The Idaho Compliance Connection

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

1905 - 2005

SPRING 2005

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WELCOME OUR NEW STAFF

Daniel Kline joins the Bureau as an examiner/investigator. He brings 11 years diverse experience as a Credit Analyst for Citibank , a Consumer Loan Specialist at First Security Bank, and Sales Consultant at US Bank.

NEW APPOINTMENTS!

The Director of the Idaho Department of Finance, Gavin Gee, has appointed Chuck Anderson of Northwest Mortgage; Robert Hall of Arrowhead Mortgage; Susan Semba of Idaho Housing and Finance Association; and Becky Thomas of Home Federal Savings and Loan to the 2005 Idaho Mortgage Broker/Lender Advisory Board. The Board works with Department Representatives and will meet periodically this year to concentrate on and finalize rules and continuing education requirements towards loan originator licensing.

PRIVATE MORTGAGE INSURANCE (PMI) ~A BRIEF SYNOPSIS

Private Mortgage Insurance (PMI) is extra insurance that lenders require from most homebuyers who secure loans that are more than 80 percent of their new home's value. PMI protects the lender against default, and consequently, enables many lenders/servicers to make a loan at a much higher risk. PMI also provides a benefit to homebuyers - who can now secure a mortgage loan with significantly less than a twenty percent (20%) down payment. There are many aspects to consider for the borrower and the lender/servicer of the mortgage contract in respect to PMI. Federal requirements under the "Homeowners Protection Act of 1998" (Act) were passed to protect borrower rights regarding PMI. The Act does not apply to government-insured FHA, or VA loans, nor does the Act require cancellation of lender/servicer-paid PMI loans. This article will provide a brief snapshot of information about PMI - outlining the responsibilities and rights of the borrower, and lender/servicer.

Since July 29, 1999 sevicers and lenders have been required to follow specific guidelines set forth in the Act. Complaints from borrowers and studies regarding PMI pointed to the need for borrower protection and lender/servicer guidelines. The Senate Committee on Banking, Housing and Urban Affairs reports concluded that "the marketplace does not provide the necessary incentives for PMI cancellation, since protections that PMI offers flows to the parties who are not paying for it."[1] Home purchases before July 29, 1999 do not fall within the guidelines of the Act. The Act outlines requirements on a single-family dwelling (single-family dwelling" means a residence consisting of one family dwelling unit). For homes purchased before July 29, 1999 PMI may be cancelled once the borrower exceeds twenty percent (20%) equity in his or her home, but federal law <u>does not</u> require the servicer to cancel this insurance.

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Enforcement Actions

Regulated Lenders (includes Payday, Title, Finance Companies, etc)

Check 'N Go of Idaho, Inc.--1/21/05
Assurance of Discontinuance-- assessed $43,000 administrative penalty and $7,000 attorney fees and administrative expenses for violations of the ICC.

Mortgage Brokers/Lenders

Security Lending Wholesale, LC--10/8/04
License Revocation for various violations of the IRMPA.

Western State Mortgage Corporation dba Residential Capital Corporation--10/22/04
Agreement and Order--paid $1,500 administrative penalty for filing false or misleading responses as to a material fact on its annual renewal form.

America's Choice Mortgage, Inc.--10/27/04
Agreement and Order-- paid $1,500 administrative penalty for filing false or misleading responses as to a material fact on its annual renewal form.

Sunset Mortgage Company LP--11/4/04
Agreement and Order--paid $1,500 administrative penalty for filing false or misleading responses as to a material fact on its annual renewal form.

The Mortgage Partner, Inc.--11/11/04
Agreement and Order--paid $1,500 administrative penalty for filing false or misleading responses as to a material fact on its annual renewal form.

Bottomline Mortgage, Inc.--11/11/04
Agreement and Order--paid 1$1,500 administrative penalty for filing false or misleading responses as to a material fat on its annual renewal form.

Innovex Mortgage, Inc.--11/12/04
Agreement and Order--paid $1,500 administrative penalty for filing false or misleading responses as to a material fact on its annual renewal form.

