



IDAHO

DEPARTMENT OF FINANCE

C.L. "BUTCH" OTTER
Governor

GAVIN M. GEE
Director

TO: Idaho Mortgage Broker/Lender and Mortgage Loan Originator Licensees and Applicants
FROM: K.C. Schaler – Supervising Examiner/Licensing
RE: Amendments to the Idaho Residential Mortgage Practices Act
DATE: April 1, 2013

The Idaho Residential Mortgage Practices Act was significantly amended by the 2013 Idaho Legislature ([Link to House Bill 10](#)) following a nearly two year process in which the Idaho Department of Finance worked closely with the Idaho mortgage industry. The amendments take effect on July 1, 2013. To provide you with advance notification of the new amendments, the Department offers the following synopsis:

Part 1 – General Provisions

1. General definitions were amended to incorporate the terms “control person,” “deficiency,” “financial services,” “housing finance agency,” “NMLSR policy guidebook,” and updates to references to federal statutes and regulations;
2. The requirement of background investigations for “control persons” was clarified;

Part 2 – Provisions Applicable to Mortgage Brokers and Mortgage Lenders (companies)

1. The definition of “qualified person in charge” was clarified to establish that this is the designated person who is primarily responsible for the operation of a licensed location;
2. The exemption for attorneys was clarified to specify that the exemption applies to Idaho licensed attorneys and additionally that mortgage loan origination activities must be ancillary to the attorney’s representation of his or her client for the exemption to apply;
3. The exemption for Idaho licensed accountants was amended to clarify that the exemption applies only if the accountant’s mortgage loan origination activities are ancillary to the representation of his or her client;
4. Membership to the Idaho Mortgage Advisory Board was increased from four to five mortgage industry members, as appointed by the Director of the Idaho Department of Finance;
5. Amending language was adopted to establish that the “qualified person in charge” identified by a licensee must be licensed as a mortgage loan originator in Idaho in addition to previously existing experience requirements;
6. Other license application requirements were amended to clearly include and reference “control persons” in the applicant requirements or prohibitions;
7. Amending language was adopted to establish that a mortgage license application is deemed withdrawn and void if an applicant fails to cure application deficiencies after sixty days of being notified by the Department of the applicant’s obligation to timely complete the license application;
8. Amending language was adopted to require that mortgage broker and mortgage lender licensees designate a home or main office located in the United States, and that covered records be accessible at such location;

9. Amending language was adopted to eliminate the requirement that licensees display an Idaho mortgage broker/lender license certificate at licensed locations;
10. Amending language was adopted to require that mortgage broker/lender licensees designate a *replacement* “qualified person in charge” within thirty days of removal for any reason, and that the appointment, employment, or change of “control persons” be reported to the Department through the NMLS within 30 days of occurrence;
11. Amending language was adopted to eliminate the requirement of filing an Annual Composite Report by March 31;
12. Amending language was adopted to allow a 60-day license reinstatement period to allow licensees who fail to renew their licenses by December 31st to reinstate their licenses. The cost to reinstate a license will not exceed the cost of applying for a new license and the process should minimize business disruption;
13. Amending language was adopted to require the filing of quarterly mortgage call reports and an annual financial statement;
14. Amending language was adopted to prohibit the practice of appointing or employing a “qualified person in charge” who has been found to have violated NMLS standards of conduct for test taking or has been found to have obtained, or attempted to obtain, education credits under false pretenses.

Part 3 – Provisions Applicable to Mortgage Loan Originators

1. Definitions were amended to add the term, “expungement;”
2. As required by the U.S. Housing and Urban Development Agency (HUD), amending language was adopted to eliminate the “manufactured housing” exception to the definition of “mortgage loan originator;”
3. Amending language was adopted to clarify that the attorney exemption applies only to Idaho licensed attorneys;
4. Amending language was adopted to establish that a mortgage license application is deemed withdrawn and void if an applicant fails to cure application deficiencies after sixty days of being notified by the Department of the applicant’s obligation to timely complete the license application;
5. Amending language was adopted to clarify that a person who has had a felony conviction expunged does not fall within the requirement of automatic disqualification for licensure;
6. Amending language was adopted to clarify the requirements to obtain, retain, or activate an *inactive* mortgage loan originator license;
7. Amending language was adopted to allow a 60-day license reinstatement period to allow licensees who fail to renew their licenses by December 31st to reinstate their licenses. The cost to reinstate a license will not exceed the cost of applying for a new license and the process should minimize business disruption;
8. Amending language was adopted to prohibit the practice of violating NMLS standards of conduct in test taking or to obtain, or attempt to obtain, education credits under false pretenses;
9. Amending language was adopted to require disclosure of a person’s unique NMLS ID number on *any* form of media, including solicitations, advertisements, business cards, and websites – including social networking sites.

Questions pertaining to any of these changes may be sent to the Department’s mortgage licensing section at mortgage@finance.idaho.gov.