

TITLE 9
EVIDENCE

CHAPTER 3
PUBLIC WRITINGS

9-303. STATUTES -- CLASSIFICATION -- PUBLIC OR PRIVATE. Statutes are public or private. A private statute is one which concerns only certain designated individuals, and affects only their private rights. All other statutes are public, in which are included statutes creating or affecting corporations.

[(9-303) C.C.P. 1881, sec. 904; R.S., R.C., & C.L., sec. 5967; C.S., sec. 7942; I.C.A., sec. 16-303.]

9-304. PROOF OF STATUTES ACT -- PUBLICATIONS COVERED. Printed books or pamphlets purporting on their face to be the session or other statutes of any of the United States, or the territories thereof, or of any foreign jurisdiction, and to have been printed and published by the authority of any such state, territory or foreign jurisdiction or proved to be commonly recognized in its courts, shall be received in the courts of this state as prima facie evidence of such statutes.

[9-304, added 1935, ch. 149, sec. 1, p. 367.]

9-305. PROOF OF STATUTES ACT -- UNIFORMITY OF INTERPRETATION. This act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

[9-305, added 1935, ch. 149, sec. 2, p. 367.]

9-306. PROOF OF STATUTES ACT -- SHORT TITLE. This act may be cited as the Uniform Proof of Statutes Act.

[9-306, added 1935, ch. 149, sec. 3, p. 367.]

9-307. CERTIFIED COPIES OF FOREIGN LAWS AND WRITINGS -- ADMISSIBILITY. A copy of the written law, or other public writing, of any state, territory or country, attested by the certificate of the officer having charge of the original, under the public seal of the state, territory or country, is admissible as evidence of such law or writing.

[(9-307) C.C.P. 1881, sec. 907; R.S., R.C., & C.L., sec. 5970; C.S., sec. 7945; I.C.A., sec. 16-305.]

9-308. ORAL EVIDENCE OF COMMON LAW -- REPORTS OF DECISIONS. The oral testimony of witnesses skilled therein is admissible as evidence of the unwritten law of another state, territory or foreign country, as are also printed and published books of reports of decisions of the courts of such state, territory or country, commonly admitted in such courts.

[(9-308) C.C.P. 1881, sec. 908; R.S., R.C., & C.L., sec. 5971; C.S., sec. 7946; I.C.A., sec. 16-306.]

9-309. RECITALS IN STATUTES -- CONCLUSIVENESS. The recitals in a public statute are conclusive evidence of the facts recited for the purpose of carrying it into effect, but no further. The recitals in a private statute are conclusive evidence between parties who claim under its provisions, but no further.

[(9-309) C.C.P. 1881, sec. 909; R.S., R.C., & C.L., sec. 5972; C.S., sec. 7947; I.C.A., sec. 16-307.]

9-310. JUDICIAL RECORD DEFINED. A judicial record is the record or official entry of the proceedings in a court of justice, or of the official act of a judicial officer, in an action or special proceeding.

[(9-310) C.C.P. 1881, sec. 910; R.S., R.C., & C.L., sec. 5973; C.S., sec. 7948; I.C.A., sec. 16-308.]

9-311. PUBLIC WRITINGS -- CLASSIFICATION. Public writings are divided into four classes:

1. Laws.
2. Judicial records.
3. Other official documents.
4. Public records kept in this state of private writings.

[(9-311) C.C.P. 1881, sec. 905; R.S., R.C., & C.L., sec. 5968; C.S., sec. 7943; I.C.A., sec. 16-309.]

9-312. AUTHENTICATION OF JUDICIAL RECORD. A judicial record of this state, or of the United States, may be proved by the production of the original, or by a copy thereof, certified by the clerk or other person having the legal custody thereof. That of another state or territory may be proved by the attestation of the clerk and the seal of the court annexed, if there be a clerk and seal, together with a certificate of the chief judge or presiding magistrate, that the attestation is in due form.

[(9-312) C.C.P. 1881, sec. 911; R.S., R.C., & C.L., sec. 5974; C.S., sec. 7949; I.C.A., sec. 16-310.]

