

IDAHO STATUTES

TITLE 51. NOTARIES PUBLIC AND COMMISSIONERS OF DEEDS CHAPTER 1. IDAHO NOTARY PUBLIC ACT

51-101. SHORT TITLE.

This chapter may be cited as the "Idaho Notary Public Act."
[I.C., § 51-101, as added by 1984, ch. 259, § 2, p. 620.]

51-102. DEFINITIONS

As used in this chapter:

- (1) The masculine gender includes the feminine.
- (2) "Notarial act" means any official act performed by a notary public under provisions of section 51-107, Idaho Code.
- (3) "Resident" means a natural person who has fixed his habitation in the state of Idaho and who, whenever absent, intends to return to that place of habitation in Idaho.
- (4) "Serious crime" includes any felony and any lesser crime, a necessary element of which, as determined by the statutory or common law definition of such crime, involves interference with the administration of justice, false swearing, misrepresentation, fraud, the unauthorized practice of law, deceit, bribery, extortion, misappropriation, theft, or an attempt, a conspiracy or the solicitation of another to commit a serious crime.
- (5) "Affidavit" means a declaration in writing, under oath, and sworn to or affirmed by the declarant before a person authorized to administer oaths.
- (6) "Verification" means an affidavit of the truth of the facts stated in the instrument to which it relates.

[I.C., § 51-102, as added by 1984, ch. 259, § 2, p. 620.]

51-103. POWER OF APPOINTMENT -- TERM -- REAPPOINTMENT.

- (1) The secretary of state shall appoint in and for the state of Idaho as many notaries public as he shall deem necessary.
- (2) Each notary public so appointed shall serve for a term of six (6) years except as otherwise provided in this chapter.
- (3) A notary public may be reappointed upon submission of a new application not earlier than ninety (90) days prior to the expiration of his term.

[I.C., § 51-103 as added by 1984, ch. 259, § 2, p. 620.]

51-104. QUALIFICATION FOR APPOINTMENT.

Each person appointed and commissioned as a notary public:

- (1) Shall be at least eighteen (18) years of age;
- (2) Shall be a resident of the state of Idaho or a nonresident who is employed in or doing business in the state of Idaho;
- (3) Must be able to read and write the English language; and
- (4) Must not have been removed from the office of notary public for official misconduct nor have been convicted of a serious crime as defined in section 51-102, Idaho Code, within the ten (10) year period immediately preceding his appointment nor be serving a sentence for conviction of a serious crime, without regard to when convicted.

[I.C., § 51-104, as added by 1984, ch. 259, § 2, p. 620; am. 1992, ch. 234, § 1, p. 700.]

51-105. APPOINTMENT PROCEDURE -- OATH.

(1) Each person to be appointed a notary public shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application shall include such information as the secretary of state shall deem proper and shall include that the applicant:

(a) Is at least eighteen (18) years of age;

(b) Is a resident of the state of Idaho or a nonresident who is employed in or doing business in the state of Idaho;

(c) Is able to read and write the English language; and

(d) Has not been convicted of a serious crime nor removed from office for official misconduct during the immediately preceding ten (10) year period. The applicant shall also take the following oath, which shall appear on the application form: "I,, solemnly swear (or affirm) that the answers to all questions in this application are true, complete and correct; that I have carefully read the notary laws of this State and I am familiar with their provisions; that I will uphold the Constitution of the United States and the Constitution and laws of the State of Idaho; and that I will faithfully perform, to the best of my ability, the duties of the office of notary public, and I do hereby voluntarily submit myself to the continuing jurisdiction of the courts of the state of Idaho and to the processes thereof." The oath shall be signed and sworn to (or affirmed) by the applicant in the presence of a notary public or other person authorized to administer oaths in this state.

(2) Each person to be appointed a notary public shall execute and append to the application a bond to the state of Idaho in the amount of ten thousand dollars (\$10,000). The surety which provides the bond shall be:

(a) A bonding or surety company authorized to do business in this state; or

(b) The bureau of risk management for the state of Idaho if the applicant is regularly employed by the state and the commission is required in the scope of that employment. [I.C., § 51-105, as added by 1984, ch. 259, § 2, p. 620; am. 1992, ch. 234, § 2, p. 700; am. 1994, ch. 145, § 1, p. 324.]

51-106. SEAL.

(1) Each notary public whose current commission became effective prior to July 1, 1998, shall provide and keep an official seal which shall conform to one (1) of the following configurations:

(a) A seal embosser engraved with the words "Notary Public," the notary public's name, and the words "State of Idaho."

(b) A rubber stamp with a serrated or milled edge border in rectangular or circular form, which contains the same information required for the seal embosser.

(2) Each notary public whose current commission became effective on or after July 1, 1998, shall provide and keep an official seal which shall be a rubber stamp with a serrated or milled edge border in a rectangular or circular form, which includes the words "Notary Public," the notary public's name, the words "State of Idaho," and nothing more.

(3) The seal shall be impressed below or near the notary public's official signature on each notary certificate which he administers.

