furnisher of the information and with the CRA.

Second, while it is useful to provide a reference to the FTC's website for additional information about disputing errors, this will only be successful **if** the consumer has access to a computer with internet access. Further, removing the list of Federal Agencies from the document and making it available on the FTC's website does not appear to eliminate the requirement in the Act that CRAs must still provide this information, thereby causing further confusion and making additional disclosures necessary. If the consumer does not have access to a computer with internet access, the proposed Summary of Rights document does not adequately inform a consumer of his or her rights to dispute the accuracy of a report. Because many consumers may not have access to a computer with internet access, we feel strongly that such a change is not an effective means to communicate Federal agencies' contact information, and recommend that this information be kept in the final document.

Third, the proposed Summary of Rights does not delineate the terms Consumer Reporting Agency and Credit Reporting Agency; nor does it properly distinguish between what is a Consumer Report versus an Investigative Consumer Report or Credit Report. And finally, it does not properly define who should be contacted in the event of a dispute of either type of report. While we appreciate the Commission's goal at creating a user-friendly document, we believe encompassing the terms "credit report" and "consumer report" actually creates confusion and will lead to consumers not understanding that they have certain rights with respect to non-credit information in a report, for example, criminal history or employment/education verification information. We are especially concerned that consumers will not know that they can dispute inaccuracies in their criminal history by the use of the word "credit report" to envelop all reports in the proposed document. Moreover, such language could lead a consumer to conclude that he or she would find out about criminal history from one of the three credit bureaus as opposed to contacting the appropriate consumer reporting agency who has access to criminal information.

Additionally, the proposed revised Summary of Rights' use of the term "credit report" to describe a consumer report under the FCRA **is not** accurate. A credit report is a very specific type of consumer report that contains information on a consumer and his or her ability to repay a debt. There are many more Consumer and Investigative Consumer Reports governed by the FCRA that are not identified properly in the proposed revised Summary of Rights. In fact, they are identified incorrectly when referred to as a credit report. NAPBS represents over 700 member companies nationwide that provide Consumer and Investigative Consumer Reports to the End-User community and there are only three Credit Bureaus who compile credit data contained in a "Credit Report".

Therefore, NAPBS recommends the use of the word "Report" when referring to reports generically instead of the term "Credit Report" and the use of the term "Credit Report" only when referring to a credit report to avoid any inadvertent confusion. The Commission's desire to simplify the language in the proposed revised version of the Summary of Rights is also evident in the terminology "consumer reporting companies". As the Commission knows, the FCRA defines Consumer Reporting Agencies as

“Agencies” and not “Companies”. While not as egregious an example as the use of credit reports versus consumer reports, the use of “consumer reporting companies” may lead to consumer confusion and may make it difficult to interpret and enforce the FCRA. While we recognize we are all “companies” in the broader sense, the FCRA does define many NAPBS member companies as consumer reporting agencies.

Fourth, we believe it **would not** be more effective to create a separate model Summary of Rights to send to consumers who request reports that contain non-credit information as having multiple documents would make it confusing and burdensome for End-Users to comply with notice requirements and confusing for consumers who may be subject to multiple report types (Credit Report, Criminal History, etc.) in a single event who wish to dispute accuracy.

Conclusion

NAPBS feels strongly that the existing Summary of Rights is a model document that has been used effectively by CRAs, Credit Bureaus, End-Users and Consumers since its creation. While we understand the Commission’s goal to make this document more understandable we feel strongly that the proposed version has been oversimplified to the point of creating confusion.

We appreciate the opportunity for our comments to be considered by the FTC. Attached is a PDF version of the proposed revised Summary of Rights with NAPBS specific comments section-by-section for your consideration.

Sincerely,

Laura Randazzo, Chair
National Association of Professional Background Screeners



Para información en español, visite www.ftc.gov/informesdecredito o llame gratuitamente al 1-877-382-4357.

Your Rights Under the Fair Credit Reporting Act



If you've ever applied for a credit card, a loan or insurance, there's a file about you called a credit report. Your credit report has information on where you have lived, whether you pay your bills on time and how much you owe to creditors, and whether you've been sued or filed for bankruptcy. Consumer reporting companies maintain files about you and sell the information in them to creditors, insurers, employers and other businesses that, in turn, use the information to evaluate your applications for credit, insurance, employment or a lease.



The federal Fair Credit Reporting Act (FCRA) gives you the right to:

- ➔ GET your credit report 
- ➔ GET your credit score
- ➔ FIX mistakes in your credit report 
- ➔ STOP pre-approved offers of credit

➔ GET YOUR CREDIT REPORT

- You can get a free credit report every 12 months from each of the three nationwide consumer reporting companies — Equifax, Experian and TransUnion. To order, visit www.annualcreditreport.com or call 1-877-322-8228.
- You can contact any consumer reporting company to get an additional free credit report if:
 - you are the victim of fraud;
 - you are on public assistance; or
 - you are unemployed but expect to apply for employment within 60 days.
- You can get a free credit report if someone has taken action against you, such as denying credit, because of information in your credit report. You should get a notice that includes information about how to get your free report so you can make sure the information used to take action against you is accurate. 
- You can get a free report every 12 months from nationwide specialty consumer reporting companies that sell a specific type of information about you, like your check-writing, rental, insurance or medical history.
- You can always buy a copy of your report from any consumer reporting company. 

