



IDAHO
DEPARTMENT OF FINANCE

Welcome

2009 Mortgage Industry Spring Training

***The S.A.F.E. Act
How It Will Affect Your
Mortgage Licenses and
Business***

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A Little Background...

- In August 2008, the Secure and Fair Enforcement for Mortgage Licensing Act, *a.k.a* the S.A.F.E. Act, was signed into law by the President
- As a federal law, the S.A.F.E. Act imposes standards for licensing upon all state agencies, including the Idaho Department of Finance
- The Department's existing licensing efforts represent a "head-start" for Idaho mortgage participants; however the S.A.F.E. Act will impose compliance requirements with several new standards for licensure

A Little Background...

- Requirements of the S.A.F.E. Act must be implemented in each state. In Idaho, the implementation deadline is July 1, 2009
- If a state does not implement the minimum standards of S.A.F.E., HUD must implement and administer a licensing system for that state

A Little Background...

- Individuals who engage in mortgage loan origination activities in Idaho on behalf of a federally insured depository institution must register with the NMLSR pursuant to requirements set by the Federal Financial Institutions Examination Council (FFIEC). On May 29, 2009, the Federal banking agencies issued a joint notice of proposed rulemaking concerning implementation of federal registration requirements of the S.A.F.E. Act of 2008. A final rule is expected to be established by July 31, 2009. The federally insured depository institutions will be notified through the federal register when the NMLSR is available to them. It is expected that the filing deadlines will match those of the state supervised licensees.

A Little Background...

- In response to the federal requirements, the Department passed adoption of the S.A.F.E. Act requirements through House Bill 169, which was signed by the governor on April 3, 2009. House Bill 169 repealed the *old* Idaho Residential Mortgage Practices Act (IRMPA) and enacted the *new* IRMPA, which becomes effective July 1, 2009.

A Little Background...

- The new IRMPA consists of three parts:
 - Part 1: General requirements applicable to the entire IRMPA
 - Part 2: Provisions applicable to mortgage brokers and lenders (companies)
 - Part 3: Provisions applicable to mortgage loan originators. Part 3 is known as the "Idaho S.A.F.E. Act"

What Does This Mean To Me?

- Under the federal law, the minimum standards of the S.A.F.E Act must be adopted by each state
- States may add standards or requirements which are consistent with current law and which supplement the requirements of the S.A.F.E Act
 - Increased PE or CE hours
 - State criminal background checks
 - Experience requirements, etc

What Does This Mean To Me?

- Minimum Licensing Standards for Current Licensees and New Applicants
 - required to submit fingerprints and be subject to criminal and credit background checks
 - must obtain 20 hours of approved pre-licensure education (or certification if eligible) and must pass a pre-licensure test
 - national component
 - state components
 - Individuals with certain previous felony convictions (fraud, dishonesty, a breach of trust or money laundering) or revocations of a loan originator or other mortgage related license are not ever eligible for a license
 - Individuals with *any* felony conviction within the last 7 years are not eligible for licensure

What Does This Mean To Me?

- Minimum Licensing Standards for Current Licensees and New Applicants *(cont.)*
 - Demonstration of financial responsibility, character and general fitness
 - Credit reports or credit scores obtained as background for a license may not be the sole determinant of financial fitness. Other factors which determine financial fitness include:
 - Current outstanding judgments (excluding medical related judgments)
 - Outstanding tax liens or other government entity liens
 - A foreclosure within the last 3 years
 - A pattern of delinquent accounts within the last 3 years

What Does This Mean To Me?

