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Legal Alert

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Red Flag Rules Apply to Rental Property Owners and Managers

The Fair and Accurate Credit Transaction Act (FACTA) which amends the Fair Credit Reporting Act (FCRA), established guidelines referred to as “Red Flags Rule”, requiring financial institutions and creditors to address the risk of identity theft. The resulting Red Flags Rule requires all such entities that have “covered accounts” to develop and implement written identity theft prevention programs to help identify, detect, and respond to patterns, practices, or specific activities – known as “red flags” – that could indicate identity theft.

The Rules became effective on January 1, 2008, with full compliance for all covered entities required by January 1, 2011. Until recently, it was unclear whether or not these rules applied to residential and commercial property managers and owners. Recent amendments to the FCRA make it clear that rental property owners and managers are subject to the provisions of the Red Flags Rule. This was accomplished through the Red Flag Program Clarification Act of 2010, which amends the FCRA and sought to clarify which type of creditors are subject to the Red Flags Rule. On Dec. 18, 2010, President Obama signed the amendments into law.

This regulation also requires all users of consumer reports to create policies and procedures to verify consumer information when receiving a notice of address discrepancy from a consumer reporting agency (CRA).

There are several elements that must be satisfied when creating reasonable policies and procedures of a Prevention Program including training of relevant staff to implement the program.

Additional information on this topic and the relevant policies and procedures can be obtained through our comprehensive "Identity Theft Prevention Program" and "Red Flags" training seminar. Our prevention program and associated training seminar complies with FTC requirements and focuses on components relevant to property managers and owners. Interested parties should contact Susan Aguilar, Compliance & Special Projects Manager at 800-575-1770 x 149.

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