

# THE IDAHO COMPLIANCE CONNECTION

SPRING 2009

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## 2009 IDAHO LEGISLATIVE SESSION—HOUSE BILL 169

The Idaho Department of Finance sponsored legislation in the 2009 Idaho Legislative Session (House Bill 169) that shifts regulatory oversight of mortgage modification service providers from the Idaho Collection Agency Act to the Idaho Residential Mortgage Practices Act.

Formerly, mortgage modification activities in Idaho fell under the definition of “credit counseling” and were governed by the provisions of the Idaho Collection Agency Act. With the passage of House Bill 169 individuals and entities offering mortgage modification services for others in Idaho must first obtain a license under the Idaho Residential Mortgage Practices Act.

This means that companies engaged in mortgage modification services for others in Idaho must apply for and obtain a mortgage broker/lender license through the Nationwide Mortgage Licensing System and Registry (NMLSR). Similarly, individuals working for such entities and engaged in negotiating terms of residential mortgage loans must qualify for and obtain a mortgage loan originator license through the NMLSR. This significant law change becomes effective on July 1, 2009.

### IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DEPARTMENT INTERPRETATION NO. 2009-16-01

**Issued on June 1, 2009**

## Licensing and Registration Requirements Applicable to Mortgage Loan Originators When the Newly Enacted Idaho Residential Mortgage Practices Act Becomes Effective on July 1, 2009

### I. Background

The 2009 Idaho Legislature enacted House Bill 169, which repealed the *old* Idaho Residential Mortgage Practices Act, Idaho Code § 26-3101 *et seq.*, and enacted a *new* Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 *et seq.* (referred to herein as the “IRMPA”), that will become effective on July 1, 2009. The IRMPA consists of three

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# TOP CONSUMER COMPLAINTS

## OCTOBER 1, 2008 TO APRIL 30, 2009

### Mortgage Brokers/Lenders

Advertising violations  
Loan originators: Unlicensed activity

### Collection Agencies

Collecting against incorrect person  
Harassment

Unlicensed activity—particularly loan modification companies and attorney firms

*(Note: As of July 1, 2009, loan modification companies and individuals must be licensed under the Idaho Residential Mortgage Practices Act through the NMLSR)*

### Regulated Lenders (includes payday and title lenders)

Miscalculation of interest or balance owed

Unlicensed activity

### Escrow/1031 Exchange Companies

Servicing and foreclosure issues

## “TIP”- OVER BOX



**Please keep your email addresses current!** The Department’s primary method of communication and information distribution is electronic. Communications include training notices, newsletters, renewal information, application and license deficiency notifications plus much more. Since 2008 the Department has significantly moved to electronic communication, and licensees risk not receiving pertinent information if their company, individual work and personal emails, as applicable, are not kept current. This is *particularly* critical for mortgage company and loan originator licensees filing records through the Nationwide Mortgage Licensing System & Registry (NMLSR).

There will be no requirement for mandatory continuing education completion reporting due on October 31, 2009 for mortgage loan originators with license issuance dates or QPICs with appointment dates on or after November 1, 2006. Due to the passage of the Idaho S.A.F.E. Mortgage Licensing Act of 2009, effective July 1, 2009, CE accumulation and reporting requirements will begin for the calendar year 2010 for most licensees and QPICs and will be reportable and maintained in the NMLSR. Licensees with an issuance date on or before June 30, 2009 may use all Idaho-approved CE credits towards their 20 hours of pre-license education requirements (if obtained by December 31, 2009 unless otherwise determined by the NMLSR) even if they were earned outside of their regular reporting period and date back to October 2005!

## New on the Web!

**Press Releases** (Press Releases Section): Twenty-eight new releases with information on civil lawsuits filed by the department, financial literacy, mortgage loan modification scams and related issues, the state of Idaho financial institutions, credit repair scams and much more.

**Administrative Actions** (Administrative Actions Section): The Consumer Finance Bureau has begun placing final administrative actions on the website for easy access.

**Civil Actions** (Civil Actions Section): Completed civil actions in Idaho courts filed by the Department are available in this new section.

**Continuing Education Courses** (Approved Licensee and Provider Section): New providers and new courses have been added offering additional educational opportunities in a revised and more informational format. Approvals of these Idaho providers and courses will only be valid through December 31, 2009. Beginning January 1, 2010 continuing education providers and courses will be required to obtain provider and course approval through the NMLSR.

