

Idaho Department of Finance



THE IDAHO COMPLIANCE CONNECTION

FALL 2011

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Consumer Finance Bureau Compliance Examinations A “How To” for Examination Preparation

The Consumer Finance Bureau conducts routine compliance examinations of its licensees to ensure that consumer financial services offered in Idaho are compliant with state and federal laws. The objectives of the examination process are to identify practices that may lead to violations of state and federal law and to provide a licensee with guidance that will enable it to correct compliance issues. Below is some information and suggestions to aid licensees who are scheduled to be examined.

Regulated Lender, Title Lender, and Payday Lender Examinations

Regulated Lenders, Title Lenders, and Payday Lenders will receive a checklist one to two weeks before an examination. The checklist will inform licensees that examiners will be in their area during a specified time, and requires that the licensee complete and return the checklist within 24 to 72 hours. When the Bureau receives completed checklists from the licensees it has notified, Bureau examiners will create an examination schedule and will call a licensee with the date and time of its examination. To assist the Bureau in communicating examination information to your company, please keep fax numbers, email addresses, and contact information current with the Bureau.

Tips for a smooth examination:

- DO return both pages of the completed checklist within the specified time period;
- DO have the documentation on Page 1 of the checklist ready when examiners arrive;
- DO have adequate space for examiners to work;
- DO have an electrical outlet or two available for examiners to plug in computers; and,
- DON'T hesitate to ask questions.**

Tips to ensure ongoing compliance and avoid common findings:

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often asked by licensees: **How much will the renewal cost this year?**

Collection Agencies—License Renewal — \$100.00 plus \$20 for each RPIC and Active Agent - March 15, 2012

Regulated Lenders—License Renewal—\$150.00 for each license at each location - May 31, 2012



TIPS

Please keep your email addresses and personal contact information 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 reminders and information
- ◆ application and license deficiency notifications

Since 2008 the Department has primarily moved to electronic communication as a cost reduction measure and licensees risk not receiving pertinent information if their company, individual work and personal emails, as applicable, 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. Ultimately, licensees are responsible to know the requirements of the law, rules and policies to maintain their licenses and operate their business activities within those standards.

Collection agency licensees — did you receive a warning letter for not filing the Notification of Agents report in the required format? Or for not filing timely? Please take that extra moment to review the instructions that accompany this report form and call Karen Carlyle at 208-332-8085 prior to filing if you have **questions. Forms and instructions are available on the Department's website at <http://finance.idaho.gov>** in the Collection Agency Forms section.

Please pick up certified mail! — Certain communications are sent to licensees via certified mail. *This information is usually time sensitive and requires action from the licensee within a specified time period.* If a certified mailing is returned to the Department, contact will be made with the addressee to verify the address. After three failed delivery attempts, the addressee will be required to arrange and pay for, delivery of the communication.

CONSUMER FINANCE BUREAU STATISTICS AS OF OCTOBER 31, 2011

Active Licensees (as of 10-31-2011)		Terminations (failed to renew licenses) (06-01-2011 to 10-31-2011)	
Mortgage Brokers/Lenders	610	Mortgage Broker/Lenders	n/a
Mortgage Loan Originators (Approved-Active)	1404	Mortgage Loan Originators	n/a
Mortgage Loan Originator (Approved-Inactive)	312	Escrow	3
Escrow /1031 Exchange Companies	43	Regulated Lenders (includes payday/title)	19
Regulated Lenders (includes title lenders)	503	Collection (all categories)	0
Payday Lenders	212	Exams Conducted (06-01-2011 to 10-31-2011)	
Collection Agencies	641	Mortgage Brokers/Lenders	13
Debt/Credit Counselors	50	Escrow	0
Debt Buyers	95	Regulated Lenders (includes payday/title)	28
Credit Repair Company/Organization	8	Collection Agency	13
Collection Agency Agents/Solicitors	42,751	Complaints filed (written) (06-01-2011 to 10-31-2011)	
New Applications Received (06-01-2011 to 10-31-2011)		Mortgage (origination/servicing)	22
Mortgage Brokers/Lenders	79	Loan Originators	0
Mortgage Loan Originators	160	Escrow/1031 Exchange	0
Regulated Lenders (includes payday/title)	43	Collection Agency	44
Collection Agencies (all categories)	53	Payday Lender, Regulated	
Escrow/1031 Exchange Companies	1	Lender (finance co., payday, title)	18
Revocations/Denials (06-01-2011 to 10-31-2011)		Idaho/Federal chartered banks and	
	0	credit unions	34
Withdrawals (06-01-2011 to 10-31-2011)		Unlicensed activity (all categories)	92
Mortgage Broker/Lenders	83	Complaints Closed (all)	
Mortgage Loan Originators	83	(06-01-2011 to 10-31-2011)	122
Escrow	0		
Regulated Lenders (includes payday/title)	23		
Collection (all categories)	31		



