

Dear Senators PATRICK, Martin, Schmidt, and
Representatives BARBIERI, Clow, 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 - Proposed Rule
(Docket No. 12-0110-1501).

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 10/29/2015. 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 11/27/2015.

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 334-4834, 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: Division Manager - Mike Nugent

DATE: October 09, 2015

SUBJECT: Department of Finance

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act - Proposed Rule (Docket No. 12-0110-1501)

The Department of Finance is proposing to promulgate proposed rules relating to the Idaho Residential Mortgage Practices Act. The proposed rule updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X) and eliminates duplicative disclosure requirements and paperwork for mortgage brokers/lenders. Section 26-31-102, Idaho Code, defines Regulations X and Z, the Real Estate Settlement Procedures Act and the Truth in Lending Act, for incorporation into the Idaho Residential Mortgage Practices Act and Idaho Mortgage Rules pursuant to that Act. This proposed rule promotes consistency in state and federal mortgage-related laws so that Idaho mortgage licensees are not faced with an untenable requirement of complying with conflicting state and federal laws.

It appears that the proposed rules have been promulgated within the scope of statutory authority granted to the Department of Finance.

cc: Department of Finance
Michael Larsen

IDAPA 12 - DEPARTMENT OF FINANCE

12.01.10 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1501

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, 26-31-204(5), 26-31-302(1)(a), 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 21, 2015.

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 incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X) and eliminates duplicative disclosure requirements and unnecessary paperwork for mortgage brokers/lenders.

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

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: NA

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature as it merely updates references to incorporated federal laws and regulations (Truth in Lending and Regulation Z as well as the Real Estate Settlement Procedures Act and Regulation X) and eliminates duplicative disclosure requirements and unnecessary paperwork for mortgage brokers/lenders.

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 26-31-102, Idaho Code, defines Regulations X and Z, the Real Estate Settlement Procedures Act and the Truth in Lending Act, for incorporation into the Idaho Residential Mortgage Practices Act and Idaho Mortgage Rules pursuant to that Act. This proposed rule promotes consistency in state and federal mortgage-related laws so that Idaho mortgage licensees 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 Mike Larsen 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 28, 2015.

DATED this 4th Day of September, 2015.

Michael Larsen
Consumer Finance Bureau Chief
Department of Finance
800 Park Blvd.
PO Box 83720, Boise, ID 83720-0031
208-332-8060 (office) / 208-332-8099 (fax)

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0110-1501
(Only Those Sections With Amendments Are Shown.)

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: (4-4-13)

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, 2015~~6~~. The Real Estate Settlement Procedures Act is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/USCODE-2012-title12/html/USCODE-2012-title12-chap27-sec2601.htm>. (4-11-15)()

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, 2015~~6~~. Regulation X is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/CFR-2014-title12-vol8/xml/CFR-2014-title12-vol8-part1024.xml>. (4-11-15)()

03. The Truth in Lending Act. As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2015~~6~~. The Truth in Lending Act is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/USCODE-2012-title15/html/USCODE-2012-title15-chap41.htm>. (4-11-15)()

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, 2015~~6~~. Regulation Z is available for viewing online at: <http://www.gpo.gov/fdsys/pkg/CFR-2014-title12-vol9/xml/CFR-2014-title12-vol9-part1026.xml>. (4-11-15)()

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.nationwidelicencingsystem.org/slr/common/policy/Pages/default.aspx>. (4-4-13)

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. (4-4-13)

(BREAK IN CONTINUITY OF SECTIONS)

050. WRITTEN DISCLOSURES (RULE 50).

01. Receipt of an Application. Upon receipt of an application as defined in Subsection 006.02 of these rules, and before receipt of any moneys from a borrower, a licensee or person required to be licensed under the Act shall ~~disclose~~ **make available** to each borrower information, **in a manner acceptable to the Director**, about the ~~licensee or person required to be licensed under the Act, including the~~ services **authorized under the Act** that ~~he~~ **may be provided and the services that will be provided, in a form acceptable to the Director to a borrower**. (3-29-10)()

02. Information Provided ~~Within Three Days~~ **After Receipt of an Application. ~~Within three (3) business days a~~ After receipt of a residential mortgage loan application, a licensee or person required to be licensed under the Act shall provide to the borrower the following disclosures specific to the residential mortgage loan application: (3-29-10)()**

a. Disclosures in compliance with the requirements of the Truth-in-Lending Act and Regulation Z. ~~These include the annual percentage rate, finance charge, amount to be financed, total of all payments, number of payments, amount of each payment, and amount of points or prepaid interest. If the loan is a variable rate loan, such~~

~~disclosures shall include the circumstances under which the rate may increase, any limitation on the increase, the effect of an increase on the monthly payment amount, the total interest to be paid, and an example of the payment terms resulting from an increase in the amount of the loan and fees associated with the loan. (3-29-10)()~~

b. Disclosures ~~through good faith estimates of settlement services~~ in compliance with the requirements of the Real Estate Settlement Procedures Act and Regulation X. ~~Such disclosures include the itemized costs of any credit report, appraisal, title report, title insurance policy, mortgage insurance, premium pricing, escrow fee, loan closing fee, property tax, insurance premium, structural or pest inspection, and any mortgage broker or mortgage lender fees associated with the residential mortgage loan. (3-29-10)()~~

~~03. Interest Rate Lock-In Agreement Not Entered. If, at the time of a residential mortgage loan application, an interest rate lock-in agreement has not been entered, disclosure shall be made to the borrower, in a form approved by the director, that the disclosed interest rate and terms are subject to change. A licensee or person required to be licensed under the Act shall provide such disclosure to the borrower within three (3) business days of receipt by the licensee or person required to be licensed under the Act of an application for a residential mortgage loan. (3-29-10)~~

~~04. Lock-In Agreement Entered. If a licensee or person required to be licensed under the Act enters into an interest rate lock-in agreement with a lender or represents to the borrower that a lock-in agreement has been entered into, then within no more than three (3) business days thereafter, including Saturdays, the licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the term of the lock-in agreement. (3-29-10)~~

053. Loan Modification Confirmation. Within three (3) business days, including Saturdays, of receipt of a notice from a creditor or its agent of a loan modification offer, a licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the loan modification offer. Such confirmation shall include information regarding proposed rates, payments, and loan balance. (3-29-10)

~~06. Additional Disclosures Required. In addition to the disclosures required under Subsection 050.02 of these rules, if a prepayment penalty is a condition of a residential mortgage loan offered by a licensee or person required to be licensed under the Act, that fact shall be separately disclosed in writing to the borrower by the licensee or person required to be licensed under the Act. Such disclosure shall state that a prepayment penalty provision imposes a charge if the borrower refinances or pays off the residential mortgage loan before the date for repayment stated in the loan agreement. This written disclosure shall be in a form approved by the Director, and shall be delivered to the borrower within three (3) business days of receipt by the licensee or person required to be licensed under the Act of an application for a residential mortgage loan. (3-29-10)~~