**Mortgage Loan Modification Interpretive Letter** (News and Announcements Section): This letter provides guidance in mortgage loan modification activities. This activity was previously covered as debt/credit counseling activity under the Idaho Collection Agency Act and is now covered as mortgage brokering activity

under the Idaho Residential Mortgage Practices Act beginning July 1, 2009.

**Idaho S.A.F.E. Mortgage Licensing Act of 2009 Interpretive Letter** (News and Announcements Section): This letter provides guidance in understanding the new licensing requirements pertaining to mortgage loan originators, independent contractor mortgage underwriters and mortgage loan processors, and mortgage loan modification companies. The letter covers some of the major issues and changes brought on by the passage of the federal "S.A.F.E. Mortgage Licensing Act of 2008" otherwise known as [P.L. 110-289](#) - The Housing and Economic Recovery Act of 2008 and incorporated into the Idaho Residential Mortgage Practices Act.

### **WATCH FOR THESE UPCOMING NEW ITEMS ON THE WEB:**

**Statute Updates** (Laws/Statutes Section): **Idaho Residential Mortgage Practices Act and Idaho S.A.F.E. Mortgage Licensing Act of 2009:**

Effective July 1, 2009, the new statute incorporates the model state S.A.F.E. language approved by HUD in response to the new federal requirements. New requirements include pre-license testing, pre-license education, credit report checks and federal criminal background checks for all mortgage

loan originators, as well as updated licensing and renewal standards. Additionally, the surety bond requirements for mortgage brokers and mortgage lenders were removed and replaced with a mortgage recovery fund. **Idaho Credit Code:** Effective July 1, 2009 new provisions pertaining to the enforceability of payday loans granted to Idaho consumers by unlicensed payday lenders were incorporated.

**Department Training** (Training Presentations): Reviews the mortgage-related training presentations conducted by Department staff around the state in June 2009, as well as previous years.

**FAQs for Loan Originators** (FAQ Section): Currently "under construction" these new FAQs will address commonly asked questions related to the new licensing and education requirements for companies, loan originators and related activities.



## Welcome New Bureau Staff

Tom Nate joined the licensing section as its newest Examiner in December 2008. Tom hails from eastern Idaho and brings experience as a bank branch manager, a general business and finance manager of an auto dealer and as an owner of his own construction company. Tom holds a business administration degree from Idaho State University and brings a wealth of knowledge to the team. Welcome!

## CONSUMER FINANCE BUREAU STATISTICS

### Active Licensees (as of 4/30/09)

Mortgage Brokers/Lenders	959
Mortgage Loan Originators (Approved-Active)	2513
Mortgage Loan Originator (Approved-Inactive)	350
Escrow /1031 Exchange Companies	43
Regulated Lenders (inc. title lenders)	525
Payday Lenders	251
Collection Agencies	555
Debt/Credit Counselors	54
Debt Buyers	33
Credit Repair Company/Organization	7
Collection Agency Agents/Solicitors	50,051
Continuing Education Providers	30
Continuing Education Courses	131

### New Applications Received (10/1/2008-4/30/2009)

Mortgage Brokers/Lenders	104
Mortgage Loan Originators	809
Regulated Lenders (inc. payday/title)	39
Collection Agencies (all categories)	93
Escrow/1031 Exchange Companies	3
Continuing Education Providers	2
Continuing Education Courses	8

### Revocations/Denials (10/1/2008-4/30/2009) 2

### Withdrawals (10/1/2008-4/30/2009)

Mortgage Broker/Lenders	511
Mortgage Loan Originators	337
Escrow	4
Regulated Lenders (inc. payday/title)	0
Collection (all categories)	0

### Terminations (failed to renew licenses)

(10/1/2008-4/30/2009)	
Mortgage Broker/Lenders	248
Mortgage Loan Originators	2029
Escrow	7
Regulated Lenders (inc. payday/title)	NA
Collection (all categories)	75

### Exams Conducted (10/1/2008-4/30/2009)

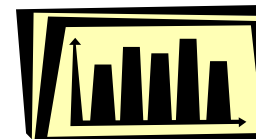
Mortgage Brokers/Lenders	4
Escrow	0
Regulated Lenders (inc payday/title)	21
Collection Agency	0

### Complaints filed (written) (10/1/2008-4/30/2009)

Mortgage (origination/servicing)	38
Loan Originators	0
Escrow/1031 Exchange	1
Collection Agency	100
Payday Lender, Regulated Lender (finance co., payday, title)	28
Idaho chartered banks and credit unions	28
Federal chartered banks and credit unions	7
Unlicensed activity (all categories)	80

### Complaints Closed (all)

(10/1/2008-4/30/2009)	111
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## ENFORCEMENT ACTIONS

October 1, 2008 through April 30, 2009

**MORTGAGE LOAN ORIGINATORS**

**ZACHARY B. CLUNE** (Meridian, Idaho) – October 6, 2008 – Order issued denying Mr. Clune's application for a mortgage loan originator license based on prior felony convictions. Hearing officer upheld the Director's order on February 12, 2009.

