

STATEMENT OF PURPOSE

RS30987 / S1263

This legislation focuses on the inclusion of obligations secured by deeds of trust under Idaho law. Originally, 45-108 allowed for liens, or legal claims on property, to cover potential future financial needs. This provision enabled lenders and borrowers to use the same property as security for future loans, with these future loans treated as if they were part of the original lien, including their priority dates. This arrangement offered security and certainty in financial transactions. However, a 2016 decision by the Idaho Supreme Court highlighted a legal gap: deeds of trust, which involve transferring legal title of property, were not considered 'liens' under this law. As a result, any future financial obligations secured by a deed of trust didn't get the same priority status as liens, leading to inconsistencies in how security instruments were treated legally. The Idaho Bankers Association has proposed an amendment to Idaho Code 45-108 to rectify this issue. This language aims to ensure that future financial obligations secured by deeds of trust are given the same legal treatment as those under liens. The goal is to establish fairness and consistency in property-related financial agreements across Idaho. Essentially, this amendment seeks to update the law to ensure equal treatment for all types of property security agreements.

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FISCAL NOTE

There is no fiscal impact because this change is not enforced by any local or state government entity.

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DISCLAIMER: This statement of purpose and fiscal note are a mere attachment to this bill and prepared by a proponent of the bill. It is neither intended as an expression of legislative intent nor intended for any use outside of the legislative process, including judicial review (Joint Rule 18).