A Plus Credit Solution, Inc. dba A Plus Mortgage--2/15/05
Order of Denial of Mortgage Broker/Lender License

Will we find the most "popular" exam findings in your payday and title lending files?

Miscalculation of APR's on manually completed contracts, excessive renewals, record retention for loan denials and pre-screening.

Top Consumer Complaints 10/1/04 through 3/31/05

Mortgage Brokers/Lenders
- Servicing errors;
- Misrepresentation/misunderstandings pertaining to the effects of rescission;
- Failure to transfer documents upon consumer request;
- Failure to communicate terms of loan;
- Failure to fund after closing/expiration of rescission;
- Failure to close loan in expected time frame; and
- Changes in loan terms at closing.

Collection Agencies
- Attempt to collect on debt from wrong person;
- Unlicensed activity by collection agency;
- Telephone harassment of debtors, family members, acquaintances;
- Use of abusive language;
- Threats of legal actions when none are pending;
- Miscommunication on dispute resolution; and
- Validation of debt not provided.

Regulated Lenders (includes payday and title lenders)
- Advance fee loan scams;
- Terms and conditions of loans not understood by borrowers;
- Additional down payment requirements by auto dealers after expiration of "subject to financing" clauses; and
- Aggressive collection of payment by first-party creditors.

Tips for Lenders/Servicers

For home mortgages signed on or after July 29, 1999, the Act requires lenders/servicers to disclose to borrowers their PMI cancellation rights. There are variations in lender/servicer disclosure requirements to the borrower, based on who pays the PMI – the borrower or lender/servicer, whether the loan has a fixed or variable rate, and whether the loan is considered "high-risk."

The Act's basic lender/servicer requirements and disclosure notifications are listed below:

Automatic PMI termination once the borrower reaches 22% equity in his or her home based on the original property value.[2]

- Exceptions to termination;
- The loan is "high-risk;"
- The borrower has not been current on payments within the year prior to termination of PMI;
- There is a lien on the property; and
- The PMI is lender/servicer-paid.

With some exceptions, the lender/servicer must provide notification to the borrower at commencement of the mortgage loan, and yearly thereafter. The notification must include:

- The parameters of the borrower's right to cancel under the Act;
- The requirement of automatic termination once the borrower's mortgage loan reaches seventy-eight percent (78%) of the original property value;
- Whether the borrower's loan may fall within the definition of "high risk;" and
- Any exceptions to cancellation that may apply to the borrower's loan.

Lender/servicer-paid PMI coverage disclosures to the borrower include:

- The differences between lender/servicer vs. borrower-paid PMI;
- Information disclosing that lender/servicer-paid PMI usually results in a higher interest rate to borrower; and
- Lender/servicer-paid PMI terminates only when refinancing occurs, the loan is paid in full or terminated.

Lenders/Servicers should note:

1) It is the mortgage lender's/servicer's responsibility - not the mortgage insurer - to refund any unearned premiums back to the borrower within a 45-day time period after cancellation of PMI.
2) The servicer is required to notify the borrower in writing, no later than 30 days after the date of cancellation or termination of a private mortgage insurance:
   - That the private mortgage insurance has terminated and that the borrower no longer has private mortgage insurance;
   - That no further premiums, payments, or other fees shall be due or payable by the borrower in connection with the private mortgage insurance.

Tips for Borrowers

It is wise for borrowers to be well informed of their rights and responsibilities regarding PMI insurance options and cancellation. Borrowers should rely on information obtained through governmental materials, rather than private informational pamphlets and websites.

Borrower rights under the Act regarding PMI fluctuate and depend on certain factors. These factors include 1) who is paying the PMI - borrower vs. lender/servicer; 2) whether the borrower requests cancellation upon meeting certain loan to payment criteria; and 3) whether the loan reaches the automatic cancellation time frame.

Borrower cancellation of PMI on the cancellation date is based on:

- Submission of a written request of PMI cancellation to the lender/servicer;
- A good payment history on the mortgage loan as defined in the Act;
- Evidence that the value of the property securing the mortgage has not declined; and
- There are no subordinate liens on the property.

