

Credit, Consumer Protection and Finances



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Credit, Consumer Protection and Finances

As a consumer, you have rights that protect you against fraud and deceptive practices.

Women should be aware of their rights under a number of different federal and state laws and regulations regarding consumer and credit issues. Women should also be aware of their responsibilities. Signing your name is a significant power that can lead to serious obligations. When you are considering a transaction that requires your signature, be sure that you:

- Understand what you are signing;
- Check that the writing contains all the important things you have discussed;
- Are not rushed;
- Ask questions;
- Never sign anything with blanks;
- Know the total cost of the transaction;
- Get a copy of what you are signing.

For more specific information on issues that may be important to you, go to www.consumer.gov or www.federalreserve.gov/pubs/consumerhdbk/cost.htm.

Credit

Credit is the privilege of using money, goods, or services before you pay for them. A creditor grants a “creditworthy” applicant the right to defer payment for money lent or goods and services purchased until a later agreed-upon date. “Creditworthiness” is determined by the applicant’s income, ability to repay the loan, past credit history, and other debts and assets.

The credit laws do not guarantee that a woman will receive credit in all situations; however, the laws do require that the rules creditors use to take credit applications and decide whether to give credit are fair and non-discriminatory.

Federal Equal Credit Opportunity Act

Under the 1974 Equal Credit Opportunity Act (ECOA), with regard to any aspect of a credit transaction, it is unlawful for a creditor to discriminate on the basis of the applicant’s sex, marital status, race, color, religion, national origin, or age (provided the applicant has the capacity to contract); because of the applicant’s receiving public assistance; or because the applicant has exercised any right under the Consumer Credit Protection Act.

Lending institutions (like banks, credit unions, auto loan companies) are prohibited from bringing up, in the taking of applications for loans, certain specific subjects which lend themselves to discrimination. Lenders may not:

- Make oral or written statements that would discourage a reasonable person from pursuing an application for credit;
- Ask whether or not you have or will have children. (Although inquiring as to the number and age of dependents is proper).
- Ask whether or not there exist child care problems.
- Ask whether or not there will be interruptions of income due to childbirth.
- Request a courtesy title (Mrs., Miss, Ms.) unless the application discloses that this request is optional;
- Ask about marital status if the credit requested is for a separate, unsecured loan;
- Ask whether you are widowed, divorced, or single. (Allowable designations are: married, unmarried, separated).
- Ask whether or not your telephone number is listed.
- Ask whether or not you are receiving alimony, child support or separate maintenance. (Unless voluntarily disclosed as a source of additional income which you wish to be considered).
- Refuse to consider alimony and child support as income if they are likely to be regularly made;
- Consider the submission of a joint financial statement to be an application for joint credit.



Lenders must:

- Take and report action on your application "within a reasonable time."
- Give reasons for denial of your application if asked.
- If the denial was based completely or partly on information contained in a credit report provided by a credit reporting agency, notify the applicant that this happened, provide information so the applicant can contact the agency, and indicate that the applicant is entitled to a free report from that agency.

Upon a woman's divorce, retirement, or the death of her spouse, a creditor cannot terminate an account, change the terms of an account, or require reapplication unless the creditor has evidence of the woman's unwillingness or inability to repay the debt. However, a creditor may require reapplication for an account if the credit granted was based in whole or in part on the income of a woman's deceased or ex-spouse and the creditor has information to indicate that the woman's income alone is not sufficient to support the amount of credit currently available.

If a woman requests secured credit, a creditor may require the signature of her spouse on any instrument necessary to make the property being offered as collateral for the loan available to satisfy the debt in the event of default.

Creditors are required to report all joint accounts of spouses in the names of both spouses to credit reporting agencies.

