



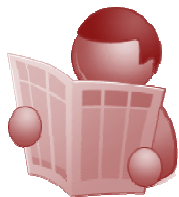
# THE IDAHO COMPLIANCE CONNECTION

A Newsletter Published by the Consumer Finance Bureau of the Idaho Department of Finance for Mortgage Brokers, Lenders, Loan Originators, Consumer Finance Companies, Collection Agencies, and independent Escrow Companies.

FALL 2008

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## A Brief Introduction to the S.A.F.E. Act

Throughout its history of mortgage regulation, the Department has worked closely with industry to ensure that its regulation of the mortgage market in Idaho is effective. In 2003, the Department began to work through the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) to develop a licensing system that would reduce the regulatory burden mortgage industry participants faced when meeting the separate licensing requirements of all the states where each conducted business. These efforts resulted in the establishment of the Nationwide Mortgage Licensing System (NMLS), which began operations in January 2008.

In July 2008, the United States Congress passed, and President Bush signed, the Housing and Economic Recovery Act of 2008. This legislation included the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, or *S.A.F.E. Act*. The *S.A.F.E. Act* applies

licensing and registration standards to all mortgage loan originators operating in the U.S. The *S.A.F.E. Act* implements licensing requirements similar to many of those already adopted by the Department but it also adds certain additional requirements, which the Department must address during the upcoming 2009 Legislative Session. One significant provision of the *S.A.F.E. Act* is that it places a requirement on state regulators, such as the Department, to implement the minimum standards of the *S.A.F.E. Act* to the licensure of loan originators.

The *S.A.F.E. Act* mandates that states adopt a system of licensing for residential mortgage loan originators by August 1, 2009. In Idaho, these requirements mean changes in existing law that will require individual loan originators seeking *licensure* to meet the following:

- ◆ Be required to obtain up to 20 hours of pre-license education and pass a pre-license test;
- ◆ Never have had a similar license revoked;
- ◆ Never have been convicted of a felony for fraud, money laundering, dishonesty, or breach of trust;
- ◆ Not have been convicted of any felony within the last seven years;
- ◆ Obtain a minimum of eight required hours of continuing education, measured on an annual basis rather than bi-annually; and,
- ◆ Meet a surety bond or net worth requirement. Alternatively, the Department may create a recovery fund.

Under the *S.A.F.E. Act*, any individual who, for compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan appli-

(Continued on page 2)

- ◆ Submit fingerprints and be subject to criminal and credit background checks;

(Continued from page 1)

cation must be licensed or registered as a mortgage loan originator. Idaho law must be amended to reflect the requirements of the S.A.F.E. Act that all mortgage loan originators operating in Idaho be either licensed (loan originators working for non depository institutions) or registered (loan originators working for state or federally chartered depository institutions) through the Nationwide Mortgage Licensing System & Registry maintained by the CSBS and AARMR.

Once the Department has adopted the changes required by the S.A.F.E. Act, its final policies and system of licensure will be subject to review by the Department of Housing and Urban Development. HUD will ascertain whether the state licensing system meets the federally mandated requirements. If a state does not meet these requirements, HUD will implement a system of licensure for all loan originators in that state. This could result in a dual licensing requirement for mortgage loan originators in states that already have loan

originator licensing but have not met the mandates of the S.A.F.E. Act.

There are several aspects of the S.A.F.E. Act which are currently the subject of discussion between the mortgage industry and state and federal regulators. The Department regularly participates in these discussions to ensure that the interests of the industries it regulates and Idaho consumers are met and that its regulatory activities remain efficient.

More information regarding the anticipated impact of the S.A.F.E. Act on mortgage loan originators can be found on the Department's website at:

<http://finance.idaho.gov/mortgage/documents/safe.pdf>

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## **Do You Have Clients Who Are Having Trouble Paying Their Mortgage?**

### *Know Someone Facing Foreclosure?*

On its website (<http://finance.idaho.gov/Mortgage/ForeclosureResources.aspx>) the Department offers links to organizations and agencies offering valuable foreclosure prevention assistance, guidance and information. **Please be advised that offering loan modification assistance for a fee requires licensure under the Idaho Collection Agency Act as a debt/credit counselor.**

### *Do Your Clients Need Counseling Assistance?*

If you encounter someone concerned about losing a home, meeting mortgage payments, rental issues, reverse mortgages, or if you know of someone who could benefit from receiving credit counseling before purchasing a home, you may want to familiarize yourself with the following resource:

Idaho Housing and Finance Association, in partnership with Idaho Partners for Homebuyer Education Inc. (IPHBE), offers free Housing Counseling to consumers statewide, regardless of income. Individuals do not have to be IHFA customers to access this counseling.