9-313. AUTHENTICATION OF JUDICIAL RECORD OF FOREIGN COUNTRY. A judicial record of a foreign country may be proved by the attestation of the clerk, with the seal of the court annexed, if there be a clerk and seal, or of the legal keeper of the record, with the seal of his office annexed, if there be a seal, together with a certificate of the chief judge, or presiding magistrate, that the person making the attestation is the clerk of the court or the legal keeper of the record, and in either case that the signature of such person is genuine, and that the attestation is in due form. The signature of the chief judge, or presiding magistrate, must be authenticated by the certificate of the minister or ambassador, or a consul, vice consul, or consular agent of the United States in such foreign country.

[(9-313) C.C.P. 1881, sec. 912; R.S., R.C., & C.L., sec. 5975; C.S., sec. 7950; I.C.A., sec. 16-311.]

9-314. COMPARED COPY OF FOREIGN RECORD -- ADMISSIBILITY IN EVIDENCE. A copy of the judicial record of a foreign country is also admissible in evidence, upon proof:

1. That the copy offered has been compared by the witness with the original and is an exact transcript of the whole of it.
2. That such original was in the custody of the clerk of the court, or other legal keeper of the same; and
3. That the copy is duly attested by a seal which is proved to be the seal of the court where the record remains, if it be the record of a court, or if there be no such seal, or if it be not the record of a court, by the signature of the legal keeper of the original.

[(9-314) C.C.P. 1881, sec. 913; R.S., R.C., & C.L., sec. 5976; C.S., sec. 7951; I.C.A., sec. 16-312.]

9-315. PROOF OF OTHER OFFICIAL DOCUMENTS. Other official documents may be proved as follows:

1. Acts of the executive of this state, by the records; and of the United States, by the records of the departments of the United States, certified by an officer or employee of those departments, showing that the document is a true and correct copy of the original held by that department. They may also be proved by public documents, printed by the order of the legislature or congress, or either house thereof.
2. The proceedings of the legislature of this state, or of congress, by the journals of those bodies respectively, or either house thereof, or by published statutes or resolutions, or by copies certified by the clerk, or printed by their order.
3. The acts of the executive, or the proceedings of the legislature, of another state or territory in the same manner.
4. The acts of the executive, or the proceedings of the legislature of a foreign country, by journals published by their authority, or commonly received in that country as such, or by a copy certified under the seal of the country or sovereign, or by a recognition thereof, in some public act of the executive of the United States.
5. Acts of a municipal corporation of this state, or of a board or department thereof, by a copy, certified by the legal keeper thereof, or by a printed book, published by the authority of such corporation.
6. Documents of any other class in this state, by the original, or by a copy, certified by the legal keeper thereof.
7. Documents of any other class from another state or territory, by the original, or by a copy, certified by the legal keeper thereof, in such a manner that the court is satisfied that the document is, in all likelihood, a copy of an official document from another state or territory.
8. Documents of any other class in a foreign country, by the original, or by a copy, certified by the legal keeper thereof, with a certificate under seal, of the country or sovereign, that the document is a valid and subsisting document of such country, and that the copy is duly certified by the officer having the legal custody of the original.
9. Documents in the departments of the United States government, by the certificate of the legal custodian thereof.
10. The above requirements notwithstanding, if in the discretion of the court the document, or copy thereof, whichever is being submitted for admission into evidence, is an unaltered official document of any agency or de-

partment of the state of Idaho or of any other state, then such document may be admitted into evidence.

[(9-315) C.C.P. 1881, sec. 914; R.S., R.C., & C.L., sec. 5977; C.S., sec. 7952; I.C.A., sec. 16-313; am. 1980, ch. 294, sec. 1, p. 765.]

9-316. OFFICIAL REPORTS AS EVIDENCE ACT. Written reports or findings of fact made by officers of this state, on a matter within the scope of their duty as defined by statute, shall, insofar as relevant, be admitted as evidence of the matters stated therein.

[9-316, added 1939, ch. 105, sec. 1, p. 174.]

9-317. OFFICIAL REPORTS AS EVIDENCE -- NOTICE BEFORE TRIAL. Such report or finding shall be admissible only if the party offering it has delivered a copy of it, or so much thereof as may relate to the controversy, to the adverse party a reasonable time before trial, unless in the opinion of the trial court the adverse party has not been unfairly surprised by the failure to deliver such copy.