Fair Credit Reporting Act

If you have ever applied for a credit card, personal loan, or insurance, a credit reporting agency (CRA) has a file about you. These companies gather information and sell it to creditors, employers, insurers, and other businesses in the form of a document called a "credit report." There are three major nationwide credit bureaus: Equifax, Experian, and Trans Union. Credit bureaus collect and sell four basic types of information: your identification and employment information; your payment history on accounts with different creditors; a record of every

creditor who has asked for your credit history within the past year and every individual who has requested your credit history for employment purposes during the past two years; and all matters of public record, such as bankruptcies, foreclosures, or tax liens.

There are laws that give consumers the right to know what information credit bureaus and consumer reporting agencies are distributing about them to creditors, insurance companies and employers. The **federal FAIR CREDIT REPORTING ACT** provides that:

- You have the right to be told, at the time you apply for insurance, that a credit report will be ordered.
- If your application for credit or insurance is turned down or treated adversely in any way, you have the right to be told whether the decision was based in any way on information obtained by the investigating agency.
- You must be told where your credit file is located, and that you and another person (such as a lawyer) may inspect it at reasonable times.
- **You have the right to dispute incomplete or inaccurate information in your file.** You should report errors in writing both to the CRA and to the person or company who provided the information to the CRA. The CRA must investigate your complaint unless it determines your dispute to be frivolous. It must also forward all the relevant data you submit about the inaccuracy to the person or company that provided the information. This information provider must also conduct an investigation.
- If you suffer damages from mishandling of information, you can sue and recover.
- There are also criminal penalties.

The information contained in credit reports affects whether you will be able to get a loan or credit to buy goods and services, and it may influence decisions on whether you will be hired or insured. You may receive a copy of your credit report before you apply for a loan for a major purchase, buy insurance, or apply for a job. Doing so may help guard against identity theft.



The Fair and Accurate Credit Transactions Act

The Fair and Accurate Credit Transactions Act, signed into law in December 2003, gives every American the right to a free credit report every year from each of the three major credit bureaus. Equifax, Experian and TransUnion joined forces to offer a one-stop free credit report center. **Annual Credit Report Request Service** at www.annualcreditreport.com allows you to request, view and print one, two or all three of your free credit reports quickly via a secure Internet site. Or you can request the report by phone or mail (these will be processed within 15 days of receipt).

- Internet address: www.annualcreditreport.com
- Toll-free number: (877) 322-8228
- Mailing address: Annual Credit Report Request Service, P.O. Box 105281, Atlanta, GA 30348-5281

The bureaus stressed that this is the only service they have authorized for requesting your free annual report.

Debt Collection Practices

Federal consumer protection regulations (US Code: Title 15, Chapter 41) exist to protect consumers against unfair and deceptive debt collection practices. Many times companies hire collection companies to collect debt that consumers owe to them. This is called “third party collections” or “debt collectors.” In other words, the debt collector’s purpose is to collect debt for other people. If you have a “third party” collection agency calling you, you can get them to stop calling as long as you notify them in writing stating that you want them to stop calling you.

The collection agency can only call between the hours of 8 a.m. and 9 p.m. and if they know that you have a lawyer regarding this debt, they must contact the lawyer. The collection agency must not call you at your place of employment if it is forbidden by your employer.

Debt collectors are not permitted to harass you or engage in the following conduct:

- Use or threat of violence;

- Use of obscene language;
- They cannot publish your name as a consumer who refuses to pay debts (except to the credit reporting agencies); or
- Call you repeatedly or continuously with the intent to annoy or harass.

Bankruptcy

For individuals, there are two main kinds of bankruptcy:

- **Chapter 7** -- a bankruptcy where many, if not all, of your debts are cancelled outright in a short three- to six-month process.
- **Chapter 13** -- a bankruptcy where you use your income to make payments on your debts over the next three to five years.

In Chapter 7, the debtor’s assets are liquidated and distributed among creditors, and many remaining debts are discharged, or cancelled, leaving the debtor free to make a fresh start. (Some debts are not dischargeable, and secured debts like mortgages are not affected by bankruptcy.) In practice, most Chapter 7 filings are “zero asset” cases, where unsecured creditors get nothing. (Several types of assets are exempt from liquidation and cannot be distributed to creditors.)