Access counseling service information at [www.idamortgage.com](http://www.idamortgage.com) and select "housing counseling."



# TOP CONSUMER COMPLAINTS

## MARCH 1, 2008 TO SEPTEMBER 30, 2008

### Mortgage

- ◆ Advertising violations of Reg Z/ TILA and IDAPA 12.01.10(40)
- ◆ Loan Originators: Unlicensed activity
- ◆ Servicing: Foreclosure issues and pre-foreclosure modification help

### Regulated Lenders (includes pay-day and title lenders)

- ◆ Unlicensed Activity
- ◆ Modifications due to lack of, or reduced, income
- ◆ Loan balance or interest disputes

### Collection Agency

- ◆ Collecting against incorrect person
- ◆ Debt obligation dispute/ payment modification request
- ◆ Unlicensed activity (Significant increase in commercial activity)



### Searching

for the right licensing form?

These forms can be found on the Department's Website —

<http://finance.idaho.gov>

## “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 and more. In 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 mortgage loan originator licensees filing records through the Nationwide Mortgage Licensing System (NMLS).

Mortgage Loan Originators and Qualified Persons in Charge (QPICs) that had licenses issued or appointments made (QPIC) between January 1 and October 31, 2006 had until October 31, 2008 to complete their 16 hours of continuing education requirements and have only until November 30, 2008 to have them on file with the Department. Certificates of Completion may be faxed to 208-332-8096 or emailed to [mortgage@finance.idaho.gov](mailto:mortgage@finance.idaho.gov). Please submit only certificates for courses and providers that are approved and appear on the Department's website at <http://finance.idaho.gov>.

**Licensees that had licenses or appointments made after October 31, 2006 do NOT have CE reporting requirements in 2008.**

## New on the Web!

**Statute Updates** (Laws/Statutes Section): Updates effective July 1, 2008 to the **Idaho Residential Mortgage Practices Act** (removed loan originator surety bond; updated definitions of covered activities; adopted a provision to require a pre-license testing for loan originators; deleted requirement to display loan originator licenses; changed license expiration and renewal dates); **Idaho Collection Agency Act** (removed in-state office requirement; deleted qualifying officer test; added experience requirement; deleted portion of surety bond requirement; added requirement to formally register agents and branch locations; updated definitions; deleted license reinstatement period); **Idaho Credit Code** (deleted "dual" license requirement for licensees covered under the Residential Mortgage Practices Act and removed five-mile relocation limitation); and the **Idaho Escrow Act** (clarified reasons to deny licensure, revised definition as to location of trust accounts; clarified remedies of violations for the Director).

**Press Releases** (Press Releases Section): Twenty-one new releases with information on foreclosure resources, new laws, deceptive advertising, credit report freezes, the state of Idaho financial institutions, Department year-end highlights and much more.

**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.

**Department Training** (Training Presentations): Reviews the mortgage-related training presentations conducted by Department staff around the state in April 2008, as well as previous years.

**Fraud Video** "Idaho Department Of Finance/Real Estate Commission - Mortgage Fraud...Even in Idaho" (News and Announcements): Joint production with the Idaho Department of Finance and the Idaho Real Estate Commission in showing examples of fraud scenarios to avoid during the mortgage application and real estate purchase processes.



***As of July 1, 2008 all Licensees under the Idaho Collection Agency Act must file a Quarterly Report on new and terminated employees.***

Due dates for this report are June 15, September 15 and December 15 of each year including a \$20.00 fee for each. The appropriate form can be found on the Department's website —

<http://finance.idaho.gov>



## The 2009 Streamlined Mortgage Company and Loan Originator Renewal Process is Underway in NMLS!

Beginning on November 1st, all company and individual licensees have been enabled to log into NMLS and attest as part of the 2009 Streamlined Renewal Process, which must be accomplished by December 31, 2008. Companies should insure that all of their licensed mortgage loan originators complete their renewal requirements then login and attest to their record as soon as possible. For more information about attestation see the **Individual Attestation Quick Guide** or the **Company Attestation Quick Guide**.

Mortgage Company and Loan Originator licensees must make any necessary updates to their record to remove a "deficient" or "conditional" status prior to attestation. A full "approved" status is required in order for a renewal to be approved. Renewal requests can be submitted starting November 1, 2008. For more information, and a list of states participating in the 2009 Streamlined Renewal Process, see **Renewal Overview**.

