

Dear Senators PATRICK, Guthrie, Ward-Engelking, and  
Representatives BARBIERI, Clow, Smith:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of  
the Department of Finance:

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act - Proposed Rule  
(Docket No. 12-0110-1801).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 09/24/2018. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/22/2018.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee  
**FROM:** Principal Legislative Research Analyst - Ryan Bush  
**DATE:** September 5, 2018  
**SUBJECT:** Department of Finance

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act - Proposed Rule (Docket No. 12-0110-1801)

#### Summary and Stated Reasons for the Rule

The Department of Finance submits notice of proposed rulemaking at IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act. This proposed rule updates the incorporations by reference of federal laws and nationally recognized standards.

#### Negotiated Rulemaking / Fiscal Impact

The Department states that negotiated rulemaking was not conducted because the rule is simple in nature. There is no fiscal impact associated with this rulemaking.

#### Statutory Authority

The proposed rule appears to be within the statutory authority granted to the Department in Sections 26-31-204 and 26-31-302, Idaho Code.

cc: Department of Finance  
Jim Burns

#### \*\*\* PLEASE NOTE \*\*\*

Per the Idaho Constitution, all administrative rules must be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

## IDAPA 12 – DEPARTMENT OF FINANCE

### 12.01.10 – RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE PRACTICES ACT

DOCKET NO. 12-0110-1801

#### NOTICE OF RULEMAKING – PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 26-31-103(2)(b), 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 19, 2018.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule updates the versions of the federal laws and regulations that are incorporated by reference, as well as standards adopted by a nationally recognized organization (Truth in Lending and Regulation Z, Real Estate Settlement Procedures Act and Regulation X, and the NMLS Policy Guidebook).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking: N/A

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because the rule is simple in nature as it merely updates references to incorporated federal laws, regulations, and standards adopted by a nationally recognized organization.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

Section 26-31-102, Idaho Code, defines Regulations X and Z, the Real Estate Settlement Procedures Act, and the Truth in Lending Act for incorporation into the Idaho Residential Mortgage Practices Act and Idaho Mortgage Rules pursuant to that Act. This proposed rule promotes consistency in state and federal mortgage-related laws so that Idaho mortgage licensees are not faced with an untenable requirement of complying with conflicting state and federal laws. Furthermore, the proposed rule updates references to the NMLS Policy Guidebook, thereby promoting consistency in nationwide licensing standards for mortgage licensees.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Anthony Polidori at (208) 332-8060. Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 26, 2018.

Dated this 19th day of July, 2018.

Anthony Polidori  
Consumer Finance Bureau Chief  
800 Park Blvd.  
P.O. Box 83720  
Department of Finance  
Boise, ID 83720-0031  
Office: (208) 332-8060  
Fax: (208) 332-8099

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0110-1801  
(Only Those Sections With Amendments Are Shown)

**005. INCORPORATION BY REFERENCE (RULE 5).**

The “Rules Pursuant to the Idaho Residential Mortgage Practices Act,” incorporate by reference the full text of the following: (4-4-13)

**01. The Real Estate Settlement Procedures Act.** As set forth in 12 U.S.C. 2601, et seq., as amended to and including January 1, 201~~8~~<sup>9</sup>. The Real Estate Settlement Procedures Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title12/html/USCODE-2016-title12-chap27.htm>. (~~3-28-18~~)( )

**02. Regulation X.** As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1024, et seq., as amended to and including January 1, 201~~8~~<sup>9</sup>. Regulation X is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1024.xml>. (~~3-28-18~~)( )

**03. The Truth in Lending Act.** As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 201~~8~~<sup>9</sup>. The Truth in Lending Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41.htm>. (~~3-28-18~~)( )

**04. Regulation Z.** As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 201~~8~~<sup>9</sup>. Regulation Z is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol9/xml/CFR-2018-title12-vol9-part1026.xml>. (~~3-28-18~~)( )

