

Dear Senators ANDREASON, McKague, Stennett, and  
Representatives BLACK, Henderson, 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.  
12-0110-1201).

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 10/17/2012. 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 11/15/2012.

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 on the  
memorandum attached below.



Jeff Youtz  
Director

# Legislative Services Office Idaho State Legislature

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*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 27, 2012  
**SUBJECT:** Department of Finance

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act (Docket No. 12-0110-1201)

The Department of Finance submits notice of proposed rulemaking at IDAPA 12.01.10. The purposes of this rulemaking are to update references to federal laws and regulations, to correct references to federal regulations and to incorporate by reference the Nationwide Mortgage Licensing System and Registry Policy Guidebook.

The Department's proposed rule is authorized pursuant to the provisions of Sections 26-31-103(2)(b), 26-31-204(5) and 26-31-302(2), Idaho Code.

cc: Department of Finance  
Michael Larsen, Consumer Finance Bureau Chief

## IDAPA 12 - DEPARTMENT OF FINANCE

### 12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1201

#### 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 Sections, 26-31-103(2)(b), 26-31-204(5), and 26-31-302(2), 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 17, 2012.

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 from "January 1, 2011" to "January 1, 2012," to correct references to federal regulations, and to include a definition of the Nationwide Mortgage Licensing System and Registry Policy Guidebook.

**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 of the simple nature of the proposed amendments.

**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 following are incorporated by reference: federal Real Estate Settlement Procedures Act; federal Truth in Lending Act; federal Regulation X; federal Regulation Z; and the NMLS Policy Guidebook.

**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 24, 2012.

DATED this 23rd day of August, 2012.

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. 12-0110-1201

**005. INCORPORATION BY REFERENCE (RULE 5).**

The “Rules Pursuant to the Idaho Residential Mortgage Practices Act,” incorporate by reference the full text of the following ~~federal laws and regulations as defined in these rules: the Real Estate Settlement Procedures Act, Regulation X, the Truth in Lending Act, and Regulation Z.~~ ( )

**01. The Real Estate Settlement Procedures Act.** As set forth in 12 U.S.C. 2601, et seq., as amended to and including January 1, 2013. The Real Estate Settlement Procedures Act is available for viewing online at: <http://uscodebeta.house.gov/view.xhtml?path=/title12/chapter27>. ( )

**02. Regulation X.** As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1024, et seq., as amended to and including January 1, 2013. Regulation X is available for viewing online at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=09558a8309d73086b9217fe5af1ce0ef;rgn=div5;view=text;n ode=12%3A8.0.2.14.17;idno=12;cc=ecfr>. ( )

**03. The Truth in Lending Act.** As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2013. The Truth in Lending Act is available for viewing online at: <http://uscodebeta.house.gov/view.xhtml?path=/title15/chapter41/subchapter1>. ( )

**04. 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, 2013. Regulation Z is available for viewing online at: <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=09558a8309d73086b9217fe5af1ce0ef;rgn=div5;view=text;n ode=12%3A8.0.2.14.18;idno=12;cc=ecfr>. ( )

**05. NMLS Policy Guidebook.** The Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the Nationwide Mortgage Licensing System and Registry as of July 23, 2012, and available at <http://mortgage.nationwidelicensingsystem.org/slr/common/policy/Pages/default.aspx>. ( )

**06. Availability of Documents.** Unless otherwise available, 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. (3-29-10)( )

**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 U.S.C.A 2601, et seq., as amended to and including January 1, 2011. (3-29-12)~~

~~**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, 2011. (3-29-12)~~

~~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, 2011. (3-29-12)~~

~~08. **Truth in Lending Act.** Means the act set forth in 15 U.S.C.A 1601 et seq., as amended to and including January 1, 2011. (3-29-12)~~