[I.C., § 51-106, as added by 1984, ch. 259, § 2, p. 620; am. 1998, ch. 146, § 1, p. 516.]

51-107. POWERS AND JURISDICTION.

(1) Each notary public is empowered to:

(a) Take acknowledgments;

(b) Administer oaths and affirmations;

(c) Certify that a copy of an original document is a true copy thereof, only if a certified

copy of such original cannot be obtained from an official custodian of such document;

(d) Certify affidavits (to include verifications) or depositions of witnesses;

(e) Certify the affixation of a signature by mark on an instrument presented for notarization if:

(i) The signer is unable to handwrite the signer's name;

(ii) The mark is affixed in the presence of the notary in a manner which the notary can directly observe;

(iii) The notary writes below the mark the following: "Mark affixed by (printed name of signer by mark)"; and

(iv) The notary public notarizes the signature by mark through a certificate of acknowledgment or verification;

(f) A notary may sign the name of a person physically unable to sign or sign by mark on a document presented for notarization if:

(i) The person directs the notary to do so in the presence of a witness unaffected by the instrument;

(ii) The notary signs the person's name in the presence of the person and the witness;

(iii) The witness signs the instrument beside the signature;

(iv) The notary writes below the signature the following: "Signature affixed by notary in the presence of (name of person and witness)"; and

(v) The notary notarizes the signature through a certificate of acknowledgment or verification; and

(g) Perform such other acts as may be specifically permitted by law.

(2) The powers of a notary public commissioned pursuant to the provisions of this chapter may be exercised anywhere within the state of Idaho and may be exercised outside the state only in connection with a deed or other writing to be admitted to record in the state of Idaho.

[I.C., § 51-107 as added by 1984, ch. 259, § 2, p. 620; am. 2007, ch. 312, § 1, p. 880.]

51-108. DISQUALIFYING INTERESTS.

(1) As used in this section, the term "transaction" shall not include judicial proceedings.

(2) A notary public who has a disqualifying interest, as hereinafter defined, in a transaction may not legally perform any notarial act in connection with the transaction.

(3) For the purposes of this chapter, a notary public has a disqualifying interest in a transaction in connection with which notarial services are requested if he is named as a party to the transaction or shares the same beneficial interest as a party to the transaction.

(4) Neither the notary public nor any party sharing the same beneficial interest as the notary public in the transaction may raise the issue of disqualifying interest in an attempt to invalidate the transaction. The issue of disqualifying interest may not be raised between parties neither of whom shares the same beneficial interest as the notary public.

[I.C., § 51-108 as added by 1984, ch. 259, § 2, p. 620.]

51-109. FORMS FOR NOTARIAL ACTS.

(1) Certificates of acknowledgment shall substantially conform to the forms set forth in sections 55-710 through 55-715, Idaho Code.

(2) An oath or affirmation, which is in writing, shall be signed by the person who takes it, and the notary public shall enter thereunder substantially the following:

"State of Idaho)

) ss

51-111. DUTIES.

(1) Each notary public shall exercise reasonable care in the performance of his duties generally, and shall exercise a high degree of care in ascertaining the identity of any person whose identity is the subject of a notarial act.

(2) Any notary public whose name or residence changes during his term of office shall within sixty (60) days after such change submit written notice thereof to the secretary of state. [I.C., § 51-111, as added by 1984, ch. 259, § 2, p. 620; am. 1985, ch. 255, § 1, p. 708.]

51-112. OFFICIAL MISCONDUCT.

Official misconduct is the wrongful exercise of a power or the wrongful performance of a duty. In this context, wrongful shall mean unauthorized, unlawful, abusive, negligent, or reckless. Official misconduct by a notary public shall include, but not be limited to:

(a) Engaging in any fraudulent or deceptive conduct which is related in any way to his capacity as a notary public;

(b) Failure to exercise the required degree of care in identifying a person whose identity is an essential element of a notarial act;

(c) Representing or implying by the use of his title that he has qualifications, powers, duties, rights, or privileges that by the law he does not possess;

(d) Engaging in the unauthorized practice of law;

(e) Charging a fee for a notarial act which is in excess of that provided by section 51-110, Idaho Code; or

(f) Endorsing or promoting any product, service, contest or other offering if the notary public's title or seal is used in the endorsement or promotional statement.

[I.C., § 51-112, as added by 1984, ch. 259, § 2, p. 620; am. 1994, ch. 145, § 2, p. 324.]

51-113. GROUNDS FOR REMOVAL.

A notary public may be removed from the office upon any of the following grounds:

(a) Conviction of a serious crime within the immediately preceding ten (10) year period;

(b) Any action which constitutes official misconduct;

(c) Any material misstatement of fact in his application for appointment as a notary public;

(d) Failure of a conservator or guardian to submit a timely resignation after a notary public becomes incompetent;

(e) Failure of a notary public to submit a timely resignation when he becomes disqualified by virtue of no longer:

(1) being a citizen of the United States; or

(2) being a resident of Idaho;

(f) Cancellation of the notary bond by the bonding or surety company; or

(g) Cancellation of the notary bond by the state of Idaho when the notary public's bond has been provided by the bureau of risk management of the state of Idaho and the notary's employment with the state is terminated.