In Chapter 13 bankruptcies, debtors with regular incomes agree to a plan to pay back some or all of their debt under court supervision over a period of several years. At the plan’s conclusion, remaining debts are discharged. An advantage of Chapter 13 for debtors is that a wider range of debts can be discharged than under Chapter 7. If the debtor is unable to complete the series of payments required by the Chapter 13 plan, the case may be dismissed or converted to Chapter 7. Upon dismissal, remaining debts are not discharged, unless the court finds that the debtor cannot justly be held accountable for failure to complete the plan, and creditors have received at least the amount of repayment they would have received under a Chapter 7 filing. Under the old law, the choice of chapters was left entirely up to the debtor.

New Bankruptcy Law: On October 17, 2005, a new Federal Bankruptcy Law took effect. The new law tight-



ens requirements for filers and for bankruptcy lawyers who handle their cases. A major goal under the new provisions is to shift filers from Chapter 7 ("straight") bankruptcy, in which consumer debt is typically liquidated, to Chapter 13 ("reorganization") bankruptcy, which requires that you repay secured and much unsecured debt within five years. No "clean start" in this case.

Here are some of the major changes under the new law:

- **The "Means Test"** - The means test calculates your monthly income minus certain allowable expenses. Each state uses its "median income" as a guide. If the balance left is more than about \$100 a month, the filing is considered abusive, unless you can show "special circumstances." If you don't meet the "means test," you may have to file Chapter 13 instead.
- **Stringent expense allowances** - Guidelines for allowable expenses are set by the IRS and are very conservative. For example, the food allowance is around \$200 per month and housing allowance about \$800.
- **Mandatory credit counseling** - You must undergo credit counseling within six months before filing for bankruptcy relief and to complete a financial management instructional course after filing bankruptcy.
- **More paperwork** - In the new "get tough" environment, consumers will have to provide a lot more documentation to show that bankruptcy is warranted. The American Bankruptcy Institute lists some of the proof debtors must provide: a list of secured and unsecured creditors; documentation of credit counseling; monthly income and expenses; assets and liabilities; most recent tax return and any earlier returns that were not filed; pay stubs and photo ID.
- **More expensive legal fees** - The burden on bankruptcy lawyers has also increased under the new statute. Besides merely gathering the facts from a client, an attorney must now "certify" that a client's numbers are accurate. If they aren't, both lawyer and client could face sanctions. So, in effect, your lawyer must do more fact-checking and investiga-

tion to assure that both your information and his/her own certification is above-board. This takes time, which translates into money. Many lawyers are getting out of bankruptcy practice, not wanting to put their careers on the line for filing cases that don't pay very well anyway.

- **Filing fee changes** - The cost for filing a Chapter 7 bankruptcy is \$274. This fee may not be waived but you may be able to pay it in installments. The fee of \$189 for a Chapter 13 bankruptcy can not be waived. (Wyomingbankruptcy.com)
- **Valuation increases—replacement value** - The law provides that "collateral," which includes your furniture, clothes, autos and electronics, be assessed at a higher value than under the previous law. Replacement value is the new amount used to value your personal property. Chances are, by the time you add up the total value of your possessions using this formula, it will be pretty high.
- **You'll wait longer to file again** - The new law provides that, under Chapter 7, **eight years** must elapse before you can re-file. If you go for Chapter 13 after a Chapter 7, you must wait four years. Going from one Chapter 13 to another, two years must elapse.
- **Last minute luxuries** - The new law requires that any luxury items purchased within 60 days of filing for bankruptcy be repaid in full. Likewise for cash advances and services worth more than \$500.
- **Student loans** - Under the old law, you couldn't get rid of student loans backed by the government or a non-profit. This protection has been extended to private lenders as well.

