



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, Collection Agencies
Escrow Companies and Loan Originators.

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Attention Collection Agencies!

The Idaho Collectors Association Annual Conference is scheduled for May 10-12, 2006 at the Coeur d'Alene Casino in Coeur d'Alene, Idaho.

Highlights include training provided by the ACA and a "mock" exam conducted by the Department of Finance-come participate and get your questions answered.

For more information contact Rita Lefler at 800-876-2328.

The ICA is sponsoring a Fall Training Seminar to be held in Boise. Tentatively set for September 21-22, training and presentations conducted by the American Collectors Association International will include Professional Telephone Collector Techniques (PTCT) and the FDCPA.

Participants completing training in both classes will be eligible for the ACA testing program to gain their PCS status.

For more information contact Mary Lou Webb at 208-733-4171

Department Orders Mortgage Broker To Cease and Desist

Gavin Gee, Director of the Idaho Department of Finance, announced that the Department issued a Cease and Desist Order against California-based licensee Lending First Home Loans, Inc., on February 17, 2006.

The company issued a solicitation received by an Idaho business, on the face of which stated: "Do You Want Free Cash?" The solicitation further stated: "Become a part of my free referral program and earn quick money for free. Just give my number to all your friends and family and for every person who closes a loan with me I will send you a \$100 check. It's really that simple. Call or e-mail me to ENROLL NOW!!!!"

Following receipt of the solicitation, referenced above, a Department representative spoke with an individual over the phone that represented he was with Lending First Home Loans. During the conversation an offer was made to pay referral fees of up to \$200 per referral for individuals referred to him who subsequently obtained a loan.

The enforcement action orders the company, its employees, agents, successors and assigns, to immediately cease and desist from giving or accepting any fee, kickback or other thing of value pursuant to any agreement or understanding, oral or otherwise, involving a federally related mortgage loan, for referrals.

Anyone who receives solicitations such as the above should contact the Department at 208-332-8000, or toll-free in Idaho at 1-888-346-3378.

ATTENTION MORTGAGE LOAN ORIGINATORS

You are not authorized to conduct mortgage loan origination activities in Idaho without a license after March 1, 2006

If you have not cleared application deficiencies by **March 31, 2006**, all loan origination activity must cease. Please read the deficiency letters carefully and submit all deficiency items simultaneously. Check your email, your junk email, fax and mail for communication. Approved licensees are posted to the Department's website in real time.

Referral Fees

Despite changes to HUD's position on compensation to real estate sales brokers for administrative costs, referral fees remain illegal under the Real Estate Settlement Procedures Act (RESPA)

The Department of Housing and Urban Development announced a \$150,000 settlement with a New England mortgage company in its November 17, 2005 news release. The settlement states that the company solicited and received various types of entertainment tickets from certain settlement service providers in exchange for the referral of business.

RESPA was enacted to provide borrowers advance disclosures of settlement costs and to prohibit illegal kickbacks and excessive fees associated with the home buying process. Section 8 of RESPA prohibits a person from giving or accepting anything of value in exchange for settlement service business referral.

Licensees should review the requirements and prohibitions of RESPA with their employees to ensure compliance. Information received by the Department of Finance pertaining to possible violations of Section 8 of RESPA will be reviewed both as potential violations of the Residential Mortgage Practices Act and may be forwarded to HUD and its RESPA Enforcement Office for further investigation.

Regulated Lenders

(includes Payday, Title, Finance Companies, etc)

Bitterroot, LLC---10/7/05

Order Revoking Regulated Lender License---abandonment.

CDA Title Loan---10/7/05

Order Revoking Regulated Lender License---abandonment

Minuteman Cash, LLC---12/13/05

Agreement and Order of Temporary Suspension of Payday Lender Licenses---paid \$7,500 administrative penalty and \$5,000 investigative and attorney fees, agreed to a temporary suspension of its payday lender licenses from 1/21/06 through 3/21/06 and to provide adequate evidence of meeting the liquid asset requirements of the Idaho Credit Code---for falsifying the availability of liquid assets.

Collection Agencies

Family Financial Education Foundation---11/17/05

Agreement and Order---paid \$2,000 administrative penalty and \$1,000 investigative and legal fees for unlicensed activity.

Mortgage Brokers/Lenders

Carson Mortgage Capital, LLC-10/18/05

Agreement and Order-paid \$10,000 administrative penalty with \$5,000 suspended, and \$52,000 consumer restitution for various violations of the Act.

