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Governor

STATE OF NEVADA
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DIANNE CORNWALL
Director

JOSEPH L. WALTUCH
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To: All Licensed Mortgage Brokers Engaging in Private Investor Loans

Re: Truth in Lending Act and Regulation Z Compliance

The Division has noticed that as credit has constricted in the marketplace due to the elimination of stated income and low or no documentation loans, individual borrowers (particularly those working in the gaming industry who receive a large percentage of their income in cash, and individuals who otherwise have difficulty in documenting their income) are increasingly turning to private investor loans for their credit needs. These needs include both the purchase of principal dwellings and the refinance thereof.

The purpose of this notice is to remind licensees who engage in private investor loans secured by residential real estate that a determination must be made before the loans fund as to whether the provisions of the Truth in Lending Act ("TILA") and its implementing regulation, Regulation Z, apply to these types of transactions.

In particular, the Division is advising all licensees who engage in private investor loans to determine the "creditor" status of its private investors before brokering loans that are secured by residential dwellings. An improper categorization may result in a violation of TILA and Regulation Z, and violations of that law can be substantial, especially if the loan is a high cost loan. Penalties and/or action by the Division against the broker may also be imposed.

If licensees believe that they need legal advice, they should seek that advice from private legal counsel at their own cost before entering into or brokering a private investor loan that is secured by a residential dwelling.

Joseph L. Waltuch
Commissioner