NOTE: Bankruptcy and Divorce: Alimony, maintenance, and/or support are protected from discharge. Divorce decrees and separation agreements are covered by 11 U.S.C. Section 523(a)(15). This section states that these debts are not dischargeable unless:

- (A) the debtor does not have the ability to pay such debt from income or property of the debtor not reasonably necessary to be expended for the maintenance or support of the debtor or a dependent of the debtor and, if the debtor is engaged in a business, for the payment of expenditures necessary for the continu-



ation, preservation, and operation of such business;
or

(B) discharging such debt would result in a benefit to the debtor that outweighs the detrimental consequences to a spouse, former spouse, or child of the debtor.

For more information go to WyomingBankruptcy.com.

Wyoming bankruptcy attorneys can be located by contacting the Wyoming State Bar association's Lawyer Referral Service and requesting a referral to an attorney who practices in the area of consumer bankruptcy law.

Wyoming State Bar
Cheyenne, WY
(307) 632-9061
Consumer Protection

Consumer Protection

Consumer Protection Unit
123 State Capitol
Cheyenne, WY 82002

To request a complaint form, please access one of the following forms of contact:

E-mail: baylwa@state.wy.us

Phone: 307-777-7874 Toll Free: 800-438-5799
FAX: 307-777-7956

Telemarketing and Home Solicitation Sales

One of the most frequently experienced consumer interactions occurs when someone calls to try to sell goods and services over the telephone. This is called “telemarketing” or “telephonic home solicitation sales.”

Under Wyoming law (**W.S. 40-12-101** - Wyoming Consumer Protection Act), the “home solicitor” (seller) must obtain your signature, along with the date of the sale, on a written agreement which is in the same language used in the sales presentation; contains the name and address of the seller; and has a statement of your right to cancel the sale.

Under Wyoming law, you have a right to a full refund if you comply with the following rules:

- You notify the seller by midnight of the third business day after the day on which the buyer signs an agreement or offer to purchase and is furnished with a copy of the completed, approved, and accepted contract;
- You notify the seller in writing at the address stated in the sales contract; and
- When you return the goods they must be in substantially as good a condition as when you received it from the seller.

Do not, under any circumstance, give your social security number, bank account numbers, or credit card numbers to anyone ***calling you***. If the caller is legitimate (your bank, credit card company, etc.) they will never expect you to give this information over the telephone. However, if you call their offices you may have to disclose the last four digits of your account number or social security number.

The "No-Call" Law

Now it is possible to place your telephone number and cellular phone numbers on a list so that you will not receive most types of telemarketing calls.

The "No-Call" law requires most telemarketers to refrain from calling residential or wire-less telephone or pager numbers that have been enrolled in the Direct Marketing Association's (DMA) Telephone Preference Service (TPS). The law also requires telemarketers to disclose the purpose of the call (to sell something) and to identify the business on whose behalf they are calling.

You must contact the DMA and request that your number be included on the TPS list. You can visit the DMA's web site at www.the-dma.org/consumers/ (go to the consumer assistance page) to submit your request electronically. The national Do Not Call List is available at: www.DoNotCall.com. This website allows you to include your numbers on the list and gives information about how to report an organization if they violate the law.



There are exceptions for telemarketers with whom you already have a business relationship and for businesses making less than 225 telephone solicitation calls per year, therefore, you will probably continue to receive some calls from telemarketers. Political campaigns and non-profit organizations (charitable contributions) are exempt from the do not call list and are permitted to call you during the hours specified even if you are on the list.

The Wyoming Attorney General's Office enforces the "No-Call" law. If you have enrolled your number on the TPS list at least 60 days prior to receiving a call from a telemarketer, you can file a complaint with the Attorney General. If you wish to file a complaint, please download one from the Attorney General's consumer protection website or request the Telephone Solicitation Complaint Form, complete it and return it to the Wyoming Attorney General's Office, Consumer Protection Unit, 123 Capitol, Cheyenne, WY 82002, **Phone: 307-777-7874 Toll Free: 800-438-5799**.

Contests and Prizes

If you get an e-mail saying you won something -- and you didn't enter -- you should just delete it. This is a common scam.