PacWest Funding, Inc-10/18/05

Agreement and Order-paid \$1,000 administrative penalty for failure to maintain a surety bond.

A3A Financial Group, Inc-11/23/05

Agreement and Order-paid \$1,500 investigative and attorney fees, \$3,000 in consumer restitution, and agreed to a voluntary 90 day suspension of Idaho mortgage activity for unlicensed activity and misrepresentation to the Department.

Fletch Funding, Inc-12/5/05

Order Revoking Mortgage Broker License-failure to maintain surety bond.

America One Finance, Inc---1/5/06

Agreement and Order-paid \$3,000 administrative penalty and \$1,000 attorney fees for unlicensed branch activity, failure to supervise activity of a loan originator, and related violations of the Act.

Coventry Mortgage, LLC---1/6/06

Order to Cease and Desist---mortgage lending and/or brokering activities at various unlicensed locations and failure to maintain a sufficient surety bond.

First Option Mortgage, Inc---1/9/06

Order of Denial of Mortgage Broker/Lender License---unlicensed activity and other violations of the Act.

Cherry Creek Mortgage Co., Inc---2/6/06

Agreement and Order---assessed \$8,000 administrative penalty, paid \$5,000 with \$3,000 suspended, and \$2,000 attorney fees for unlicensed branch activity.

Key Mortgage Corporation---2/7/06

Agreement and Order-paid \$2,000 administrative penalty and \$750 attorney fees for unlicensed branch activities and failure to supervise mortgage-related activity of its designated qualified person in charge and the loan originator at an unlicensed branch location.

Lending First Home Loans, Inc---2/17/06

Cease and Desist Order---ordered to cease from giving or accepting any fee, kickback, or other thing of value incident to a settlement service involving a federally related mortgage loan referred to any person.

Mortgage Express, LLC---2/17/06

Order of Denial of Mortgage Broker/Lender License---incomplete application

Residential Mortgage Capital dba First Security Loan---2/22/06

Order of Denial of Mortgage Broker/Lender License---incomplete application

Park Capitol Mortgage, LLC---2/22/06

Order of Denial of Mortgage Broker/Lender License---incomplete application

Old Mill Mortgage Group, LLP dba Old Mill Mortgage---2/22/06

Order of Denial of Mortgage Broker/Lender License---incomplete application

John B. Gillespie dba Alpine Mortgage---2/22/06

Order of Denial of Mortgage Broker/Lender License---incomplete application

Clear Choice Mortgage, LLC---2/22/06

Order of Denial of Mortgage Broker/Lender License---incomplete application

Mortgage Loan Originator

Ken Cradle Wilson a/k/a Kenneth Cradle Wilson---3/2/06

Order of Denial of Mortgage Loan Originator License---filed a false or misleading application with respect to material fact and other violations of the Act.

**WELCOME OUR
NEW STAFF**

Cina Treese comes to the licensing section after representing the Department as our receptionist for the past five years. She is an Office Specialist dedicated to loan originator licensing and brings a wealth of Department information to the Bureau.

Beverly Brondz joins the Bureau as an Office Specialist in our Licensing section and will be dedicated to loan originator licensing. She was previously with the State of Idaho Division of Vocational Rehabilitation and the Department of Insurance.



September 2, 2005

To my peers,

Please let me introduce myself: my name is Jim H. Brown, Jr., CEO of American Freedom Mortgage. I am also a tireless advocate of the home loan industry. If you are not familiar with who I am or perhaps have heard of me but did not know what I do, I hope this will give you a better picture of me and what I have done for you and our industry. I have testified to the US Congress twice and have been involved with authoring many regulatory laws that have improved our industry and its reputation. Currently I am the Chairman of the National Association of Mortgage Brokers Veterans Home Loan Committee. As well, I was appointed by the Director of the Washington Department of Financial Institutions to the Washington Mortgage Brokers Commission and serve as chairman. In 2004 I was selected by my peer's as nationwide runner up for the prestigious National Association of Mortgage Brokers "National Mortgage Broker of the Year Honor".

The reason I am sending this to you is to put a Spotlight on an important issue so that you can become more aware of things that are going on in our industry that are undisputedly illegal. As a steward of our industry, I hear from many loan originators, brokers and regulators regularly in states all over the west and it never ceases to amaze me how many times the following issue comes up as an area of mis-understanding. It is my hope that you will gain a better understanding of this subject and avoid any unnecessary activities which can quite easily lead to trouble for you and your business.