Summary of Comments on Summary of Rights and Notices of Duties Under the Fair Credit Reporting Act; Proposed Rule; Request for Comment


Page: 1

Sequence number: 1

Author: bidziak

Subject: Note

Date: 9/16/2010 6:00:00 PM


 If you've ever applied for a credit card, a loan, insurance, a job or a lease, there's a file about you called a consumer report or credit report. Your report may have information on where you have lived and worked, whether you pay your bills on time and how much you owe to creditors, whether you've been sued or filed for bankruptcy, and criminal history. Consumer Reporting Agencies (Companies) maintain files...

Sequence number: 2

Author: bidziak

Subject: Note

Date: 9/2/2010 10:52:32 AM


 GET your report

Sequence number: 3

Author: bidziak

Subject: Note

Date: 9/2/2010 10:52:49 AM


 FIX mistakes in your report

Sequence number: 4

Author: bidziak

Subject: Note

Date: 9/2/2010 10:53:14 AM


 GET YOUR REPORT

Sequence number: 5

Author: bidziak

Subject: Note

Date: 9/2/2010 10:56:25 AM


 You can get a free report if someone has taken action against you, such as denying credit, insurance, employment or lease because of information in your report.

Sequence number: 6

Author: bidziak

Subject: Note


Date: 9/2/2010 10:57:52 AM

 You can always buy a copy of your credit report from any consumer reporting company that makes them available for purchase.

→ GET YOUR CREDIT SCORE

- Your credit score is a number that reflects the information in your credit report. It can affect whether you get a loan and how much you will have to pay for the loan. You can order a credit score from consumer reporting companies that create or distribute scores. You may have to pay for your credit score.


→ FIX MISTAKES IN YOUR CREDIT REPORT

- Contact the consumer reporting company that provided the report and ask for an investigation.
- Write a letter to the company that provided the information about you (such as your credit card company), tell them about the mistake, and ask them to correct it.
- Inaccurate, incomplete, or unverifiable information must be corrected or deleted, usually within 30 days.
- Accurate negative information stays in your credit report for seven years as long as it can be verified, even if you have paid the debt. Bankruptcies can be reported for 10 years; criminal convictions can be reported indefinitely.
- For more information about how to fix mistakes in your credit report, visit www.ftc.gov/credit. 

→ STOP PRE-APPROVED OFFERS OF CREDIT

- Companies may use your credit report to send you “pre-approved” offers of credit or insurance that you did not ask for. You may choose to stop these offers by calling **1-888-5-OPTOUT (1-888-567-8688)**. You may have to provide your Social Security Number to ensure proper identification.
- Put your phone number on the national Do-Not-Call registry to stop most telephone sales calls. To register, visit www.ftc.gov/donotcall or call **1-888-382-1222**.

ADDITIONAL RIGHTS:

- You must agree in writing before a consumer reporting company can give out information in your credit report to your employer or to a potential employer. For more information about credit reports and employment, visit www.ftc.gov/credit. 
- You have a right to sue in federal or state court for certain violations of the FCRA.
- Identity theft victims and active duty military personnel have additional rights. For more information, visit www.ftc.gov/idtheft.
- State law may give you other rights; contact your state or local consumer protection agency or your state Attorney General for information (www.naag.org).


Page: 2

Sequence number: 1

Author: bidziak

Subject: Note

Date: 9/2/2010 11:10:12 AM

 FIX MISTAKES IN YOUR REPORT

Sequence number: 2

Author: bidziak

Subject: Note

Date: 9/2/2010 11:10:59 AM


 For more information about how to fix mistakes in your report, visit www.ftc.gov/credit.

Sequence number: 3

Author: bidziak

Subject: Note

Date: 9/2/2010 11:12:07 AM

 You must agree in writing before a consumer reporting company can give out information in your report to your employer or to a potential employer. For more information about reports and employment, visit www.ftc.gov/credit.

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- You can contact any consumer reporting company to get an additional free credit report if:
 - you are the victim of fraud;
 - you are on public assistance; or
 - you are unemployed but expect to apply for employment within 60 days.
- You can get a free credit report if someone has taken action against you, such as denying credit, because of information in your credit report. You should get a notice that includes information about how to get your free report so you can make sure the information used to take action against you is accurate.
- You can get a free report every 12 months from nationwide specialty consumer reporting companies that sell a specific type of information about you, like your check-writing, rental, insurance or medical history.
- You can always buy a copy of your report from any consumer reporting company.

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 - you are on public assistance; or
 - you are unemployed but expect to apply for employment within 60 days.
- You can get a free credit report if someone has taken action against you, such as denying credit, because of information in your credit report. You should get a notice that includes information about how to get your free report so you can make sure the information used to take action against you is accurate.
- You can get a free report every 12 months from nationwide specialty consumer reporting companies that sell a specific type of information about you, like your check-writing, rental, insurance or medical history.
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- Identity theft victims and active duty military personnel have additional rights. For more information, visit www.ftc.gov/idtheft.
- State law may give you other rights; contact your state or local consumer protection agency or your state Attorney General for information (www.naag.org).

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