Tidbits of facts —

COLLECTION AGENCIES NOT FILING THEIR QUARTERLY NOTIFICATION OF AGENTS REPORTS — JUNE: 121 LICENSEES & SEPTEMBER: 100 LICENSEES

COMMERICAL COLLECTION ACTIVITY REQUIRES AN IDAHO COLLECTION AGENCY LICENSE IN ORDER TO CONDUCT BUSINESS WITH IDAHO CREDITORS OR IDAHO DEBTORS

ENFORCEMENT ACTIONS

JUNE 1 through OCTOBER 31, 2011

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

JAFFE & ASHER LLP (New York, New York) – July 14, 2011 – Consent order issued addressing violations of the Idaho Collection Agency Act. The company paid \$6,000 to the Department constituting penalties, investigative costs, and attorney fees. The company applied for and was granted an Idaho collection agency license.

SUPERIOR DEBT SERVICES, dba SUPERIOR DEBT SERVICES, INC. (Fort Collins, Colorado) – July 21, 2011 – Consent order issued addressing violations of the Idaho Collection Agency Act. The company paid \$55,000 to the Department constituting penalties, investigative costs, and attorney fees. The company applied for and was granted an Idaho collection agency license.

HILLCREST, DAVIDSON AND ASSOCIATES, LLC (Richardson, Texas) – September 15, 2011 – Order to Cease and Desist issued against Hillcrest Davidson and Associates, LLC, for violations of the Idaho Collection Agency Act. The company later contacted the Department to confirm that it had closed all its Idaho accounts and suspended all collection efforts in Idaho as of February 2011.

AVADANIAN & ADLER, LLC (Boca Raton, Florida) – September 26, 2011 – The Idaho Department of Finance issued a complaint against this Idaho licensed collection agency, seeking revocation of its license due to failure to maintain its collection agency surety bond. The company failed to file a motion for reconsideration of the order and has until November 30, 2011 to file an appeal.

ALLIED INTERSTATE, LLC, formerly known as ALLIED INTERSTATE, INC. (Columbus, Ohio) – September 28, 2011 – Consent order issued addressing violations of the Idaho Collection Agency Act. The company paid \$26,000 to the Department constituting penalties, investigative costs, and attorney fees. The

company applied for and was granted an Idaho collection agency license.

STA INTERNATIONAL, INC. (Uniondale, New York) – October 11, 2011 – Consent order issued addressing violations of the Idaho Collection Agency Act. The company paid \$5,500 to the Department constituting penalties, investigative costs, and attorney fees. The company applied for and was granted an Idaho collection agency license.

DEBTPRO 123, LLC (Irvine, California) – October 18, 2011 – Order to Cease and Desist issued against DebtPro 123, LLC for operating a debt and credit counseling business in Idaho without the required license.

REGULATED LENDERS, TITLE LENDERS AND
PAYDAY LENDERS

BROADWAY PAWN AND LOAN, LLC (Boise, Idaho) – July 1, 2011 – Order issued denying Broadway Pawn and Loan, LLC's application for an Idaho regulated lender license based on prior unlicensed activity. The Director concluded that such acts demonstrated that both the company and its principals, lacked the financial responsibility, character, and fitness such as **to warrant the belief that the company's business** would be operated honestly and fairly within the purposes of the Idaho Credit Code. After the company contested the denial order, a hearing was held before an Administrative Hearing Officer on April 25, 2011 and May 4, 2011. On July 1, 2011, the Hearing Officer upheld the denial order. The company remains unlicensed.