Industry Issue Spotlight

by Jim H. Brown, Jr., CEO American Freedom Group Inc.

Are you aware that you may be committing fraud when you do a Stated Income Loan? I would like to share with you that I have met loan originators who were arrested by the FBI and sent to jail for loan fraud having to do with Stated Income Loans. If you don't want this to be you, then please take a minute to read the rest of this article.

Long known in the industry as the "liars' loan", its name could not be further from what the truth needs to be! As I am sure you are aware, Stated Income Loans have become a prevalent loan product for our industry in recent years. So you may ask, "when is a Stated Income Loan fraudulent?" When you create and write down on the 1003 the income amount needed to qualify. Let me give you an example: You have a borrower, and with the income stated, the borrower's debt ratio is too high, so..... you just add another \$1,000 to the income as stated on the 1003. And what do you know, your client qualifies! The debt ratios now work and you can get your loan approved! Well, you may have also just added some jail time to your future. Have you been reading the industry publications lately? Every one of them has articles on the latest company and individual originators that are being investigated or prosecuted by HUD, the FBI, or our own state regulators.

The purpose of a Stated Income Loan is to help borrowers who have income that can't be documented or may not be consistent but yet annually is received. So, if we can not arbitrarily add income to the 1003, then what is the proper way to do a Stated Income Loan? My Example: the borrower tells you he makes \$12 per hour and he also does side jobs "under the table" which add up to about \$12,000 a year. Under this circumstance, you can add \$1,000 a month to the income for his side jobs. In addition to the wife's retirement income, she also works "under the table" doing house cleaning and she states she makes about \$1,500 a month. This, too, can be added to their income on the 1003. These are proper and acceptable non-fraudulent incomes that can be added to your Stated Income Loans.

As a loan originator, it is your job to extract the information from the borrower, not create it for them. They need to tell you what they make, not have you telling them what number is needed to hit the mark. Now, keep in mind, lenders have "No Doc" loans as well where no income is listed on the 1003 for the borrower to qualify, although the rate may be slightly higher. This No Doc loan option is not fraud. So, in summary, a Stated Income Loan is a loan where the BORROWER states their income, and based on this information, you can proceed with the loan. If the income is not sufficient, then you had best change the loan program to a "No Doc" loan. Please remember, no loan is worth jail time!

I hope this article was helpful to you and your business; please pass it around. It is my sole desire to ensure our industry and its professionals are well informed and operating with honor and dignity as we prosper in our chosen trade. If you have any questions about this topic or any others for that matter, please don't hesitate to contact me.

Sincerely,

Jim H. Brown, Jr.

CEO

American Freedom Mortgage

jbrown@americanfreedomgroup.com

IMPORTANT DATES TO REMEMBER EACH YEAR

Renewals and Annual Notifications

Regulated Lenders (includes payday & title lenders, as well as dual-licensed mortgage lenders with this license)

Collection Agencies/Foreign Permittees

Escrow Companies

Mortgage Brokers & Lenders

Mortgage Loan Originators

Annual Reports of Activity

Collection Agencies/Foreign Permittees

Regulated Lenders

Mortgage Brokers & Lenders

Last Date to Complete

May 31st

March 15th

April 30th

August 31st

October 31st

March 15th

May 31st

August 31st



Industry Training

Approved for 3 hours continuing education hours!

Training is designed to meet the requirements of continuing education in the general mortgage information category. The program will include a HUD-approved fraud presentation as well as a presentation on Idaho law and an update in licensing. Morning and afternoon sessions will be available in all locations except Twin Falls (afternoon only). See the reservation form for more details.

COEUR D'ALENE--April 17, 2006--Ameritel Inn, 333 Ironwood Ave

TWIN FALLS---April 18, 2006---Shilo Inn Suites, 1586 Blue Lakes Blvd North

POCATELLO--April 19, 2006--Ameritel Inn, 1440 Bench Road

IDAHO FALLS---April 20, 2006---Ameritel Inn, 645 Lindsay Blvd

BOISE--April 21, 2006--WGI Plaza, 720 Park Blvd (same location as Boise HUD Field office)

Morning sessions will run from 8:30 a.m. until 12:00 noon. Sign-in begins at 8:00a.m. Afternoon sessions will run from 1:30 p.m. until 5:00 p.m. Sign-in begins at 1:00 p.m.