**05. NMLS Policy Guidebook.** The Conference of State Bank Supervisors/American Association of Residential Mortgage Regulators NMLS Policy Guidebook for Licensees, published by the Nationwide Mortgage Licensing System and Registry as of ~~July 23, 2012~~ February 2, 2018, and available at <https://mortgage.nationwidelicencingssystem.org/slr/common/policy/Pages/default.aspx>. (~~4-4-13~~)( )

**06. Availability of Documents.** Unless otherwise available, the documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance, as noted in Section 002 of these rules. (4-4-13)

**12.01.10 – Rules Pursuant to the Idaho Residential Mortgage Practices Act  
Docket No. 12-0110-1801**

**INCORPORATION BY REFERENCE SYNOPSIS**

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the differences between the materials previously incorporated by reference in this rule that are currently in full force and effect and newly revised or amended versions of these same materials that are being proposed for incorporation by reference under this rulemaking.

The following agency of the state of Idaho has prepared this synopsis as part of the proposed rulemaking for the chapter cited here:

**IDAPA 12 – DEPARTMENT OF FINANCE**

**12.01.10.005 - RULES PURSUANT TO THE IDAHO RESIDENTIAL MORTGAGE  
PRACTICES ACT**

The Idaho Residential Mortgage Practices Act (Act), Idaho Code § 26-31-101 *et seq.*, incorporates provisions of the federal Real Estate Settlement Procedures Act, codified in 12 U.S.C. section 2601 *et seq.*, the federal Truth in Lending Act, codified in 15 U.S.C. sections 1601 *et seq.* and Regulations X and Z as issued by the federal Consumer Financial Protection Bureau. The Act also incorporates the NMLS Policy Guidebook, which serves as policy guidebook for users of the NMLSR system. Provisions of the federal Truth in Lending Act and Regulations Z were amended during the past year and these amendments need to be incorporated into the Idaho rules. Furthermore, revisions to NMLS Policy Guidebook that reflect changes to system functionality and existing system policies need to be incorporated. This is done to ensure the state rules are consistent with federal regulations, as well as uniform policies applicable to industry licensees, and to provide one set of rules for industry to follow. Idaho industry is required to comply with all applicable new and updated federal rules whether or not the Department incorporates them by reference. The following is a summary of the changes to federal law, rules, and the NMLS Policy Guidebook:

**1. Public Law No: 115-174 - Economic Growth, Regulatory Relief, and Consumer Protection Act (Truth in Lending Act)**

**Date of Public Law:                      May 24, 2018**

Public Law No. 115-174 removed specific requirements related to mortgage lending transactions to reduce regulatory burden and expand credit availability within certain market segments.

**2. Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z).**

**Date of final rule:** April 26, 2018

This rule amends federal mortgage disclosure requirements under RESPA and TILA that are implemented in Regulation Z.

**3. Mortgage Servicing Rules Under the Truth in Lending Act (Regulation Z).**

**Date of final rule:** March 8, 2018

The rule amends certain Regulation Z mortgage servicing rules issued in 2016 relating to periodic statements. These amendments revise the timing requirements for servicers transitioning between modified or unmodified periodic statements and coupon books in connection with a consumer's bankruptcy case.

**4. NMLSR Policy Guidebook revisions.**

**Date of revisions:** February 1, 2018

The NMLS Policy Guidebook was updated to align with the current functionality of the NMLSR and reflect policies adopted for system use. The updated NMLS Policy Guidebook does not introduce any new or different policies than those already adopted and currently applicable to all mortgage licensees.

**5. Prepaid Accounts Under the Electronic Fund Transfer Act (Regulation E) and the Truth in Lending Act (Regulation Z); Delay of Effective Date.**

**Date of final rule:** January 25, 2018

This rule finalizing amendments to rules governing prepaid accounts under Regulations E and Z that make modifications to several aspects of that rule and extend the overall effective date of the rule to April 1, 2019.