For questions on NMLS usage and navigation, please contact the NMLS call center at (240) 386-4444 Monday-Friday from 9:00am-7:00pm EST or via email at [NMLS\\_CallCenter@statemortgageregistry.com](mailto:NMLS_CallCenter@statemortgageregistry.com).



# IDAHO

DEPARTMENT OF FINANCE

## Some important facts about FDIC deposit insurance from the Idaho Department of Finance

- The Federal Deposit Insurance Corporation (FDIC), a federal government agency, was created 75 years ago and since then, no bank depositor has lost a penny of insured deposits.
- The FDIC fund is strong with a current fund balance of \$45 billion, paid in by the entire banking industry. The FDIC's ability to raise premiums means that the capital of the entire banking industry - \$1.3 trillion - is available for support.
- The FDIC fund is backed by the full faith and credit of the U.S. Government.
- The FDIC fund will continue to protect insured depositors in failed institutions. To make sure the fund remains solid, the FDIC continues to bring in premium income and is planning to raise bank premiums in the coming weeks to bring in even more revenue.
- The FDIC has longstanding borrowing capacity from the U.S. Treasury Department if the need ever arises, which money would be paid back from the banking industry.
- The FDIC insures over 8,400 banks and thrift institutions in this country with total assets of over \$13.3 trillion.
- Two of the largest recent problem bank resolutions (Washington Mutual and Wachovia) resulted in no cost to the FDIC insurance fund and there is the possibility that the FDIC fund could actually make money on the transactions.
- Idaho headquartered banks and thrifts are FDIC insured, safe and sound, well capitalized and well reserved despite the national market turmoil. FDIC deposit insurance guarantees that your insured bank deposits are the safest place for your money. Withdrawing large amounts of cash and storing it in your home, business, yard or on your person poses significant risks of theft, robbery or loss.
- With the enactment of the Emergency Economic Stabilization Act of 2008 on October 3, 2008, the basic insurance limit is NOW \$250,000 per depositor, per insured bank. However, it is possible to have insurance coverage in excess of the basic limits by restructuring your accounts to bring them below the insured limits. Consult with your bank, the FDIC deposit insurance specialists at 1-877-ASK-FDIC, or the FDIC's website at <http://www.fdic.gov/deposit/index.html>
- if you have questions about deposit insurance. *Remember, the safest place for your money is in an insured account!*
- Our office is here to answer any questions: (208) 332-8010, or toll-free in Idaho at (888) 346-3378.



## Did you know....

The Bureau has processed 9,148 loan originator sponsorship/relationship requests since January 2, 2008?

The Bureau has processed and approved 4,171 mortgage company, branch and loan originator applications and transitions since January 2, 2008?

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



Bureau examiners have participated in 31 consumer education conferences, high school, and college financial education training programs through September 30, 2008?

## CONSUMER FINANCE BUREAU STATISTICS

<b>Active Licensees</b> (as of 9/30/08)		Escrow	0
Mortgage Brokers/Lenders	1311	Regulated Lenders (inc. payday/title)	0
Mortgage Loan Originators (Approved-Active)	3339	Collection (all categories)	0
Mortgage Loan Originator (Approved-Inactive)	889	<b>Withdrawals</b> (3/1/2008-9/30/2008)	
Escrow /1031 Exchange Companies	42	Mortgage Broker/Lenders	535
Regulated Lenders (inc. title lenders)	520	Mortgage Loan Originators	209
Payday Lenders	235	Escrow	1
Collection Agencies	521	Regulated Lenders (inc. payday/title)	0
Debt/Credit Counselors	34	Collection (all categories)	7
Debt Buyers	5	<b>Terminations (failed to renew licenses)</b> (3/1/2008-9/30/2008)	
Credit Repair Company/Organization	2	Mortgage Broker/Lenders	0
Collection Agency Agents/Solicitors	45,000	Mortgage Loan Originators	0
Continuing Education Providers	25	Escrow	2
Continuing Education Courses	126	Regulated Lenders (inc. payday/title)	NA
<b>New Applications Received</b> (3/1/2008-9/30/2008)		Collection (all categories)	NA
Mortgage Brokers/Lenders	304	<b>Exams Conducted</b> (3/1/2008-9/30/2008)	
Mortgage Loan Originators	964	Mortgage Brokers/Lenders	10
Regulated Lenders (inc. payday/title)	67	Escrow	0
Collection Agencies (all categories)	583	Regulated Lenders (inc payday/title)	15
Escrow/1031 Exchange Companies	7	Collection Agency	9
Continuing Education Providers	2	<b>Complaints filed (written)</b> (3/1/2008-9/30/2008)	
Continuing Education Courses	25	Mortgage (origination/servicing)	85
<b>License Modifications/Status Changes</b> (3/1/2008-9/30/2008)		Loan Originators	1
Mortgage Broker/Lenders	16	Escrow/1031 Exchange	3
Mortgage Loan Originators	2120	Collection Agency	121
Escrow	0	Payday Lender, Regulated Lender (finance co., payday, title)	31
Regulated Lenders (inc. payday/title)	0	Other (banks, credit unions)	33
Collection (all categories)	25	<b>Complaints Closed (all)</b> (3/1/2008-9/30/2008)	38
<b>Revocations/Denials</b> (3/1/2008-9/30/2008)			
<b>Exemptions</b> (3/1/2008-9/30/2008)			
Mortgage Broker/Lenders	3		
Mortgage Loan Originators	14		

