



# THE IDAHO COMPLIANCE CONNECTION

SPRING 2010

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## Examination News – "Mortgage"

The recent adoption of the Federal S.A.F.E. Act by Idaho and other states has standardized licensing processes and requirements for mortgage loan originators. Now, the Department and mortgage regulators throughout the country are working on methods to standardize examination procedures for mortgage companies under their supervision.

The Department has routinely selected mortgage companies to examine based on several factors, such as when a licensee was last examined, the level of a licensee's compliance as determined by previous examinations or other information, a licensee's loan volume and its location, and the availability of examination resources. The last factor, examination resources, requires the Department to prioritize between the various regulatory programs it oversees when selecting examination subjects. Mortgage examinations constitute only a portion of the total number of examinations conducted by the Department. The majority of mortgage brokers/lenders licensed in Idaho are also licensed and conduct business in other states. Therefore, these licensees may be subject to multiple examinations in a given year by various states and agencies, depending on the volume of their production and the scope of their nationwide lending or brokering activities. Such factors are taken into consideration by the Department in the development of its examination schedules.

As part of its mission to maintain efficient oversight of mortgage services, the Department is working with various states to develop standardized examination procedures that will enhance the Department's ability to conduct mortgage examinations regularly and utilize its resources more efficiently. These procedures are intended to also reduce the overall burden faced by licensees during the examination process. To support the standardization of the examination process, the Department recently joined with other states in signing a [Nationwide Cooperative Agreement](#) and [Protocol for Mortgage Supervision](#).

In fact, the Agreement and Protocol provide several benefits to the Department. They provide for the coordination of supervising activities between states, greater sharing of information between the states which jointly supervise specific entities, and the development of core examination procedures which may be utilized in joint examinations conducted simultaneously by multiple states and also in state specific examinations. These developments will also benefit mortgage licensees through the use of technologies to reduce the length of time needed to review loan files. The Department is also working with other states to coordinate multi-state

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examinations through a single point of contact and the publication of written standards and procedures for licensees to utilize in preparation for examinations.

Regulators and mortgage licensees will benefit from the standardization of examination processes. The Department looks forward to completing this project and will report on its progress in its next newsletter.

## Examination News – “Collection Agencies”

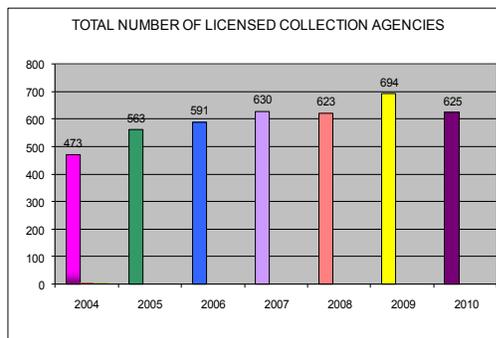
In May of this year, Department representatives were invited to speak at the Idaho Collectors Association annual meeting. Along with sharing statistics about collection agencies licensed in Idaho, complaints received against collection agencies, and enforcement actions, the Department gave a presentation on examination procedures. The Department shared that it regularly conducts limited-scope examinations, full-scope examinations, and pre-license examinations, and provided those in attendance with information regarding the examination process.

Licensee examinations aid the Department in determining a licensee's compliance with the Idaho Collection Agency Act (Act), in assessing appropriate remedies for violations of the Act, and in preventing future violations. Each examination type has certain benefits. They also have certain limitations or disadvantages. For instance, by conducting a limited-scope examination, examiners may determine a licensee's level of compliance with particular portions of applicable law but may not observe regular occurrences of prohibited practices. Alternatively, a full-scope examination may be more likely to identify consistent patterns of non-compliance or willful violations of the Act. However, the cost of a full-scope examination to both the Department and the licensee is significant and may not be justified when it is determined that a licensee has generally complied with applicable law. Therefore, determining a suitable scope for each examination is a key element in the examination procedure.

Along with a discussion of examination types, the Department provided information on what records are reviewed during examinations, how the records are selected, and the purpose of the review. Commonly, examiners will focus on the records and practices of the licensee which will enable the examiner to develop and provide management with a full and objective report of the issues observed during an examination. During a more in-depth (full-scope) examination, examiners may conduct a comprehensive review of all records regarding business practices for a specific period of time. Examiners may also obtain background information from public records and other sources, such as from informational interviews with employees, clients, and debtors.

