

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 209

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO THE REVISED UNIFORM LAW ON NOTARIAL ACTS; REPEALING CHAPTER 1, TITLE 51, IDAHO CODE, RELATING TO THE IDAHO NOTARY PUBLIC ACT; REPEALING CHAPTER 7, TITLE 55, IDAHO CODE, RELATING TO ACKNOWLEDGMENTS; AMENDING TITLE 51, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 1, TITLE 51, IDAHO CODE, TO PROVIDE A SHORT TITLE, TO DEFINE TERMS, TO PROVIDE APPLICABILITY, TO AUTHORIZE CERTAIN PERSONS TO PERFORM A NOTARIAL ACT, TO PROVIDE REQUIREMENTS FOR CERTAIN NOTARIAL ACTS, TO REQUIRE PERSONAL APPEARANCE BEFORE A NOTARY PUBLIC UNDER CERTAIN CONDITIONS, TO REQUIRE CERTAIN IDENTIFICATION OF INDIVIDUALS, TO AUTHORIZE A NOTARY PUBLIC TO REFUSE TO PERFORM A NOTARIAL ACT IN CERTAIN INSTANCES, TO PROVIDE FOR A SIGNATURE IF AN INDIVIDUAL IS UNABLE TO SIGN, TO PROVIDE AUTHORITY FOR A NOTARIAL ACT IN THIS STATE, TO PROVIDE AUTHORITY FOR A NOTARIAL ACT IN ANOTHER STATE, TO PROVIDE FOR NOTARIAL ACTS BY AN INDIAN TRIBE, TO PROVIDE FOR NOTARIAL ACTS PERFORMED UNDER FEDERAL AUTHORITY, TO PROVIDE FOR FOREIGN NOTARIAL ACTS, TO PROVIDE CERTAIN REQUIREMENTS FOR A CERTIFICATE OF A NOTARIAL ACT, TO PROVIDE SHORT FORM CERTIFICATES OF NOTARIAL ACTS, TO PROVIDE FOR AN ACKNOWLEDGMENT BY AN ENTITY ON BEHALF OF ANOTHER ENTITY, TO PROVIDE REQUIREMENTS FOR THE OFFICIAL STAMP OF A NOTARY PUBLIC, TO REQUIRE NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACTS ON AN ELECTRONIC RECORD, TO PROVIDE FOR SELECTION OF TECHNOLOGY FOR AN ELECTRONIC RECORD, TO PROVIDE FOR A COMMISSION AS A NOTARY PUBLIC, TO PROVIDE QUALIFICATIONS FOR A NOTARY PUBLIC, TO PROVIDE THAT A NOTARY PUBLIC CERTIFICATE SHALL NOT PROVIDE CERTAIN IMMUNITY OR BENEFIT, TO PROVIDE FOR A COURSE OF STUDY FOR APPLICANTS FOR A COMMISSION AS A NOTARY PUBLIC, TO PROVIDE CERTAIN GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND OR IMPOSE A CONDITION UPON THE COMMISSION OF A NOTARY PUBLIC, TO PROVIDE FOR A DATABASE OF NOTARIES PUBLIC, TO PROHIBIT CERTAIN ACTS BY A NOTARY PUBLIC, TO PROVIDE FOR THE VALIDITY OF CERTAIN NOTARIAL ACTS, TO PROVIDE RULEMAKING AUTHORITY, TO PROVIDE FOR THE EFFECT OF THIS ACT ON A NOTARY PUBLIC COMMISSION, TO PROVIDE A SAVINGS CLAUSE, TO PROVIDE FOR UNIFORMITY OF APPLICATION AND CONSTRUCTION, TO PROVIDE FOR THE RELATION OF THIS ACT TO THE ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT, TO PROVIDE FOR FILING FEES, AND TO PROVIDE FOR A NOTARY FEE; AMENDING CHAPTER 1, TITLE 51, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 51-117, IDAHO CODE, TO PROVIDE FOR THE REQUIREMENTS OF A NOTARY SEAL; REPEALING SECTION 51-117, IDAHO CODE, RELATING TO A NOTARY SEAL; AMENDING CHAPTER 1, TITLE 51, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 51-117, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR THE OFFICIAL STAMP OF A NOTARY SEAL; AMENDING CHAPTER 1, TITLE 51, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 51-118, IDAHO CODE, TO PROVIDE REQUIREMENTS FOR A STAMPING DEVICE; AMENDING SECTION 15-2-502, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN CODE SECTIONS; AMENDING SECTION 15-2-504, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN CODE SECTIONS; AMENDING SECTION 15-12-105, IDAHO CODE, TO REMOVE REFERENCE TO CERTAIN CODE SECTIONS;

AMENDING SECTION 19-5801, IDAHO CODE, TO REMOVE REFERENCE TO A CERTAIN CODE SECTION; AMENDING SECTION 31-1408, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 55-805, IDAHO CODE, TO PROVIDE A CORRECT CODE REFERENCE; AMENDING SECTION 59-404, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AMENDING SECTION 59-407, IDAHO CODE, TO PROVIDE CORRECT CODE REFERENCES; AND PROVIDING EFFECTIVE DATES.

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

SECTION 1. That Chapter 1, Title 51, Idaho Code, be, and the same is hereby repealed.

SECTION 2. That Chapter 7, Title 55, Idaho Code, be, and the same is hereby repealed.

SECTION 3. That Title 51, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 1, Title 51, Idaho Code, and to read as follows:

#### CHAPTER 1 REVISED UNIFORM LAW ON NOTARIAL ACTS

51-101. SHORT TITLE. This chapter shall be known and may be cited as the "Revised Uniform Law on Notarial Acts."

51-102. DEFINITIONS. As used in this chapter:

(1) "Acknowledgment" means a declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and, if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(3) "Electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record.

(4) "In a representative capacity" means acting as:

(a) An authorized officer, agent, partner, trustee or other representative for a person that is not an individual;

(b) A public officer, personal representative, guardian or other representative, in the capacity stated in a record;

(c) An agent or attorney in fact for a principal; or

(d) An authorized representative of another in any other capacity.

(5) "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy, and noting a protest of a negotiable instrument.

(6) "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

1 (7) "Notary public" means an individual commissioned to perform a no-  
2 tarial act by the secretary of state.

3 (8) "Official stamp" means a physical image affixed to a tangible  
4 record or an electronic image attached to or logically associated with an  
5 electronic record.

