



PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS SINCE 1905

**Idaho Department of Finance  
Guidance Statement  
2020-08-CFB**

**AUTHORIZED USE OF PRE-JUDGMENT SETTLEMENT AGREEMENTS PURSUANT  
TO THE IDAHO COLLECTION AGENCY ACT**

**Issue Date: July 1, 2020 (Replaces Policy Statement 2007-6)**

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**I. Background**

The Idaho Department of Finance formerly published Policy Statement 2007-1, which was superseded and replaced by Policy Statement 2007-06 on July 22, 2009, regarding pre-judgment settlement agreements authorized pursuant to the Idaho Collection Agency Act (Act). The Department's policy statement addressed multiple inquiries it had received regarding its interpretation of Idaho Code §26-2229A(4)(d), which provides that a licensee may collect or attempt to collect interest or other charges, fees, or expenses incidental to the principal obligation of a debt where such interest or incidental fees, charges, or expenses:

*Are provided for in a written form agreement, signed by both the debtor and the licensee, and which has the prior approval of the director with respect to the terms of the agreement and amounts of the fees, interest, charges and expenses (Idaho Code §26-2229A(4)(d)).*

The Department deems this policy statement to be in the public interest to facilitate mutually agreed-upon settlements of collection lawsuits, and to guide licensees in their compliance with Idaho Code § 26-2229A(4)(d).

**II. Continued Guidance on Pre-Judgment Settlement Agreements**

The Department believes that a continuation of the guidance provided in the former policy statement is in the public interest, and allows debtors and licensed collection agencies to establish mutually agreed-upon settlements of collection lawsuits that avoid exposing debtors to costs associated with litigation.

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Therefore, the Department has determined that, in relation to a pre-judgment settlement of a collection lawsuit, a licensee has complied with the requirements of Idaho Code §26-2229A(4)(d) if the agreement meets each of the following three (3) conditions:

1. Evidence of the settlement agreement must be in a writing delivered to the debtor by the licensee and available for the Department's review in the debtor's file maintained by the licensee;
2. The settlement amount may not exceed the total of, (i) the amount of the principal obligation, (ii) court filing fees, (iii) accrued interest, and (iv) actually incurred third-party costs, including attorney fees as permitted by law; and,
3. The settlement amount may only include the items set forth in paragraph 2, above, and may not exceed amounts permitted by law, calculated as of the settlement date.

**III. Summary**

This guidance represents the Department's interpretation of the requirements of the Act only to the extent they apply to a pre-judgment settlement of a collections related lawsuit. The guidance does not supersede the requirements of Idaho Code §26-2229A(4)(d) to obtain approval for other forms of payment agreements with respect to the terms of the agreement and amounts of the fees, interest, charges and expenses. Licensees who rely upon this guidance in relation to pre-judgment settlements are not required to submit written settlement agreements to the Department for approval. However, licensees must maintain sufficient records to document compliance with all three (3) of the requirements set forth above to the satisfaction of the Department. The record retention requirements of the Act apply to all such documentation.

**Contact** - You may direct comments or requests for additional information regarding this Guidance Statement to:

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