The Department also discussed how examination findings are reported and a ranking assigned to a licensee based on an Examination Report. Findings are identified as either General or Regulatory. General Findings provide information on areas where the licensee may wish to improve current practices or where the licensee is commended for current practices which support compliance with the Act. Regulatory Findings are examples of non-compliance with the Act or applicable state and federal law and where the licensee must amend its current practices. Licensees are provided with a rank following an examination, which generally assesses whether the examiner found no compliance issues, only minor issues, material problems, or serious compliance deficiencies.

Copies of the presentation were provided to those in attendance at the annual meeting and the Department intends to update information regarding examination procedures as they may change. The presentation may also be accessed under the heading “Collection Examination Procedures” on the Department's website at: [http://finance.idaho.gov/Education/Documents/2010\\_SpringCollectionPresentation.pdf](http://finance.idaho.gov/Education/Documents/2010_SpringCollectionPresentation.pdf)



## Examination News – “Payday Lending”

**D**uring examinations over the past year, examiners have been observing a recurring trend in payday lending. Particularly, payday lender licensees who also hold a regulated lender license are frequently converting existing payday loans into loans with multiple installments. These loans feature new interest charges on the existing principal payday loan balance and often carry the term of the new loan beyond the date that the original payday loan would have been repaid. This specific type of lending is not allowed by the Payday Loan Act.

Idaho Code §28-46-412(3) provides that a payday lender may charge a fee, which is deemed to be fully earned at the time of the making of the loan. The statute then prohibits the addition of other charges in connection with a payday loan. However, a payday lender may assess a dishonored check fee in the collection of an account where the borrower's check is returned unpaid. The Payday Loan Act also restricts certain lending to an existing payday loan borrower. In particular, Idaho Code §28-46-413(6) limits a payday loan transaction to three consecutive renewals, after which it is to be repaid by a borrower. Furthermore, this provision prohibits additional lending to a borrower until the payday loan is “completed.” The term “completed” specifically means when a borrower's “...check is presented or deposited by the licensee or redeemed by the borrower...” Based on these statutes, the Department considers the practice of rolling an existing payday loan into any loan that includes new finance charges or fees, whether a new payday loan or any other form of regulated loan, to be prohibited by the Payday Loan Act.

Some payday lenders have adopted repayment plans for payday loan borrowers who cannot repay their outstanding loans when due. Generally, these repayment plans allow a borrower to repay the loan in four installments without the addition of any new charges, or the accrual of interest on the outstanding balance. The Department considers such repayment plans to be a modification of the existing loan terms and, absent the inclusion of new charges, allowable under the Payday Loan Act. If you are a payday lender who wishes to implement such a repayment plan, be sure to submit any new forms you may use with the borrower to the Department for review and approval.



## Did You Know ....

Credit Reports will be required of all mortgage loan originators (MU4) and all mortgage company level identified Control Persons (MU2) beginning in October 2010. Credit report authorizations will be required for all new applicants as well as part of the renewal process beginning November 1, 2010.



## You Need to Make a Note on Your Calendar. . .

The Bureau no longer mails annual renewal forms!

For the past several years the Bureau has sent *courtesy* email notifications as a reminder to renew licenses and how to obtain necessary forms. It is important that all licensees keep **current email addresses on file with the Bureau.**



## License Information

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, mortgage loan originators and registered regulated lenders and exempt entities.

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).

## Educational Presentations

Bureau examiners participated in 41 consumer education conferences, high school and college financial education training programs reaching over 1500 participants and attendees between November 1, 2009 and May 31, 2010.



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## Surety Bond News



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 began contributing to the fund on July 1, 2009. All existing licensees must pay into the recovery fund during each annual renewal process. Recovery fund contributions are only collected at the time of a new application (MU1, MU3, MU4) and during the annual renewal period for each license.

## Sponsorship Processing. . .

The Bureau has processed 21,792 loan originator sponsorship/relationship requests since January 2, 2008 when the NMLS went live.



### **IMPORTANT NOTICE!!!**

All mortgage broker/lender licenses, mortgage loan originator licenses, independent contractor licensees, regulated lender **registrations** and exempt entity **registrations** **MUST BE RENEWED THROUGH THE NMLS BY DECEMBER 31, 2010.**

Review your MU1, MU2, MU3 and MU4 records and submit any needed amendments to keep the records current.