**STEVEN JOSEPH DUGAN** (Mount Holly, New Jersey) – April 8, 2009—Order issued to suspend his mortgage loan originator license due to failure to timely submit continuing education certificates of completion. The order was dismissed.

**SCOTT EDWARD JONES** (Evansville, Indiana) – April 8, 2009—Order issued to suspend his mortgage loan originator license due to failure to timely submit continuing education certificates of completion. Respondent surrendered his license. The order was dismissed.

**CHRISTOPHER ALLAN STRAWN** (Meridian, Idaho) – April 27, 2009 – Default Judgment entered in Ada County District Court permanently enjoining Mr. Strawn from engaging in unlicensed mortgage loan origination activity. The default judgment ordered Mr. Strawn to pay \$40,000 in penalties to the Department.

**MORTGAGE BROKER/LENDERS**

**INFINITY FINANCIAL GROUP, LLC** (Priest River, Idaho) – October 6, 2008 – Consent Order of Revocation of Mortgage Broker/Lender Licenses entered after the company's managing member and qualified person in charge pleaded guilty to and was convicted of felony charges in federal district court.

**DMI FUNDING INCORPORATED, dba DIRECT MORTGAGE** (Boise, Idaho) – November 12, 2008 – Order to Cease and Desist issued requiring the company to cease violations of law and establish and implement procedures for safeguarding personal and/or financial information of customers.

**AMWEST CAPITAL MORTGAGE, INC.** (Escondido, California) – December 19, 2008 – Order of Denial issued on the company's application for a mortgage broker/lender license based on the company submitting a fictitious mortgage broker/lender license to another mortgage lender and engaging in unlicensed mortgage brokering/lending activity in Idaho.

**DMI FUNDING INCORPORATED, dba DIRECT MORTGAGE** (Boise, Idaho) – March 24, 2009 – Consent Order entered as Respondent engaged in mortgage brokering activities from an unlicensed location, failed to notify the Department of a change in its business location, and failed to safeguard confidential customer information. DMI paid an administrative penalty of \$1,000 and \$500 in attorney fees and investigative costs.

**COLLECTION AGENCIES, DEBT/CREDIT COUNSELORS, DEBT BUYERS, CREDIT REPAIR COMPANIES, LOAN MODIFICATION COMPANIES**

**NATIONAL CREDIT ACCEPTANCE, dba NATIONAL CREDIT ACCEPTANCE, INC.** (Sacramento, California) – November 3, 2008 – Default Judgment granted for violations of the Idaho Collection Agency Act. The company was ordered to pay to the Department \$90,000 in penalties. Department has hired a California attorney to collect on the judgment.

**OLDE CITY FINANCIAL, INC.** (Wayne, Pennsylvania) – January 26, 2009 – Consent Order entered for unlicensed collection activity. Olde City paid an administrative penalty of \$7,000 and attorney fees and investigative costs of \$1,000.

**HALO DEBT SOLUTIONS, INC.** (Allen, Texas) – February 13, 2009 – Consent Order entered for unlicensed credit counseling activities. Halo refunded \$16,788.12 in fees paid by Idaho residents for the company's services and paid \$1,000 in attorney fees and investigative costs.

**HOME 2 STAY, INC.** (Boise, Idaho) – February 26, 2009 – Consent Order entered for unlicensed debt or credit counseling activities in Idaho. Home 2 Stay, Inc. paid an administrative penalty of \$500 and \$500 in attorney fees and investigative costs.

**VERICORE, LLC** (Mandeville, Louisiana) – March 26, 2009 – Consent Order entered for unlicensed collection activity in Idaho. Vericore agreed to pay \$15,000 in settlement and \$1,000 in attorney fees and investigative costs.

**VANDEMBERG, CHASE AND ASSOCIATES LLC** (Atlanta, Georgia) – March 31, 2009 – Consent Order entered for unlicensed collection activity. Vandenberg paid an administrative penalty of \$1,000 and \$500 in attorney fees and investigative costs.