[9-317, added 1939, ch. 105, sec. 2, p. 174.]

9-318. OFFICIAL REPORTS AS EVIDENCE -- CROSS-EXAMINATION. Any adverse party may cross-examine any person making such reports or findings or any person furnishing information used therein; but the fact that such testimony may not be obtainable shall not affect the admissibility of the report or finding, unless, in the opinion of the court, the adverse party is unfairly prejudiced thereby.

[9-318, added 1939, ch. 105, sec. 3, p. 174.]

9-319. OFFICIAL REPORTS AS EVIDENCE -- UNIFORMITY OF INTERPRETATION OF ACT. This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

[9-319, added 1939, ch. 105, sec. 4, p. 174.]

9-320. OFFICIAL REPORTS AS EVIDENCE -- SHORT TITLE OF ACT. This act may be cited as the Uniform Official Reports as Evidence Act.

[9-320, added 1939, ch. 105, sec. 5, p. 174.]

9-321. PUBLIC RECORD OF PRIVATE WRITING -- HOW PROVED. A public record of a private writing may be proved by the original record, or by a copy thereof, certified by the legal keeper of the record.

[(9-321) C.C.P. 1881, sec. 915; R.S., R.C., & C.L., sec. 5978; C.S., sec. 7953; I.C.A., sec. 16-314.]

9-322. ENTRIES IN PUBLIC AND OFFICIAL BOOKS -- EFFECT AS PRIMA FACIE EVIDENCE. Entries in public or other official books or records, made in the performance of his duty by a public officer of this state, or by another person in the performance of a duty specially enjoined by law, are prima facie evidence of the facts stated therein.

[(9-322) C.C.P. 1881, sec. 916; R.S., R.C., & C.L., sec. 5979; C.S., sec. 7954; I.C.A., sec. 16-315.]

9-323. TRANSCRIPT OF DOCKET OF JUSTICE OF ANOTHER STATE -- ADMISSIBILITY. A transcript from the record or docket of a justice of the peace of another state or territory of a judgment rendered by him, of the proceedings in the action before the judgment, of the execution and return, if any, subscribed by the justice and verified in the manner prescribed in the next section, is admissible evidence of the facts stated therein.

[(9-323) C.C.P. 1881, sec. 917; R.S., R.C., & C.L., sec. 5980; C.S., sec. 7955; I.C.A., sec. 16-316.]

9-324. PROOF OF TRANSCRIPT -- CERTIFICATE OF JUSTICE AND CLERK -- PROOF OF JUDGMENT BY JUSTICE IN PERSON. There must be attached to the transcript a certificate of the justice that the transcript is in all respects correct, and that he had jurisdiction of the action, and also a further certificate of the clerk or prothonotary of the county in which the justice resided at the time of rendering the judgment, under seal of the county, or the seal of the court of common pleas, or county court, or court of general jurisdiction thereof, certifying that the person subscribing the transcript was, at the date of the judgment, a justice of the peace in the county, and that the signature is genuine. Such judgment, proceedings and jurisdiction may also be proved by the justice himself, on the production of his docket, or by a copy of the judgment, and his oral examination as a witness.

[(9-324) C.C.P. 1881, sec. 918; R.S., R.C., & C.L., sec. 5981; C.S., sec. 7956; I.C.A., sec. 16-317.]

9-325. CERTIFIED COPIES OF WRITINGS. Whenever a copy of a writing is certified for the purposes of evidence, the certificate must state in substance, that the copy is a correct copy of the original, or of a specified part thereof, as the case may be. The certificate must be under the official seal of the certifying officer, if there be any, or if he be a clerk of a court having a seal, under the seal of such court.

[(9-325) C.C.P. 1881, sec. 919; R.S., R.C., & C.L., sec. 5982; C.S., sec. 7957; I.C.A., sec. 16-318.]

9-326. CERTIFICATE OF PURCHASE OR LOCATION OF LANDS -- EFFECT AS EVIDENCE. A certificate of purchase, or of location, of any lands in this state, issued or made in pursuance of any law of the United States, is primary evidence that the holder or assignee of such certificate is the owner of the land described therein; but this evidence may be overcome by proof that, at the time of the location, or time of filing a preemption claim on which the certificate may have been issued, the land was in the adverse possession of the adverse party, or those under whom he claims, or that the adverse party is holding the land for mining purposes.

