TITLE 73
GENERAL CODE PROVISIONS

CHAPTER 2
IDAHO CODE COMMISSION

73-201. PURPOSE OF ACT. The intent and purpose of this act is to keep current so far as practicable the compilation known as Idaho Code, by authorizing publication of pocket parts to the volumes of the Idaho Code, or as necessary, the republication of single or more volumes, or the addition of volumes, or by other devices designed and intended to maintain the Idaho Code up to date, and especially after each session of the legislature, indicating therein existing laws, repealed laws or parts of laws, substitute laws, additional laws, and constitutional provisions and changes, rules of the Supreme Court of Idaho, additional notes, annotations and indexing. This act shall be so interpreted as to grant the commission hereby created all power and authority necessary to accomplish such intent and purpose.

[73-201, added 1949, ch. 167, sec. 1, p. 355; am. 1953, ch. 250, sec. 1, p. 398.]

73-202. DEFINITION OF TERMS. "Code Commission" as used in this act shall be deemed to mean and refer to the code commission created by this act.

"Compilation" as used in this act shall be deemed to be the compilation known as the "Idaho Code" authorized and published pursuant to Session Laws of 1947, Chapter 224, and all pocket parts thereto and replacement or republication of all or any part thereof and contents, and new or additional volumes, compiled and published as in this act provided.

[73-202, added 1949, ch. 167, sec. 2, p. 355; am. 1953, ch. 250, sec. 2, p. 398.]

73-203. CODE COMMISSION CREATED -- APPOINTMENT OF MEMBERS. A continuing code commission is hereby created in the office of the secretary of state, to be known as the "Code Commission," to consist of three (3) persons, members of the Idaho state bar, who are actively engaged in the practice of law, not holders of any other compensated state office or position, whose residences are such that they may readily and conveniently meet from time to time as such commission. The "1947 Idaho Code Commission," created and appointed pursuant to chapter 224, of 1947 Session Laws of Idaho is hereby continued in office as the code commission created by this act; one (1) of such commissioners shall continue in office until the first day of December, 1950, one (1) until the first day of December, 1952, and one (1) until the first day of December, 1954; the term to be served by each present commissioner shall be determined by the members of the commission; not later than twenty (20) days after the effective date of this act the commission shall certify to the governor and to the secretary of state the name of each present commissioner and the term determined to be served by him. At the expiration of each of said terms and of the terms hereinafter provided, a member of the commission shall be appointed by the governor to serve for a term of six (6) years. The appointee shall be selected from a list of not more than three (3) qualified persons whose names shall be submitted to the governor by the board of commissioners of the Idaho state bar not less than fifteen (15) days prior to the expiration of a term of a commissioner. At its first meeting after

the effective date of this act the commission shall organize by selecting one (1) of its members chairman, and shall thereafter reorganize in the same manner at its first meeting held after each appointment of a commissioner. The secretary of state shall serve as permanent secretary of the commission. Each commissioner shall serve until his successor has been appointed. In the event a vacancy occurs in the commission other than by expiration of a term the remaining members shall fill such vacancy by appointment of a qualified person.

[73-203, added 1949, ch. 167, sec. 3, p. 355; am. 1974, ch. 5, sec. 8, p. 23.]

73-204. COMPENSATION AND EXPENSE OF COMMISSION -- EMPLOYMENT OF ASSISTANCE. Each member of the commission shall receive as compensation for his services the sum of twenty-five dollars ($25.00) for each day's attendance at a meeting and each day's performance of the duties of the commission and shall receive his actual and necessary expenses, incurred in performing his duties as such commission. Payment of said compensation shall not be considered salary as defined in section 59-1302(31), Idaho Code. The commission is hereby authorized to employ and fix the compensation of adequate legal, clerical and other assistance.

[73-204, added 1949, ch. 167, sec. 4, p. 355; am. 1972, ch. 161, sec. 1, p. 360; am. 2003, ch. 56, sec. 1, p. 200.]