**YOUR CREDIT ANGEL LLC, a division of CORONWA INVESTMENTS, LLC** (Las Vegas, Nevada) – April 7, 2009 – Cease and Desist Order issued for unlicensed mortgage loan modification activity in Idaho.

**BRIAN KVARFORD, dba NORTH AMERICAN COLLECTIONS AND SAFETY CHECK** (Idaho Falls, Idaho) – April 20, 2009 – Consent Order entered for the company's failure to operate openly, fairly, and honestly and without deception in the conduct of its business. The company agreed to pay to the Department an administrative penalty of \$4,000 and \$1,000 for attorney fees and investigative costs.

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## 2009 APPOINTMENTS TO THE MORTGAGE ADVISORY BOARD

The Director of the Idaho Department of Finance, Gavin Gee, has re-appointed Chuck Anderson of Northwest Mortgage-CDA and Dominique Love of Prospect Mortgage, LLC-Boise, Marsha Shaffer of Charter Mortgage-Idaho Falls and welcomes new appointee Steve Cox of Stonebrook Mortgage-Boise to the 2009 Idaho Mortgage Broker/Lender Advisory Board. The Board works with Department representatives and meets quarterly to concentrate on issues related to the mortgage industry in Idaho.

## NEW AND IMPROVED QUARTERLY AGENTS REPORTS FOR ALL COLLECTION AGENCY LICENSEES

There is now a new and improved Quarterly/Annual Report available online at <http://finance.idaho.gov> under the Collection Agency forms. These reports are due June 15, September 15 and December 15. This same report is used for the Annual Report which is due March 15th.

### THINK ABOUT THIS...

Regulated Lender Application.

In response to the request to supply forms used with Idaho consumers for Department review:

“ a copy of the entire federal Regulation Z with a note attached “we promise to abide by this law”.

“If I change these to the correct answers, will that resolve our deficiency?”

Comments about the collection agency form—“CA4”  
From a licensee —

“In regards to the supporting documentation, are agents able to give explanations for the “yes” answers?”





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**NATIONAL FORECLOSURE RELIEF, INC.** (Santa Ana, California) – April 21, 2009 – Cease and Desist Order issued for unlicensed mortgage loan modification activity in Idaho.

### **REGULATED LENDERS, PAYDAY LENDERS, TITLE LENDERS**

**BRIDGE TO PAYDAY** (Burley, Idaho) – November 13, 2008 – Consent Order entered for violations of the Idaho Credit Code. Bridge to Payday paid \$3,500 constituting penalties, investigative costs, and attorney fees.



## Did you know....

Surety Bonds for mortgage broker and mortgage lender licensees are no longer required as of July 1, 2009? The surety bond requirement has been replaced with a mortgage recovery fund. New company and loan originator applicants will *begin* contributing to the fund beginning July 1, 2009 at the time of payment of their application fees, and all existing licensees will *begin* contributing during the renewal process which begins November 1, 2009. Recovery fund contributions are only collected at the time of a new application (MU1, MU3, MU4) or during the annual renewal period for each license.

The Bureau has processed 14,104 loan originator sponsorship/relationship requests since January 2, 1008 when the NMLSR went live?

The Bureau no longer prints mortgage loan originator licenses? All approved license information is displayed on the Department's website at <http://finance.idaho.gov> and is contained in the NMLSR.



The Bureau only prints company licenses at initial approval? Renewal confirmation and detailed information may be obtained on the Department's website, and additionally in the NMLSR for mortgage brokers and lenders.

The Nationwide Mortgage Licensing Systems and Registry (NMLSR) can be reached by phone at (240) 386-4444 AND email at [NMLS\\_CallCenter@statemortgageregistry.com](mailto:NMLS_CallCenter@statemortgageregistry.com)?

Bureau examiners participated in 33 consumer education conferences, high school and college financial education training programs reaching over 800 participants and attendees through April 30, 2009?



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parts. Part 1 includes general provisions that apply to the entire IRMPA, Part 2 includes provisions applicable to mortgage brokers and mortgage lenders, and Part 3 applies to mortgage loan originators. Part 3 incorporates the requirements of the federal S.A.F.E. Mortgage Licensing Act, an act passed by Congress and signed by the President in July of 2008, as part of the Housing and Economic Recovery Act of 2008. Part 3 of the IRMPA is entitled the "Idaho Secure and Fair Enforcement for Mortgage Licensing Act of 2009" or the "Idaho S.A.F.E. Mortgage Licensing Act of 2009" and applies to mortgage loan originators. Part 3 of the IRMPA will be referred to herein as the "Idaho S.A.F.E. Act."

