



# IDAHO

DEPARTMENT OF FINANCE

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Director

**TO:** All Idaho Mortgage Broker, Mortgage Lender, and Mortgage Loan Originator Licensees

**FROM:** K.C. Schaler, Supervising Examiner/Licensing

**DATE:** May 17, 2010

**RE:** Idaho SAFE Act Deadlines and Requirements For Obtaining or Retaining an Idaho Mortgage Loan Originator License

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All Idaho mortgage loan originator licenses became *conditional* on July 1, 2009, with the passage of the Idaho SAFE Act. This means that if the requirements of the SAFE Act are not timely met, the license will **terminate**. These requirements include: (1) pre-license education; (2) taking and passing national and Idaho state tests; (3) criminal background checks; and (4) credit report checks.

- **Category 1:** For those individuals who were issued a conditional Idaho mortgage loan originator license during the time period from July 1, 2009, through July 31, 2010, the deadline to meet the above SAFE Act requirements is midnight, July 31, 2010; and
- **Category 2:** For those individuals who held an Idaho mortgage loan originator license on or before June 30, 2009, and timely and successfully completed the renewal process for 2010, the deadline to meet the above SAFE Act requirements is midnight, December 31, 2010.
  - *Note: The credit report requirement of the SAFE Act will not be available in the Nationwide Mortgage Licensing System and Registry (NMLSR) until October 2010. Therefore, this is the ONLY requirement that will not be mandatory on July 31, 2010, by licensees required to meet the July 31, 2010, deadline.*

Beginning August 1, 2010, no Idaho mortgage loan originator license application will be approved until pre-license education, national and Idaho state component testing and criminal background checks are fully completed and satisfy the requirements for licensing. When credit report checks are available through the NMLSR, credit reports will also be required prior to license issuance.

### **Pre-License Education Requirements**

The Idaho SAFE Act requires that Idaho licensed mortgage loan originators (MLOs) complete pre-licensure education. In order to meet pre-license education requirements, Idaho licensed MLOs must complete 20 hours of NMLSR-approved education, which includes the following:

- a. 3 hours of federal law and regulations;
- b. 3 hours of ethics, including instruction on fraud, consumer protection, and fair lending issues;
- c. 2 hours of training related to lending standards for the nontraditional mortgage product marketplace;
- d. 2 hours of Idaho state specific law; and
- e. 10 hours of undefined (elective) instruction related to mortgage loan origination.

MLOs that held an “approved” Idaho mortgage loan originator license on or before June 30, 2009, and successfully renewed their licenses for 2010 may be eligible to take part in an education certification process that allows them to use their past Idaho-approved continuing education credits toward their 20-hour pre-license education credit requirement. Eligible credits are for courses taken between October 1, 2005, and December 31, 2009, from Idaho-approved providers and for which a completion certificate was provided to the Department by April 30, 2010. **MLOs that become certified in a state other than Idaho will still be required to complete the two (2) hours of Idaho state law pre-license education credits by the applicable deadlines.**

The Department **STRONGLY RECOMMENDS** that MLOs immediately review their continuing education records. Loan originator licensees will only be certified by one state for the twenty (20) hour pre-license education requirement. Continuing education credit hours accrued in multiple states cannot be combined to meet this requirement. Each MLO is responsible to ensure that he or she has timely completed the state-specific requirements for each state in which the MLO is licensed.

### **National and Idaho Component Testing Requirements**

All licensees are required to pass the National Component of the SAFE MLO Test with a score of 75 percent or greater.

All licensees are required to pass the Idaho State Component with a score of 75 percent or greater.

### **Criminal Background Check Requirements**

**Mortgage Loan Originators** must perform the following tasks prior to the applicable deadlines:

- a. request a criminal background check through the NMLSR and complete the fingerprint process; and
- b. if applicable, provide documentation necessary to address any issues disclosed on the background check **prior to the applicable deadline**. Information required may include, but is not limited to, conviction and sentencing court records, verification of sentencing requirements, etc.

### **Credit Report Requirement**

Credit reports are not expected to be available through the NMLSR until October 2010. Therefore, Idaho MLOs subject to the July 31, 2010, deadline for satisfying SAFE Act requirements will NOT be at risk of losing their conditional MLO licenses *solely* for not providing a credit report by the July 31, 2010, deadline. During the 2011 license renewal process beginning on November 1, 2010, all MLO licensees and company-level control persons (MU2) will be required to authorize a credit report through the NMLSR.

### **Other Important Information**

Information about SAFE Act requirements, such as fees, course and test scheduling, fingerprint processing and deadlines for each state can be found on the NMLSR Resource Center at: <http://mortgage.nationwidelicencingsystem.org/profreq/Pages/default.aspx>.