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MORTGAGE BROKERS AND LENDERS

FREEDOM COMPANIES, INC., FREEDOM COMPANIES MARKETING, INC., FREEDOM COMPANIES LENDING, INC., and FREEDOM FINANCIAL MORTGAGE CORPORATION (Chicago, Illinois) – September 12, 2011 – Order to Cease and Desist issued against Freedom Companies, Inc., Freedom Companies Marketing, Inc., Freedom Companies Lending, Inc., and Freedom Financial Mortgage Corporation for violations of the Idaho Residential Mortgage Practices Act and the Rules Pursuant to the Idaho Residential Mortgage Practices Act. In the order, the Director found that the company had solicited at least 5 Idaho residents to modify their residential mortgage loans without a license to

engage in mortgage modification activity in Idaho. **The Director also found that the company's representations of its services were deceptive, false and misleading; that it was unclear which business entity a consumer would be engaging for services; and that a company representative made false representations that he worked for an Idaho non-profit organization to at least one Idaho consumer.**

ACADEMY MORTGAGE CORPORATION (Sandy, Utah) – September 30, 2011 – Consent order issued addressing violations of the Idaho Residential Mortgage Practices Act. The company paid \$155,000 to the Department constituting penalties, investigative costs, and attorney fees.

TOP 10 CONSUMER COMPLAINTS

Collection Agencies

Many consumers call the Department of Finance reporting that they are being collected against by unlicensed collection agencies, especially in attempts to collect on online payday loans. Many of these use illegal and aggressive tactics. Consumers are urged to verify who is calling and not be pressured into disclosing private financial information in an attempt to make a payment.

Payday Lenders

The number one complaint regarding payday loan companies stems from the difficulty a borrower experiences when payday loans are not used for short-term purposes and the company encourages the rollovers without proper disclosures. Many online payday loan companies are unlicensed. **Consumers are urged to verify a company's license on the Department's website at <http://finance.idaho.gov>** prior to borrowing money.

Foreclosure-related complaints

The Department continues to receive calls from Idaho consumers who are seeking help with their mortgage loans. **Some of the consumers' loans are with Department licensees and the Department actively attempts to assist** in communicating with the mortgage servicer in an effort to secure a satisfactory resolution.

Many of the foreclosure-related complaints are related to federally chartered banks / servicers. The Department **forwards these complaints on behalf of Idaho consumers to the banks' / servicers' federal regulator** to assist in opening the door to communication between parties to the mortgage loan.



DID YOU KNOW?

Credit Reports are required of mortgage entity control persons (Form MU2). Credit report authorizations are required for all new applicants, and are also required as part of the renewal process for existing licensees that began November 1, 2011. Control Persons should become familiar with Idaho Policy 2011-01 pertaining to financial responsibility and fitness.

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 (preferably personal) email addresses on file with the Bureau.*

The Bureau does not issue paper licenses except for mortgage broker/lender licensees. Mortgage broker/lender licensees are still required by law to display their current license(s). All approved license information is displayed on the Department's website at <http://finance.idaho.gov>, as well as renewal confirmation and other detailed information. Licenses may additionally be verified in the NMLS Consumer Access at <http://www.nmlsconsumeraccess.org> 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.

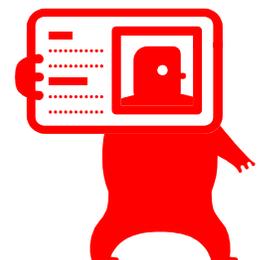
Bureau examiners participated in six consumer education conferences, and college financial education training programs reaching over 1,364 participants and attendees between June 1, 2011 and October 31, 2011.



HOW SHOULD YOU REPORT SOCIAL SECURITY—LIKE NUMBERS FOR AGENTS ON THE COLLECTION AGENCY QUARTERLY NOTIFICATION OF AGENTS FORM?