After the IRMPA was enacted, the Department began receiving questions regarding mortgage loan originator license and registration requirements under the IRMPA, particularly under part 3 of that act, the Idaho S.A.F.E. Act. To respond to such questions, and to clarify how the IRMPA licensing and registration requirements of the IRMPA will be implemented, the Department hereby issues this interpretation. It is intended to assist current mortgage broker/lender and mortgage loan originator licensees and future such licensees and others affected by the IRMPA with the changes that will occur when the IRMPA becomes effective on July 1, 2009.

## II. Determining Who Is a Mortgage Loan Originator

Section 26-31-303(6) of the Idaho S.A.F.E. Act defines "mortgage loan originator" as an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan<sup>1</sup>. Part (a) of § 26-31-303(6) sets forth activities that do not fall within the definition of a mortgage loan originator.

The Idaho S.A.F.E. Act requires a mortgage loan originator to be registered with the Nationwide Mortgage Licensing System and Registry (NMLSR) and licensed under the IRMPA.

Specific facts and circumstances that apply to a person's activities in connection with a residential mortgage loan will determine whether or not that person qualifies as a mortgage loan originator under the definition in the Idaho S.A.F.E. Act. The examples that follow are not intended as a complete list of all activities that may fall within the definition of a mortgage loan originator, or that may be exempt from such definition. They are merely intended to assist the mortgage industry in determining generally whether an activity constitutes mortgage loan origination as defined in § 26-31-303(6) of the Idaho S.A.F.E. Act, or falls within the exceptions set forth in subsections (a) and (b) of that section.

The following activities, when pursued for compensation or gain, or in the expectation of compensation or gain, will likely constitute mortgage loan origination activities under the Idaho S.A.F.E. Act:

- (1) Completing, in whole or in part, a residential mortgage loan application, or assisting a borrower in the completion of such an application, or assisting a borrower in applying for such a loan. Assisting may include instructing or otherwise directing a borrower in completing any section of an application form, or providing advice or counsel to a borrower in the lending process, but does not include communication of factual information related to the loan process, such as the type of information necessary to complete a loan form.

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<sup>1</sup> A "residential mortgage loan" means any loan that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in section 103(v) of the Truth in Lending Act, which dwelling is located in Idaho, or on residential real estate located in Idaho, A "dwelling" is a residential structure that contains 1 to 4 units, whether or not such structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile home, and trailer, if used as a residence. See 12 CFR § 226.2(a)(10).

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- (1) Advising or counseling a borrower as to loan terms, including the amount, payment period, payment amount, rates, fees, costs or options concerning a residential mortgage loan.
- (2) Recommending, referring, or steering a borrower to a specific lender, based upon the borrower's credit history or income, or any other factor specific to the borrower that relates to obtaining a mortgage loan.
- (3) Obtaining financial information in connection with paragraphs (1), (2), or (3) above, including obtaining a credit report or credit score from the borrower or from a third party to be used in making a credit decision.

The following activities likely fall within the exemptions set forth in § 26-31-303(6) of the Idaho S.A.F.E. Act, and thus the person engaging in such activities would not be subject to the registration and licensing requirements for mortgage loan originators under that Act:

- (1) Making blank application materials available to a customer;
- (2) Physically handling documents or transmitting documents for or to the borrower;
- (3) Informing the borrower that certain lenders or persons are available to assist in a residential mortgage loan transaction, provided that no "Affiliated Business Arrangement" (MBA) as defined in Regulation X pursuant to the Real Estate Settlement Procedures Act (RESPA) has been established.<sup>2</sup>

### **HUD's Interpretive Statements**

The Office of Housing and Urban Development (HUD) has issued various interpretations that the Department will likely rely on in determining whether a person's activities in connection with a residential mortgage loan place him or her within the definition of "mortgage loan originator."<sup>3</sup> An example is the following interpretive statement issued by HUD, addressing the meaning of the phrase "takes an application" in the residential mortgage lending context:

HUD interprets "taking" an application to mean receipt of an application for the purpose of deciding whether or not to extend the requested offer of a loan to the borrower, whether the application is received directly or indirectly from the borrower.

