

TITLE 55
PROPERTY IN GENERAL

CHAPTER 8
RECORDING TRANSFERS

55-801. WHAT MAY BE RECORDED. Any instrument or judgment affecting the title to or possession of real property may be recorded under this chapter.

[(55-801) R.S., sec. 2990; reen. R.C. & C.L., sec. 3149; C.S., sec. 5413; I.C.A., sec. 54-801.]

55-802. RECORDING JUDGMENTS. Judgments affecting the title to or possession of real property, authenticated by the certificate of the clerk of the court in which such judgments were rendered, may be recorded without acknowledgment or further proof.

[(55-802) R.S., sec. 2991; reen. R.C. & C.L., sec. 3150; C.S., sec. 5414; I.C.A., sec. 54-802.]

55-803. UNITED STATES PATENTS. Letters patent and all other instruments that evidence or affect title to real property, geothermal resources, or minerals including, but not limited to, oil and gas, in this state issued by the United States, executed pursuant to existing law, may be recorded without further proof.

[(55-803) R.S., sec. 2992; reen. R.C. & C.L., sec. 3151; C.S., sec. 5415; I.C.A., sec. 54-803; am. 1981, ch. 59, sec. 1, p. 88.]

55-804. NOTICES OF LOCATION. Certificates and notices of location authorized by law, with the affidavits attached, may be recorded without acknowledgment or further proof.

[(55-804) R.S., sec. 2993; reen. R.C. & C.L., sec. 3152; C.S., sec. 5416; I.C.A., sec. 54-804.]

55-805. ACKNOWLEDGMENT NECESSARY TO AUTHORIZE RECORDING. (1) Before an instrument may be recorded, unless it is otherwise expressly provided, its execution must be acknowledged by the person executing it, or if executed by a corporation, by its president or vice president, or secretary or assistant secretary, or other person executing the same on behalf of the corporation, or if executed in the name of the state of Idaho or any county, political subdivision, municipal, quasi-municipal, or public corporation, by one (1) or more of the officers of such state, county, political subdivision, municipal, quasi-municipal, or public corporation executing the same, or if executed in a partnership name, by one (1) or more of the partners who subscribed the partnership name thereto, or if executed by a limited liability company, by the manager, member or other person executing the same on behalf of the limited liability company, or the execution must be proved and the acknowledgment or proof, certified in substantially the manner prescribed by [chapter 1, title 51](#), Idaho Code; provided, that if such instrument shall have been executed and acknowledged in any other state or territory of the United States, or in any foreign country, according to the laws of the state, territory or country wherein such acknowledgment was taken, the same shall be

entitled to record, and a certificate of acknowledgment indorsed upon or attached to any such instrument purporting to have been made in any such state, territory or foreign country, shall be prima facie sufficient to entitle the same to such record.

(2) (a) The validity of an instrument recorded prior to July 1, 2017, shall not be affected by the failure of a notary public to perform a duty or meet a requirement specified in [chapter 1, title 51](#), Idaho Code. Such a failure does not invalidate a notarial act performed by the notary public.

(b) The validity of a notarial act complying with the provisions of [chapter 1, title 51](#), Idaho Code, does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking remedies authorized by federal or state law other than the provisions of [chapter 1, title 51](#), Idaho Code.

(c) This subsection does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

[(55-805) R.S., sec. 2994; am. 1907, p. 6, sec. 1; reen. R.C. & C.L., sec. 3153; C.S., sec. 5417; am. 1923, ch. 144, sec. 3, p. 209; am. 1929, ch. 183, sec. 6, p. 94; I.C.A., sec. 54-805; am. 1937, ch. 176, sec. 3, p. 291; am. 1999, ch. 213, sec. 4, p. 571; am. 2017, ch. 192, sec. 13, p. 457; am. 2021, ch. 283, sec. 1, p. 857.]

55-806. POWER MUST BE RECORDED BEFORE CONVEYANCE BY ATTORNEY. An instrument executed by an attorney in fact must not be recorded until the power of attorney authorizing the execution of the instrument is filed for record in the same office.

[(55-806) R.S., sec. 2995; reen. R.C. & C.L., sec. 3154; C.S., sec. 5418; I.C.A., sec. 54-806.]