6 (9) "Person" means an individual, estate, business or nonprofit en-  
7 tity, public corporation, government or governmental subdivision, agency or  
8 instrumentality, or any other legal entity.

9 (10) "Personal appearance" or "appear personally" means the notarial  
10 officer is physically close enough to see, hear, communicate with and re-  
11 ceive identification documents from the individual seeking notarization and  
12 any required witness.

13 (11) "Record" means information inscribed on a tangible medium or that  
14 is stored in an electronic or other medium and is retrievable in perceivable  
15 form.

16 (12) "Sign" means, with present intent to authenticate or adopt a record  
17 by:

18 (a) Executing or adopting a tangible symbol; or

19 (b) Attaching to or logically associating with the record an electronic  
20 symbol, sound or process.

21 (13) "Signature" means a tangible symbol or an electronic signature  
22 that evidences the signing of a record.

23 (14) "Stamping device" means:

24 (a) A physical device capable of affixing to a tangible record an offi-  
25 cial stamp; or

26 (b) An electronic device or process capable of attaching or logically  
27 associating an official stamp with an electronic record.

28 (15) "State" means a state of the United States, the District of Colum-  
29 bia, Puerto Rico, the United States Virgin Islands or any territory or insu-  
30 lar possession subject to the jurisdiction of the United States.

31 (16) "Verification on oath or affirmation" means a declaration, made by  
32 an individual on oath or affirmation before a notarial officer, that a state-  
33 ment in a record is true.

34 51-103. APPLICABILITY. This chapter applies to a notarial act per-  
35 formed on or after the effective date of this act.

36 51-104. AUTHORITY TO PERFORM NOTARIAL ACT. (1) A notarial officer may  
37 perform a notarial act authorized by this chapter or by law of this state  
38 other than this chapter.

39 (2) A notary public may not perform a notarial act with respect to a  
40 record to which the notary public or the notary public's spouse is a party,  
41 or in which either of them has a direct beneficial interest. A notarial act  
42 performed in violation of this subsection is voidable.

43 51-105. REQUIREMENTS FOR CERTAIN NOTARIAL ACTS. (1) A notary pub-  
44 lic who takes an acknowledgment of a record shall determine, from personal  
45 knowledge or satisfactory evidence of the identity of the individual, that  
46 the individual appearing before the notary public and making the acknowl-

1 edgment has the identity claimed and that the signature on the record is the  
2 signature of the individual.

3 (2) A notary public who takes a verification of a statement on oath or  
4 affirmation shall determine, from personal knowledge or satisfactory evi-  
5 dence of the identity of the individual, that the individual appearing be-  
6 fore the notary public and making the verification has the identity claimed  
7 and that the signature on the statement verified is the signature of the in-  
8 dividual.

9 (3) A notary public who witnesses or attests to a signature shall de-  
10 termine, from personal knowledge or satisfactory evidence of the identity of  
11 the individual, that the individual appearing before the notary public and  
12 signing the record has the identity claimed.

13 (4) A notary public who certifies or attests a copy of a record or an  
14 item that was copied shall determine that the copy is a full, true and accu-  
15 rate transcription or reproduction of the record or item.

16 (5) A notary public who makes or notes a protest of a negotiable in-  
17 strument shall determine the matters set forth in section 28-3-505(2), Idaho  
18 Code.

19 51-106. PERSONAL APPEARANCE REQUIRED. If a notarial act relates to a  
20 statement made in or a signature executed on a record, the individual making  
21 the statement or executing the signature shall appear personally before the  
22 notary public.

23 51-107. IDENTIFICATION OF INDIVIDUAL. (1) A notary public has per-  
24 sonal knowledge of the identity of an individual appearing before the notary  
25 public if the individual is personally known to the notary public through  
26 dealings sufficient to provide reasonable certainty that the individual has  
27 the identity claimed.

28 (2) A notary public has satisfactory evidence of the identity of an in-  
29 dividual appearing before the notary public if the notary public can iden-  
30 tify the individual:

31 (a) By means of:

32 (i) A passport, driver's license or government-issued nondriver  
33 identification card that is current or expired not more than three  
34 (3) years before performance of the notarial act; or

35 (ii) Another form of government identification issued to an indi-  
36 vidual that is current or expired not more than three (3) years be-  
37 fore performance of the notarial act, that contains the signature  
38 or a photograph of the individual, and that is satisfactory to the  
39 notary public; or

40 (b) By a verification on oath or affirmation of a credible witness  
41 personally appearing before the notary public and known to the notary  
42 public or whom the notary public can identify on the basis of a passport,  
43 driver's license or government-issued nondriver identification card  
44 that is current or expired not more than three (3) years before perfor-  
45 mance of the notarial act.

46 (3) A notary public may require an individual to provide additional in-  
47 formation or identification credentials necessary to assure the notary pub-  
48 lic of the identity of the individual.

1        51-108.    AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACT. (1) A notary pub-  
2    lic may refuse to perform a notarial act if the notary public is not satisfied  
3    that:

4        (a)    The individual executing the record is competent or has the capac-  
5        ity to execute the record; or

6        (b)    The individual's signature is knowingly and voluntarily made.

7        (2)    A notary public may refuse to perform a notarial act unless refusal  
8    is prohibited by law other than this chapter.

9        51-109.    SIGNATURE IF INDIVIDUAL UNABLE TO SIGN. If an individual is  
10    physically unable to sign a record, the individual may direct an individual  
11    other than the notary public to sign the individual's name on the record. The  
12    notary public shall insert "Signature affixed by (name of other individual)  
13    at the direction of (name of individual)" or words of similar import.

14       51-110.    NOTARIAL ACT IN THIS STATE. (1) A notarial act may be performed  
15    in this state by:

16       (a)    A notary public of this state; or

17       (b)    Any other individual authorized to perform the specific act by the  
18       law of this state.

19       (2)    The signature and title of an individual performing a notarial act  
20    in this state are prima facie evidence that the signature is genuine and that  
21    the individual holds the designated title.

22       (3)    The signature and title of a notary public described in subsection  
23    (1) (a) or (b) of this section conclusively establish the authority of the of-  
24    ficer to perform the notarial act.