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<sup>2</sup> *The existence of an MBA in and of itself will not likely, by itself, determine whether an exemption applies. The Director will consider the nature of the MBA and to what extent one entity may have been referred business above others.*

<sup>3</sup> *The HUD interpretations referenced herein are found in the Federal Register/Vol.74, No.2, and on the HUD website, at: <http://www.hud.gov/offices/hsg/ramh/safe/smllicact.cfm>*

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HUD elaborates on the limits of the clerical and administrative exclusion by stating:

HUD interprets an individual who "takes a residential mortgage loan application" to exclude an individual who performs purely administrative or clerical tasks, such as physically handling a completed application form or transmitting a completed form to a lender on behalf of a prospective borrower. This interpretation is consistent with the exclusion defined in section 1503(3)(C) of the SAFE Act. On the other hand, HUD views activity that involves assisting or advising a prospective borrower in the completion of an application extending beyond purely administrative or clerical tasks falls within coverage of the SAFE Act provided by section 1503(3)(B).

Finally, HUD states that "preparing loan packages" qualifies as "assisting a consumer," which would require licensure as a mortgage loan originator:

Section 1503(3)(B), entitled "Other Definitions Relating to Loan Originator" provides "For purposes of this subsection, an individual 'assists a consumer in obtaining or applying to obtain a residential mortgage loan' by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan."

### III. Registration and Licensing Requirements under the IRMPA and the Idaho S.A.F.E. Act by Mortgage Loan Originator Category

Some individuals who were exempt from licensing as individual mortgage loan originators under the *old* Idaho Residential Mortgage Practices Act are no longer exempt from licensing due to Congress' passage of the federal SAFE Act, a key component of the Housing and Economic Recovery Act of 2008 (Public Law 110-289). The Department recognizes that various provisions in the IRMPA give rise to questions as to the registration and licensing requirements relating to different types of mortgage loan originators and the timing of such requirements. The following sets forth the Department's interpretation of such requirements and the timing as to each.

#### (1) Mortgage Loan Originators of Exempt Non-Depository Institutions

Individuals who engage in mortgage loan origination activities in Idaho on behalf of non-depository entities or individuals that are *exempt* from licensing under the IRMPA must still meet all of the Act's requirements for a mortgage loan originator license<sup>4</sup> and obtain such license on or before July 31, 2010, through the NMLSR. The Department encourages all such individuals to initiate this process for an approved *conditional mortgage loan originator license*<sup>4</sup> *immediately* to minimize or prevent business interruption, as all requirements to maintain a fully approved non-conditional license must be *completed* by July 31, 2010. Additionally, employing or contracting firms, even though they are *exempt* from licensure under the IRMPA

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<sup>4</sup> A conditional mortgage loan originator license is a license issued by the Idaho Department of Finance to an individual allowing him or her to engage in mortgage loan origination activities in Idaho prior to satisfying all of the new Idaho S.A.F.E. Act licensing requirements. On July 1, 2009, all existing Idaho mortgage loan originator licenses will automatically convert to an approved-conditional status, and will remain in that status until all new Idaho S.A.F.E. Act licensing requirements have been satisfied. The new Idaho S.A.F.E. Act licensing requirements include, but are not limited to: 1) pre-license testing; 2) pre-license education; 3) criminal background checks; and 4) credit checks. The deadlines for completion of the new Idaho S.A.F.E. Act licensing requirements for mortgage loan originators are set forth on Appendix "A."

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will need to file a "registration" and pay NMLSR system fees in order to "sponsor" the license of the loan originators they employ or contract with. Such employers will have full access to the NMLSR and its capabilities for purposes such as filing applications and renewals, and requesting reports of their sponsored loan originators. No state fees will be assessed against such employing or contracting firms for filing the registration enabling them to sponsor mortgage loan originators.

**(2) Mortgage Loan Originators of Non-Depository Institutions Who Were Formerly Exempt From Licensing in Idaho**

Under the *old* Idaho Residential Mortgage Practices Act, repealed as of July 1, 2009, some individuals who engaged in mortgage loan origination activities in Idaho for non-depository institutions were exempt from mortgage loan originator licensing requirements due to the institution's affiliate relationship with a depository institution. Such former exemptions are no longer applicable under the IRMPA, effective July 1, 2009. As a result, all individuals who engage in mortgage loan origination activity in Idaho on behalf of non-depository institutions who formerly qualified for an exemption from Idaho's mortgage loan originator licensing requirements must obtain a *conditional mortgage loan originator license* from the Department by July 1, 2009. This requirement arises from the elimination of certain licensing exemptions included in the *old* Idaho Residential Mortgage Practices that will be repealed on July 1, 2009, and the requirement in the IRMPA that mortgage brokers and mortgage lenders can engage in mortgage loan origination activities in Idaho *only* through mortgage loan originators licensed by the Department. *See* Idaho Code § 26-31-211(10). By July 31, 2010, mortgage loan originators falling within this category must satisfy all of the requirements for licensing under the Idaho S.A.F.E. Act through the NMLSR to remain qualified for an Idaho mortgage loan originator license after that date.