55-807. RECORDER'S FEE TO BE ENDORSED ON INSTRUMENT AND RECORD. The recorder must in all cases indorse the amount of his fee on the instrument recorded, and on the record thereof.

[(55-807) R.S., sec. 2996; reen. R.C. & C.L., sec. 3155; C.S., sec. 5419; I.C.A., sec. 54-807.]

55-808. PLACE OF RECORD. Instruments entitled to be recorded must be recorded by the county recorder of the county in which the real property affected thereby is situated.

[(55-808) 1863, p. 528, sec. 23; R.S., sec. 2997; reen. R.C. & C.L., sec. 3156; C.S., sec. 5420; I.C.A., sec. 54-808.]

55-809. WHEN DEEMED RECORDED. An instrument is deemed to be recorded when, being duly acknowledged, or proved and certified, it is deposited in the recorder's office with the proper officer for record.

[(55-809) R.S., sec. 2998; reen. R.C. & C.L., sec. 3157; C.S., sec. 5421; I.C.A., sec. 54-809.]

55-810. BOOKS OF RECORD. Grants and conveyances absolute in terms, are to be recorded in one set of books and mortgages in another or in an approved electronic storage system containing segregated searchable and retrieval files.

[(55-810) R.S., sec. 2999; reen. R.C. & C.L., sec. 3158; C.S., sec. 5422; I.C.A., sec. 54-810; am. 2005, ch. 243, sec. 9, p. 761.]

55-811. RECORD AS NOTICE. Every conveyance of real property acknowledged or proved, and certified, and recorded as prescribed by law, from the time it is filed with the recorder for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees.

Every conveyance of real property acknowledged or proved, and certified, and recorded as prescribed by law, and which is executed by one who thereafter acquires an interest in said real property by a conveyance which is constructive notice as aforesaid, is, from the time such latter conveyance is filed with the recorder for record, constructive notice of the contents thereof to subsequent purchasers and mortgagees.

[(55-811) 1863, p. 528, sec. 24; R.S., sec. 3000; reen. R.C. & C.L., sec. 3159; C.S., sec. 5423; I.C.A., sec. 54-811; am. 1941, ch. 119, sec. 1, p. 240.]

55-812. UNRECORDED CONVEYANCE VOID AGAINST SUBSEQUENT PURCHASERS. Every conveyance of real property other than a lease for a term not exceeding one (1) year, is void as against any subsequent purchaser or mortgagee of the same property, or any part thereof, in good faith and for a valuable consideration, whose conveyance is first duly recorded.

[(55-812) 1863, p. 528, sec. 25; R.S., sec. 3001; reen. R.C. & C.L., sec. 3160; C.S., sec. 5424; I.C.A., sec. 54-812.]

55-813. CONVEYANCE DEFINED. The term "conveyance" as used in this chapter, embraces every instrument in writing by which any estate or interest in real property is created, alienated, mortgaged or encumbered, or by which the title to any real property may be affected, except wills.

[(55-813) 1863, p. 528, sec. 35; R.S., sec. 3002; reen. R.C. & C.L., sec. 3161; C.S., sec. 5425; I.C.A., sec. 54-813.]

55-814. REVOCATION OF POWER TO BE RECORDED. No instrument containing a power to convey or execute instruments affecting real property, which has been recorded, is revoked by any act of the party by whom it was executed, unless the instrument containing such revocation is also acknowledged or proved, certified and recorded in the same office in which the instrument containing the power was recorded.

[(55-814) 1863, p. 528, sec. 27; R.S., sec. 3003; reen. R.C. & C.L., sec. 3162; C.S., sec. 5426; I.C.A., sec. 54-814.]

55-815. UNRECORDED INSTRUMENTS VALID BETWEEN PARTIES. An unrecorded instrument is valid as between the parties thereto and those who have notice thereof.

[(55-815) 1863, p. 528, sec. 23; R.S., sec. 3004; reen. R.C. & C.L., sec. 3163; C.S., sec. 5427; I.C.A., sec. 54-815.]