25       51-111.    NOTARIAL ACT IN ANOTHER STATE. (1) A notarial act performed in  
26    another state has the same effect under the law of this state as if performed  
27    by a notary public of this state if the act performed in that state is per-  
28    formed by:

29       (a)    A notary public of that state;

30       (b)    A judge, clerk or deputy clerk of a court of that state; or

31       (c)    Any other individual authorized by the law of that state to perform  
32       the notarial act.

33       (2)    The signature and title of an individual performing a notarial act  
34    in another state are prima facie evidence that the signature is genuine and  
35    that the individual holds the designated title.

36       (3)    The signature and title of a notarial officer described in subsec-  
37    tion (1) (a) or (b) of this section conclusively establish the authority of  
38    the officer to perform the notarial act.

39       51-112.    NOTARIAL ACT UNDER AUTHORITY OF FEDERALLY RECOGNIZED INDIAN  
40    TRIBE. (1) A notarial act performed under the authority and in the jurisdic-  
41    tion of a federally recognized Indian tribe has the same effect as if per-  
42    formed by a notary public of this state if the act performed in the jurisdic-  
43    tion of the tribe is performed by:

44       (a)    A notary public of the tribe; or

45       (b)    Any other individual authorized by the law of the tribe to perform  
46       the notarial act.

(2) The signature and title of an individual performing a notarial act under the authority and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of a notarial officer described in subsection (1)(a) or (b) of this section conclusively establish the authority of the officer to perform the notarial act.

51-113. NOTARIAL ACT UNDER FEDERAL AUTHORITY. (1) A notarial act performed under federal law has the same effect under the law of this state as if performed by a notary public of this state if the act performed under federal law is performed by:

(a) A judge, clerk or deputy clerk of a court;

(b) An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;

(c) An individual designated as a notarizing officer by the United States department of state for performing notarial acts overseas; or

(d) Any other individual authorized by federal law to perform the notarial act.

(2) The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(3) The signature and title of an officer described in subsection (1)(a), (b) or (c) of this section conclusively establish the authority of the officer to perform the notarial act.

51-114. FOREIGN NOTARIAL ACT. (1) As used in this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.

(2) If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notary public of this state.

(3) If the title of office and indication of authority to perform notarial acts in a foreign state appear in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

(4) The signature and official stamp of an individual holding an office described in subsection (3) of this section are prima facie evidence that the signature is genuine and that the individual holds the designated title.

(5) An apostille in the form prescribed by the Hague Convention of October 5, 1961, and issued by a foreign state party to the convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

(6) A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the no-

1     tarial act is performed conclusively establishes that the signature of the  
2     notarial officer is genuine and that the officer holds the indicated office.

3             51-115.   CERTIFICATE OF NOTARIAL ACT. (1) A notarial act must be evi-  
4     denced by a certificate. The certificate must:

5             (a) Be executed contemporaneously with the performance of the notarial  
6     act;

7             (b) Be signed and dated by the notary public;

8             (c) Identify the jurisdiction in which the notarial act is performed;  
9     and

10            (d) Indicate the date of expiration, if any, of the notary public's com-  
11     mission.

12            (2) If a notarial act regarding a tangible or electronic record is per-  
13     formed by a notary public, an official stamp must be affixed to the certifi-  
14     cate.

15            (3) A certificate of a notarial act is sufficient if it meets the re-  
16     quirements of subsections (1) and (2) of this section and:

17            (a) Is in a short form set forth in section 51-116, Idaho Code;

18            (b) Is in a form otherwise permitted by the law of this state;

19            (c) Is in a form permitted by the law applicable in the jurisdiction in  
20     which the notarial act was performed; or

21            (d) Sets forth the actions of the notary public and the actions are suf-  
22     ficient to meet the requirements of the notarial act as provided in sec-  
23     tions 51-105, 51-106 and 51-107, Idaho Code, or law of this state other  
24     than this chapter.

25            (4) By executing a certificate of a notarial act, a notary public certi-  
26     fies that the notary public has complied with the requirements and made the  
27     determinations specified in sections 51-105, 51-106 and 51-107, Idaho Code.

28            (5) A notary public may not affix the notary public's signature to, or  
29     logically associate it with, a certificate until the notarial act has been  
30     performed.

31            (6) If a notarial act is performed regarding a tangible record, a cer-  
32     tificate must be part of, or securely attached to, the record. If a notarial  
33     act is performed regarding an electronic record, the certificate must be af-  
34     fixed to, or logically associated with, the electronic record. If the sec-  
35     retary of state has established standards pursuant to section 51-127, Idaho  
36     Code, for attaching, affixing or logically associating the certificate, the  
37     process must conform to the standards.

38             51-116.   SHORT FORM CERTIFICATES. The following short form certifi-  
39     cates of notarial acts are sufficient for the purposes indicated if com-  
40     pleted with the information required by section 51-115(1) and (2), Idaho  
41     Code:

1 (1) For an acknowledgment in an individual capacity:

2 State of \_\_\_\_\_

3 County of \_\_\_\_\_

4 This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_  
 5 Date Name(s) of individual(s)

6 \_\_\_\_\_  
 7 Signature of notary public

8 (Stamp)

9 My commission expires: \_\_\_\_\_

10 (2) For an acknowledgment in a representative capacity:

11 State of \_\_\_\_\_

12 County of \_\_\_\_\_

13 This record was acknowledged before me on \_\_\_\_\_ by \_\_\_\_\_  
 14 Date Name(s) of individual(s)

15 as (type of authority, such as officer or trustee) of (name of party on behalf  
 16 of whom record was executed)

17 \_\_\_\_\_  
 18 Signature of notary public

19 (Stamp)

20 My commission expires: \_\_\_\_\_

21 (3) For a verification on oath or affirmation:

22 State of \_\_\_\_\_

23 County of \_\_\_\_\_

24 Signed and sworn to (or affirmed) before me

25 on \_\_\_\_\_ by \_\_\_\_\_  
 26 Date Name(s) of individual(s) making statement

27 \_\_\_\_\_  
 28 Signature of notary public

29 (Stamp)

30 My commission expires: \_\_\_\_\_



1 (4) For witnessing or attesting a signature:

2 State of \_\_\_\_\_

3 County of \_\_\_\_\_

4 Signed (or attested) before me on \_\_\_\_\_ by \_\_\_\_\_  
 5 Date Name(s) of individual(s)

6 \_\_\_\_\_  
 7 Signature of notary public

8 (Stamp)

9 My commission expires: \_\_\_\_\_

10 (5) For certifying a copy of a record:

11 State of \_\_\_\_\_

12 County of \_\_\_\_\_

13 I certify that this is a true and correct copy of a record in the possession  
 14 of \_\_\_\_\_

15 Dated \_\_\_\_\_

16 \_\_\_\_\_  
 17 Signature of notary public

18 (Stamp)

19 My commission expires: \_\_\_\_\_

20 51-116A. ACKNOWLEDGMENT BY ENTITY ON BEHALF OF ANOTHER ENTITY. (1) As  
 21 used in this section:

22 (a) A corporation, partnership, limited liability company, trust or  
 23 other legal entity that is the party executing an instrument and the  
 24 party, or one of the parties, to be bound thereby shall be referred to as  
 25 the "maker" of the instrument;

26 (b) A corporation, partnership, limited liability company, trust or  
 27 other legal entity that is a partner, manager, member, trustee or other  
 28 authorized representative of the maker shall be referred to as the "con-  
 29 stituent entity" of the maker;

30 (c) The natural person who signs the written instrument as an officer,  
 31 partner, manager, member, trustee or other authorized representative  
 32 of the constituent entity shall be referred to as the "signer"; and

(d) An acknowledgment of an instrument executed by a maker acting through a constituent entity shall be referred to as a "compound acknowledgment."

(2) A compound acknowledgment of an instrument shall be made in a form that substantially conforms to the statutory form of acknowledgment for an entity of the same legal form as either the maker or the constituent entity; provided, however, that any acknowledgment that satisfies the requirements of subsection (3) of this section shall suffice.

(3) A compound acknowledgment shall:

(a) Identify the signer;

(b) State the signer's official title, capacity or authority to sign on behalf of the constituent entity, or recite that the signer is authorized to sign on behalf of the constituent entity;

(c) Identify the constituent entity or constituent entities;

(d) Recite the constituent entity's official title, capacity or authority to act on behalf of the maker, or the relationship of the constituent entity to the maker, or the position the constituent entity holds in or with the maker, or that the constituent entity is authorized to act on behalf of the maker; and

(e) Identify the maker.

(4) As an example only, a compound acknowledgment for a maker that is a partnership, acting through a constituent entity that is a corporation, may take the following form:

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_ (signer), known or identified to me (or proved to me on the oath of \_\_\_\_\_) to be the \_\_\_\_\_ (officer title) of \_\_\_\_\_ (constituent entity) a \_\_\_\_\_ corporation, one of the partners in the partnership of \_\_\_\_\_ (maker), a \_\_\_\_\_ partnership, and the partner or one of the partners who subscribed said partnership name to the foregoing instrument, and acknowledged to me that he executed the within instrument on behalf of said corporation, and that such corporation executed the same in said partnership name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

\_\_\_\_\_  
Notary Public for \_\_\_\_\_

Residing at \_\_\_\_\_

My commission expires \_\_\_\_\_

1        51-120. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELEC-  
2 TRONIC RECORD -- SELECTION OF TECHNOLOGY. (1) A notary public may select one  
3 (1) or more tamper-evident technologies to perform notarial acts with re-  
4 spect to electronic records. A person may not require a notary public to per-  
5 form a notarial act with respect to an electronic record with a technology  
6 that the notary public has not selected.

7        (2) Before a notary public performs the notary public's initial notar-  
8 ial act with respect to an electronic record, a notary public shall notify  
9 the secretary of state that the notary public will be performing notarial  
10 acts with respect to electronic records and identify the technology the no-  
11 tary public intends to use. If the secretary of state has established stan-  
12 dards for approval of technology pursuant to section 51-127, Idaho Code, the  
13 technology must conform to the standards. If the technology conforms to the  
14 standards, the secretary of state shall approve the use of the technology.

15        51-121. COMMISSION AS NOTARY PUBLIC -- QUALIFICATIONS -- NO IMMUNITY  
16 OR BENEFIT. (1) An individual qualified under subsection (2) of this section  
17 may apply to the secretary of state for a commission as a notary public. The  
18 applicant shall comply with and provide the information required by the sec-  
19 retary of state and pay any application fee.

20        (2) An applicant for a commission as a notary public must:

21        (a) Be at least eighteen (18) years of age;

22        (b) Be a citizen or permanent legal resident of the United States;

23        (c) Be a resident of or have a place of employment or place of practice  
24 in this state;

25        (d) Be able to read and write; and

26        (e) Not be disqualified to receive a commission under section 51-123,  
27 Idaho Code.

28        (3) Before issuance of a commission as a notary public, an applicant for  
29 the commission shall execute an oath of office and submit it to the secretary  
30 of state.

31        (4) Before issuance of a commission as a notary public, the applicant  
32 for a commission shall submit to the secretary of state an assurance in the  
33 form of a surety bond or its functional equivalent in the amount of ten thou-  
34 sand dollars (\$10,000).

35        (a) The assurance must be issued by:

36        (i) A surety or other entity licensed or authorized to do business  
37 in this state; or

38        (ii) The risk management office in the department of administra-  
39 tion for the state of Idaho if the applicant is regularly employed  
40 by the state and the commission is required in the scope of that em-  
41 ployment.

42        (b) The assurance must cover acts performed during the term of the  
43 notary public's commission and must be in the form prescribed by the  
44 secretary of state. If a notary public violates law with respect to  
45 notaries public in this state, the surety or issuing entity is liable  
46 under the assurance. The surety or issuing entity shall give thirty  
47 (30) days' notice to the secretary of state before canceling the assur-  
48 ance. The surety or issuing entity shall notify the secretary of state  
49 no later than thirty (30) days after making a payment to a claimant under

1 the assurance. A notary public may perform notarial acts in this state  
 2 only during the period that a valid assurance is on file with the secre-  
 3 tary of state.

4 (5) On compliance with this section, the secretary of state shall issue  
 5 a commission as a notary public to an applicant for a term of six (6) years.

6 (6) A commission to act as a notary public authorizes the notary public  
 7 to perform notarial acts. The commission does not provide the notary public  
 8 any immunity or benefit conferred by law of this state on public officials or  
 9 employees.

10 51-122. COURSE OF STUDY. The secretary of state or an entity approved  
 11 by the secretary of state shall offer regularly a course of study to appli-  
 12 cants who do not hold commissions as notaries public in this state. The  
 13 course must cover the laws, rules, procedures and ethics relevant to notar-  
 14 ial acts.

