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Governor

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# Memorandum

**To:** Licensees  
**From:** Michael Larsen, Consumer Finance Bureau Chief, Idaho Department of Finance  
**Date:** May 15, 2009  
**Re:** Passage of House Bill 169 – Its Impact on Companies and their Employees Offering or Performing Loan Modification Activities in Idaho

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The 2009 Idaho Legislature enacted House Bill 169<sup>1</sup>, an act that incorporated model state language into Idaho law implementing the requirements of the federal SAFE Mortgage Licensing Act, which was enacted by Congress and signed by the President in July, 2008, as part of the Housing and Economic Recovery Act of 2008. In addition, the passage of House Bill 169 incorporated loan modification activities into the Idaho Residential Mortgage Practices Act, thus removing the requirement to be licensed as a debt or credit counselor under the Idaho Collection Agency Act as a condition to engaging in mortgage loan modification activities for others in Idaho.

## What Is A Loan Modification?

Under the Idaho Residential Mortgage Practices Act, effective July 1, 2009, a loan modification is an adjustment or compromise of an existing residential mortgage loan. This does not include a mortgage refinance transaction.

## What Are Loan Modification Activities?

Loan modification activities include engaging in or offering to engage in effecting loan modifications in Idaho for compensation or gain, or in the expectation of compensation or gain. Conducting these activities on behalf of others places these activities within the definition of mortgage brokering activities under the Idaho Residential Mortgage Practices Act.

## What Is A Mortgage Broker?

A mortgage broker performs mortgage brokering activities, through licensed mortgage loan originators with respect to a residential mortgage loan. These activities include accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the preparation of an application on behalf of a borrower, negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with any person making residential mortgage loans **or engaging in loan modification activities for others for compensation or gain, or in the expectation of such.**

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<sup>1</sup> House Bill 169 can be viewed online at: <http://www.legislature.idaho.gov/legislation/2009/H0169.htm>

## What Is A Mortgage Loan Originator?

Under the Idaho SAFE Mortgage Licensing Act of 2009 (the Idaho SAFE Act), a person acts as a mortgage loan originator when, for compensation or gain or in the expectation of such, he or she takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan (Language of House Bill 169, to be codified at Idaho Code § 26-31-303(6)).

## How Does This Affect My Business?

If your company, or you as an individual, conducts loan modification activities in Idaho for others, new licensing requirements apply beginning July 1, 2009, under the Idaho Residential Mortgage Practices Act. A license currently held under the Idaho Collection Agency Act will no longer allow you or your company to perform residential mortgage loan modification activities for others.

Licensing under the Idaho Residential Mortgage Practices Act is accomplished through the Nationwide Mortgage Licensing System and Registry (NMLSR), an electronic filing and repository system that began in January 2008. Applications are completed, fees paid and transmitted electronically for company, branch and loan originator licenses. Some additional requirements are still required to be sent directly to the regulators until the NMLSR can accommodate the additional transmissions. The process begins with the entitlement process---the registration for access on the NMLSR and the assignment of a unique identifier. Each company "main/corporate" location, branch location and loan originator, as well as other specific individuals, will be assigned a unique identifier that remains in the NMLSR permanently.

If your company conducts mortgage loan modification activities for others in Idaho, or plans to conduct mortgage loan modification activities for others in Idaho on or after July 1, 2009, a mortgage broker/lender license must be applied for and obtained through the NMLSR. The application process should be started immediately to help avoid any interruption in your business activities. Applications are required to be filed for your corporate/main office headquarters location (Form MU1), any branch location conducting activities in Idaho (Form MU3), as well as any individuals conducting or who will be conducting loan modification activities for others in Idaho (Form MU4).

The NMLSR website, at <http://www.stateregulatoryregistry.org/NMLS>, offers tutorials, work flow guides, state specific requirements, contacts and much more information on how to use the system. Additionally, the NMLSR has a dedicated call center available at (240) 386-4444 between the hours of 9:00 a.m. and 7:00 p.m. EST to assist you in getting started in the entitlement process, with questions on navigating the system or general questions on information to be provided. Specific additional information required by each state is available in the jurisdiction specific checklist for that state that must accompany each application.

**Remember: As of July 1, 2009, loan modification activities in Idaho will no longer be subject to the license requirements of the Idaho Collection Agency Act. To continue loan modification activities on behalf of others in Idaho, your company must get licensed under the Idaho Residential Mortgage Practices Act through the NMLSR.**

Specific licensing questions may be emailed to: [mortgage@finance.idaho.gov](mailto:mortgage@finance.idaho.gov), or call (208) 332-8002.