Under Wyoming law (**W.S. 40-12-201, 202-209**) a solicitor cannot request nor accept a payment from you in any form until you receive a written prize notice that contains the following information:

- The name and address of the solicitor and sponsor;
- The verifiable retail value of each prize;
- Any requirements they may have for you to receive the prize, such as attending sales presentations;
- Any shipping and handling fees—these fees must be clearly marked in dollars and cents; and
- Any limitations on eligibility or other restrictions on you receiving the prize.

See **W.S. 40-12-201 et seq.** <http://legisweb.state.wy.us/statutes/titles/title40/c12a02.htm>.

Payday Loans

What is a payday loan?

A cash advance loan secured by a personal check - such as a payday loan - is very expensive credit. Let's say you write a personal check for \$115 to borrow \$100 for up to 14 days. The check casher or payday lender agrees to hold the check until your next payday. At that time, depending on the particular plan, the lender deposits the check, you redeem the check by paying the \$115 in cash, or you roll-over the check by paying a fee to extend the loan for another two weeks. In this example, the cost of the initial loan is a \$15 finance charge and 391 percent APR. If you roll-over the loan three times, the finance charge would climb to \$60 to borrow \$100.

- Federal Trade Commission

- Payday loan companies, in the business of "regularly" extending credit to consumers, must adhere to the *Truth In Lending Act* (15 USC 1601). Depending on how many days you will need to repay the loan you will pay an APR ranging from 295% - 886.43%. Often, the quicker you pay off the loan, the higher the APR. Wyoming law limits finance charges to the greater of \$30.00 or 20% per month on the principal balance. **W.S. 40-14-363**

Although they are required to disclose the finance charge and the annual percentage rate, the contracts are usually very difficult to understand.

For more information and alternative options, visit www.ftc.gov/bcp/online/pubs/alerts/pdayalrt.htm.

Resources:

National Foundation for Credit Counseling
<http://www.nfcc.org/>

Consumer Credit Counseling Services
<http://www.cccsintl.org/>

The Credit Counseling Professionals
<http://www.consumercredit.com/>



Credit Counseling Services

<http://www.consolidatedcredit.org/>

Wyoming

Department of Audit Division of Banking

Hershler Building 3rd Floor

East Cheyenne, WY 82002

phone: (307) 777-7797

<http://audit.state.wy.us>

Rent To Own Companies

There has been an explosion of Rent-To-Own companies in the last decade. These companies serve the purpose of allowing people to rent furniture, appliances, etc., for a weekly or monthly term, which makes it appealing to consumers who do not have enough money to buy the items with cash or credit card. Consumers must be aware that Rent-To-Own companies are **NOT** covered by the *Truth In Lending Act*.

In Wyoming, the following disclosures are required for Rent-To-Own contracts:

- Whether the payment is weekly, monthly, or otherwise;
- The dollar amount of each payment and the total number of payments necessary to own the item;
- A statement that the consumer will not own the property until the consumer has paid the total amount due;
- Disclosure of the cash sale price of the property;
- Other fees shall be separately disclosed and explained;
- Clear statement of the terms of the option to purchase;
- Clear statement that consumer may terminate without penalty by return of the property in "good repair" with reasonable wear and tear expected;
- Notice that the consumer may reinstate the agreement;
- Notification if the property is NEW or USED;
- Conditions that would be considered a "default."

Wyoming's Lemon Law

You have the right to return your car for a new one or an adjusted refund, if it turns out that you have purchased a "lemon." This is defined under Wyoming law (**W.S. 40-17-101**) as a motor vehicle that does not conform to the manufacturer's written warranty and which, after a "reasonable number of attempts," cannot be properly repaired.

A reasonable number of attempts are considered to have been taken if either:

- You have taken the car in to be repaired for the same problem at least three times, as long as the first attempted repair occurred within the first year after purchase, or
- Your vehicle is out of service for a total of 30 or more days during the warranty period.