- Minimum Licensing Standards for Current Licensees and New Applicants (*cont.*)
 - Submitted mortgage recovery fund fee
 - \$100 at time of new application for each mortgage loan originator
 - \$100 at time of license renewal for each mortgage loan originator
 - Submitted a **complete** application
 - Updated as necessary to keep the information current
 - Information to be provided to the state regulator—not NMLSR
 - Submitted application fee \$200 (nonrefundable)

Pre-license Education and Testing

■ Pre-license Education

- Requires 20 hours of pre-licensure education in the following subjects –
 - 3 hours of instruction in federal law and regulations
 - 3 hours of instruction in ethics, to include consumer protection and fraud
 - 2 hours of instruction in lending standards for non-traditional mortgage products
 - 2 hours of instruction related to the Idaho Residential Mortgage Practices Act and Rules
 - 10 hours of undefined instruction on mortgage origination

Pre-license Education and Testing

- Pre-license Education (*cont.*)
 - Method of course instruction and course content to be approved by NMLSR
 - Pre-licensure education is suggested, but is NOT a prerequisite to taking the National or State components of the SAFE test
 - A list of NMLSR approved course providers will be posted on the NMLSR resource web site in July. It is expected that a limited number of pre-licensure courses will be approved and ready for delivery on or around July 30, 2009
 - NMLSR approved pre-license education courses shall be accepted as credit in Idaho regardless of where taken

Pre-license Education and Testing

- Pre-license Education Certification
 - Replaces 20 hour pre-license education requirement for existing licensees
 - Eligibility Requirements
 - Idaho loan originator license issue date *on or before* June 30, 2009
 - Successfully completed 20 hours of approved Idaho continuing education credits since October 2005
 - No duplication of courses
 - Not required to be in particular reporting period
 - Course completion by December 31, 2009
 - (unless earlier date determined by NMLSR)
 - Partial hours not accepted (cannot combine hours from multiple states to meet 20 hours)
 - Director certification
 - NMLSR certification procedure and policy expected late summer 2009

Pre-license Education and Testing

■ Pre-license Tests

- National Component (\$92 each test/retake)

- Requires testing individual's knowledge and comprehension in:

- Ethics
- Federal and state law and regulation pertaining to fraud, consumer protection, non-traditional mortgages and fair lending issues

- Requires a minimum passing test score of 75%

- An individual may *retake* the test 3 times, each test occurring at least 30 days after the preceding test, if they fail to pass. However, if after the 3rd retake the individual does not pass, they must wait at least 6 months prior to retaking the test

- Loan originators who fail to maintain a valid license for five years or more must retake and pass the test

- Anticipated to be available on or around July 30, 2009

- MLO handbook, which is expected to be made available on the NMLS resource web site in June, 2009, will have specific information on how to register for both the National Component or the Unique State Component of the test

- Test content outline is available on the NMLSR website

Pre-license Education and Testing

■ Pre-license Tests

- State Components (\$69 each state test/retake)
 - Requires testing individual's knowledge and comprehension in state law (IRMPA) and regulation (Rules)
 - Requires a minimum passing test score of 75%
 - An individual may *retake* the test 3 times, each test occurring at least 30 days after the preceding test, if they fail to pass. However, if after the 3rd retake the individual does not pass, they must wait at least 6 months prior to retaking the test
 - Loan originators who fail to maintain a valid license for five years or more must retake and pass the test
 - Test content outlines are available on the NMLSR website for AZ, IA, ID, LA, MA, MI, NH, NC, PA, RI, VT, WA
- Education and Testing FAQs are available on the NMLSR website (www.stateregulatoryregistry.org) in the "Professional Requirements" section

S.A.F.E. Deadlines

- If a mortgage loan originator license issue date is on or before June 30, 2009...

...then new S.A.F.E. licensing requirements must be completed by **January 1, 2011**

- If a mortgage loan originator license issue date is on or after July 1, 2009...

...then new S.A.F.E. licensing requirements must be completed by **July 31, 2010**

- On July 1, 2009, all "Approved" and "Approved-Inactive" status loan originator licenses will be converted to an "Approved-Conditional" status in order to track S.A.F.E. completion requirements
- Department website to reflect items needed/completed with each loan originator license

Anticipated Dates for Functionality in the NMLS&R

Functionality	Anticipated Start Date
Pre-license National Component Test	August 1, 2009
Pre-license Idaho State Component Test	August 1, 2009
Pre-license Education Certification (in lieu of Pre-License Education)	TBD
Pre-license Education Courses	August 1, 2009
Fingerprinting/Criminal Background Check	October 1, 2009 (dependent upon FBI)
Credit Report	April 1, 2010