- ☛ UNITED STATES — ###-##-#### (SSN)
- ☛ CANADA — ###-###-### (SIN)
- ☛ INDIA — LLLL#####L (PAN)
- ☛ PHILLIPINES — ##-#####-# OR #-#####-# (TIN)
- ☛ WEST INDIES — #####
- ☛ MEXICO — LLLL#####LLLLLL## (CURP)
- ☛ HONDURAS #####-#####-#####

= NUMBER L = LETTER



Welcome to the Consumer Finance Bureau —



Jillian Laine—Field Examiner/Investigator

Jillian attended Yavapai College in Prescott, Arizona focusing on Business and Accounting. She holds Series 6 and 63 Securities Licenses. She has been in banking and finance for 15 years where her positions included, Teller, Assistant Branch Manager, and Senior Personal Banker. Jillian was responsible for compliance training at the branch where she was employed, and one of her major responsibilities included reviewing the bank's records to ensure compliance with federal regulations. She was also the bank's primary contact with the branch's internal and external auditors.

Laurie Coburn—Licensing Examiner/Investigator

Laurie obtained an Associate's Degree in Business from Baker University in Overland Park, Kansas. With a few more elective credits, she'll have her Bachelor's degree. Laurie has 25 years in the financial field, including 15 years in commercial loan servicing in the area of asset management and compliance. Her experience in "compliance" includes being an "Internal Audit Specialist" for Midland Loan Services, Inc., where she performed monthly and annual internal audits, including HUD audits. Laurie has extensive experience reviewing loan documents and servicing agreements. She was a Transactions Underwriter for Key Bank Real Estate Capital. Because of her experience as an internal auditor, she became a compliance manager within the bank's Compliance Department.

Brad Carpenter—Field Examiner/Investigator

Brad received his Bachelor's degree in Business Administration, emphasis in finance, from Idaho State University. His work history includes 14 years of banking experience, including being a teller, branch manager and nine years as a senior loan officer where he was responsible for consumer loan credit decisions. For six years Brad was with Community Development Incorporated (CDI) where he worked as a Finance Project Manager and also Director of Idaho Development and Housing Organization (IDAHO), a subsidiary of CDI. Brad says he enjoys a "healthy lifestyle, including biking, swimming and exercise."

Tracy Posey—Field Examiner/Investigator

Tracy received her Bachelor's degree in Communications from Boise State University. Her work history includes being a Sales Associate for Key Bank, a Customer Service Associate for Home Federal, and a Marketing/Business Development Specialist and loan processor for Capital Educators Federal Credit Union. In her employment, Tracy has extensive experience designing and conducting financial literacy programs. She has a wide array of experience in financial education, both as a developer and presenter. Tracy has also been employed in an FBI Laboratory where she analyzed finger and palm prints.

Gabe Gerrish—Field Examiner/Investigator

Gabe received his Bachelor's degree in Business Administration from Northwest Nazarene University. He has been employed at Zions Bank as a Customer Service Representative, at Title One as a Title Assistant, at Alliance Title and Escrow as a Title Officer, and at Envoy Mortgage Ltd. As a Mortgage Advisor where he has accumulated valuable experience processing mortgage loan applications and in working with processors and underwriters. While a Title Officer, Gabe was required to regularly research ownership and history of real property and examine and write up title commitments. In his positions he has had to develop proficiencies in reviewing a multitude of real estate and mortgage-related documents.

Dustin Mortimer—Field Examiner/Investigator

Dustin received his Master's Degree (MBA) in Business Administration from Idaho State University (ISU)

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in July of this year. **He also received his Bachelor's degree in Business Management from ISU.** In attaining these degrees, Dustin successfully completed many financial services-related courses and projects. Dustin also served two overseas tours in support of Operation Iraqi Freedom as a member of the 43rd Combat Engineer Company of the United States Army out of Fort Carson, Colorado.

Mel White—Administrative Assistant I

After four years as an independent contractor with the Bureau, Mel joined the Bureau in July as an employee. Mel works closely with licensing examiners for mortgage broker/lender companies and mortgage loan originators. Mel has worked in the financial services industry for over 35 years. She worked for Idaho 1st National Bank, First Security Bank and 1st Interstate Bank in both collections and dealer banking. She entered the mortgage field 12 years ago which included working as an assistant escrow officer at Lawyers Title and Escrow and later Stewart Title. She is very involved in motorcycle (dirt bikes) racing and the local racing association.

Bennie "BJ" Bourn—Office Specialist II

BJ is also a former independent contractor who joined the Bureau as an employee in July. BJ works almost exclusively with mortgage loan originator licensing. BJ attended Northwest Baptist Seminary where he graduated with **a Masters in Theological Studies. He also holds a Bachelor's degree in Psychology from BSU. He was ordained by his church in 2009 and spends as much time as possible working in his church.** His hobbies include Toastmasters, reading, and watching college football. Most of all, he enjoys spending time with his wife and two kids.

