

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 12.01.11 - Rules Pursuant to the Idaho Collection Agency Act - Proposed Rule (Docket
No. 12-0111-1901).

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 12.01.11 - Rules Pursuant to the Idaho Collection Agency Act - Proposed Rule (Docket No. 12-0111-1901)

Summary and Stated Reasons for the Rule

The Department of Finance submits notice of proposed rulemaking at IDAPA 12.01.11 - Rules Pursuant to the Idaho Collection Agency Act. This rule change updates references to federal law and regulations relating to debt collection.

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 26-2228 and 26-2248, 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

12.01.11 – RULES PURSUANT TO THE IDAHO COLLECTION AGENCY ACT

DOCKET NO. 12-0111-1901

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. This action is authorized pursuant to Sections 26-2228(4) and 26-2248, 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 applicable to the business of debt collections.

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 69 and 70](#).

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 § 26-2229A incorporates the provisions of the federal Fair Debt Collection Practices Act into the Idaho Collection Agency Act. This proposed rule incorporates the federal Fair Debt Collection Practices Act by reference, thereby promoting consistency in state and federal debt collection laws so that Idaho collection agency 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. 12-0111-1901
(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 Collection Agency Act,” the full text of the following is incorporated by reference ~~the full text of the following:~~ (4-11-19)()

01. Fair Debt Collection Practices Act. As set forth in 15 U.S.C. 1692, et seq., as amended to and including January 1, 20~~19~~²⁰. Fair Debt Collection Practices Act is available for viewing online at: <https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapV.htm>. (4-11-19)()

02. 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.~~ (4-11-19)()

12.01.11 – Rules Pursuant to the Idaho Collection Agency Act

Docket No. 12-0111-1001

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 of 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 under the docket number specified:

Idaho Department of Finance
IDAPA 12.01.11 – Rules Pursuant to the Idaho Collection Agency Act.
Proposed Rulemaking - Docket No 12-0111-1901

The Idaho Collection Agency Act (Act), Idaho Code § 26-2221, *et seq.*, incorporates provisions of the federal Fair Debt Collection Practices Act (FDCPA), codified in 15 U.S.C. section 1692 *et seq.*, as amended. The FDCPA was first incorporated by reference within the Act in 1993 by Idaho's 52nd Legislature and was subsequently incorporated by reference by rule during the 2019 Legislative Sessions to reflect subsequent amendments to the Act as of January 1, 2019. As of the date of the preparation of this synopsis, no substantive amendments have been made to the incorporated material.