Continuing Education

- Licensed loan originators must complete 8 hours of education annually
 - (3) hours federal law and regulation
 - (2) hours ethics, fraud, consumer protection and fair lending
 - (2) hours non-traditional mortgage products
 - (1) hour IRMPA and Rules

- Courses and method of completion must be approved by NMLSR

Continuing Education

- A licensed loan originator may only receive credit for a continuing education course in the year the course was taken
- A licensed loan originator who is an NMLSR approved instructor may receive (2) hours of CE credit for each (1) hour of instruction of an approved course
- Continuing Education requirements apply to Qualified Persons in Charge (QPIC)

Additional Oversight Responsibility

- Persons who conduct limited activity in manufactured housing resale are not required to obtain a license under specific circumstances
 - Making blank application materials available to customers
 - Physically handling or transmitting documents for the customer
 - Informing the customer certain lenders available to help in the residential mortgage loan transaction
- The definition of a residential mortgage loan comes from the term “dwelling” as defined by Truth-in-Lending.
 - Does not require real property
 - Motor homes or houseboats used as the primary residence covered
 - Broader coverage affects consumer lending companies and their mortgage loan originators not previously subject to mortgage licensing and oversight requirements
- The Act covers all 1-4 family unit dwellings, regardless of occupancy

Additional Oversight Responsibility

- Loan originators employed by or under contract with Idaho licensed companies *affiliated* with a depository institution are no longer exempt from licensing
- Beginning July 1, 2009, entities that offer to perform, or engage in, mortgage loan modification activities in Idaho on behalf of borrowers for compensation or gain, or in the expectation of compensation or gain, must be licensed as mortgage brokers or mortgage lenders through the NMLSR
 - Restrictions to fees and charges and when they can be collected
 - Requires a written agreement of modification details and impact
 - Forms and contracts must be reviewed by the Department prior to use
- All individuals who engage in mortgage loan modification activities on behalf of a mortgage broker or mortgage lender licensed, or required to be licensed in Idaho, must obtain a *conditional mortgage loan originator license* from the Department beginning July 1, 2009 (*if not already licensed*)

Additional Oversight Responsibility

- As of July 1, 2009, individuals who engage in mortgage loan processing or mortgage loan underwriting activities as an *independent contractor* may *not* conduct such activities until licensed as a mortgage loan originator through the NMLSR in conformance with the requirements of the Idaho S.A.F.E. Act
 - Independent contractors whose licenses are not sponsored by a licensed or registered entity under the IRMPA or the Idaho Credit Code, Idaho Code § 28-41-101 *et seq.*, will be required to obtain a mortgage broker/lender license and sponsor any mortgage loan originator they employ or contract with, including themselves
 - S.A.F.E. grants clear authority the Department to investigate the books and records of *individual* licensees
 - S.A.F.E. includes explicit prohibitions against fraud by an *individual* loan originator

Additional Oversight Responsibility

- Authority granted to the Director to order the removal and ban of individuals from office or employment
- The Department is required to report violations of the IRMPA, enforcement actions and other publicly adjudicated disciplinary actions to the NMLSR
- Sole Proprietors will now be required to obtain a mortgage loan originator license in addition to their mortgage broker/lender license and meet all S.A.F.E. requirements

Items of Interest

- Idaho-licensed mortgage loan originators may not be employed by or contracted with more than one (1) mortgage broker or mortgage lender licensed, or required to be licensed, in Idaho
 - Mortgage loan originators **include** individuals who offer or engage in **mortgage loan modification activities** in Idaho
 - Ex: may not originate mortgage loans for company A and loan modifications for company B if both companies are licensed or should be licensed in Idaho
 - Mortgage loan originators **may** conduct licensable activities for one (1) Idaho licensed mortgage broker/lender and an exempt entity (such as a bank) simultaneously
- Unique identifiers assigned by the NMLSR must be clearly displayed on all residential mortgage loan application forms, solicitations and advertising, business cards and websites beginning July 1, 2009

