



Eric Milstead
Director

Legislative Services Office Idaho State Legislature

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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.

**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.