Cost for this CE is \$10 per person. SEATING IS LIMITED. Advance reservations will be taken prepaid by walk-in or mail only (we are unable to take credit cards). **RESERVE YOUR SEAT BY April 7, 2006.** No advance reservations will be taken after this date. **Cost at the door will be \$15, space permitting.**

Watch for the registration flier or visit our website at <http://finance.idaho.gov> for more information.

New on the Web!

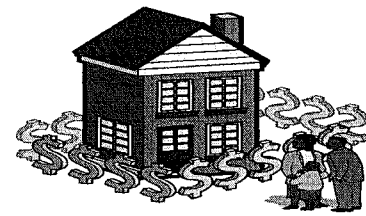
- **Approved Mortgage Loan Originators Licenses**---Verify approved loan originators from the Department's home page. Listings include employer, license number, primary physical work location, as well as issue and expiration dates.
- **Employer Notification of Loan Originator Hire/Termination Form**---Employers have the requirement to notify the Department of any loan originator hire or termination within 30 days of event occurrence. A new form is available in the mortgage forms section of the Department's website to help you expedite this process. The completed form(s) may be faxed.
- **Loan Originator Presentation**---This PDF version of the Bureau's powerpoint training presentation from October 2005 remains available on the homepage as a quick reference tool. Whether you want refresher information or if you missed the training sessions, this presentation highlights the loan originator licensing process, requirements of licensees and valuable business practice information and expectations.
- **Loan Originator Application**---Available in the mortgage forms section, this form is used for the initial application process AND to file updates, amendments and corrections. When there is any change to the original application information, such as living address, phone, name, principal work address, etc., a loan originator needs to mark the "amendment" box at the top, complete his/her name and social security number, then circle any item that is being added, corrected, updated or deleted. The form must be signed and notarized prior to submission to the Department. As with any notarized document, the Department requires the original.
- **Statements to Aid in the Interpretation of the Debt Buyer Policy**---Find this in our Policies section for collection agencies. It helps with common questions that have been presented pertaining to interpretation of the policy.

Escrow Company License Information and Renewals

Licensing requirements for independent escrow companies became effective July 1, 2005 under the new Idaho Escrow Act. If not qualified for an exemption, those entities conducting activity described as "...any transaction in which any person, for the purpose of effecting the sale, transfer, encumbrance, or lease of real or personal property to another person, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by that third person until the happening of a specified event or the performance of a prescribed condition, when the instrument, money, evidence of title or thing of value is then to be delivered by the third person to a grantee, grantor, promisee, promisor, obligee, obligor, bailee, bailor, or any agent or employee of any of the latter, pursuant to written instruction" shall be required to apply for a license.

Escrow companies that have not completed the licensing process, or that have not applied for licensure, may only service existing contracts obtained or entered into prior to July 1, 2006, but cannot enter into or obtain new contracts after July 1, 2006. The Idaho Escrow Act and application information are available from the Department's website in the escrow forms section.

Escrow Company license renewals must be postmarked and complete by April 30, 2006. Renewal forms will be mailed to licensees and will be available on the Department's website by April 1, 2006.



BUREAU STATISTICS

Active Licensees (as of 2/28/2006)

Mortgage Brokers	871
Mortgage Lenders	946
Mortgage Loan Originators	951
Escrow Companies	5
Regulated Lenders (inc. title lenders)	422
Payday Lenders	211
Collection Agencies	154
Foreign Permittees	430
Debt/Credit Counselors	39

New Applications Received (9/1/05-2/28/06)

Mortgage Brokers/Lenders	398
Mortgage Loan Originators	3536
Regulated Lenders (incl. payday/title)	56
Collection Agencies/Foreign Permittees	58
Escrow Companies	11

Exams Conducted (9/1/05-2/28/06)

Mortgage Brokers/Lender	12
Regulated Lenders (inc payday/title)	62
Collection Agency	35

Exemptions (9/1/05-2/28/06) 37

Withdrawals (9/1/05-2/28/06) 134

Complaints filed (written) (9/1/05-2/28/06)

Mortgage (origination & servicing)	52
Collection Agency	88
Payday Lender, Regulated Lender (finance co., payday, title)	51
Other (banks, credit unions)	19

Complaints closed (all) (9/1/05-2/28/06) 109

Contact Information for the Idaho Department of Finance

Main phone number (208)-332-8000
Consumer Finance Bureau (208) 332-8002
Fax (208) 332-8096

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

<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

True Story...