15 51-123. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND OR CONDITION  
 16 COMMISSION OF NOTARY PUBLIC. (1) The secretary of state may deny, refuse to  
 17 renew, revoke, suspend or impose a condition on a commission as notary public  
 18 for any act or omission that demonstrates the individual lacks the honesty,  
 19 integrity, competence or reliability to act as a notary public, including:

20 (a) Failure to comply with the provisions of this chapter;

21 (b) A fraudulent, dishonest or deceitful misstatement or omission in  
 22 the application for a commission as a notary public submitted to the  
 23 secretary of state;

24 (c) A conviction of the applicant or notary public of any felony or a  
 25 crime involving fraud, dishonesty or deceit;

26 (d) A finding against, or admission of liability by, the applicant or  
 27 notary public in any legal proceeding or disciplinary action based on  
 28 the applicant's or notary public's fraud, dishonesty or deceit;

29 (e) Failure by the notary public to discharge any duty required of a no-  
 30 tary public, whether by this chapter, rules of the secretary of state or  
 31 any federal or state law;

32 (f) Use of false or misleading advertising or representation by the no-  
 33 tary public representing that the notary has a duty, right or privilege  
 34 that the notary does not have;

35 (g) Violation by the notary public of a rule of the secretary of state  
 36 regarding a notary public;

37 (h) Denial, refusal to renew, revocation, or suspension of, or placing  
 38 a condition on, a notary public commission in another state; or

39 (i) Failure of the notary public to maintain an assurance as provided in  
 40 section 51-121(4), Idaho Code.

41 (2) If the secretary of state denies, refuses to renew, revokes, sus-  
 42 pends or imposes conditions on a commission as a notary public, the applicant  
 43 or notary public is entitled to timely notice and hearing in accordance with  
 44 chapter 52, title 67, Idaho Code.

45 (3) The authority of the secretary of state to deny, refuse to renew,  
 46 suspend, revoke or impose conditions on a commission as a notary public does  
 47 not prevent a person from seeking and obtaining other criminal or civil reme-  
 48 dies provided by law.

1        51-124. DATABASE OF NOTARIES PUBLIC. The secretary of state shall  
2 maintain an electronic database of notaries public:

3        (1) Through which a person may verify the authority of a notary public  
4 to perform notarial acts; and

5        (2) That indicates whether a notary public has notified the secretary  
6 of state that the notary public will be performing notarial acts on elec-  
7 tronic records.

8        51-125. PROHIBITED ACTS. (1) A commission as a notary public does not  
9 authorize an individual to:

10        (a) Assist persons in drafting legal records, give legal advice or oth-  
11 erwise practice law;

12        (b) Act as an immigration consultant or an expert on immigration mat-  
13 ters;

14        (c) Represent a person in a judicial or administrative proceeding re-  
15 lating to immigration to the United States, United States citizenship  
16 or related matters; or

17        (d) Receive compensation for performing any of the activities listed in  
18 this subsection.

19        (2) A notary public may not engage in false or deceptive advertising.

20        (3) A notary public, other than an attorney licensed to practice law in  
21 this state, may not use the term "notario" or "notario publico."

22        (4) A notary public, other than an attorney licensed to practice law  
23 in this state, may not advertise or represent that the notary public may as-  
24 sist persons in drafting legal records, give legal advice or otherwise prac-  
25 tice law. If a notary public who is not an attorney licensed to practice law  
26 in this state in any manner advertises or represents that the notary public  
27 offers notarial services, whether orally or in a record, including broad-  
28 cast media, print media and the internet, the notary public shall include  
29 the following statement, or an alternate statement authorized or required  
30 by the secretary of state, in the advertisement or representation, promi-  
31 nently and in each language used in the advertisement or representation: "I  
32 am not an attorney licensed to practice law in this state. I am not allowed to  
33 draft legal records, give advice on legal matters, including immigration, or  
34 charge a fee for those activities." If the form of advertisement or represen-  
35 tation is not broadcast media, print media or the internet and does not per-  
36 mit inclusion of the statement required by this subsection because of size,  
37 it must be displayed prominently or provided at the place of performance of  
38 the notarial act before the notarial act is performed.

39        (5) Except as otherwise allowed by law, a notary public may not withhold  
40 access to or possession of an original record provided by a person who seeks  
41 performance of a notarial act by the notary public.

42        51-126. VALIDITY OF NOTARIAL ACTS. Except as otherwise provided in  
43 section 51-104(2), Idaho Code, the failure of a notary public to perform a  
44 duty or meet a requirement specified in this chapter does not invalidate a  
45 notarial act performed by the notary public. The validity of a notarial act  
46 under this chapter does not prevent an aggrieved person from seeking to in-  
47 validate the record or transaction that is the subject of the notarial act or  
48 from seeking other remedies based on law of this state other than this chap-

1 ter or law of the United States. This section does not validate a purported  
2 notarial act performed by an individual who does not have the authority to  
3 perform notarial acts.

4 51-127. RULES. (1) The secretary of state may adopt rules to implement  
5 this chapter. Rules adopted regarding the performance of notarial acts with  
6 respect to electronic records may not require, or accord greater legal sta-  
7 tus or effect to, the implementation or application of a specific technology  
8 or technical specification. The rules may include but are not limited to the  
9 following:

- 10 (a) Prescribing the manner of performing notarial acts regarding tan-  
11 gible and electronic records;  
12 (b) Including provisions to ensure that any change to or tampering with  
13 a record bearing a certificate of a notarial act is self-evident;  
14 (c) Including provisions to ensure integrity in the creation, trans-  
15 mittal, storage or authentication of electronic records or signatures;  
16 (d) Prescribing the process of granting, renewing, conditioning, deny-  
17 ing, suspending or revoking a notary public commission and assuring the  
18 trustworthiness of an individual holding a commission as notary public;  
19 (e) Including provisions to prevent fraud or mistake in the performance  
20 of notarial acts;  
21 (f) Establishing the process for approving and accepting surety bonds  
22 and other forms of assurance under section 51-121(4), Idaho Code; and  
23 (g) Providing for the course of study under section 51-122, Idaho Code.  
24 (2) In adopting, amending or repealing rules about notarial acts with  
25 respect to electronic records, the secretary of state may consider, as far as  
26 is consistent with the provisions of this chapter:  
27 (a) The most recent standards regarding electronic records promulgated  
28 by national bodies, such as the national association of secretaries of  
29 state;  
30 (b) Standards, practices and customs of other jurisdictions that sub-  
31 stantially enact this chapter; and  
32 (c) The views of governmental officials and entities and other inter-  
33 ested persons.