[(9-326) C.C.P. 1881, sec. 920; R.S., R.C., & C.L., sec. 5983; C.S., sec. 7958; I.C.A., sec. 16-319.]

9-327. ENTRIES BY OFFICERS -- EFFECT AS EVIDENCE. An entry made by an officer, or board of officers, or under the direction and in the presence of

either, in the course of official duty, is prima facie evidence of the facts stated in such entry.

[(9-327) C.C.P. 1881, sec. 921; R.S., R.C., & C.L., sec. 5984; C.S., sec. 7959; I.C.A., sec. 16-320.]

9-328. PHOTOGRAPHIC OR DIGITAL RETENTION OF RECORDS -- DISPOSITION OF ORIGINALS. Any state officer may receive or retain documents filed or recorded in his office on media other than paper, provided that the media comply with the standards set forth in this section. The originals of paper documents may be disposed of in accordance with the provisions of this section.

(1) A state officer may receive, file or record documents in his office in paper form. When permitted by law or administrative rule, a state officer may alternatively receive, file or record documents which are transmitted on other media or by electronic means, provided that the medium or means of transmittal is secure against undetected additions, deletions or alterations of documents during transmittal. Such media and electronic means include, but are not limited to, facsimile transmissions (FAX), magnetic tape or disk, photographic film, optical disk and an electronically transmitted data stream.

(2) A state officer may retain a document in a different form or medium from that in which it is received, provided that the form or medium in which the document is retained results in a permanent record which may be accurately reproduced during the period for which the document must be retained.

(3) If a document is received in paper form or as an image of a paper document, e.g. film, FAX or other digitized image, it must be retained in a form or medium which permits accurate reproduction of the document in paper form. If the medium chosen for retention is photographic, all film used for capture or retention of images must meet the quality standards of the American national standards institute (ANSI). If the medium chosen for retention is digital, it must be secure against unauthorized or undetected alteration or deletion. If the medium itself does not preclude alteration or deletion, the custodial state officer must insure that a document can be restored from a backup medium which may or may not be digital.

(4) If a document is received as a data stream, it must be retained in a system which is secure against unauthorized or undetected alteration or deletion of data, and which provides for periodic backup of data for off-site storage. The system must permit the document to be readily and intelligibly reproduced on paper.

(5) If a document is received in paper form or as an image of a paper document, and if the receiving state officer retains it in another form or medium as permitted in subsection (3) of this section, then the original of the document may be disposed of or returned to the sender, provided that such disposition or return is done pursuant to statute or an administrative rule promulgated under section [67-5751](#), Idaho Code.

(6) A document retained by a state officer in any form or medium permitted under this section shall be deemed to be an original public record for all purposes. A reproduction or copy of such a document, certified by the state officer, shall be deemed to be a transcript or certified copy of the original, and shall be admissible before any court or administrative hearing.

[9-328, added 1992, ch. 165, sec. 2, p. 529; am. 1997, ch. 74, sec. 1, p. 154.]

9-333. ADMISSIBILITY IN EVIDENCE OF COPIES OF DESTROYED RECORDS. The photostatic, photographic, microphotographic or microfilmed copy of any such record destroyed or disposed of as herein authorized, or a certified copy thereof, shall be admissible in evidence in any court or proceeding, and shall have the same force and effect as though the original record had been produced and proved. It shall be the duty of the custodian of such records to prepare enlarged typed or photographic copies of the records whenever their production is required by law.

[9-333, added 1957, ch. 206, sec. 3, p. 433.]

9-334. COPIES OF RECORDS TO BE IN DUPLICATE -- ONE COPY FOR DISPLAY PURPOSES, THE OTHER PLACED IN FIREPROOF VAULT. Whenever any record or document is copied or reproduced by microphotographic or microfilm, or other mechanical process as herein provided it shall be made in duplicate, and the custodian thereof shall place one copy in a fireproof vault or fireproof storage place, and he shall retain the other copy in his office with suitable equipment for displaying such record by projection to not less than its original size or for preparing, for persons entitled thereto, to copies of the record.

[9-334, added 1957, ch. 206, sec. 4, p. 433.]