

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Finance:

IDAPA 12.01.09 - Rules Pursuant to the Idaho Credit Code - Proposed Rule (Docket No.
12-0109-1901).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 10/24/2019. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/22/2019.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Principal Legislative Drafting Attorney - Ryan Bush

DATE: October 4, 2019

SUBJECT: Department of Finance

IDAPA 12.01.09 - Rules Pursuant to the Idaho Credit Code - Proposed Rule (Docket No. 12-0109-1901)

Summary and Stated Reasons for the Rule

The Department of Finance submits notice of proposed rulemaking at IDAPA 12.01.09 - Rules Pursuant to the Idaho Credit Code. This rule change updates references to federal law and regulations relating to consumer credit protection.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and notice was published in the August edition of the Idaho Administrative Bulletin. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule appears to be within the statutory authority granted to the Department in Section 28-46-104, Idaho Code.

cc: Department of Finance
Lisa Baker

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

IDAPA 12 – DEPARTMENT OF FINANCE
12.01.09 – RULES PURSUANT TO THE IDAHO CREDIT CODE
DOCKET NO. 12-0109-1901
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. This action is authorized pursuant to Section 28-46-104(1)(e), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 16, 2019.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates references to federal law and regulations applicable to persons originating and servicing consumer credit transactions.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the August 7, 2019 Idaho Administrative Bulletin, [Vol. 19-8, pages 65 and 66](#).

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Section 28-41-302, Idaho Code, defines the federal Consumer Credit Protection Act and its implementing regulations for incorporation into the Idaho Credit Code and the Rules Pursuant to the Idaho Credit Code. This proposed rule updates incorporations by reference to the laws and regulations that are included within the federal Consumer Credit Protection Act, thereby promoting consistency in state and federal consumer financial services laws so that Idaho consumer financial service providers are not faced with an untenable requirement of complying with conflicting state and federal laws.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Anthony Polidori at (208) 332-8060.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2019.

Dated this 30th day of August, 2019.

Anthony Polidori
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Blvd., Suite 200
P.O. Box 83720
Boise, Idaho 83720-0031
Office: (208) 332-8060
Fax: (208) 332-8099

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0109-1901
(Only Those Sections With Amendments Are Shown)

005. INCORPORATION BY REFERENCE (RULE 5).

For the purpose of the Act and ~~7~~ the “Rules Pursuant to the Idaho Credit Code,” *incorporate by reference* the full text of the federal Consumer Credit Protection Act, 15 U.S.C., Chapter 41, et seq., and regulations issued pursuant to that act, *including the* are incorporated by reference as follows: ~~(4-11-19)~~()

01. The Truth in Lending Act. Consumer Credit Cost Disclosure Act or “The Truth in Lending Act.” As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 20~~19~~20. The Truth in Lending Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapI.htm>. ~~(4-11-19)~~()

02. Regulation Z. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 20~~19~~20. Regulation Z is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol9/xml/CFR-2018-title12-vol9-part1026.xml>. ~~(4-11-19)~~()

03. Restrictions on Garnishment Act. As set forth in 15 U.S.C. 1671, et seq., as amended to and including January 1, 20~~19~~20. The Restrictions on Garnishment Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapII.htm>. ~~(4-11-19)~~()

04. Credit Repair Organizations Act. As set forth in 15 U.S.C. 1679, et seq., as amended to and including January 1, 20~~19~~20. The Credit Repair Organizations Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapII-A.htm>. ~~(4-11-19)~~()

05. Credit Reporting Agencies Act or “Fair Credit Reporting Act.” As set forth in 15 U.S.C. 1681, et seq., as amended to and including January 1, 20~~19~~20. The Fair Credit Reporting Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapIII.htm>. ~~(4-11-19)~~()

06. Regulation V. As set forth in 12 CFR 1022, et seq., as amended to and including January 1, 20~~19~~20. Regulation V is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1022.xml>. ~~(4-11-19)~~()

07. Equal Credit Opportunity Act. As set forth in 15 U.S.C. 1691, et seq., as amended to and including January 1, 20~~19~~20. The Equal Credit Opportunity Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapIV.htm>. ~~(4-11-19)~~()

08. Regulation B. As set forth in 12 CFR 1002, et seq., as amended to and including January 1, 20~~19~~20. Regulation B is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1002.xml>. ~~(4-11-19)~~()

09. Debt Collection Practices Act or “Fair Debt Collection Practices Act.” As set forth in 15 U.S.C. 1692, et seq., as amended to and including January 1, 20~~19~~20. The Fair Debt Collection Practices Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapV.htm>. ~~(4-11-19)~~()

10. Electronic Funds Transfer Act. As set forth in 15 U.S.C. 1693, et seq., as amended to and including January 1, 20~~19~~20. The Electronic Funds Transfer Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapVI.htm>. ~~(4-11-19)~~()

11. Regulation E. As set forth in 12 CFR 1005, et seq., as amended to and including January 1, 20~~19~~²⁰. Regulation E is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1005.xml>. ~~(4-11-19)~~()

12. Availability of Documents. Unless otherwise unavailable, the documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance, ~~as noted in Section 002 of these rules.~~ ~~(4-11-19)~~()

**12.01.09 – Rules Pursuant to the Idaho Credit Code
Docket No. 12-0109-1901**

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the materials of the differences between the materials previously incorporated by reference in statute that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here:

IDAPA 12 – DEPARTMENT OF FINANCE

12.01.09 - RULES PURSUANT TO THE IDAHO CREDIT CODE

The Idaho Credit Code (ICC), Idaho Code § 28-41-101, *et seq.*, incorporates the provisions of the federal Consumer Credit Protection Act (FCCPA), codified in 15 U.S.C. Chapter 41. Furthermore, Idaho Code § 28-41-302 defines the FCCPA, as amended to and including January 1, 2005, or subsequent date if so defined by administrative rule. Section 28-41-302 further includes within the definition of the FCCPA regulations issued pursuant to the act, as amended to and including January 1, 2005, or subsequent date if so defined by administrative rule. The definition of the FCCPA was subsequently incorporated by reference in rule during the 2019 Legislative Sessions to reflect amendments to the FCCPA as of January 1, 2019.

The following summarizes changes to the FCCPA and its implementing regulations since January 1, 2019:

- **The Truth in Lending Act** – 15 U.S.C. 1601, *et seq.*
 - **January 31, 2019** – Adjustments for inflation to civil penalty caps for violations of the Truth-in-lending Act.

- **Regulation Z** – 12 CFR 1026, *et seq.*
 - **February 4, 2019** – Effective date of amendments to official commentary that interpret the requirements of Regulation Z to reflect a change in the asset-size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan.

 - **January 1, 2020** - Effective date of amendments to annually adjust thresholds for transactions subject to appraisal requirements; to adjust the dollar amount that triggers requirements for certain home mortgage loans bearing fees above a certain amount; and, to adjust the threshold at which certain credit transactions are determined to be exempt from provisions of the regulation.

➤ **Regulation V – 12 CFR 1022, et seq.**

- **January 31, 2019** – Effective date of amendments to Regulation V to add a section establishing a maximum allowable charge for disclosures by a consumer reporting agency to a consumer; to add an appendix setting forth the statutory requirements for determining the maximum allowable charge; announcing the maximum charge for 2019; and preserving a list of historical maximum allowable charges.
- **May 22, 2019** – Final rules published to rescind model forms and disclosures determined no longer necessary.