



PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS SINCE 1905

Idaho Department of Finance
Guidance Statement
2020-02-CFB
TELECOMMUTING AND BRANCH LICENSING REQUIREMENTS
Issue Date: July 1, 2020 (Replaces Policy Statement 2008-02)

I. Background

As a means to accommodate the varied business models used by members of the mortgage industry, the Idaho Department of Finance (Department) has allowed licensed loan originators, who act on behalf of licensed mortgage brokers/lenders, to perform their work virtually while representing to consumers and borrowers that their origination activities are conducted solely at the licensed home or branch offices of their employing company. Common aspects of such activity may include engaging in loan origination activity through internet marketing, email campaigns, phone solicitations, or direct mail. In such cases, a loan originator makes contact with potential applicants in person, via telephone or email, or through direct mail while, at all times, representing loan originator's business location as a licensed office of individual's employer.

II. Application of Business Location Licensing Requirements to Virtual or Remote Origination Activities

Pursuant to the Idaho Residential Mortgage Practices Act (Act), specifically Idaho Code § 26-31-206(8), a mortgage broker/lender may not engage in conducting mortgage brokering or lending activities at any business location for which it does not hold a license. Furthermore, at no time has the Department authorized the transaction of loan origination activities in Idaho from business locations not licensed by the Department when such business locations are under the control or authority of the person conducting the loan origination activity or employing company (e.g. engaging in loan origination activities at any business location, even if the business is not mortgage related and owned or under the control of a loan originator).

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Notwithstanding the above, the Department recognizes that trends in the financial services industry, coupled with evolving technologies, provide individual loan originators ever more opportunities to conduct their work remotely from a non-commercial location, while seamlessly representing the business locations licensed by the Department. Therefore, the Department will not seek to apply business location licensing requirements in instances where an individual loan originator or the individual's employing company does not indicate that the loan originator is engaging in loan origination activities at any unlicensed location. Practices that would implicate the business location licensing requirements include, but are not limited to, the following:

1. Advertising, or including within any business documents or forms (except in documents used in communications directly between the individual loan originator and the loan originator's employer), an address that is not a licensed business location;
2. Advertising, making available to the general public, or including within any business documents or forms (except in documents used in communications directly between the individual loan originator and the loan originator's employer), a telephone number in a manner that indicates a loan originator conducts activities at a place other than a licensed business location (e.g. using a published residential telephone number in promotions);
3. Representing in any manner, directly or indirectly, a location at which loan origination activity may occur, if such representation indicates the activity would occur at an unlicensed location, or would mislead a consumer to believe an unlicensed location is an authorized location from which the loan originator or the loan originator's employer conducts mortgage brokering, lending, or origination activity.

While operating remotely, mortgage loan originators and their employers are also expected to comply with any other provisions of the Act or of laws and regulations applicable to their business activity. Additionally, loan originators and their employers must exercise due diligence in the safeguarding of company and customer data, information and records, whether in paper or electronic format, and to protect them against unauthorized or accidental access, use, modification, duplication, destruction or disclosure.

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III. Summary

The Department believes that the utilization of technology to support remote operations can comply with the Act, given that mortgage brokers, lenders, and loan originators meet the aforementioned parameters. Therefore, loan originators may engage in remote work activities without the requirement to license the loan originators' remote location where the above conditions are met. To ensure the Department has accurate information regarding the practices of entities that utilize remote operations, the Department may require acknowledgement of this Guidance Statement by employers and mortgage loan originators upon receipt of any notice that a mortgage broker or lender is engaged in remote operations.

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

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