



PROTECTING THE INTEGRITY OF IDAHO FINANCIAL MARKETS SINCE 1905

Idaho Department of Finance
Guidance Statement
2021-01-CFB
TELECOMMUTING AND BRANCH LICENSING REQUIREMENTS
Issue Date: December 1, 2021
(Replaces Policy Statement 2020-02-CFB)

I. Background

As a means to accommodate the varied business models used by members of the financial services industry, the Idaho Department of Finance (Department) has allowed individual employees of these companies, who act on behalf of the licensed entity, to perform their work virtually while representing to consumers and borrowers that their activities are conducted solely at the licensed home or branch offices of their employing company. Common aspects of such activity may include engaging in financial services activity on behalf of their employer through internet, email, telephone, or direct mail. In such cases, an employee makes contact with potential applicants or consumers in person, via telephone or email, or through direct mail while, at all times, representing their business location as a licensed office of the individual's employer.

II. Application of Business Location Licensing Requirements to Virtual or Remote Origination Activities

The Idaho Residential Mortgage Practices Act prohibits a mortgage broker/lender from engaging in covered activities at any location for which it does not hold a license.¹ Similarly, the Idaho Credit Code requires a license for each place of business engaged in consumer lending activities in Idaho.² Finally, the Idaho Collection Agency Act requires either licensure or registration of business locations engaged in debt collection activity, credit or debt counseling, debt management or settlement, and credit repair.³

¹ Section 26-31-206(8), Idaho Code.

² Sections 28-46-302(4) and 28-46-402(1), Idaho Code.

³ Sections 26-2223A(1) and 2230, Idaho Code.

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AN NEW LAW OR LEGAL REQUIREMENT



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Notwithstanding the above, the Department recognizes that trends in the financial services industry, coupled with evolving technologies, provide individual employees ever more opportunities to conduct their work remotely from a non-commercial location, while seamlessly representing the business locations licensed by the Department. Therefore, the Department will not seek to apply business location licensing requirements in instances where an individual employee or the individual's employing company does not indicate that the employee is engaging in activities on behalf of the licensee at any unlicensed location. Practices that would implicate the business location licensing requirements include, but are not limited to, the following:

1. Advertising, or including within any business documents or forms (except in documents used in communications directly between the individual employee and their employer), an address that is not a licensed business location;
2. Advertising, making available to the general public, or including within any business documents or forms (except in documents used in communications directly between the individual employee and their employer), a telephone number in a manner that indicates an employee conducts activities at a place other than a licensed business location (e.g. using a published residential telephone number in promotions);
3. Representing in any manner, directly or indirectly, a location at which activity on behalf of the licensee may occur, if such representation indicates the activity would occur at an unlicensed location, or would mislead a consumer to believe an unlicensed location is an authorized location from which the employee or their employer conducts licensable financial services activity.

While operating remotely, individuals and their employers are also expected to comply with any other provisions of the Acts or of laws and regulations applicable to their business activity. Additionally, individuals and their employers must exercise due diligence in the safeguarding of company and customer data, information and records, whether in paper or electronic format, and to protect them against unauthorized or accidental access, use, modification, duplication, destruction or disclosure.

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III. Summary

The Department believes that the utilization of technology to support remote operations can comply with the Acts, given that employees and their licensed employer meet the aforementioned parameters. Therefore, individual employees may engage in remote work activities without the requirement to license the employee's remote location where the above conditions are met. To ensure the Department has accurate information regarding the practices of entities that utilize remote operations, the Department may require acknowledgement of this Guidance Statement by employers upon receipt of any notice that a licensee is engaged in remote operations.

Contact - You may direct comments or requests for additional information regarding this Guidance Statement to:

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