Remember the NMLS policy is to file within 30 days of occurrence of the change. Do NOT wait until the renewal period has started.

Make sure your records are up to date and current to avoid filing a false attestation at time of renewal (e.g. certifying you have completed testing or education requirements when you haven't or failing to update disclosure questions, etc).

False attestations may lead to disciplinary reportable actions.

# CONSUMER FINANCE BUREAU STATISTICS

## AS OF MAY 31, 2010

**Active Licensees** (as of May 31, 2010)

Mortgage Brokers/Lenders	772
Mortgage Loan Originators (Approved-Active)	2053
Mortgage Loan Originator (Approved-Inactive)	388
Escrow /1031 Exchange Companies	41
Regulated Lenders (inc. title lenders)	454
Payday Lenders	215
Collection Agencies	552
Debt/Credit Counselors	39
Debt Buyers	55
Credit Repair Company/Organization	5
Collection Agency Agents/Solicitors	34,699

**New Applications Received** (11-1-09 thru 5-31-10)

Mortgage Brokers/Lenders	159
Mortgage Loan Originators	336
Regulated Lenders (inc. payday/title)	10
Collection Agencies (all categories)	33
Escrow/1031 Exchange Companies	5

**Revocations/Denials** (11-1-09 thru 5-31-10) 2

**Withdrawals** (11-1-09–5-31-10)

Mortgage Broker/Lenders	103
Mortgage Loan Originators	217
Escrow	0
Regulated Lenders (including payday/title lenders)	49
Collection (all categories)	19

**Terminations (failed to renew licenses)** (11-1-09 thru 5-31-10)

Mortgage Broker/Lenders	206
Mortgage Loan Originators	1320
Escrow	7
Regulated Lenders (inc. payday/title)	33
Collection (all categories)	106

**Exams Conducted** (11-1-09 thru 5-31-10)

Mortgage Brokers/Lenders	22
Escrow	0

Regulated Lenders (including payday/title lenders)	163
Collection Agency	0
<b>Complaints filed (written)</b> (11-1-09 thru 5-31-10)	
Mortgage (origination/servicing)	69
Loan Originators	9
Escrow/1031 Exchange	0
Collection Agency	94
Payday Lender, Regulated	
Lender (finance co., payday, title)	24
Idaho/Federal chartered banks	
and credit unions	27
Unlicensed activity (all categories)	128

**Complaints Closed** (all) (11-1-09 thru 5-31-10) 433



**ENFORCEMENT ACTIONS**

November 1 , 2009 through May 31, 2010

**MORTGAGE LOAN ORIGINATORS**

**DARIN ANDREW STUBBS** (Boise, Idaho) – September 2009 – Order issued denying Mr. Stubbs' application for a mortgage loan originator license based on his failure to disclose information and lack of financial fitness. After Mr. Stubbs contested the Denial Order, a Consent Order was entered on November 17, 2009 resolving the issues alleged in the Denial Order.

**DAVID BRIMLEY** (Holladay, Utah) – February 8, 2010 – Default judgment was entered against Mr. Brimley in the Fourth Judicial District Court. The judgment included findings that Mr. Brimley engaged in at least 19 instances of unlicensed mortgage loan origination activity in Idaho in violation of the Idaho Residential Mortgage Practices Act. The Order enjoined Mr. Brimley from further violations of the Act and ordered him to pay \$26,000 to the Department constituting civil penalties and attorney fees.

**MORTGAGE BROKER/LENDERS**

**INTERNATIONAL CO-OP LLC** (Meridian, Idaho) – October 6, 2009 – Order to Cease and Desist issued against this company addressing unlicensed mortgage modification activity. The Order also included a provision whereby the Director would impose sanctions against the company, to include restitution and penalties, if the company failed to timely request a hearing. After the company contested the Order, a Consent Order was entered on December 10, 2009 resolving the issues alleged in the Order.

**RELIEF LAW CENTER, also known as USA LOAN AUDITORS** (Irvine, California) – April 7, 2010 – Order to Cease and Desist issued against this California mortgage modification company addressing violations of the Idaho Residential Mortgage Practices Act, the Rules Pursuant to the Idaho Residential Mortgage Practices Act, and the Idaho Financial Fraud Prevention Act. In the Order, the Director found that the company had solicited Idaho residents to modify their residential mortgage loans without the license required by the Act; that the company's solicitations contained misrepresentations regarding such Idaho residents' mortgage lenders; and that the solicitations were deceptive, misleading, and confusing.

