

TITLE 26
BANKS AND BANKING

CHAPTER 25
LOAN BROKERS

26-2501. DEFINITION. "Loan broker" means any person, corporation, partnership or other business entity which offers for compensation, in this state, to arrange for a loan or other extension of credit. "Loan broker" includes a person, corporation, partnership or other business entity which, for compensation or for no compensation, advertises, solicits, or offers to make or to obtain for others a loan or other extension of credit.

[26-2501, added 1979, ch. 298, sec. 1, p. 780; am. 2005, ch. 265, sec. 18, p. 826.]

26-2502. EXCEPTIONS. This chapter shall not apply to:

(a) Any person doing business under any law of this state or of the United States relating to banks, credit unions, trust companies, savings and loan associations, insurers, pension trusts, real estate investment trusts and other financial institutions, or under the Idaho credit code;

(b) Any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business;

(c) Any corporation securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of an act of congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured;

(d) Any person who is a F.H.A. (Federal Housing Administration) approved mortgagor;

(e) Loans made by a broker-dealer licensed under the Idaho securities act if the loan is made in accordance with applicable provisions of the Idaho securities act, the securities act of 1933, the securities exchange act of 1934 and regulation T of the federal reserve board, code of federal regulations, part 220 of title 12; or

(f) Fees and charges authorized by laws of this state or the laws of the United States if the maximum charge and the manner of collecting the charge are set out in the law or in regulations adopted under the law.

(g) Any person licensed as a mortgage broker or mortgage banker pursuant to chapter 31, title 26, Idaho Code.

[26-2502, added 1979, ch. 298, sec. 1, p. 780; am. 1996, ch. 324, sec. 2, p. 1108; am. 1998, ch. 337, sec. 4, p. 1083.]

26-2503. FEES PROHIBITED UNTIL A LOAN IS MADE. No loan broker shall directly or indirectly receive any fee, interest or other charge of any nature until a loan or extension of credit is made or a written commitment to loan or extend credit is made by any person exempt under section 26-2502, Idaho Code.

[26-2503, added 1979, ch. 298, sec. 1, p. 781; am. 1992, ch. 28, sec. 1, p. 89.]

26-2504. FEES RECOVERABLE. A person damaged as a result of a violation of the provisions of this chapter may recover from the loan broker the amount of the fee thus paid, plus damages in the amount of twice the fee.

[26-2504, added 1979, ch. 298, sec. 1, p. 781; am. 1992, ch. 28, sec. 2, p. 89.]

26-2505. ADMINISTRATION -- ENFORCEMENT -- ACTIONS FOR MONETARY RELIEF. (1) The director of the Idaho department of finance shall have the power to administer and enforce the provisions of this chapter. Whenever it appears to the director that a loan broker has violated section 26-2503, Idaho Code, the director shall have the powers and remedies set forth in sections 67-2754, 67-2755, 67-2757, 67-2758 and 67-2759, Idaho Code.

(2) The receiving of any fee, interest or other charge in violation of this chapter shall also be deemed an unfair and deceptive practice in violation of the Idaho consumer protection act; provided however, no person aggrieved by a violation of this chapter can recover or attempt to recover monetary relief under both this chapter and the Idaho consumer protection act, but rather such person must elect whether to file an action pursuant to this chapter or the Idaho consumer protection act.

[26-2505, added 1979, ch. 298, sec. 1, p. 781; am. 1992, ch. 28, sec. 3, p. 90; am. 2005, ch. 265, sec. 19, p. 826.]

26-2506. CRIMINAL PENALTY. Any person who wilfully violates any provision of chapter 25, title 26, Idaho Code, shall be guilty of a felony.

[26-2506, added 1981, ch. 239, sec. 1, p. 482.]