A deficiency notice was provided to a loan originator applicant informing him the address he reported as his work location was not a licensed location of his employer. His written response was *"Then pick another one from your files."*

During loan originator training, discussions included topics of misrepresentation and how to avoid it in the loan process. Stated-income loans were used as an example. A valid purpose for a stated-income loan is a self-employed applicant who does not reflect a sufficient net income to qualify for a loan due to authorized paper deductions on tax forms, but has a sufficient actual cash flow to repay the loan. A fraudulent purpose for a stated-income loan would involve a salaried applicant who does *not* have sufficient income to qualify for a documented loan, so the loan originator falsifies the income figures on the application. This now allows the borrower to qualify. A Department Examiner cautioned the audience against using the stated-income loan process to advance fraudulent loan applications, whereupon one attendee volunteered, *"Isn't that what those loans are for?"*

A loan originator submitted their application with the signature and notary section incomplete. The loan originator called to clarify the correction needed and stated *"I don't understand the commission expiration date...my commission doesn't expire-that's my pay!"*

Top Consumer Complaints 9/1/2005 through 2/28/2006

Mortgage Brokers/Lenders

Loan origination--lack of disclosure of pre-payment penalties, fees to be charged, delayed funding and unlicensed activity

Loan servicing----delays in obtaining payoff statements and posting payments to wrong accounts

Failure to pay appraiser

Collection Agencies

Unlicensed activity

Collecting against incorrect person

General collection processes (valid debt)-calling at work, collector unwilling to accept partial payment or enter into a payment arrangement, harassment and failure to provide debt validation when requested.

Regulated Lenders (includes payday and title lenders)

Unlicensed activity---particularly online payday activity

Unconscionable activity alleged

Servicing Issues---privacy, payment posting and questionable advertising

Lead Generators---Should They Be Licensed?

The onset of loan originator licensing has brought an increased number of requests for opinions as to whether lead generators are required to be licensed either as individual loan originators or as mortgage brokers in the case of employing or contracting firms

One scenario pertains primarily to web-based lead generation. The firm desires to set up a "matching service" portal in which borrowers can enter certain data information on a secure website that is fed to prospective brokers or lenders ("receivers") for loan consideration. The receivers then follow up directly with the consumer to present program options and obtain further information. The firm receives compensation based on the leads provided to the receivers, regardless of whether an actual loan is completed, and has no further involvement in the process once the lead is delivered.

The requirement for licensing in this case may hinge on the information the portal data form requires the consumer to complete. An argument that the collection of borrower data is not an application because an application form, such as a FNMA 1003, is not completed is not necessarily correct. Collection of certain data, or a specific combination of data, may constitute solicitation of an application, or an offer to assist in the completion of an application, regardless of the format.

If the collection of information is limited to items such as the consumer's name, current address, phone numbers, best time to contact, email address, state where property is located, preferred type of interest rate (fixed or variable), property type (occupancy), self-assessed credit history (i.e. poor, fair, good, excellent), loan amount desired, and type of loan desired (purchase/refinance), then licensing likely would not be required. However, if requested information adds items such as income, occupational status, existing loan balances, loan payment amounts, monthly debt payment, assets or a combination, then this would represent an application or a solicitation of an application, and not solely a lead contact.

Another scenario involves a mortgage licensee desiring to hire a marketing person as a W-2 employee to generate referrals. The marketing person visits real estate agents, builders, trade shows and may contact consumers directly with information available through their employer. Information provided may range from a rate sheet flier with licensee contact information, to verbal discussion on programs available and qualifications, to application packages.

If the marketer limits the contact to handing out business cards, rate sheets, networking by discussion of the personalized service to be offered or collecting basic contact information of interested parties (i.e. name, phone, address, best time to contact), and refers any additional contact back to the licensee, then licensing the marketer as a loan originator would not be required. However, if the marketer enters into discussions of programs, qualifying requirements, terms and conditions of loans, answering inquiries as to income and debt or credit requirements, solicits applications through discussion, action or print materials, or becomes involved in an application process, then licensing would be required.

It is the activity conducted, or to be conducted, by a person or company that dictates whether licensure will be required; not a job title. Definitions for mortgage brokering, mortgage lending and mortgage loan origination activities may be found in the Idaho Residential Mortgage Practices Act in IC §26-3102 (18)(19)(20). If a formal opinion is desired for a specific scenario, please submit the request in writing with all pertinent details (what will be done vs. what specifically will not be done) to the Consumer Finance Bureau.

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

Special thanks to Cina Treese for her contributions to this issue!

