

Dear Senators ANDREASON, McKague, Stennett, and
Representatives BLACK, Henderson, Elaine Smith:

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

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act (Docket No.
12-0110-1101).

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 10/19/2011. 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 11/17/2011.

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 334-4845, or send a written request to the address or FAX
number indicated on the memorandum enclosed.



Jeff Youtz
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 Research Analyst - Brooke Murdoch
DATE: September 29, 2011
SUBJECT: Department of Finance

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act (Docket No. 12-0110-1101)

The Department of Finance submits proposed rulemaking at IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act. The proposed rule updates references to federal laws and regulations from "January 1, 2009" to January 1, 2011" and specifies that the use of the Nationwide Mortgage Licensing System and Registry by Idaho mortgage brokers, lenders and loan originators for license issuance and maintenance is required.

The proposed rule is within the authority granted to the Director of the Department of Finance in Section 26-31-103, Idaho Code.

cc: Department of Finance
Michael Larsen

IDAPA 12 - IDAHO DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1101

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. The action is authorized pursuant to Section 26-31-103(2)(b), 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, by not later than October 19, 2011.

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 purpose of the proposed rulemaking is to update references to federal laws and regulations (Real Estate Settlement Procedures Act, Truth in Lending Act, and Regulations X and Z) from "January 1, 2009" to "January 1, 2011" and to amend IDAPA 12.01.10.101 to comport with state law, namely to clarify that use of the Nationwide Mortgage Licensing System and Registry (NMLSR) by Idaho mortgage brokers/lenders/originators for license issuance and maintenance is not optional, but is required.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: None.

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(2), Idaho Code, negotiated rulemaking was not conducted because this rulemaking consists merely of housekeeping amendments to update references to incorporated federal laws and regulations and to make IDAPA 12.01.10.101 consistent with existing requirements in the Idaho Residential Mortgage Practices Act, Section 26-31-101 et seq., Idaho Code.

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:

For effective supervision of mortgage practices in Idaho, the Rules Pursuant to the Idaho Residential Mortgage Practices Act define the following federal laws and regulations that are incorporated by reference in the Idaho Residential Mortgage Practices Act: (i) Real Estate Settlement Procedures Act; (ii) Truth in Lending Act; (iii) Regulation X; and (iv) Regulation Z. This proposed rule will update the definitions of the foregoing federal laws and rules by inserting "January 1, 2011" in place of the outdated reference of "January 1, 2009."

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact: Michael Larsen, Idaho Department of Finance, (208) 332-8000.

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 26, 2011.

DATED this 25th day of August, 2011.

Michael Larsen
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83712
(208) 332-8000 (Phone)
(208) 332-8096 (Fax)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0110-1101

006. DEFINITIONS (RULE 6).

As used in the Idaho Residential Mortgage Practices Act and these rules, the following definitions apply: (3-29-10)

- 01. Act.** Means the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)
- 02. Application.** In relation to a “residential mortgage loan” or “loan modification” as defined in the Act, an “application” means a request for a residential mortgage loan or loan modification and any form or document representing such request. The term “application” does not include the processing of such request. (3-29-10)
- 03. Closing.** Means the process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a licensee or person required to be licensed under the Act to complete such process. (3-29-10)
- 04. Director.** Means the director of the Idaho Department of Finance. (3-30-06)
- 05. Real Estate Settlement Procedures Act.** Means the act set forth in 12 USCA 2601, et seq., as amended to and including January 1, 2009~~11~~. ~~(5-8-09)~~()
- 06. Regulation X.** Means Regulation X as promulgated by the Department of Housing and Urban Development and codified in 24 CFR 3500 et seq., as amended to and including January 1, 2009~~11~~. ~~(5-8-09)~~()
- 07. Regulation Z.** Means Regulation Z as promulgated by the Board of Governors of the Federal Reserve System and codified in 12 CFR 226 et seq., as amended to and including January 1, 2009~~11~~. ~~(5-8-09)~~()
- 08. Truth in Lending Act.** Means the act set forth in 15 USCA 1601 et seq., as amended to and including January 1, 2009~~11~~. ~~(5-8-09)~~()

(BREAK IN CONTINUITY OF SECTIONS)

101. NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY (RULE 101).

01. The Nationwide Mortgage Licensing System and Registry (NMLSR). The NMLSR is an Internet-based filing depository operated by the State Regulatory Registry, LLC (SRR), a wholly-owned operating subsidiary of the Conference of State Bank Supervisors (CSBS). The NMLSR is designed to accept license applications and license renewal applications electronically from mortgage brokers, mortgage lenders, and mortgage loan originators; collect associated statutory filing fees on behalf of participating jurisdictions, as well as the expenses associated with an applicant’s or licensee’s participation in the NMLSR; and provide the public with Internet-based access to information concerning mortgage brokers, mortgage lenders, and mortgage loan originators. The NMLSR began accepting electronic filings of applications from mortgage brokers, mortgage lenders, and mortgage loan originators from Idaho on January 1, 2008. (3-29-10)

~~**02. Reasonable Access to the NMLSR.** All mortgage brokers, mortgage lenders, and mortgage loan originators with reasonable access to the NMLSR via the Internet who seek a license under the Act, or who wish to retain a license previously issued under the Act, must do so through the NMLSR. Applicants for a license or licensees who wish to retain a license under the Act who lack reasonable access to the NMLSR via the Internet may, upon prior approval of the Director and good cause shown, be excused from participation in the NMLSR and may apply for a license or for license renewal through an alternative method designated by the Director. (3-29-10)~~

032. **Licensing Through the NMLSR.** All ~~4~~mortgage brokers, mortgage lenders, and mortgage loan originators who seek to obtain or retain a license under the Act must do so through the NMLSR and must pay the charge imposed and retained by the NMLSR to fund the costs of the NMLSR associated with an applicant's or licensee's participation in the system. (3-29-10)()

043. **Statutory Fees.** The NMLSR shall collect any statutory fees on behalf of the Idaho Department of Finance that are required to be paid to the Idaho Department of Finance by license applicants and licensees pursuant to the Idaho Residential Mortgage Practices Act. The NMLSR is required to forward to the Idaho Department of Finance all statutory fees it collects on behalf of the Idaho Department of Finance, pursuant to the terms of a written agreement between the Idaho Department of Finance and the SRR. (3-29-10)