73-205. POWERS AND DUTIES OF COMMISSION. The commission is hereby authorized, empowered and directed to enter into and execute contracts it may deem necessary and proper with any publishing company, with respect to general laws, repeals and amendments which may be enacted by each regular session of the legislature hereafter, and beginning with the thirtieth session, and with respect to bringing up to date annotations, notes and indexes of general law continuing in force, for the publication thereof, and publication of any other compilation within the purview of this act. The intent hereof is that as soon as practicable after each session of the legislature the Idaho Code be brought up to date. Similar contracts relating to and after one or more special sessions may be entered into and executed if the commission deems it necessary and desirable. Whenever one or more volumes of the Idaho Code becomes too bulky, or for other reason it appears to the commission to be necessary or desirable, the commission may contract for republication of such volume or volumes, or additional volumes. When the commission deems it necessary or advisable, it may, in its sole discretion, assist the Supreme Court of the state of Idaho in any preliminary work or studies necessary in the preparation of rules of said court and any proposed legislation which may from time to time be necessary to segregate substantive from procedural law, and may contract for the publication in replacement or additional volumes of such rules as may be made, prescribed and promulgated by said court.

The contracts shall appropriately describe specifications of the editing, content of compilation, printing, binding, size of type to be used in text and notes, grade and weight of paper to be used, style of page, provisions for insertion of new matters, with appropriate section numbers in existing or changed titles and chapters, and shall require in full new and amended laws, repeals of laws, or parts thereof, constitutional changes, new and additional annotations, notes and indexes, references and cross-refer-

ences relating to the existing laws of this state and to decisions of the Supreme Court of the state of Idaho, Idaho Court of Appeals, Supreme Court of the United States and federal courts citing and construing the same, formal Idaho attorney general opinions since January 1, 1983, citing and construing the same, history of the law or section, and shall contain such other information and ancillaries as the commission may deem necessary and proper, or as the publishers may include with the consent of the commission.

[73-205, added 1949, ch. 167, sec. 5, p. 355; am. 1953, ch. 250, sec. 3, p. 398; am. 1955, ch. 59, sec. 1, p. 116; am. 1987, ch. 114, sec. 1, p. 227.]

73-206. NUMBER OF SETS -- SALE PRICE. The contract shall require the publishing company to deliver, on or before such date as may be fixed by the commission, such number of sets of bound volumes and/or pocket parts of the compilation for use of the state of Idaho and its public agencies as may be determined by the board of examiners, at the price stated in the contract. The publishing company shall receive payment upon approval of such compilation as hereinafter provided and delivery of the sets thereof f.o.b. Boise, Idaho, and such other places in Idaho designated by the secretary of state of Idaho. If the publishing company cannot make delivery on the date fixed in the contract because of conditions beyond its control and shall satisfy the commission to this effect, the commission may, but it is not required to, extend the date of delivery for a period by it deemed reasonable. The publishing company shall agree in the contract to cause to be made available on the market through an agent, resident in Idaho, a sufficient number of sets of the compilation to supply the demand therefor within the state of Idaho, at the price fixed in the contract.

[73-206, added 1949, ch. 167, sec. 6, p. 355; am. 1977, ch. 232, sec. 6, p. 690; am. 1979, ch. 157, sec. 1, p. 477.]

73-207. COMPLETION BONDS. The publishing company, coincident with its execution of any contract, shall furnish a performance and completion bond in terms and in a sum specified by the commission written in favor of and to be paid to the state of Idaho in the event of failure of the publishing company to comply with the terms and conditions of the contract. The premium or expense of the bond shall be paid out of the appropriations herein provided for.

[73-207, added 1949, ch. 167, sec. 7, p. 355.]

73-208. EXAMINATION AND APPROVAL OF COMPILATIONS. The commission shall continue to supervise and give directions relating to the plan of titles, chapters and resectioning, annotations, cross-references, tables and indexes, form and uniformity of contents, and all other matters relating to compilations, deemed by the commission necessary and proper. The publishing company shall furnish galley and page proof to the commission relating to each compilation, which shall be examined under the commission's direction for the purpose of determining whether or not the compilation meets the requirements of section 73-205 of this act and the provisions of the contract relating to the compilation.