**(3) Mortgage Loan Originators with a Current Idaho License as of June 30, 2009**

Individuals who hold an active or approved-inactive Idaho mortgage loan originator license on June 30, 2009 and who have successfully renewed their license by December 31, 2009, will have until January 1, 2011, to satisfy all of the new requirements for licensing under the Idaho S.A.F.E. Act through the NMLSR to remain qualified for an Idaho mortgage loan originator license. Such mortgage loan originators will hold a *conditional mortgage loan originator license* until all new requirements for licensure under the Idaho S.A.F.E. Act are met, which must be accomplished by no later than January 1, 2011.

**(4) Mortgage Loan Originators with a License Approval Date on or After July 1, 2009**

Individuals who hold a mortgage loan originator license (active or inactive) with an issue date between June 30, 2009, and August 1, 2010 who successfully renew that license (if applicable) by December 31, 2009, and who are employed by, or have contracted with, a mortgage broker, mortgage lender, or mortgage loan modification company, will have until July 31, 2010, to satisfy all of the new licensing requirements of the Idaho S.A.F.E. Act. During the interim period, such individuals will hold a *conditional mortgage loan originator license*. The Department encourages all such individuals to initiate the process for an approved conditional license *immediately* to minimize or prevent business interruption. **All** requirements for obtaining a fully-approved non-conditional license must be *completed* by July 31, 2010.

**(5) Independent Contractor Mortgage Loan Processors and Underwriters**

After July 1, 2009, individuals who engage in mortgage loan processing or mortgage loan underwriting activities as

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an independent contractor may *not* conduct such activities until licensed as a mortgage loan originator through the NMLSR in conformance with the requirements of the Idaho S.A.F.E. Act. See paragraph (4) above for the applicable requirements and deadlines. Independent contractors whose licenses are not sponsored by a licensed or registered entity under the IRMPA or the Idaho Credit Code, Idaho Code § 28-41-101 *et seq.*, will be required to obtain a mortgage broker/lender license under Part 2 of the IRMPA and sponsor any mortgage loan originator they employ or contract with.

### **(6) Idaho Mortgage Loan Originator Employment Exclusivity Requirement**

Idaho-licensed mortgage loan originators may not be employed as mortgage loan originators simultaneously by more than one (1) mortgage broker or mortgage lender licensed, or required to be licensed, under the provisions of IRMPA. Similarly, Idaho-licensed mortgage loan originators may not enter into concurrent contractual relationships for delivery of mortgage loan origination services to more than one (1) mortgage broker or mortgage lender licensed or required to be licensed under the provisions of the IRMPA. Under the IRMPA, mortgage loan originators include individuals who offer or engage in mortgage loan modification activities in Idaho.

### **(7) Mortgage Loan Modification Activities**

Beginning July 1, 2009, entities that offer to perform, or engage in, mortgage loan modification activities in Idaho on behalf of borrowers for compensation or gain, or in the expectation of compensation or gain, must be licensed as mortgage brokers or mortgage lenders through the NMLSR. All individuals who engage in mortgage loan modification activities on behalf of a mortgage broker or mortgage lender licensed, or required to be licensed in Idaho, must obtain a *conditional mortgage loan originator license* from the Department beginning July 1, 2009. The Department encourages all such individuals to initiate the process for an approved conditional license *immediately* to minimize or prevent business interruption. All requirements for obtaining a fully- approved non-conditional license must be *completed* by July 31, 2010.

### **(8) Mortgage Loan Originators for FDIC Insured Depository Institutions**

Individuals who engage in mortgage loan origination activities in Idaho on behalf of a federally insured depository institution are not required to obtain a license under the Idaho S.A.F.E. Act, but must register with the NMLSR pursuant to requirements that will later be adopted and published by the Federal Financial Institutions Examination Council (FFIEC). On May 29, 2009, the Federal banking agencies issued a joint notice of proposed rulemaking concerning implementation of federal registration requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008. A 30-day comment period will follow the publication in the federal register with a final rule expected to be established by July 31, 2009. Operating agreements and modifications to the NMLSR to accommodate the federal registration requirements will be completed once the final rule is in place. A notification through the federal register will notify the federally insured depository institutions when the NMLSR is available to them. It is expected that the filing deadlines will match those of the state supervised licensees.