34 51-128. NOTARY PUBLIC COMMISSION IN EFFECT. A commission as a notary  
35 public in effect on the effective date of this act continues until its date  
36 of expiration. A notary public who applies to renew a commission as a notary  
37 public on or after the effective date of this act is subject to and shall com-  
38 ply with the provisions of this chapter. A notary public, in performing no-  
39 tarial acts after the effective date of this act, shall comply with the pro-  
40 visions of this chapter.

41 51-129. SAVINGS CLAUSE. This chapter does not affect the validity or  
42 effect of a notarial act performed before the effective date of this act.

43 51-130. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and  
44 construing this uniform act, consideration must be given to the need to pro-  
45 mote uniformity of the law with respect to its subject matter among states  
46 that enact it.

1        51-131.    RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COM-  
 2    MERCE ACT. This chapter modifies, limits or supersedes the electronic signa-  
 3    tures in global and national commerce act, 15 U.S.C. 7001 et seq., but does  
 4    not modify, limit or supersede section 101(c) of that act, 15 U.S.C. 7001(c),  
 5    or authorize electronic delivery of any of the notices described in section  
 6    103(b) of that act, 15 U.S.C. 7003(b).

7        51-132.    FILING FEES. (1) The fee for filing an application for ap-  
 8    pointment as a notary public shall be thirty dollars (\$30.00).

9        (2) The fee for filing an application for electronic notarization au-  
 10    thorization shall be twenty dollars (\$20.00).

11        (3) There shall be no fee charged for filing a letter of resignation,  
 12    a certified copy of a judgment of conviction, a certified copy of findings  
 13    of fact or extract therefrom, public record of proof of material misstate-  
 14    ment of fact in an application, certified copy of an order adjudging incompe-  
 15    tency, or notice of death.

16        (4) The fee for filing notice of change of name or address shall be five  
 17    dollars (\$5.00).

18        (5) The fee for filing notice of cancellation of a notary bond shall be  
 19    five dollars (\$5.00).

20        (6) The fee for a notary public database extraction shall be twenty-  
 21    five dollars (\$25.00).

22        (7) The fee for a certified copy of a notary public record shall be ten  
 23    dollars (\$10.00) plus twenty-five cents (25¢) per page.

24        51-133.    NOTARY FEE. (1) A notary public may, for any notarial act,  
 25    charge a fee not to exceed five dollars (\$5.00).

26        (2) In addition to the fee, a notary public may be compensated for ac-  
 27    tual and reasonable expense of travel to a place where the notarial act is to  
 28    be performed.

29        (3) An employer shall not require a notary public in his employment to  
 30    surrender a fee, if charged, or any part thereof to the employer. An employer  
 31    may, however, preclude such notary public from charging a fee for a notarial  
 32    act performed in the scope of the notary public's employment.

33        SECTION 4. That Chapter 1, Title 51, Idaho Code, be, and the same is  
 34    hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
 35    ignated as Section 51-117, Idaho Code, and to read as follows:

36        51-117.    SEAL. (1) Each notary public shall provide and keep an offi-  
 37    cial seal, which shall be a rubber stamp with a serrated or milled-edge bor-  
 38    der in a rectangular or circular form and includes the words "Notary Public,"  
 39    the notary public's name, the words "State of Idaho," and nothing more.

40        (2) The seal shall be impressed below or near the notary public's offi-  
 41    cial signature on each notary certificate that the notary administers.

42        (3) A notary public is responsible for the security of the notary pub-  
 43    lic's stamping device and may not allow another individual to use the device  
 44    to perform a notarial act. On resignation from, or the revocation or expi-  
 45    ration of, the notary public's commission, the notary public shall disable  
 46    the stamping device by destroying, defacing, damaging, erasing or securing  
 47    it against use in a manner that renders it unusable. On the death or adjudi-

1 cation of incompetency of a notary public, the notary public's personal rep-  
2 resentative or guardian or any other person knowingly in possession of the  
3 stamping device shall render it unusable by destroying, defacing, damaging,  
4 erasing or securing it against use in a manner that renders it unusable. If  
5 a notary public's stamping device is lost or stolen, the notary public or the  
6 notary public's personal representative or guardian shall promptly notify  
7 the commissioning officer or agency on discovering that the device is lost or  
8 stolen.

9 SECTION 5. That Section [51-117](#), Idaho Code, be, and the same is hereby  
10 repealed.

11 SECTION 6. That Chapter 1, Title 51, Idaho Code, be, and the same is  
12 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
13 ignated as Section 51-117, Idaho Code, and to read as follows:

14 51-117. OFFICIAL STAMP. The official stamp of a notary public:  
15 (1) Must include the notary public's name, the words "Notary Public,"  
16 the words "State of Idaho," and the notary's state-issued commission number;  
17 (2) May include the words "my commission expires:" followed by the no-  
18 tary's current commission expiration date;  
19 (3) Must be capable of being copied together with the record to which it  
20 is affixed or attached or with which it is logically associated; and  
21 (4) May not include anything more than that which is allowed in subsec-  
22 tions (1) and (2) of this section.

23 SECTION 7. That Chapter 1, Title 51, Idaho Code, be, and the same is  
24 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
25 ignated as Section 51-118, Idaho Code, and to read as follows:

26 51-118. STAMPING DEVICE. (1) The stamping device must be an inked  
27 stamp which provides an image that is readily visible upon copying. The  
28 stamp shall not exceed two and one-fourth (2.25) inches by one (1) inch if  
29 rectangular or one and three-fourths (1.75) inches in diameter if circular.  
30 (2) A notary public is responsible for the security of the notary pub-  
31 lic's stamping device and may not allow another individual to use the device  
32 to perform a notarial act. On resignation from, or the revocation or expi-  
33 ration of, the notary public's commission, the notary public shall disable  
34 the stamping device by destroying, defacing, damaging, erasing or securing  
35 it against use in a manner that renders it unusable. On the death or adjudi-  
36 cation of incompetency of a notary public, the notary public's personal rep-  
37 resentative or guardian or any other person knowingly in possession of the  
38 stamping device shall render it unusable by destroying, defacing, damaging,  
39 erasing or securing it against use in a manner that renders it unusable.  
40 (3) If a notary public's stamping device is lost or stolen, the notary  
41 public or the notary public's personal representative or guardian shall  
42 promptly notify the commissioning officer or agency on discovering that the  
43 device is lost or stolen.