[73-208, added 1949, ch. 167, sec. 8, p. 355.]

73-209. CERTIFICATE OF COMPILATION -- PROCLAMATION BY GOVERNOR. Upon certificate of the commission filed with the secretary of state and the governor that any compilation (with the exception of the rules of the Supreme Court of the state of Idaho) has been completed, published and approved by the commission, the governor thereupon shall make a proclamation announcing its completion, and from and after the proclamation the compilation referred to in the proclamation shall be in force and effect and, together with the "Idaho Code" published pursuant to Session Laws of 1947, Chapter 224, shall be received in all courts and by all justices, judges, public officers, commissions and departments of the state government and all others as evidence of the general laws of Idaho then existing and in force and effect, and as an authorized compilation of the general statutes, codes, and laws of Idaho and ancillaries thereto.

[73-209, added 1949, ch. 167, sec. 9, p. 355; am. 1953, ch. 250, sec. 4, p. 398.]

73-210. COPYRIGHT. Copyright of all compilations shall be taken by and in the name of the publishing company which shall thereupon assign the same to the state of Idaho, and thereafter the same shall be owned by the state of Idaho. The commission is authorized and empowered to grant the use of the copyrights of the Idaho Code published pursuant to Session Laws of 1947, Chapter 224, and of all compilations authorized by this act, in connection with the performance of its said duties and obligations.

[73-210, added 1949, ch. 167, sec. 10, p. 355.]

73-211. SALE BY STATE. The state of Idaho shall not sell any of the compilations purchased by it, but may at any time exchange the same with exchange libraries of other states and territories.

Bound volumes of the Idaho Code that have been replaced by republished volumes may be discarded or destroyed; pocket parts that have been superseded by more current issues may be discarded or destroyed.

[73-211, added 1949, ch. 167, sec. 11, p. 355; am. 1977, ch. 232, sec. 7, p. 690.]

73-212. DELIVERY OF PRINTED SETS. Upon approval by the commission of any compilation and proclamation by the governor, the publishing company shall immediately deliver to the secretary of state of Idaho at Boise, Idaho, and such other places in Idaho designated by the secretary of state of Idaho, the number of sets of the compilation which the state of Idaho, through the state board of examiners, has determined to be necessary for its use. The secretary of state shall keep seventy-five (75) sets thereof for insertion in the sets of the Idaho Code reserved for the use of the members and officers of the legislature during times the legislature is in session, and distribute the remainder among such of the boards, institutions, officers and offices as shall be decided upon by the state board of examiners. Any remaining sets shall be kept by the secretary of state for subsequent sessions of the legislature, or be distributed as directed by the state board of examiners. The sets of all compilations, except those bound volumes which have been provided to members of the legislature under the provisions of section 67-909, Idaho Code, shall remain the property of the state of Idaho and be delivered by officers to their successors, and by legislators and

legislative officers to the secretary of state, at the end of each session of the legislature so that the same may be used at subsequent sessions.

[73-212, added 1949, ch. 167, sec. 12, p. 355; am. 1957, ch. 136, sec. 1, p. 229; am. 1977, ch. 232, sec. 8, p. 690; am. 1979, ch. 157, sec. 2, p. 477.]

73-213. TAX LEVY ON ACTIONS. There is hereby levied a fee of ten dollars ($10.00) upon each civil action filed in the district court or in the magistrates' division of the district court including matters involving decedents' estates, whether testate or intestate, and including proceedings involving adoption and the appointment of a guardian of the person or of the estate or both. There is also hereby levied a fee of ten dollars ($10.00) upon each party, except the plaintiff, making an appearance in any civil action in the district court or in the magistrates' division of the district court, except that no fee shall be levied or collected for an appearance in the small claims departments or for a proceeding under the summary administration of small estates act.