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- DO keep the tools of your trade - state and federal lending laws - sharp. Go online!
- DO notify the department for approval before changing or adding documents or products.

When the examination is completed, examiners will discuss any findings or recommendations with you. The Bureau will send you an examination report and invoice within approximately 30 days from the date the examination was completed. Examination fees must be remitted within 30 days of receipt of the examination report and, if you are required to respond to any findings, you will be given a date by which to respond. Be sure to maintain examination reports and subsequent communications regarding an examination for your records.

Collection Agency, Debt/Credit Counselor, and Credit Repair Company Examinations

When a licensee receives the notice scheduling its next compliance examination, management should set some time aside to prepare – the rewards will be that examiners may be able to reduce the **amount of time spent in a licensee's office, thereby reducing the cost of the examination.**

Review the questionnaire that comes with the exam notification. It requests two primary responses:

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- To return the questionnaire and certain information within 48 hours of receipt; and,
- To have certain other information available at your office on examination day.

Be sure to respond within the 48 hour window. If you have a conflict, contact the examiner named at the top of the questionnaire. Organize the on-site information categorically and in chronological order. If your legal files are maintained off-site, make arrangements with the file custodian for examiner access and relay that information to your examiner. **If any or all of your company's records are maintained electronically and hard copies are not normally created, contact the assigned examiner to determine if printing those records can be avoided. Lastly, don't be timid about asking for clarification about anything before, during, or after the examination. The Department's goal is to complete the examination with as little disruption to your business as possible.**

Mortgage Examinations

As part of the notification for a mortgage examination, a licensee will receive a management questionnaire and a request for documentation within one to two weeks prior to the examination. Often, mortgage examinations are scheduled for specific days, making adjustments to the examination schedule difficult. However, examiners will attempt to accommodate licensees as much as possible.

Establishing and implementing policies that reinforce compliance with the various laws and regulations that apply to the mortgage lending industry can make preparation for an examination, and the examination itself, a much less stressful event. Ensure that your company maintains records in a manner that **will assist management, as well as examiners, in determining the company's compliance. Also, implement monitoring practices, such as a quality control plan with pre and post-closing audit features, so that management can evaluate compliance with origination requirements. Doing so provides the licensee with the ability to catch compliance errors and correct them before an examination is conducted.**

Here are some helpful tips for successfully implementing compliance policies.

Communication – Make sure that all employees are aware of and have agreed to follow the policies established by the company. Regularly communicate any modifications to policies and engender an atmosphere where employees are recognized for their contributions to ensuring policies are followed. Also, provide an outlet for employees to safely report policy exceptions so that management can address emerging issues before they become compliance problems.

Training and Staffing – Make sure that staff members have clearly defined roles and that they are trained in their duties under any quality control plan or compliance policy.

Oversight – Exams often reveal flaws in the oversight of new locations and employees, especially when those locations are distant from a home or regional office. Senior management should conduct regular monitoring of origination activities at remote branches to ensure policies are followed.

Call the Department – **The Bureau's staff welcomes the opportunity to assist you so that you can help your clients realize their dreams of home ownership. Always feel free to call if you have a compliance question.**



Payette Lake—McCall Idaho

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>

Email....

mortgage@finance.idaho.gov

USPS (Regular Mail)

IDAHO DEPARTMENT OF FINANCE
P O BOX 83720
BOISE ID 83720-0031



OVERNIGHT DELIVERY

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800 PARK BLVD STE 200
BOISE ID 83712

This newsletter is produced semi-annually as a part of the Bureau’s continued communication outreach with the companies we regulate. 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 or mortgage@finance.idaho.gov

IMPORTANT DATES TO REMEMBER!

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

Annual Reporting of Activity

Collection Agencies	June, September, & December 15 th
Escrow/1031 Exchange Companies	April 30 th
Regulated Lenders	May 31 st
Mortgage Brokers/Lenders Call Reports	Qtr1-May 15 th
	Qtr2 –August 14 th
	Qtr3 – November 14 th
	Qtr4—February 14 th

Please make a note on your Calendar