

IN THE SENATE

SENATE BILL NO. 1113

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO NOTICE OF TRANSFER OR ENCUMBRANCE OF REAL PROPERTY; AMENDING CHAPTER 8, TITLE 55, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 55-819, IDAHO CODE, TO PROVIDE DUTIES RESULTING FROM NOTICE OF TRANSFER OR ENCUMBRANCE AND FOR AN EXCEPTION; AND AMENDING CHAPTER 2, TITLE 56, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 56-225, IDAHO CODE, TO PROVIDE FOR A NOTICE OF TRANSFER OR ENCUMBRANCE, RULEMAKING AND THE EFFECT OF NOTICE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 8, Title 55, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 55-819, Idaho Code, and to read as follows:

55-819. DUTIES RESULTING FROM NOTICE OF TRANSFER OR ENCUMBRANCE – EXCEPTION. (1) If the department of health and welfare has recorded a request for notice of transfer or encumbrance under section 56-225, Idaho Code:

(a) A title insurance company or agent that discovers the presence of a request for notice of transfer or encumbrance when performing a title search on real property shall disclose the presence of the request for notice of transfer or encumbrance in any report preliminary to, or any commitment to offer, a certificate of title insurance for the real property; and

(b) Any individual who, after the date of such recording, transfers or encumbers real property described in such filing shall provide the department of health and welfare with a notice of transfer or encumbrance. Pursuant to section 56-225(3)(b), Idaho Code, the department of health and welfare shall adopt by rule a model form for notice of transfer or encumbrance to be used by a purchaser or lender when notifying the department.

(2) If the department of health and welfare has caused to be recorded a termination of request for notice of transfer or encumbrance in the grants and conveyances records pursuant to section 56-225, Idaho Code, an individual transferring or encumbering the real property after the date of such recording is not required to provide the notice of transfer or encumbrance required in subsection (1)(b) of this section.

SECTION 2. That Chapter 2, Title 56, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 56-225, Idaho Code, and to read as follows:

56-225. NOTICE OF TRANSFER OR ENCUMBRANCE – RULEMAKING – EFFECT OF NOTICE. (1) When an individual receives medical assistance subject to recovery under this chapter and the individual is the holder of record title to real property or the purchaser under a land sale contract, the state department may present to the county recorder for recording in the grants and conveyances records of a county a request for notice of transfer

1 or encumbrance of the real property. The state department shall adopt a rule providing prior  
2 notice and hearing rights to the record title holder or purchaser under a land sale contract.

3 (2) The state department shall present to the county recorder for recording a termination  
4 of request for notice of transfer or encumbrance when, in the judgment of the state department,  
5 it is no longer necessary or appropriate for the state department to monitor transfers or  
6 encumbrances related to the real property.

7 (3) The state department shall adopt by rule:

8 (a) A form for the request for notice of transfer or encumbrance and the termination of  
9 request for notice of transfer or encumbrance that, at a minimum:

10 (i) Contains the name of the public assistance recipient and a state departmental  
11 case identifier or other appropriate information that links the individual who is the  
12 holder of record title to real property or the purchaser under a land sale contract to  
13 the individual's public assistance records;

14 (ii) Contains the legal description of the real property;

15 (iii) Contains a mailing address for the state department to receive the notice of  
16 transfer or encumbrance; and

17 (iv) Complies with the requirements for recording in section 55-805, Idaho Code,  
18 for those forms intended to be recorded.

19 (b) A model form for a notice of transfer or encumbrance to be used by a purchaser or  
20 lender when notifying the state department.

21 (4) The request for a notice of transfer or encumbrance pursuant to this section does not  
22 affect title to real property and is not a lien on, encumbrance of, or other interest in, the real  
23 property.