Items of Interest

- Surety bonds for mortgage broker/lender licensees may be discontinued after July 1, 2009
- Mortgage Recovery Fund becomes effective July 1, 2009
 - Fees collected at time of a new application (MU1, MU3, MU4) and at time of annual renewal for each license
 - Fee amounts:
 - MU1 = \$250
 - MU3 = \$150
 - MU4 = \$100
- Certain Rules under IDAPA 12.01.10 will be repealed and new Rules drafted during the summer of 2009

Items of Interest

Job Analysis Survey

- Over 8500 individuals participated
- Approximately 800 participants were regulators

Did YOU participate?

The survey was designed to solicit input about the knowledge required to perform as a mortgage loan originator. Participation was requested of loan originators, those that supervise loan originators as well as regulators. The results of the survey were used to determine the topics, and the emphases of those topics, that will be included on the National Component and State Components of the SAFE Mortgage Test.

In Conclusion

- The Department has sought standardization and uniformity with other states throughout its mortgage regulation history in Idaho. This has materialized in compromise and changes in Idaho as well as most other states through the development of the NLMSR
- S.A.F.E. provides a platform for such uniformity and helps equalize licensing and registration in the mortgage industry. To date, 34 states have passed S.A.F.E. regulation
- The Department is determined to ensure that the implementation of S.A.F.E. is as effective as possible

Questions?

Contact the Department at:

(208) 332-8002

Or

mortgage@finance.idaho.gov

Thank You



IDAHO
DEPARTMENT OF FINANCE

**The Idaho Residential
Mortgage Practices Act and
S.A.F.E. - *Compliance Topics***

Anthony Polidori
Supervising Examiner/Investigator
Idaho Department of Finance

CHANGE

“There is a certain relief in change, even though it be from bad to worse! I have often found in travelling in a stagecoach, that it is often a comfort to shift one's position, and be bruised in a new place.”

- Washington Irving

“He that will not apply new remedies must expect new evils.”

- Francis Bacon

“Nothing endures but change.”

- Heraclitus

How the Idaho Residential Mortgage Practices Act Applies to LOs

- IRMPA – Part I
 - General Provisions

 - IRMPA – Part II
 - Provisions Regarding Mortgage Brokers/Lenders

 - IRMPA – Part III
 - Provisions Regarding Loan Originators
-

Idaho Residential Mortgage Practices Act

PART I

- IRMPA – Part I

- Definitions

- Borrower

- RESPA

- TILA

- Residential Mortgage Loan/Residential Real Property

Idaho Residential Mortgage Practices Act

PART I

- IRMPA – Part I

- Mortgage Recovery Fund

- Payment into fund by licensees
 - Intended purposes of recovery
 - Method of recovering monies from the fund
 - Effects of payment from fund on license
-

Idaho Residential Mortgage Practices Act

PART I

- Question 1 –
 - A loan application is taken for financing the purchase of a four-plex that the borrower will not occupy. Is the loan origination covered by the Act? Why or why not?
-

Idaho Residential Mortgage Practices Act

PART I

- Question 2 –
 - A neighbor obtains a judgment against a loan originator for property encroachment. Will the judgment creditor be able to obtain money from the recovery fund? Why or why not?
-

Idaho Residential Mortgage Practices Act

PART II

- IRMPA – Part II

- Definitions

- Agent

- Loan Modification

- Mortgage Broker and Mortgage Broker Activities

- Mortgage Lender and Mortgage Lender Activities

Idaho Residential Mortgage Practices Act

PART II

- IRMPA Part II

- Effects of an LO on MBL license status
 - Violations of Act or other law
 - Termination reporting, supervision of LO
 - Record-keeping
-

Idaho Residential Mortgage Practices Act

PART II

- IRMPA Part II –
 - Restrictions on Fees and Charges
 - Actual third-party expenses
 - Application fee, rate-lock fee, commitment fee, cancellation fee – NOTIFICATION REQUIRED
-

Idaho Residential Mortgage Practices Act

PART II

- IRMPA Part II –
 - Prohibited Practices –
 - Loan origination activity through unlicensed persons
 - Fees for loan modification without a written agreement
-

Idaho Residential Mortgage Practices Act

PART II

- Question 1 –

- A loan originator working from a remote branch location does not keep copies of loan applications for borrowers who do not qualify for loans and does not submit the applications to his employing mortgage broker/lender. What effect may this have on his employer?
-

Idaho Residential Mortgage Practices Act

PART II

- Question 2 –

- A loan originator works from home and meets with clients there to take loan applications. What implications does this have for her employing mortgage broker/lender?