## ENFORCEMENT ACTIONS

March 1, 2008 through September 30, 2008

**LOAN ORIGINATORS**

**MINDY S. TAYLOR** (Boise, Idaho) – September 30, 2008—Order of Revocation of mortgage loan originator license for unlicensed activity (Motion for Reconsideration pending).

**WILLIE LEON REAMS** (Nampa, Idaho) –April 9, 2008– Order of Revocation of mortgage loan originator license for failure to disclose material background information which would have caused the denial of license application.

**OSA JEREMIAH McDONALD** (Boise, Idaho) –March 24, 2008—Order of Revocation of mortgage loan originator license for failure to comply with the terms of a prior Agreement and probation violations.

**MORTGAGE BROKER/LENDERS**

**RIVERSIDE MORTGAGE, LLC** (Rupert, Idaho) –June 5, 2008– Consent Order of Revocation of mortgage broker/lender license for various violations of the Idaho Residential Mortgage Practices Act and federal regulations applicable to mortgage brokering/lending. Violations included engaging in unlicensed mortgage brokering activity; failure to disclose yield spread premium; and obtaining documents signed by borrowers in which blanks were left to be filled in later.

**ASSURITY FINANCIAL SERVICES, LLC** (Englewood, Colorado) – May 1, 2008– Cease and Desist Order for advertising violations. To address the allegations included in the Cease and Desist Order, the Respondent entered into a Consent Order from which it paid \$15,000 administrative penalty and \$2,000 in investigative costs and attorney fees. Respondent must provide all proposed advertisements or solicitations for Department review for a period of 12 months.

**21ST CENTURY FINANCIAL CORPORATION, INC.** (Oakland, California) –March 4, 2008– Cease and Desist Order for advertising violations. Respondent

paid \$2,500 administrative and \$1,000 investigative costs and attorney fees. Respondent must provide all proposed advertisements or solicitations for Department review for a period of 12 months.

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

**TOPCO FINANCIAL SERVICES, INC.** (Everett, Washington) – September 30, 2008– Order to Cease and Desist for unlicensed collection activity. The Order also alleges that Respondent's representatives directed profane or obscene terms to Idaho consumers in their unlicensed collection attempts.

**STEPHEN WHITE, dba AMERICAN CREDIT** (Redding, California) – September 18, 2008– Cease and Desist Order for unlicensed credit repair activities.

**FINANCIAL FREEDOM RESOURCES, INC.** (Clearwater, Florida) – September 18, 2008–Order to Cease and Desist for unlicensed debt/credit counseling and credit repair activities.

**DEBT RELIEF USA, INC.** (Addison, Texas) – September 10, 2008– Consent Order for unlicensed credit counseling activities. Respondent agreed to refund \$201,829.35 in fees paid by Idaho residents and paid \$2,500 in investigative costs and attorney fees.

**PARKER ELLIOTT, INC.** (Newport Beach, California) – August 29, 2008– Order to Cease and Desist for unlicensed collection activity and violations of the FDCPA.

**ACCESS RECOVERY SERVICE, INC., dba PATIENT ACCOUNT CARE and MICHELLE MUSIC, fka MICHELLE JAMISON** (Boise, Idaho) – August 19, 2008—Consent Order for various violations of the Idaho Collection Agency Act including trust account violations. Respondent was ordered to immediately cease and desist from misappropriating, transferring, or converting client funds in violation of the

*(Continued on page 8)*

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Act. The Department impounded Respondent's bank accounts for a short period of time. The order limited the Respondent's business activities to specific period of time, and required the Respondent to either find a buyer or surrender its license.

**DEBT SETTLEMENT USA, INC.** (Scottsdale, Arizona) – August 8, 2008– Consent Order for unlicensed credit counseling activities. Respondent agreed to refund approximately \$111,000 in fees paid by Idaho residents and paid \$1,500 in investigative costs and attorney fees.