Identity Theft

Despite your best efforts to manage the flow of your personal information or to keep it to yourself, skilled identity thieves may use a variety of methods to gain access to your data.

They get information from businesses or other institutions by:

- They may steal personal information from you through email or phone by posing as legitimate companies and claiming that you have a problem with your account. This practice is known as "phishing" online, or pretexting by phone.
- Stealing records or information while they're on the job.
- Bribing an employee who has access to these records.
- They may steal your mail, including bank and credit card statements, credit card offers, new checks, and tax information.
- They may rummage through your trash, the trash of businesses, or public trash dumps in a practice known as "dumpster diving".
- They may get your credit reports by abusing their employer's authorized access to them, or by posing



as a landlord, employer, or someone else who may have a legal right to access your report.

- They may steal your credit or debit card numbers by capturing the information in a data storage device in a practice known as "skimming." They may swipe your card for an actual purchase, or attach the device to an ATM machine where you may enter or swipe your card.
- They may steal your wallet or purse.
- They may complete a "change of address form" to divert your mail to another location.
- They may steal personal information they find in your home.

Once identity thieves have your personal information, they use it in a variety of ways (**W.S. 6-3-901**).

If an identity thief is opening credit accounts in your name, these accounts are likely to show up on your credit report. To find out, order a copy of your credit reports (see above for more information for how to order a credit report).

Pretexting

Pretexting is the practice of getting your personal information under false pretenses. Pretexters sell your information to people who may use it to get credit in your name, steal your assets, or to investigate or sue you. Pretexting is against the law.

Pretexters use a variety of tactics to get your personal information. For example, a pretexter may call, claim he's from a survey firm, and ask you a few questions. When the pretexter has the information he wants, he uses it to call your financial institution. He pretends to be you or someone with authorized access to your account. He might claim that he's forgotten his checkbook and needs information about his account. In this way, the pretexter may be able to obtain personal information about you such as your Social Security number, bank and credit card account numbers, information in your credit report, and the existence and size of your savings and investment portfolios.

Keep in mind that some information about you may be a matter of public record, such as whether you own a home, pay your real estate taxes, or have ever filed for bankruptcy. It is not pretexting for another person to collect this kind of information.

By law (**W.S. 6-3-901a,b**), it's illegal for anyone to:

- use false, fictitious or fraudulent statements or documents to get customer information from a financial institution or directly from a customer of a financial institution.
- use forged, counterfeit, lost, or stolen documents to get customer information from a financial institution or directly from a customer of a financial institution.
- ask another person to get someone else's customer information using false, fictitious or fraudulent statements or using false, fictitious or fraudulent documents or forged, counterfeit, lost, or stolen documents.

Wyoming's Credit Freeze Law:

If you've lost personal information or identification, or if it has been stolen from you, taking certain steps quickly can minimize the potential for identity theft. Effective July 1, 2007, Wyoming passed the *Credit Freeze Law* which allows consumers who suspect identity theft to place a security freeze on their credit report for free. This freeze prohibits third parties from accessing your credit report for the purposes of determining eligibility for credit or opening new accounts without prior approval from the consumer. To place a security freeze in Wyoming visit: www.consumersunion.org/pdf/security/securityWY.pdf

Multilevel Marketing Plans

Multilevel marketing plans, also known as "network" or "matrix" marketing, are a way of selling goods or services through distributors. These plans typically promise that if you sign up as a distributor, you will receive commissions -- for both your sales of the plan's goods



or services *and* those of other people you recruit to join the distributors. Multilevel marketing plans usually promise to pay commissions through two or more levels of recruits, known as the distributor's "downline."

If a plan offers to pay commissions for recruiting new distributors, *watch out!* Most states outlaw this practice, which is known as "pyramiding." Wyoming laws against pyramiding say that a multilevel marketing plan should only pay commissions for retail sales of goods or services, not for recruiting new distributors (**W.S. 40-3-106**).

To Complain/For More Information

The FTC works for the consumer to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint or to get free information on consumer issues, visit www.ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.