The clerks of the district courts and persons authorized by rule or administrative order of the supreme court are directed and required to remit all additional charges and fees authorized by this section and collected during a calendar month, to the state treasurer on or before the fifth day of the month following the calendar month of collection. The state treasurer shall place all such sums in the code fund for the following purposes:

1. From that portion of such sums pledged by section 73-214, Idaho Code, to pay the principal and interest on any treasury notes according to their priority issued under authority of this act. When any such treasury notes are issued and remain outstanding and unpaid and the state treasurer has sufficient moneys set aside as provided by section 73-214, Idaho Code, to pay the unpaid principal and interest of any treasury notes so issued and unpaid, the state treasurer, as soon as such notes may be paid by their terms, shall pay the same and shall certify such fact to the commission, and

2. To pay the cost of any compilations authorized under this act by the code commission, and

3. To pay the compensation and expenses of the code commission created by this act and its employees.

[73-213, added 1949, ch. 167, sec. 13, p. 355; am. 1953, ch. 250, sec. 5, p. 398; am. 1961, ch. 191, sec. 1, p. 286; am. 1969, ch. 137, sec. 1, p. 423; am. 1972, ch. 161, sec. 2, p. 360; am. 1979, ch. 219, sec. 4, p. 613; am. 1992, ch. 255, sec. 1, p. 742.]

73-214. PLEDGE OF TAX OR FEES. Whenever treasury notes are issued and sold as provided in this act, they shall constitute an irrevocable and irrepealable contract between the state of Idaho and the owner of said treasury notes that the portion of the taxes and/or fees pledged for payment thereof provided by this act shall not be reduced so long as any of the treasury notes issued under this act remain outstanding and unpaid, and that the state will cause said taxes or fees to be promptly collected, and sufficient thereof set aside and applied as in this act provided to pay the annual interest and an amount of principal that will be equal to the total amount of the notes issued and outstanding divided by the number of years over which said notes are to be paid, to provide for the payment of such treasury notes and interest according to the terms and priority of issues thereof, and that the legislature

shall not reduce the amount of such pledged tax or fee while any of said treasury notes are outstanding; but if all thereof be paid the legislature may reduce such tax or fee to be collected and pledged for payment of any future or new or additional issue of notes sold under this act after such reduction. Any holder of said treasury notes, or any person, or officer, being a party in interest, may by action either at law or in equity enforce and compel the performance of the duties of any officer or person herein mentioned, required by this act.

[73-214, added 1949, ch. 167, sec. 14, p. 335; am. 1953, ch. 250, sec. 6, p. 398; am. 1972, ch. 161, sec. 3, p. 360.]

73-215. CODE FUND CREATED. There is hereby created in the hands of the state treasurer a fund to be known as the "Code Fund." All funds in the hands of the state treasurer credited to the "Idaho Code Fund" are hereby transferred, appropriated to and made a part of the code fund, together with any and all moneys now or hereafter remitted to and received by the state treasurer for deposit in the code fund pursuant to section 73-213, Idaho Code. At the beginning of each fiscal year those moneys in the Idaho code fund that exceed the prior year's expenditures, excluding a transfer by appropriation, by twenty-five percent (25%) or more shall be transferred to the general fund.

[73-215, added 1949, ch. 167, sec. 15, p. 355; am. 2002, ch. 19, sec. 1, p. 24.]

73-216. ISSUANCE OF TREASURY NOTES. The commission is hereby authorized to anticipate the proceeds of the collection of any or all of the taxes or fees provided for in this act, and when necessary is hereby authorized to cause to be issued "Code Fund Treasury Notes," bearing such rate of interest, not exceeding that provided by law, as the commission may determine, in such amounts which, together with the unencumbered or unobligated moneys in the Code Fund, shall not exceed in the aggregate the sum of three hundred thousand dollars ($300,000) to carry out the purposes of this act. Said treasury notes may be issued in serial form to mature at stated times not exceeding twenty (20) years from date of issuance, shall be signed by the chairman of the code commission, attested by the secretary thereof, shall be countersigned by the treasurer of the state of Idaho, and shall be in such form as approved by the attorney general.