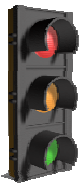
**MCT GROUP, INC.** (Redondo Beach, California) – July 31, 2008– Order to Cease and Desist for unlicensed collection activity.

**DMB FINANCIAL, LLC** (Beverly, Massachusetts) – July 25,

2008– Consent Order for unlicensed credit counseling. Respondent agreed to refund \$61,000 in consumer restitution and paid \$1,500 and investigative costs and attorney fees.

**NATIONAL CREDIT ACCEPTANCE, dba NATIONAL CREDIT ACCEPTANCE, INC.** (Sacramento, California) – June 27, 2008– A civil enforcement lawsuit was filed in the Fourth Judicial District Court, Ada County, Idaho, alleging unlicensed collection activity in violation of the Idaho Collection Agency Act and in violation of a Cease and Desist Order previously issued by the Director. Judgment ultimately entered in favor of the Department for \$90,000 in civil penalties.

**DEBT EQUITIES, LLC** (Golden Valley, Minnesota) – April 14, 2008– Consent Order for unlicensed collection activity. Respondent paid \$2,500 administrative penalty and \$500 investigative costs and attorney fees.



## Offers for Loan Modification Services = Credit Counseling Activity Idaho License Required as Credit Counselor

Homeowners, who in the past could access home equity to resolve monthly cash flow problems, may no longer have that option available due to changing market conditions. As a result, an increasing number of borrowers may be seeking loan modifications through their mortgage lenders and servicers. This is a process homeowners can engage in on their own by working directly with their lenders and servicers. There are also resources available on the Department's website at <http://finance.idaho.gov/Mortgage/ForeclosureResources.aspx> that could be useful to homeowners who are facing difficulty meeting their monthly mortgage payments. In addition, there is a growing number of companies and individuals who are offering direct services to homeowners to help them engage in the loan modification process.

The loan modification process commonly requires communications with the homeowners' mortgage holder, or creditor, by a loan modification company for the purpose of seeking an adjustment of the existing terms of the mortgage debt. Fees for these services vary and may be charged to consumers up-front, prior to services being provided, or after certain services are performed. Generally, such activity is defined as credit counseling under the Idaho Collection Agency Act and requires a license in the State of Idaho.

The Department has found that some individuals who have worked in the mortgage brokering or lending industry are now offering loan modification services. Those who have experience in the mortgage industry may be well suited to aid consumers in obtaining loan modifications, **but they should be aware of the licensing requirements applicable to such services.** Individuals acting as agents for credit counseling services are not required to obtain their own license. However, the companies that they represent must be licensed and any branch location in Idaho from which services are performed must be registered with the Department.

If you need information on whether a loan modification company is licensed or, if you have questions on how to obtain a license to offer credit counseling services, contact the Department by phone at (208) 332-8000, or visit the Department's website at <http://finance.idaho.gov>.



**IDAHO  
DEPARTMENT OF  
FINANCE**

**Mailing**

**USPS—regular mail**

**STATE OF IDAHO**  
DEPARTMENT OF FINANCE  
P O Box 83720  
BOISE ID 83720-0031

**Overnight Delivery:**

STATE OF IDAHO  
DEPARTMENT OF FINANCE  
800 PARK BLVD STE 200  
BOISE ID 83712

**Phone:**  
(208) 332-8000

**Consumer Finance Bureau:**  
(208) 332-8002

**Facsimile:**  
(208) 332-8096

**Toll Free in Idaho:**  
888-346-3378

**Website:**  
<http://finance.idaho.gov>



This newsletter is produced semi-annually as a part of the Consumer Finance Bureau’s continued communication outreach with the companies and individuals it licenses and regulates. Delivery by electronic means solely.

Suggestions and comments concerning the newsletter or its contents should be sent to the Consumer Finance Bureau at PO Box 83720, Boise Idaho 83720-0031 or via email to [kc.schaler@finance.idaho.gov](mailto:kc.schaler@finance.idaho.gov)

**IMPORTANT DATES TO REMEMBER!**

**Annual License Renewals**

**Last Date to Complete**

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 ( <i>beginning 2008</i> )	<b>December 31<sup>st</sup></b>
Mortgage Loan Originators ( <i>beginning 2008</i> )	<b>December 31<sup>st</sup></b>

**Annual Reports 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	<b>TBD</b>

**Please make a note on your Calendar**



Protecting the Integrity of  
Idaho Financial Markets  
Since 1905