Idaho Residential Mortgage Practices Act

PART II

- Question 3 –

- A loan originator obtains a written agreement from a borrower to pay \$50 for a credit report. The final actual cost of the credit report is \$25. What must occur?



Practice for Understanding the Law

if you can read this, you have a strange mind too.

Can you read this?

Only 55 people out of 100 can.

if you could believe that I could actually understand what I was reading. The phenomenal power of the human mind, according to a research at Cambridge University, it doesn't matter in what order the letters in a word are, the only important thing is that the first and last letter be in the right place. The rest can be a total mess and you can still read it without a problem. This is because the human mind does not read every letter by itself, but the word as a whole. Amazing huh? yeah and I always thought spelling was important!

Idaho Residential Mortgage Practices Act

PART III

- IRMPA Part III –

- Definitions –

- Loan Processors or Underwriter
 - Mortgage Loan Originator
-

Idaho Residential Mortgage Practices Act

PART III

- IRMPA Part III –

- Enforcement –

- Denial, suspension, and revocation
 - Restitution and penalties pursuant to an order
 - Cease and Desist orders expanded
-

Idaho Residential Mortgage Practices Act

PART III

- IRMPA Part III –

- Examination and Investigation –

- May include the records of individual loan originators
 - May take possession or control access to records
 - May rely on the results of other agency exams and investigations
-

Idaho Residential Mortgage Practices Act

PART III

- IRMPA Part III –

- Prohibited Practices –

- Explicitly prohibits fraud
 - Fees for “best efforts”
 - Prohibits complicity with others violating the license requirements of the Act
-

Idaho Residential Mortgage Practices Act

PART III

- IRMPA Part III –

- Prohibited Practices –

- Prohibitions against false statements, advertising, and false reporting to any government agency and NMLSR
 - Threats or promises to influence third-parties
 - Collection of disallowed fees
-

Idaho Residential Mortgage Practices Act

PART III

- IRMPA Part III –

- Prohibited Practices –

- Be employed by or contract with more than 1 mortgage broker/lender simultaneously
 - Exclusive dealing
 - Obtaining signed agreements or instruments with blanks to be completed
-

Idaho Residential Mortgage Practices Act

PART III

■ Question 1 –

- A mortgage lender employs a marketer whose only function is to meet with potential borrowers and fill out a loan application. Once the application is submitted, an experienced loan officer confirms the information from the borrower and negotiates the terms of the loan. Is the marketer required to have a license?
-

Idaho Residential Mortgage Practices Act

PART III

- Question 2 –
 - The Department finds that a loan originator accepted a \$500 best efforts fee from a borrower who was unable to obtain a loan. Based solely on this violation, how much may the loan originator be liable for in restitution and penalties?
-

Idaho Residential Mortgage Practices Act

PART III

- Question 3 –

- Based on an examination conducted by Washington, the Department learns that a loan originator was advertising rates and terms, which were not available, to consumers in several states, including Idaho. May the Department use this information to take an action against the loan originator?
-