55-816. AFFIDAVITS. Any affidavit setting forth facts showing or explaining marital status, identity of persons, possession of real property when the title thereof is deraigned through tax deed, delivery of deed by grantor during grantor's lifetime, occupation of real property as a homestead, date of birth, date of death, date of marriage, or place of residence, with respect to any person mentioned in any recorded instrument affecting title to real property, and also any affidavit as to the identification of plats or descriptions of real property signed by the grantor and grantee named in the document of transfer which contains the descriptions being corrected or, if the grantor is not available, then the affidavit must be signed by the grantee and indexed under the name of both the grantor and grantee, may be recorded in the office of the county recorder of the county wherein the real property is situate; and any such recorded affidavit or the record or certified copy thereof whether heretofore or hereafter recorded shall constitute a part of the record of title to the real property to which it relates and may be received in evidence in any cause affecting the title to such real property, by all courts and all boards, and before all officers, in the state of Idaho as part of such record of title.

[55-816, added 1945, ch. 84, sec. 1, p. 130; am. 2000, ch. 377, sec. 1, p. 1237.]

55-817. DURATION OF NOTICE. No public record of any mortgage or other lien on real property, given prior to July 1, 1945, shall constitute notice of the existence or contents of such mortgage or lien, to subsequent purchasers or encumbrancers of the property affected thereby, for a longer period than ten (10) years from the date of maturity of such obligation or indebtedness, as changed by extension, if any, of the time of payment, filed for record before the expiration of said period of ten (10) years, except as provided in section 2 hereof. If the public records do not disclose the date of maturity, then the date of the execution of such mortgage or lien shall be deemed the date of maturity of such obligation or indebtedness.

[55-817, added 1935, ch. 107, sec. 1, p. 256; am. 1951, ch. 127, sec. 1, p. 295.]

55-818. RECORDING OF SUMMARY OF INSTRUMENT -- EFFECT. A summary of any instrument creating an interest in, or affecting the title to or possession of real property, may be recorded under this chapter or the laws of this state if the requirements of this section are substantially met. A summary of the instrument shall be signed and acknowledged by all parties to the original instrument. The summary of the instrument shall clearly state: the names of the parties to the original instrument, the complete mailing address of the grantee, the title and date of the instrument, a description of the interest or interests in real property created by the instrument, and the legal description of the property. Other elements of transaction may be stated in the summary. If the requirements of this section are met, the summary of the instrument may be recorded under the provisions of this chapter and, as to the contents of the summary only, it shall have the same force and effect as if the original instrument had been recorded, and constructive notice shall be deemed to be given concerning the contents of the summary and the exis-

tence of the instrument to any subsequent purchasers, mortgagees or other persons or entities that acquire an interest in the real property.

[55-818, added 1987, ch. 353, sec. 1, p. 786; am. 1989, ch. 105, sec. 2, p. 238.]

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

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

(b) If, after the date of the recording the request for notice of transfer or encumbrance described in subsection (1) (a) of this section, the individual identified in such request for notice transfers or encumbers real property described in such filing, such individual, his agent or family member shall provide the department of health and welfare with a notice of transfer or encumbrance within ten (10) days after the date of the transfer or encumbrance. For the purposes of this subsection (1) (b), a title insurance company or agent shall not be deemed or appointed an agent of the individual identified in the request for notice of transfer or encumbrance. The department of health and welfare shall adopt by rule a model form for notice of transfer or encumbrance to be used by said individual 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, or if no individual identified in the request for notice of transfer or encumbrance is the record owner of the real property described therein, the title insurance company or agent is not required to disclose the notice of transfer or encumbrance as required by subsection (1) (a) of this section, and 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 by subsection (1) (b) of this section.

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

[55-819, added 2010, ch. 90, sec. 1, p. 174.]

55-820. PROHIBITION AND REMOVAL OF RESTRICTIVE COVENANTS. No deed recorded on or after July 1, 2022, shall contain a reference to a restrictive

covenant prohibited by section [55-616](#)(1), Idaho Code. A county clerk may refuse to accept any deed submitted for recordation that references any such restrictive covenant. The person who prepares or submits a deed for recordation has the responsibility for ensuring that such a restrictive covenant is not referenced in the deed prior to such deed being submitted for recordation. Any deed that is recorded in the land records on or after July 1, 2022, that mistakenly contains such a restrictive covenant shall nevertheless constitute a valid transfer of real property but without any effect given to the prohibited language.

[55-820, added 2022, ch. 159, sec. 2, p. 548.]