The Idaho Department of Finance has added a tool on its website to assist companies and their mortgage loan originator licensees in tracking their completion of SAFE Act requirements. That tool consists of a new column entitled “SAFE Reqs Met,” and can be found at: <http://finance.idaho.gov/Mortgage/LoanOriginatorLicense.aspx>. Once at the site, click the “Show” button in the right-hand column to view the status of SAFE Act requirements. Note that each completed requirement will be designated by a check mark.

If you have any questions about the Idaho SAFE Act requirements, please contact the Licensing Section of the Idaho Consumer Finance Bureau at: (208) 332-8002, via fax at (208) 332-8096, or via email at: [mortgage@finance.idaho.gov](mailto:mortgage@finance.idaho.gov). Questions about the use or navigation of the NMLSR system should be directed to the NMLSR Call Center at: (240) 386-4444.

## Selected excerpts from the Idaho SAFE Act of 2009

For a complete copy of the Idaho SAFE Act and Idaho Residential Mortgage Practices Act please go to:  
[http://finance.idaho.gov/ConsumerFinance/Documents/Residential\\_Mortgage\\_Practices\\_Act\\_2009.pdf](http://finance.idaho.gov/ConsumerFinance/Documents/Residential_Mortgage_Practices_Act_2009.pdf)

### **26-31-304. LICENSE AND REGISTRATION REQUIRED — EXEMPTIONS.** (1)

Unless specifically exempt under subsection (3) of this section, an individual shall not engage in the business of a mortgage loan originator with respect to any dwelling located in this state without first obtaining and maintaining annually a license under this part. Each licensed mortgage loan originator shall register with and maintain a valid unique identifier issued by the NMLSR.

(2) In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective dates for subsection (1) of this section are as follows:

(a) For all individuals other than those described in subsection (2)(b) of this section, the effective date is July 31, 2010, or such later date approved by the secretary of the U.S. department of housing and urban development, pursuant to the authority granted under P.L. 110-289, section 1508(a).

(b) For all individuals licensed as mortgage loan originators at the time of the enactment of this part, the effective date is January 1, 2011, or such later date approved by the secretary of the U.S. department of housing and urban development, pursuant to the authority granted under P.L. 110-289, section 1508(a).

**26-31-305. LICENSE AND REGISTRATION APPLICATION.** (1) Applicants for a license under this part shall apply through the NMLSR in a form prescribed by the director. Each form shall include such content as the director may reasonably require, shall be updated as necessary to keep the information current and shall be accompanied by a nonrefundable application fee of two hundred dollars (\$200).

...(3) Applicants for licensure under this part shall submit the following to the NMLSR: (a) Fingerprints for submission to the federal bureau of investigation, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

(b) Personal history and experience in a form prescribed by the NMLSR, including the authorization for the NMLSR and the director to obtain the following:

(i) An independent credit report obtained from a consumer reporting agency described in section 603(p) of the fair credit reporting act; and

(ii) Information related to any administrative, civil or criminal findings by any governmental jurisdiction.

**26-31-306. ISSUANCE OF LICENSE.** (1) The director shall not issue a mortgage loan originator license under this part unless the director first makes the following findings:

(a) The applicant has never had a mortgage loan originator license, or other mortgage related license, revoked in any governmental jurisdiction. If such revocation was formally vacated, then it shall not be deemed a revocation for purposes of this section.

(b) The applicant has not been convicted of, found guilty of or pled guilty or nolo contendere to, a felony in a domestic, foreign or military court:

(i) During the seven (7) year period immediately preceding the date of the application for licensing or registration; or

(ii) At any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

Any pardon of a conviction shall not be deemed a conviction for purposes of this section.

(c) The applicant has demonstrated financial responsibility, character and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this part. The director shall not base a license application denial under this part solely on a license applicant's credit score or credit report. For purposes of this section, a license applicant is not financially responsible if he has shown a disregard for the management of his personal financial affairs. A determination that an individual has not shown financial responsibility may include, but is not limited to, consideration of the following:

(i) A current outstanding judgment, except a judgment issued solely as a result of medical expenses;

(ii) A current outstanding tax lien or other government lien or filing;

(iii) A foreclosure within the past three (3) years; or

(iv) A pattern of delinquent accounts within the past three (3) years.

(d) The applicant has successfully completed the prelicensing education requirement pursuant to section 26-31-307, Idaho Code.

(e) The applicant has passed a written test that meets the test requirement pursuant to section 26-31-308, Idaho Code.

(f) The applicant has met the mortgage recovery fund requirement pursuant to section 26-31-110, Idaho Code.

(g) The applicant has provided information on the application as required in section 26-31-305, Idaho Code.

(2) The director may conduct investigations as he deems necessary to determine the existence of the requirements listed in this section.

**This unofficial excerpt of the Idaho Residential Mortgage Practices Act was prepared by the Idaho Department of Finance as a service to its licensees. No portion of it may be published or repackaged for commercial sale.**