(Continued on page 13)

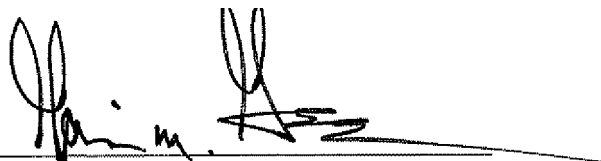
(Continued from page 12)

**(9) Mortgage Loan Originators for Non-Federally Insured Depository Institutions**

Individuals who engage in mortgage loan origination activities in Idaho on behalf of non-federally insured depository institutions are *not* required to obtain a license under the Idaho S.A.F.E. Act, but must register with the NMLSR according to standards to be adopted by the Department in the near future. Such standards are expected to essentially mirror the requirements of the FFIEC. When the Department adopts such standards, it will provide notice to the affected parties.

DATED this 1st day of June, 2009.

State of Idaho Department of Finance

A handwritten signature in black ink, appearing to read "Gavin M. Gee", is written over a horizontal line. The signature is stylized and cursive.

Gavin M. Gee, Director

## Appendix A

### Mortgage Loan Originator (MLO) Filing Dates and Idaho S.A.F.E. Act Compliance Deadlines

Loan Originator Employment Status	Begin Application for Conditional License	MLO License Issue Date	Deadline to Meet All Idaho S.A.F.E. Act Licensing Requirements
	Immediately	If prior to July 1, 2009: If on or after July 1, 2009:	then January 1, 2011 then July 31, 2010
MLO formerly exempt from licensing due to employment or contract with an Idaho mortgage broker/lender licensee affiliated with a depository institution	Immediately	If prior to July 1, 2009: If on or after July 1, 2009:	then January 1, 2011 then July 31, 2010
MLO — existing licensee whether active or inactive	NA	If prior to July 1, 2009:	then January 1, 2011
MLO — newly employed or contracted by licensed mortgage broker/lender	Immediately	If prior to July 1, 2009: If on or after July 1, 2009:	then January 1, 2011 then July 31, 2010
1099/Independent Contractor Mortgage Loan Processors and Mortgage Underwriters	Immediately	If prior to July 1, 2009: If on or after July 1, 2009:	then January 1, 2011 then July 31, 2010
Individuals conducting mortgage loan modification activity (and not currently licensed as an Idaho Mortgage Loan Originator)	Immediately	If prior to July 1, 2009: If on or after July I, 2009:	then January 1, 2011 then July 31, 2010

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5 Employing regulated lender company licensees under the ICC are expected to begin filling for company registration on July 1, 2009.

## Anticipated Dates for Functionality in the NMLS&R

Functionality	Anticipated Start Date
Pre-license National Component Test	August 1, 2009
Pre-license Idaho State Component Test	August 1, 2009
Pre-license Education Certification (in lieu of Pre-License Education)	TBD
Pre-license Education Courses	August 1, 2009
Fingerprinting/Criminal Background Check	October 1, 2009 (dependent upon FBI)
Credit Report	April 1, 2010



**IDAHO  
DEPARTMENT OF  
FINANCE**

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**IMPORTANT DATES TO REMEMBER!**

<u>Annual License Renewals</u>	<u>Date to Complete</u>
Collection Agencies	March 15 <sup>th</sup>
Escrow/1031 Exchange Companies	April 30 <sup>th</sup>
Regulated Lenders (includes payday and title lenders)	May 31 <sup>st</sup>
Mortgage Brokers/Lenders	<b>December 31<sup>st</sup></b>
Mortgage Loan Originators	<b>December 31<sup>st</sup></b>

Annual Reporting of Activity

Collection Agencies	March 15 <sup>th</sup>
Escrow/1031 Exchange Companies	April 30 <sup>th</sup>
Regulated Lenders	May 31 <sup>st</sup>
Mortgage Brokers/Lenders	March 31 <sup>st</sup>
Continuing Education (Mortgage Loan Originator/QPICs) (Beginning 2010)	<b>December 31<sup>st</sup></b>



*Protecting the Integrity of  
Idaho Financial Markets  
Since 1905*

**Quarterly Agents Report for all Idaho Collection Agencies are due  
June 15, September 15, December 15**

**Please make a note on your Calendar**