

The “Red Flag” Rule: What You Need to Know

By Mike Lapsley, president and CEO of RentGrow, Inc

As of November 1, the “Red Flag” rule requires mandatory compliance, so it’s important to spend some time discussing the rule, including what it is and what it means for you.

The “Red Flag” Rule— In Plain English

The full title is this: “Identity Theft Red Flags and Address Discrepancies under the Fair and Accurate Credit Transactions Act of 2003” (FACT). It amends the Fair Credit Reporting Act (FCRA).

The rule was written specifically for companies making loans, such as banks and commercial lending institutions, but a portion of it extends to rental property owners and managers since both rely on consumer reports (e.g. credit) that (1) ask for sensitive information, such as social security numbers, and (2) could turn up address discrepancies. The philosophy behind this rule is simple: sensitive information must be kept secure to prevent identity theft, and a discrepancy in address could indicate fraud.

The rule requires that “reasonable” policies be in place to prevent

identity theft and to verify a person’s identity when an address discrepancy is reported. In the case of address discrepancy, if the property manager can’t work out the discrepancy, the rule says he/she is not to rent to this individual.

What the Red Flag Rule Means for Rental Owners & Property Managers

While the rule has caused some confusion, compliance is straightforward. More than likely, you’re probably already in compliance since the only thing that rental owners or property managers have to show is that they have a “reasonable” process in place for preventing identity theft and for checking IDs, verifying IDs, and following up/asking about any discrepancies.

For example, how do you destroy electronic and paper records that contain sensitive information? Or how about this: if someone gives one address on his or her rental application, but the license lists another address, what’s your policy for handling this situation? As long as you have reasonable policies in place, you’re in compliance.

Do I need to create a special report if I suspect fraud?

The other commonly asked question about the Red Flag rule (beyond “how do I comply”) is this: do we need to report suspected fraud? The answer—for better or worse—is no. If you believe someone is trying to perpetrate a fraud, there’s no requirement beyond not renting to this individual.

Still Unsure About the Red Flag Rule? Contact Your Screening Partner

Laws, rules, and amendments result in legitimate questions and concerns, so we understand people’s trepidation regarding the Red Flag rule. While it’s true that you’re likely already in compliance, it can’t hurt to contact your screening partner and ask to review with them your policies and systems.

The information in this newsletter should not be

construed as legal advice. Always consult an attorney for questions regarding legal matters and compliance.

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