Automatic cancellation of PMI is based on:

- Whether the borrower holds a "high-risk" loan;
- If the borrower has retained a "good payment history;" and
- The age of the mortgage loan.

In a lender/servicer-paid PMI situation, when the borrower has reached the seventy-eight percent (78%) loan-to-value ratio (and PMI would automatically be cancelled) the Act requires the lender/servicer to encourage the borrower to consider refinancing options.

PMI payment plans and fees vary widely. Borrowers should research their options before closing to ensure they receive a payment plan that meets their income criteria. Borrowers should realize PMI companies have the right to decline coverage.

If the borrower requests PMI cancellation, the lender/servicer may require a home appraisal.

The servicer is required to provide its address and telephone number to the borrower for PMI informational purposes.

The Act provides a civil remedy to the borrower, including actual damages suffered from violations of the Act, as well as penalties imposed on the lender/servicer and insurer. The federal banking agency is in charge of enforcing this law as outlined in the Act.

There has been much discussion regarding the pros and cons of private mortgage insurance. There is an argument that PMI is only another mechanism used to protect lender/servicer companies at the expense of the borrower. However, those who dispute this argument point out that home ownership has become an icon of the American dream. Consequently, PMI has made this dream more attainable - while providing greater protection to mortgage lenders/servicers.

1 Mortgage Banking Commentary, 1998, Kirkpatrick & Lockart, LLP.
2 Original value is defined to be the lesser of the sales price or the appraised value of the mortgage property at the time the loan was made; lenders are not required to take into account increases in property value in determining whether a borrower may cancel PMI coverage.
3 Good payment history: The term ``good payment history'' means, with respect to a mortgagor, that the mortgagor has not-- (A) made a mortgage payment that was 60 days or longer past due during the 12-month period beginning 24 months before the date on which the mortgage reaches the cancellation date; or (B) made a mortgage payment that was 30 days or longer past due during the 12-month period preceding the date on which the mortgage reaches the cancellation date. (HPA 1998).

IMPORTANT DATES TO REMEMBER EACH YEAR

Renewals and Annual Notifications	Last Date to Complete
Regulated Lenders (includes payday & title lenders, as well as dual-licensed mortgage lenders with this license)	January 31st
Collection Agencies/Foreign Permittees	March 15th
Mortgage Brokers & Lenders	August 31st
Annual Reports of Activity	
Regulated Lenders	May 31st
Collection Agencies/Foreign Permittees	March 15th
Mortgage Brokers & Lenders	August 31st

Note: Some Regulated Lenders have not yet filed notification (renewal) nor paid the requisite fees/taxes. If you are unsure if you have completed this requirement, please contact the Bureau at 208-332-8002.

IT'S OUR 100 YEAR ANNIVERSARY

Idaho Department Of Finance

Quick Facts

Did you know....

The Idaho office of "State Bank Commissioner" was created on March 6, 1905.

In 1905, the Department administered only one law, the Idaho Bank Act, and licensed and regulated only one industry - banks. The total number of banks regulated by the end of 1905 was 78, with combined assets totaling approximately $14 million.

Today, the Department licenses and regulates 15 industries with total assets in the billions and total businesses/individuals of 126,831.

The following industries are regulated by the Department: state banks, bank holding companies, state chartered thrifts (savings & loan associations), state chartered trust companies, business & industrial development companies, state credit unions, mortgage brokers and lenders, payday and title loan companies, finance companies, collection agencies and solicitors/collectors, money transmitters, endowed care cemeteries, securities broker/dealers, investment advisors, security offerings, and all businesses and individuals that charge interest on consumer accounts.

The Department receives no general fund tax dollars; it is a dedicated fund agency funded entirely from fees paid by the industries it regulates.

The Department contributes money to the general fund over and above its operating expenses. In the last ten years it has paid over $25 million to the general fund.

The Department responds to an average of 5,300 consumer complaints/inquiries and brings an average of 117 enforcement actions every year. Those enforcement actions result in obtaining restitution orders for investors and consumers averaging $3.6 Million per year.