[73-216, added 1949, ch. 167, sec. 16, p. 355; am. 1953, ch. 250, sec. 7, p. 398; am. 1961, ch. 191, sec. 2, p. 286; am. 1972, ch. 161, sec. 4, p. 360.]

73-217. SALE OF TREASURY NOTES. The treasury notes shall be sold by the state treasurer to the highest bidder for cash at not less than par and accrued interest at such times and in such amounts as may be determined by the commission, after advertising the time and place of sale in such manner as the commission shall determine; provided, the treasury notes or any part thereof may be sold by the state treasurer at any time at private sale without advertisement, for not less than par and accrued interest. The state treasurer, with the approval of the commissioner of public investments and other officials whose approval is required by law for investment of public

funds, may purchase for investment any or all the treasury notes at par and accrued interest.

[73-217, added 1949, ch. 167, sec. 17, p. 355.]

73-218. PROCEEDS OF SALE, HOW HANDLED. The proceeds of the sale of the treasury notes shall be placed to the credit of the code fund in the state treasury, except such amount as may be required to be paid as accrued interest, which amount shall be credited to a special interest fund for payment of interest on the treasury notes. The expenses incurred by the state treasurer in the preparation and sale of the treasury notes shall be paid out of the code fund. The balance of such proceeds and all moneys now or hereafter in said code fund shall be used exclusively for the purposes authorized by this act, and shall be paid out of warrants drawn by the state controller supported by vouchers of the commission.

Whenever any treasury notes are hereafter issued and outstanding, pursuant to this act, the state treasurer shall set up and keep separate accounts for payment of the interest required to be paid on such treasury notes and to provide a sinking fund for the payment of such treasury notes.

[73-218, added 1949, ch. 167, sec. 18, p. 355; am. 1953, ch. 250, sec. 8, p. 398; am. 1994, ch. 180, sec. 239, p. 574.]

73-219. APPROPRIATION. All funds, appropriations and other moneys now or hereafter appropriated or provided by law for the purposes and administration of the functions, powers and duties of the code commission created by chapter 167, Laws of 1949, including those funds and moneys of the code fund and the code redemption fund, shall be and the same hereby are, respectively, transferred to the code fund created by chapter 167, Laws of 1949, and made available to and placed under the control of said code commission, and all such moneys accruing to or received into said fund are hereby appropriated to said code commission for expenditure by it in the administration and carrying out of the duties and purposes required of the said commission under the provisions of this act and to pay the compensation and expenses of the commission and its employees. The state controller is hereby authorized and directed to cause the foregoing transfers to be made. All such moneys shall be paid out on warrants drawn by the state controller as in this act provided, supported by vouchers prepared and approved by the code commission certified by its chairman, and approved by the state board of examiners.

[73-219, added 1949, ch. 167, sec. 19, p. 355; am. 1953, ch. 250, sec. 9, p. 398; am. 1955, ch. 59, sec. 2, p. 116; am. 1994, ch. 180, sec. 240, p. 574.]

73-220. EXEMPTIONS FROM CERTAIN ACTS. The appropriations made in this act are expressly exempted from the provisions of the Standard Appropriations Act of 1945, (chapter 36 of title 67) from the provisions of section 67-2007 and 67-2008, from the provisions of section 67-3509, and from the provisions of sections 67-3516--67-3523, Idaho Code.

[73-220, added 1949, ch. 167, sec. 20, p. 355; am. 1953, ch. 250, sec. 10, p. 398.]

73-221. REPORT REQUIRED OF COMMISSION. The commission shall, thirty (30) days prior to the time each regular session of the legislature shall convene, furnish to the governor and secretary of state a report of its proceedings, and an analysis of its financial requirements for the next ensuing year or biennium, and its recommendations. The commission shall furnish additional copies of such report as may be required by either of said officers.

[73-221, added 1949, ch. 167, sec. 21, p. 355; am. 1972, ch. 161, sec. 5, p. 360.]