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

**WASHINGTON COLLECTORS TRI-CITIES, INC., dba SPOTCHECK, and dba SPOTCHECK, A DIVISION OF WASHINGTON COLLECTORS TRI-CITIES, INC.** (Pasco, Washington) – December 8, 2009 – Consent Order entered addressing violations of the Idaho Collection Agency Act. The company paid \$1,500 to the Department constituting penalties, investigative costs and attorney fees. Later, the company applied for and was granted an Idaho collection agency license.

**6:10 SERVICES, INC., dba DEBT-FREE AMERICA** (San Diego, California) – December 11, 2009–After determining that this company was no longer in business, the Department notified the company of the Department's intent to deem as relinquished the company's Idaho debt/credit counselor license, if the Department

received no response from the company by December 10, 2009. The Department did not receive any communication from the company, and as a result, the company's Idaho debt/credit counselor license was deemed relinquished.

**CONTEGO LAW, P.C.** (Newport Beach, California) – December 14, 2009 – Consent Order entered addressing violations of the Idaho Collection Agency Act. Contego paid \$1,500 to the Department constituting penalties, investigative costs, and attorney fees. Contego also paid its Idaho clients the amount of \$69,699.10 in restitution.

**BROWN AND JOSEPH, LTD.** (Rolling Meadows, Illinois) – December 16, 2009 – Consent Order entered addressing violations of the Idaho Collection Agency Act. The company paid \$1,500 to the Department constituting penalties, investigative costs, and attorney fees. Later, the company applied for and was granted an Idaho collection agency license.

**CAMBRIDGE ASSET MANAGEMENT, LLC** (North Salt Lake, Utah) – December 17, 2009 – Consent Order entered addressing the company's violations of the Idaho Collection Agency Act. Cambridge paid \$3,750 to the Department constituting penalties, investigative costs, and attorney fees. Later, the company applied for and was granted an Idaho collection agency license.

**FREEDOM DEBT SOLUTIONS, LLC** (Eules, Texas and Roanoke, Texas) – December 30, 2009 – Consent Order entered addressing the company's violations of the Idaho Collection Agency Act. FDS paid \$6,000 to the Department constituting penalties, investigative costs, and attorney fees. FDS also paid \$26,184 in restitution to its Idaho clients.

**FLATIRON FINANCIAL SERVICES, INC., dba PEAK5** (Continental, Colorado) –February 8, 2010 – Administrative complaint issued to revoke Flatiron's collection agency license, due to failing to close its collection agency business without meeting the requirements set forth in the Idaho Collection Agency Act that apply to closure or discontinuance of a collection agency business. Flatiron failed to timely file an answer to the Department's complaint and the Department issued a default Order revoking Flatiron's Idaho collection agency license.

**CONTINENTAL CREDIT ASSOCIATION, INC.** (Portland, Oregon) – February 22, 2010 – Order to Cease and Desist issued against Continental Credit for operating a collection agency business in Idaho without the license required by the Idaho Collection Agency Act.

**PAUL & ASSOCIATES LAW OFFICES, PLLC dba PAUL LAW OFFICES** (Salt Lake City, Utah) – March 8, 2010 – Consent Order entered addressing this company's violations of the Idaho Collection Agency Act. The company agreed to pay to the Department an administrative penalty of \$20,000 and attorney fees and investigative costs in the amount of \$1,000.

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**CREDITONE, L.L.C.** (Metairie, Louisiana) – March 9, 2010 – Consent Order entered addressing violations of the Idaho Collection Agency Act. The company paid \$6,000 to the Department constituting penalties, investigative costs, and attorney fees. Later, the company applied for and was granted an Idaho collection agency license.

**THOMAS G. LANDIS, dba LAW OFFICE OF THOMAS LANDIS** (Bensalem, Pennsylvania) – April 6, 2010 – Consent Order entered addressing violations of the Idaho Collection Agency Act. The company agreed to pay to the Department an administrative penalty of \$15,000 and attorney fees and investigative costs in the amount of \$1,000. The company applied for and was issued an Idaho collection agency license.

