

FTC Facts

For Consumers

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FEDERAL TRADE COMMISSION
FOR THE CONSUMER

www.ftc.gov ■ 1-877-ftc-help

‘File Segregation’: New ID Is a Bad Idea

If you have filed for bankruptcy, you may be the target of a credit repair scheme called “file segregation.” In this scheme, you are promised a chance to hide unfavorable credit information by establishing a new credit identity. That may sound perfect, especially if you’re afraid that you won’t get any credit as long as bankruptcy appears on your credit record.

The problem: “File segregation” is illegal. If you use it, you could face fines or even a prison sentence.

THE PITCH: A NEW CREDIT IDENTITY

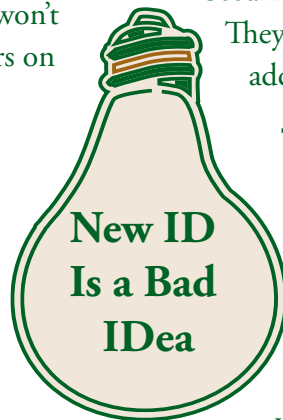
If you have filed for bankruptcy, you may receive a letter from a credit repair company that warns you about your inability to get credit cards, personal loans, or any other types of credit for 10 years. For a fee, the company promises to help you hide your bankruptcy and establish a new credit identity to use when you apply for credit. These companies also make pitches in classified ads, on radio and TV, and even over the Internet.

If you pay the fee and sign up for the service, you may be directed to apply for an Employer Identification Number (EIN) from the Internal Revenue Service (IRS). Typically, EINs — which resemble Social Security numbers — are used by

businesses to report financial information to the IRS and the Social Security Administration.

After you receive your EIN, the credit repair service will tell you to use it in place of your Social Security number when you apply for credit.

They’ll also tell you to use a new mailing address and some credit references.



THE CATCH: FALSE CLAIMS

To convince you to establish a new credit identity, the credit repair service is likely to make a variety of false claims. Listen carefully; these false claims, along with the pitch for getting a new credit identity, should alert you to the possibility of fraud. You’ll probably hear:

You will not be able to get credit for 10 years (the period of time bankruptcy information may stay on your credit record).

Each creditor has its own criteria for granting credit. While one may reject your application because of a bankruptcy, another may grant you credit shortly after you filed for bankruptcy or successfully completed a bankruptcy repayment plan. And, given a new reliable payment record, your chances of getting credit will probably increase as time passes.

The company or “file segregation” program is affiliated with the federal government.

The federal government does not support or work with companies that offer such programs.

The “file segregation” program is legal.

It is a federal crime to make any false statements on a loan or credit application. The credit repair company may advise you to do just that. It is a federal crime to misrepresent your Social Security number. It also is a federal crime to obtain an EIN from the IRS under false pretenses. Further, you could be charged with mail or wire fraud if you use the mail or the telephone to apply for credit and provide false information. Worse yet, file segregation likely would constitute civil fraud under many state laws.

RIGHTS UNDER THE CREDIT REPAIR ORGANIZATIONS ACT

This law prohibits false claims about credit repair and makes it illegal for these operations to charge you until they have performed their services. It requires these companies to tell you about your legal rights. Credit repair companies must provide this in a written contract that also spells out just what services are to be performed, how long it will take to achieve results, the total cost, and any guarantees that are offered. Under the law, these contracts also must explain that consumers have three days to cancel at no charge.

Under the law, you also have the right to sue in federal court. The law allows you to seek either your actual losses or the amount you paid the company — whichever is more. You also can seek “punitive” damages: sums of money to punish the company for

violating the law. The law also allows class actions in federal court: cases where groups of consumers join together in one lawsuit. If you win, the other side has to pay your attorney’s fees.

Many states have laws regulating credit repair companies, and may be helpful if you’ve lost money to credit repair scams.

If you’ve had a problem with a credit repair company, report the company. Contact your local consumer affairs office or your state attorney general (AG). Many AGs have toll-free consumer hotlines. Check with your local directory assistance.

You also may wish to contact the FTC. Although the Commission cannot resolve individual credit problems for consumers, it can act against a company if it sees a pattern of possible law violations. If you believe a company has engaged in credit fraud, you can file a complaint online at ftc.gov, or send your complaint to: Consumer Response Center, Federal Trade Commission, Washington, D.C. 20580.

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 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.

*Federal Trade Commission
Bureau of Consumer Protection
Division of Consumer and Business Education*