

Dear Senators PATRICK, Agenbroad, Ward-Engelking, and
Representatives DIXON, DeMordaunt, 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. 12-0110-1901).

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 10/28/2019. 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 11/26/2019.

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 334-4854, or send a written request to the address on the
memorandum attached below.



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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 Drafting Attorney - Ryan Bush

DATE: October 8, 2019

SUBJECT: Department of Finance

IDAPA 12.01.10 - Rules Pursuant to the Idaho Residential Mortgage Practices Act - Proposed Rule (Docket No. 12-0110-1901)

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 rule change updates references to federal law and regulations relating to residential mortgages and removes provisions regarding written disclosure requirements that the Department states are redundant.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and notice was published in the August edition of the Idaho Administrative Bulletin. There is no fiscal impact associated with this rulemaking.

Statutory Authority

The proposed rule change appears to be within the statutory authority granted to the Department in Sections 26-31-103, 26-31-204, and 26-31-302, Idaho Code.

cc: Department of Finance
Lisa Baker

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may 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. 12-0110-1901

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 October 16, 2019.

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 references to federal law and regulations applicable to the business of mortgage origination and eliminates duplicative rules relative to disclosure requirements.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: Not applicable

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: Not applicable.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules – Negotiated Rulemaking was published in the August 7, 2019 Idaho Administrative Bulletin, [Vol. 19-08, pages 67 and 68](#).

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:

Idaho Code Section 26-31-102 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.

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 October 23, 2019.

Dated this 30th day of August, 2019.

Anthony Polidori
Consumer Finance Bureau Chief
Idaho Department of Finance
800 Park Blvd., Suite 200
P.O. Box 83720
Boise, Idaho 83720-0031
Office: (208) 332-8060
Fax: (208) 332-8099

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 12-0110-1901
(Only Those Sections With Amendments Are Shown)

005. INCORPORATION BY REFERENCE (RULE 5).

For the purposes of the Act and the “Rules Pursuant to the Idaho Residential Mortgage Practices Act,” the full text of the following are incorporated 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, 20~~19~~20. 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>. (4-11-19)()

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, 20~~19~~20. 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>. (4-11-19)()

03. The Truth in Lending Act. As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 20~~19~~20. 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>. (4-11-19)()

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, 20~~19~~20. 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>. (4-11-19)()

05. 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)()

(BREAK IN CONTINUITY OF SECTIONS)

050. WRITTEN DISCLOSURES (RULE 50).

01. Receipt of an Application. Upon receipt of an application as defined in Subsection 006.02 of these rules, and before receipt of any moneys from a borrower, a licensee or person required to be licensed under the Act shall make available to each borrower information, in a manner acceptable to the Director, about the services authorized under the Act that he may provide to a borrower. (3-25-16)

~~**02. Information Provided After Receipt of an Application.** After receipt of a residential mortgage loan application, a licensee or person required to be licensed under the Act shall provide to the borrower the following disclosures specific to the residential mortgage loan application. (3-25-16)~~

~~**a.** Disclosures in compliance with the requirements of the Truth-in-Lending Act and Regulation Z. (3-25-16)~~

~~**b.** Disclosures in compliance with the requirements of the Real Estate Settlement Procedures Act and Regulation X. (3-25-16)~~

03. Loan Modification Confirmation. Within three (3) business days, including Saturdays, of receipt of a notice from a creditor or its agent of a loan modification offer, a licensee or person required to be licensed under the Act shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the loan modification offer. Such confirmation shall include information regarding proposed rates, payments, and loan balance. (3-29-10)

**12.01.10 – Rules Pursuant to the Idaho Residential Mortgage Practices Act
Docket No. 12-0110-1901**

INCORPORATION BY REFERENCE SYNOPSIS

In compliance with Section 67-5223(4), Idaho Code, the following is a synopsis of the materials of the differences between the materials previously incorporated by reference in statute 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 - 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 (TILA), codified in 15 U.S.C. sections 1601 *et seq.* and Regulations X and Z as issued by the federal Consumer Financial Protection Bureau. Provisions of the federal Truth in Lending Act, the Real Estate Settlement Procedures Act, and Regulation Z were amended during the past year and these amendments should be incorporated into the Idaho rules. This is done to ensure the state rules are consistent with federal regulations 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 summarizes changes to incorporated material since January 1, 2019:

- **The Real Estate Settlement Procedures Act** – 12 U.S.C. 2609, *et seq.*
 - **January 15, 2019** – Adjustments for inflation to civil penalty caps for violations of the Real Estate Settlement Procedures Act.
- **The Truth in Lending Act** – 15 U.S.C. 1601, *et seq.*
 - **January 15, 2019** – Adjustments for inflation to civil penalty caps for violations of the Truth-in-lending Act.
- **Regulation Z** – 12 CFR 1026, *et seq.*
 - **February 4, 2019** – Effective date of amendments to official commentary that interpret the requirements of Regulation Z to reflect a change in the asset-size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a higher-priced mortgage loan.

- **January 1, 2020** - Effective date of amendments to annually adjust thresholds for transactions subject to appraisal requirements; to adjust the dollar amount that triggers requirements for certain home mortgage loans bearing fees above a certain amount; and, to adjust the threshold at which certain credit transactions are determined to be exempt from provisions of the regulation.