44 SECTION 8. That Section 15-2-502, Idaho Code, be, and the same is hereby  
45 amended to read as follows:



15-2-502. EXECUTION. Except as provided for holographic wills, writings within section 15-2-513 of this part, and wills within section 15-2-506 of this part, or except as provided in sections 51-109, ~~55-712A or 55-712B~~, Idaho Code, every will shall be in writing signed by the testator or in the testator's name by some other person in the testator's presence and by his direction, and shall be signed by at least two (2) persons each of whom witnessed either the signing or the testator's acknowledgment of the signature or of the will.

SECTION 9. That Section 15-2-504, Idaho Code, be, and the same is hereby amended to read as follows:

15-2-504. SELF-PROVED WILL. (1) Any will may be simultaneously executed, attested, and made self-proved, by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of the state where execution occurs and evidenced by the officer's certificate, under official seal, in form and content substantially as follows:

I, ....., the testator, sign my name to this instrument this ..... day of ....., ....., and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my last will and that I sign it willingly (or willingly direct another to sign for me), that I execute it as my free and voluntary act for the purposes therein expressed, and that I am eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

.....  
Testator

We, ....., the witnesses, sign our names to this instrument, being first duly sworn, and do hereby declare to the undersigned authority that the testator signs and executes this instrument as his last will and that he signs it willingly (or willingly directs another to sign for him), and that each of us, in the presence and hearing of the testator, hereby signs this will as witness to the testator's signing, and that to the best of his knowledge the testator is eighteen (18) years of age or older, of sound mind, and under no constraint or undue influence.

.....  
Witness  
.....  
Witness

The State of .....  
County of .....

Subscribed, sworn to and acknowledged before me by ....., the testator and subscribed and sworn to before me by ....., and ....., witnesses, this ..... day of .....

(Seal)

(Signed) .....  
.....  
(Official capacity of officer)

(2) An attested will may at any time subsequent to its execution be made self-proved by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths

under the laws of the state where the acknowledgment occurs and evidenced by the officer's certificate, under the official seal, attached or annexed to the will in form and content substantially as follows:

The State of .....

County of .....

We, ....., and ....., the testator and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, being first duly sworn do hereby declare to the undersigned authority that the testator signed and executed the instrument as his last will and that he had signed willingly (or willingly directed another to sign for him), and that he executed it as his free and voluntary act for the purposes therein expressed, and that each of the witnesses, in the presence and hearing of the testator, signed the will as witness and that to the best of his knowledge the testator was at that time eighteen (18) years of age or older, of sound mind and under no constraint or undue influence.

.....  
Testator

.....  
Witness

.....  
Witness

Subscribed, sworn to and acknowledged before me by ....., the testator, and subscribed and sworn to before me by ....., and ....., witnesses, this ..... day of .....

(Seal)

(Signed) .....

.....  
(Official capacity of officer)

(3) A will may be executed, and made self-proved, in compliance with sections 51-109, ~~55-712A or 55-712B~~, Idaho Code, and attested as set forth in subsections (1) and (2) of this section.

SECTION 10. That Section 15-12-105, Idaho Code, be, and the same is hereby amended to read as follows:

15-12-105. EXECUTION OF POWER OF ATTORNEY. A power of attorney must be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney, including as set forth in section 73-114, Idaho Code. The signature is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized to take acknowledgments, including as set forth in section 51-109(6), Idaho Code, ~~or section 55-712B, Idaho Code.~~

SECTION 11. That Section 19-5801, Idaho Code, be, and the same is hereby amended to read as follows:

19-5801. DEFINITIONS. As used in this chapter:

(1) "Alternative Idaho mailing address" means the address of a law enforcement officer's employing entity.

1 (2) "Application" means a written form prescribed and made available  
 2 by the Idaho peace officer standards and training council. Such application  
 3 shall contain, at minimum, all of the following:

4 (a) A sworn statement by the law enforcement officer's employing en-  
 5 tity that the applicant is in fact a law enforcement officer as defined  
 6 in subsection (6) of this section;

7 (b) A sworn statement by the law enforcement officer that names such of-  
 8 ficer's residing household member(s), if any, as defined in subsection  
 9 (11) of this section;

10 (c) The alternative Idaho mailing address as defined in subsection (1)  
 11 of this section, and the telephone number or numbers where the law en-  
 12 forcement officer and such officer's residing household member(s) can  
 13 be contacted by the public agency; and

14 (d) A sworn statement by the law enforcement officer that such officer  
 15 knowingly and voluntarily designates his or her employing entity as  
 16 agent for purposes of service of process and receipt of first class,  
 17 certified or registered mail.

18 (3) "County detention officer" means an employee in a county jail who is  
 19 responsible for the safety, care, protection and monitoring of county jail  
 20 inmates.

21 (4) "Custodian" as defined in section 74-101, Idaho Code.

22 (5) "Federal officer" means a special agent or law enforcement officer  
 23 who is a resident ~~as defined in section 51-102, Idaho Code,~~ of this state em-  
 24 ployed by a federal agency and who is empowered to effect an arrest with or  
 25 without a warrant for violations of the United States Code and who is autho-  
 26 rized to carry firearms in the performance of duty.

27 (6) "Law enforcement officer" means any current federal officer, peace  
 28 officer, parole officer, probation officer, correctional officer, county  
 29 detention officer and any person who prosecutes criminal cases. The term  
 30 "law enforcement officer" shall not include a person who holds an elected of-  
 31 fice.

32 (7) "Parole officer" means an employee of the Idaho department of cor-  
 33 rection who is charged with or whose duties include supervision of parolees.

34 (8) "Peace officer" means any employee of a police or law enforcement  
 35 agency which is a part of or administered by the state or any political sub-  
 36 division thereof and whose duties include and primarily consist of the pre-  
 37 ventation and detection of crime and the enforcement of penal, traffic or high-  
 38 way laws of this state or any political subdivision. "Peace officer" also  
 39 means an employee of a police or law enforcement agency of a federally recog-  
 40 nized Indian tribe who has satisfactorily completed the peace officer stan-  
 41 dards and training academy and has been deputized by a sheriff of a county or  
 42 a chief of police of a city of the state of Idaho.