Idaho Residential Mortgage Practices Act

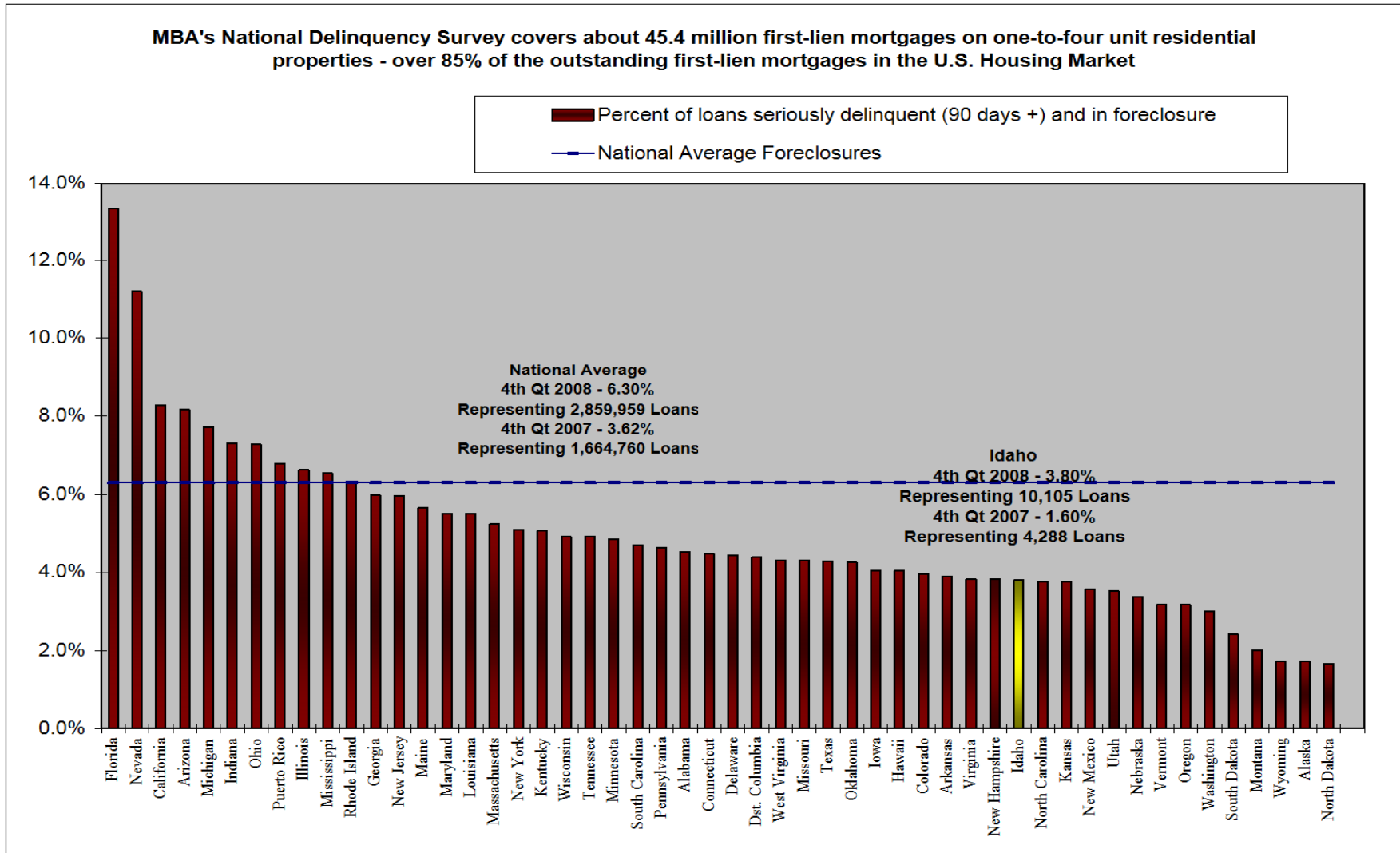
PART III

- Question 4 –
 - A busy licensed loan originator uses an unlicensed assistant to take initial loan applications for him. Can the Department take an enforcement action against the licensed LO as well as the unlicensed assistant?
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Additional Topics

- RESPA Challenges –
 - TILA Changes
 - Loan Modification – Opportunities and Responsibilities
-

National Delinquency Survey - 4th Quarter 2008



Data compiled from Mortgage Bankers Association National Delinquency Survey 4th Quarter 2008

CHANGE

“There is nothing new under the sun....

...but there’s lots of old things we don’t know”

- Ambrose Bierce