**FREEDOM DEBT RELIEF, LLC** (San Mateo, California) – April 8, 2010 – Order was issued denying Freedom Debt Relief's application for an Idaho debt/credit counselor license based on its failure to cure the deficiencies in its license application; its failure to fully disclose regulatory actions taken against it and orders entered against it in other states; and engaging in certain business practices, all of which demonstrated a lack of fitness to engage in business activities required for a debt/credit counselor licensee under the Idaho

Collection Agency Act. After FDR contested the Denial Order, a hearing was held before an Administrative Hearing Officer on December 17, 2009. On April 8, 2010, the hearing officer issued Findings of Fact, Conclusions of Law, and a Preliminary Order upholding the Denial Order.

#### REGULATED LENDERS, TITLE LENDERS and PAYDAY LENDERS

**LOANPOINTE, LLC, EASTBROOK LLC also d/b/a ECASH AND GETECASH** (Orem, Utah) – May 11, 2010 – Order to Cease and Desist issued against this company for operating a payday lending business in Idaho without the appropriate license under the Idaho Credit Code, and for garnishing an Idaho resident's wages without complying with applicable law.

## TOP CONSUMER COMPLAINTS

### Mortgage Brokers/Lenders

Customer Service, Fee Disputes and Communication

### Mortgage Loan Originators

Disclosure issues

### Collection Agencies

Account and fee disputes

Aggressive tactics

Communication

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

Customer Service

Modification of debt

### Other

Unlicensed activity – constituted the number one complaint across all categories.



## “TIP” OVER BOX

**Please keep your email addresses current!** The Department’s primary method of communication and information distribution is electronic. Electronic communications include, but are not limited to:

- training notices;
- newsletters;
- renewal information;
- application and license deficiency notifications.



Since 2008 the Department has significantly moved to electronic communication to provide more timely and cost efficient service. Licensees risk not receiving pertinent information if their company and personal emails are not kept current. Companies are encouraged to have a general email on record that more than one party in their business can access and is not subject to change due to employee turnover. Individual licensees are encouraged to keep a personal non-work related email address current.

### **DEADLINES APPROACHING FOR MORTGAGE LOAN ORIGNATORS TO MEET S.A.F.E. ACT LICENSING REQUIREMENTS OR LOSE THEIR LICENSES!**

For mortgage loan originators who were issued an approved Idaho Mortgage Loan Originator license on or after July 1, 2009, the deadline to meet SAFE Act requirements for testing (National and Idaho tests), pre-license education, criminal background checks and any related requirements is **July 31, 2010**.

For mortgage loan originators who were issued an approved Idaho Mortgage Loan Originator license on or before June 30, 2009, the deadline to meet SAFE Act requirements for testing (National and Idaho tests), pre-license education, criminal background checks and any related requirements is **December 31, 2010**. No license can be renewed if all SAFE Act requirements are not met.

**DF**  
**Idaho Department of Finance**



East Fork of the Payette River, late May, 2010

This newsletter is produced semi-annually as a part of the Consumer Finance Bureau's continued communication outreach with the companies it regulates. Delivery is provided by electronic notification of its availability on the Department's website at <http://finance.idaho.gov>.

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

**IMPORTANT DATES TO REMEMBER!**

<u>Renewals</u>	<u>Last 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	December 31 <sup>st</sup>
Mortgage Loan Originators	December 31 <sup>st</sup>

<u>Annual Reporting of Activity</u>	<u>Last Date to Complete</u>
Collection Agencies	March 15 <sup>th</sup>
Mortgage Broker/Lenders Call Reports	March 31 <sup>st</sup>
Escrow/1031 Exchange Companies	April 30 <sup>th</sup>
Regulated Lenders	May 31 <sup>st</sup>

<u>Idaho S.A.F.E. Act Mortgage Loan Originator License Requirement Completion Deadline</u>	
Approved license date on or after July 1, 2009	July 31, 2010
Approved license date before July 1, 2009	December 31, 2010

\* Idaho Collection Agency Quarterly Agent Report filings are due on June 15, September 15 and December 15. These should be filed as close to the 15<sup>th</sup> as possible to report accurate hiring additions and terminations as of that date—not weeks in advance or after.

**Please mark your calendar.**

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 888-346-3378

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