The Department participates in a host of public awareness and consumer/investor education programs such as the Governor's Conference on Aging, the annual Idaho Women's Financial Conference in Boise, the bi-annual Teaching the Teacher Conference, the annual Savings & Investing Campaign, and ongoing financial presentations at high schools around the state. The Department is also an active member of the Idaho Financial Literacy Coalition which, as an affiliate of Jump$tart, works to promote financial education and awareness throughout Idaho.

Free Licensee Training

Mortgage Licensees

BOISE- Wednesday, April 20, 2005 -
Red Lion Downtowner, 1800 Fairview Ave.
COEUR D'ALENE - Friday, April 22, 2005
Ameritel Inn, 333 Ironwood Ave.
TWIN FALLS- Wednesday, April 22, 2005
Ameritel Inn, 1377 Blue Lakes Blvd North
POCATELLO - Thursday, April 28th, 2005
Ameritel Inn, 1440 Bench Rd.

Motgage Licensee Training at each location will run from 9:00 a.m. until noon. ***Sign-in begins at 8:30 a.m.***

Regulated Lender Licensees
(Finance Companies, Payday Lenders & Automobile Title Lenders)

COEUR D'ALENE - Friday, April 22, 2005
Ameritel Inn, 333 Ironwood Ave.
BOISE/MERIDIAN- Tuesday, April 26, 2005
Comfort Suites, 2610 E Freeway Dr., Meridian
TWIN FALLS- Wednesday, April 27, 2005
Ameritel Inn, 1377 Blue Lakes Blvd North
POCATELLO-Thursday, April 28, 2005
Ameritel Inn, 1440 Bench Rd.

Regulated Lender Licensee Training at each location (except Boise/ Meridian) will run from 1:30 p.m until 4:30 p.m. Boise/Meridian will run 8:30 a.m. until 12:00 p.m. ***Sign-in begins at 8:00 a.m. for Boise/ Meridian and 1:00 p.m for all other locations.***

SEATING IS LIMITED
RESERVE YOUR SEAT BEFORE APRIL 15, 2005
Reserve your seat today – Department of Finance — 332-8072 or 1-888-346-3378 (toll-free in Idaho)

Please visit our website at http://finance.idaho.gov for further information

New forms Available on the Web!

Collection Agencies and Regulated Lenders--there is now a model balance sheet to use with applications and renewals of permits/licenses.
Mortgage Brokers and Lenders--there are now model forms for Rule 50.01 and 50.04 compliance (Licensee Information Disclosure and Rate Lock Confirmation Agreement) and a form to report address changes and office closures.

Look in the "forms" section for your particular permit or license.

Contact Information for the Idaho Department of Finance

Main phone number	(208)-332-8000
Consumer Finance Bureau	(208) 332-8002
Facsimile	(208) 332-8099

USPS (regular mail)
Idaho Department of Finance
PO Box 83720
Boise ID 83720-0031

Overnight Delivery
Idaho Department of Finance
700 W State Street 2nd Floor
Boise ID 83702

We have a new web address! *http://finance.idaho.gov*

BUREAU STATISTICS

(as of 3/15/2005)

Active Licensees	
Mortgage Brokers	750
Mortgage Lenders	788
Regulated Lenders (inc. title lenders)	719
Payday Lenders	206
Collection Agencies	135
Foreign Permittees	318
New Applications Received	
Mortgage Brokers/Lenders	299
Regulated Lenders (incl. payday/title)	38
Collection Agencies/Foreign Permittees	58
Exemptions	22
Withdrawals	105
Complaints filed (written)	
Mortgage (origination & servicing)	54
Collection Agency	79
Payday Lender	4
Title Lender	3
Regulated Lender (Finance Co, etc)	24
Other (banks, credit unions)	53
Complaints closed	126

This newsletter is produced semi-annually as a part of the Bureau's continued communication outreach with the companies we regulate.

Special thanks to Jo Ann Lanham, David Jensen and Cina Treese for their contributions to this issue!

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 kschaler@fin.state.id.us