



## Policy Statement 2008-2

### BRANCH LICENSURE REQUIREMENTS FOR BUSINESS LOCATIONS WHEREIN MORTGAGE BROKERING/LENDING ACTIVITIES OCCUR

**Issue: Conducting mortgage brokering/lending and loan origination activity at unlicensed business locations.**

This Policy Statement, issued by the Director of the Idaho Department of Finance (Director) supersedes and replaces all existing *Virtual Branch Acknowledgements* utilized by Idaho mortgage licensees and reiterates the branch licensure requirements of the Idaho Residential Mortgage Practices Act (Act), Idaho Code § 26-3101, *et seq.*

#### I. Background

As a means to accommodate the varied business models used by members of the mortgage industry, the Idaho Department of Finance (Department) has allowed the licensure of loan originators who act on behalf of licensed mortgage brokers/lenders but who represent that they do not conduct their work solely at the licensed home or branch offices of their employing mortgage broker/lender. Common aspects of such activity may include engaging in loan origination activity through internet marketing, e-mail campaigns, phone solicitations, or direct mail. In such cases, a loan originator makes contact with potential applicants in person, via telephone or e-mail, or through direct mail while, at all times, representing his business location to be an office licensed by the Department. Once potential borrowers have submitted an application to the mortgage broker/lender, the loan originator then conducts his business with the applicant in a manner analogous to telecommuting, wherein he maintains contact with his employing mortgage broker/lender remotely and with loan applicants via means similar to those used to initiate contact with the loan applicants. At no time has the Department authorized the transaction of loan origination activities in Idaho from business locations not licensed by the Department when such business locations are under the control or authority of the person conducting the loan origination activities.

To provide the ability of mortgage brokers/lenders and their loan originators to utilize processes such as those described above, the Department developed the Idaho *Virtual Branch Acknowledgement* (VBA). The VBA set forth parameters for the conduct of loan origination activity by persons who were licensed as loan originators acting on behalf of licensed mortgage brokers/lenders, as agents connected to a licensed business location, but whose origination activities are conducted remotely and not while physically present at the employing mortgage broker's/lender's licensed location.. In practice, the Department required that loan originators operating remotely and their employing mortgage brokers/lenders acknowledge in writing their understanding of the terms of the VBA. As of July 1, 2008, statutory changes to the Act have made certain terms within the VBA to be invalid or inconsistent with the Act. Therefore, upon further review of the effect of the VBA on existing licensing requirements and due to recent

amendments to the Act, the Director deems adoption of this interpretive Policy Statement necessary to the seamless administration of the Act.

## II. Policy Statement 2008-2

Pursuant to Idaho Code § 26-3108(8), a mortgage broker/lender licensee is prohibited from conducting mortgage brokering or lending activities at any business location for which it does not hold a license. Furthermore, Idaho Code § 26-3108A(7) states that loan originators licensed under the Act shall not engage in loan origination activities at any location that is not a licensed home or branch office of the employing mortgage broker/lender.

Accordingly, a loan originator may do no act that would indicate or tend to indicate that he or she is doing business in Idaho at or from an unlicensed location. Such acts include, but are not limited to:

1. Advertising, or using in business documents or forms, an address that is not a licensed location;
2. Advertising, making available to the general public, or using in business documents or forms, a telephone number in a manner that implies or suggests that loan origination activity is available at an unlicensed location;
3. Holding out in any manner, directly or indirectly, by the loan originator or by his or her associated mortgage broker/lender, any place, address or location at which loan origination activities may occur, if such holding out would suggest, indicate or tend to indicate that the place, address or location is the regular place of business from which the loan originator conducts loan origination activities.
4. Holding out in any manner, directly or indirectly, by the loan originator or by his or her associated mortgage broker/lender, any place, address or location at which loan origination activities may occur, if such holding out would suggest, indicate or tend to indicate or mislead a customer into thinking that the place, address or location is licensed for conducting loan origination activity.

Loan originator licensees who currently operate remotely on behalf of a mortgage broker/lender, and who have submitted a *Virtual Branch Acknowledgment* to the Department as part of their licensing applications must immediately comply with the parameters of this Policy Statement. Business locations utilized by loan originators, in a manner outside of the parameters of this Policy Statement must be licensed under the Act.

DATED this 7<sup>th</sup> day of November, 2008.



Gavin M. Gee  
Director, Idaho Department of Finance