

IN THE SENATE

SENATE BILL NO. 1321

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PUBLIC ASSISTANCE; AMENDING CHAPTER 8, TITLE 55, IDAHO CODE,  
2 BY THE ADDITION OF A NEW SECTION 55-819, IDAHO CODE, TO PROVIDE  
3 REQUIREMENTS REGARDING A REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE  
4 AND TO PROVIDE FOR RULEMAKING; AMENDING CHAPTER 2, TITLE 56, IDAHO CODE,  
5 BY THE ADDITION OF A NEW SECTION 56-225, IDAHO CODE, TO PROVIDE FOR A  
6 REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE OF REAL PROPERTY AND TO  
7 PROVIDE FOR RULEMAKING.  
8

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

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

13 55-819. REQUIREMENTS REGARDING A REQUEST FOR NOTICE OF TRANSFER OR  
14 ENCUMBRANCE -- RULEMAKING. (1) If the department of health and welfare has  
15 recorded a request for notice of transfer or encumbrance pursuant to section  
16 56-225, Idaho Code:

17 (a) When a title insurance company or agent discovers the presence of  
18 a request for notice of transfer or encumbrance recorded in the real  
19 property records in the county in which the property described in such  
20 notice is located while performing a title search on such property  
21 and any individual identified in such notice is the record owner of  
22 such property, the title insurance company or agent shall disclose the  
23 presence of the request for notice of transfer or encumbrance in any  
24 commitment to offer to issue a title insurance product to insure title  
25 to such real property; and

26 (b) If, after the date of the recording the request for notice of  
27 transfer or encumbrance described in subsection (1) (a) of this section,  
28 the individual identified in such request for notice transfers or  
29 encumbers real property described in such filing, such individual,  
30 his agent or family member shall provide the department of health  
31 and welfare with a notice of transfer or encumbrance within ten (10)  
32 days after the date of the transfer or encumbrance. For the purposes  
33 of this subsection (1) (b), a title insurance company or agent shall  
34 not be deemed or appointed an agent of the individual identified in  
35 the request for notice of transfer or encumbrance. The department  
36 of health and welfare shall adopt by rule a model form for notice of  
37 transfer or encumbrance to be used by said individual when notifying the  
38 department.

39 (2) If the department of health and welfare has caused to be recorded  
40 a termination of request for notice of transfer or encumbrance in the  
41 grants and conveyances records pursuant to section 56-225, Idaho Code,  
42 or if no individual identified in the request for notice of transfer or

1 encumbrance is the record owner of the real property described therein, the  
2 title insurance company or agent is not required to disclose the notice of  
3 transfer or encumbrance as required by subsection (1) (a) of this section,  
4 and an individual transferring or encumbering the real property after the  
5 date of such recording is not required to provide the notice of transfer or  
6 encumbrance required by subsection (1) (b) of this section.

7 (3) The notice of transfer or encumbrance described in subsection  
8 (1) (a) of this section is personal to the individual named therein and  
9 shall not constitute a lien or encumbrance on, or prevent the transfer or  
10 encumbrance of, the property described therein. A title insurance company  
11 or agent shall have no liability to the department of health and welfare or  
12 any person or entity for failing to discover, or for disclosing, the request  
13 for notice of transfer or encumbrance as required by subsection (1) (a) of  
14 this section.

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

18 56-225. REQUEST FOR NOTICE OF TRANSFER OR ENCUMBRANCE OF REAL PROPERTY  
19 -- RULEMAKING. (1) When an individual receives medical assistance subject to  
20 recovery under this chapter and the individual is the holder of record title  
21 to real property or the purchaser under a land sale contract, the department  
22 of health and welfare may present to the county recorder for recording  
23 in the grants and conveyances records of a county a request for notice of  
24 transfer or encumbrance of the real property. The department shall adopt a  
25 rule providing prior notice and hearing rights to the record titleholder or  
26 purchaser under a land sale contract.

27 (2) The department shall present to the county recorder for recording  
28 a termination of request for notice of transfer or encumbrance when, in the  
29 judgment of the department, it is no longer necessary or appropriate for  
30 the department to monitor transfers or encumbrances related to the real  
31 property.

32 (3) The department shall adopt by rule a form for the request for notice  
33 of transfer or encumbrance and the termination of request for notice of  
34 transfer or encumbrance that, at a minimum:

35 (a) Contains the name of the public assistance recipient, and the  
36 spouse of such public assistance recipient, if any, and a departmental  
37 case identifier or other appropriate information that links the  
38 individual who is the holder of record title to real property or  
39 the purchaser under a land sale contract to the individual's public  
40 assistance records;

41 (b) Contains the legal description of the real property;

42 (c) Contains a mailing address for the department to receive the notice  
43 of transfer or encumbrance; and

44 (d) Complies with the requirements for recording in section 55-805,  
45 Idaho Code, for those forms intended to be recorded.

46 (4) The request for notice of transfer or encumbrance described in  
47 this section does not affect title to real property and is not a lien on,  
48 encumbrance of, or other interest in, the real property.