43 (9) "Probation officer" means an employee of the Idaho department of  
 44 correction or of the Idaho department of juvenile corrections who is charged  
 45 with or whose duties include supervision of probationers.

46 (10) "Public agency" as is defined in section 74-101, Idaho Code.

47 (11) "Residing household member(s)" means a law enforcement officer's  
 48 spouse and any child or children who currently reside at the same residential  
 49 street address as such officer.

1       SECTION 12. That Section 31-1408, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3       31-1408. FIRE PROTECTION BOARD -- APPOINTMENT OF COMMISSIONERS --  
4 OATH. (1) There shall be three (3) fire protection commissioners in each  
5 district, who shall constitute the fire protection board. The first fire  
6 protection commissioners of such fire protection district shall be ap-  
7 pointed by the governor. The certificate of such appointment shall be made  
8 in triplicate: one (1) certificate shall be filed in the office of the county  
9 recorder of the county, one (1) with the clerk of the board of county commis-  
10 sioners, and one (1) with the assessor and tax collector of the county. Every  
11 fire protection commissioner and appointed officer shall take and subscribe  
12 the official oath, which oath shall be filed in the office of the board of  
13 fire protection commissioners. If thirty-three percent (33%) of the area  
14 or population in the fire protection district is situated in two (2) or more  
15 counties, not more than two (2) of the appointed fire protection district  
16 commissioners shall be from the same county.

17       (2) The oath of office of fire protection commissioners and appointed  
18 officers shall be taken before the secretary or the president of the board  
19 of the fire protection district at the first regularly scheduled board meet-  
20 ing in January succeeding each election. Provided however, in the event of  
21 an inability to appear for the taking of the oath, a duly elected fire pro-  
22 tection commissioner may be sworn in and may subscribe to the oath wherever  
23 he may be, provided he appear before an officer duly authorized to administer  
24 oaths, and provided further that any person who is in any branch of the armed  
25 forces of the United States of America may appear before any person qualified  
26 to administer oaths as prescribed in section ~~55-705~~ 51-113, Idaho Code, and  
27 may take and subscribe the oath of office as provided for in section 59-401,  
28 Idaho Code, and the oath of office shall have the same force and effect as  
29 though it were taken before the secretary or the president of the fire pro-  
30 tection district pursuant to this subsection.

31       SECTION 13. That Section 55-805, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33       55-805. ACKNOWLEDGMENT NECESSARY TO AUTHORIZE RECORDING. Before an  
34 instrument may be recorded, unless it is otherwise expressly provided, its  
35 execution must be acknowledged by the person executing it, or if executed by  
36 a corporation, by its president or vice president, or secretary or assistant  
37 secretary, or other person executing the same on behalf of the corporation,  
38 or if executed in the name of the state of Idaho or any county, political  
39 subdivision, municipal, quasi-municipal, or public corporation, by one (1)  
40 or more of the officers of such state, county, political subdivision, mu-  
41 nicipal, quasi-municipal, or public corporation executing the same, or if  
42 executed in a partnership name, by one (1) or more of the partners who sub-  
43 scribed the partnership name thereto, or if executed by a limited liability  
44 company, by the manager, member or other person executing the same on behalf  
45 of the limited liability company, or the execution must be proved and the  
46 acknowledgment or proof, certified in substantially the manner prescribed  
47 by chapter 71, title 55, Idaho Code; provided, that if such instrument shall  
48 have been executed and acknowledged in any other state or territory of the

1 United States, or in any foreign country, according to the laws of the state,  
 2 territory or country wherein such acknowledgment was taken, the same shall  
 3 be entitled to record, and a certificate of acknowledgment indorsed upon  
 4 or attached to any such instrument purporting to have been made in any such  
 5 state, territory or foreign country, shall be prima facie sufficient to en-  
 6 title the same to such record.

7 SECTION 14. That Section 59-404, Idaho Code, be, and the same is hereby  
 8 amended to read as follows:

9 59-404. COUNTY OFFICERS -- TIME AND PLACE OF TAKING OATH. The oath of  
 10 office of county elective officers shall be taken by the county commission-  
 11 ers before the county recorders of their respective counties, on the second  
 12 Monday of January succeeding each general election, and on the same day the  
 13 other county officers shall take and subscribe the official oath before the  
 14 chairman of the board. Provided, however, in the event of inability to ap-  
 15 pear for the taking of the oath, for any reason, a duly elected county offi-  
 16 cial may be sworn in and may subscribe to the oath, wherever he may be, pro-  
 17 vided he appear before an officer duly authorized to administer oaths, and  
 18 provided further, that any person who is in any branch of the armed forces  
 19 of the United States of America, may appear before any person qualified to  
 20 administer oaths, as prescribed in section ~~55-705~~ 51-113, Idaho Code, and  
 21 may take and subscribe the oath of office as provided for in section 59-401,  
 22 Idaho Code, of this title and chapter, and the oath of office shall have the  
 23 same force and effect as though it were taken before the county commissioners  
 24 as herein provided.

25 SECTION 15. That Section 59-407, Idaho Code, be, and the same is hereby  
 26 amended to read as follows:

27 59-407. INABILITY TO APPEAR -- TAKING OATH. Whenever any elective  
 28 state official shall be unable to appear for the taking of his oath as pro-  
 29 vided for in this code, for any reason, including his being a member of the  
 30 armed forces of the United States, he may be sworn in and may take his oath  
 31 wherever he may be, before an officer duly authorized to administer oath and  
 32 if any person duly elected to a state elective position be in the armed forces  
 33 of the United States of America at the time for taking his oath as provided  
 34 in this chapter, he may appear before any person qualified to administer an  
 35 oath, as prescribed in section ~~55-705~~ 51-113, Idaho Code, and may take the  
 36 oath of office provided for in section 59-401, Idaho Code, and the oath shall  
 37 have the same force and effect as though it were taken before an officer,  
 38 legally granted the right to administer oaths within the state of Idaho.

39 SECTION 16. This act shall be in full force and effect on and after July  
 40 1, 2017; except that Sections 5, 6 and 7 shall be in full force and effect on  
 41 and after October 1, 2018, and Section 51-122, Idaho Code, as set forth in  
 42 Section 3 of this act, shall be in full force and effect on and after July 1,  
 43 2019.