[I.C., § 51-113, as added by 1984, ch. 259, § 2, p. 620; am. 1994, ch. 145, § 3, p. 324.]

51-114. REMOVAL PROCEDURE.

(1) If a notary public is convicted of a serious crime in any court of this state, the clerk of the court, if he knows that the convict is a notary public or upon the request of any person, shall forward to the secretary of state a certified copy of the judgment of conviction. If a notary public is convicted of a serious crime in a federal court or a court of another state, any person may obtain a certified copy of the judgment of conviction and forward it to the secretary of state. Upon receipt of a certified copy of a judgment of

conviction of a serious crime in the preceding ten (10) year period, the secretary of state shall forthwith cancel the commission of the notary public.

(2) If in any civil or criminal case the court finds that a notary public has committed any act which constitutes official misconduct under section 51-112, Idaho Code, the clerk of the court, upon the request of any person, shall forward a certified copy of the findings of fact, or relevant extract therefrom, to the secretary of state. Upon receipt of the certified copy of the findings of fact or extract therefrom the secretary of state shall, if he finds that the act of the notary public as found by the court constitutes official misconduct, forthwith cancel the commission of the notary public.

(3) Upon receipt of proof on the public record of a material misstatement of fact in the application of a notary public, certified by the custodian of such record, the secretary of state shall forthwith cancel the commission of the notary public.

(4) If the conservator or guardian of a notary public who has been adjudged incompetent fails to submit a timely resignation as required by subsection (3) of section 51-115, Idaho Code, the clerk of the court which found the notary public to be incompetent shall, upon the request of any person, forward to the secretary of state a certified copy of the order adjudging the notary to be incompetent. Upon receipt of such order, the secretary of state shall forthwith cancel the commission of the notary public.

(5) If the secretary of state receives credible information that a notary public is no longer a resident of Idaho or employed in or doing business in the state of Idaho, the secretary of state shall send to the notary public at his last known address by certified return receipt mail a statement setting forth such information and a notice of opportunity to rebut. If the statement and notice cannot be delivered or if no rebuttal is received within forty-five (45) days after mailing the notice, the secretary of state shall cancel the commission of the notary public. If the statement is rebutted by statements which indicate that the notary public is not disqualified on residency business, or employment grounds, the secretary of state shall take no further action.

(6) A bonding or surety company, or in the case of a state employee, the bureau of risk management, shall file prompt written notice of cancellation of a notary's bond with the secretary of state who shall forthwith cancel the commission of the notary public. The cancellation of the bond shall be effective only upon receipt by the secretary of state of notice of cancellation.

[I.C., § 51-114, as added by 1984, ch. 259, § 2, p. 620; am. 1985, ch. 255, § 2, p. 708; am. 1992, ch. 234, § 3, p. 700; am. 1994, ch. 145, § 4, p. 324.]

51-115. RESIGNATION OR DEATH.

(1) A notary public may voluntarily resign by mailing or delivering to the secretary of state a letter of resignation.

(2) Any notary public who becomes ineligible to hold such office for any reason shall within thirty (30) days thereafter resign by mailing or delivering to the secretary of state a letter of resignation.

(3) If a notary public becomes incompetent, his conservator or guardian shall within thirty (30) days after the finding of incompetency mail or deliver to the secretary of state a letter of resignation on behalf of the notary public.

(4) If a notary public dies in office, his personal representative shall within thirty (30) days thereafter mail or deliver to the secretary of state notice thereof.

(5) Upon receipt of a letter of resignation or notice of death, the secretary of state shall forthwith cancel the commission of the notary public.

[I.C., § 51-115, as added by 1984, ch. 259, § 2, p. 620.]

51-116. CANCELLATION PROCEDURE.

Whenever the secretary of state is required by the provisions of sections 51-114 and 51-115, Idaho Code, to cancel the commission of a notary public, he shall:

(a) Mark the notary public's record "cancelled" and append thereto the supporting document; and

(b) Mail written notice to the resigned or removed notary public or to the conservator, guardian, or personal representative, as appropriate, instructing him to destroy the notary public commission and seal.

[I.C., § 51-116, as added by 1984, ch. 259, § 2, p. 620.]

51-117. CONDITIONS IMPAIRING VALIDITY OF NOTARIAL ACT.

Without excluding other conditions which may impair the validity of a notarial act, the following conditions invalidate the notarial act:

(a) Failure of the notary public to require a person whose acknowledgment is taken to personally appear before him;

(b) Failure of the notary public to administer an oath or affirmation when the notary certificate indicates that he has administered it;

(c) As to only the notary public who performs the notarial act and any party who shares the same beneficial interest in the transaction, the existence of a disqualifying interest.

[I.C., § 51-117, as added by 1984, ch. 259, § 2, p. 620.]

51-118. CIVIL LIABILITY OF NOTARY PUBLIC AND EMPLOYER.

(1) A notary public shall be liable for all damages proximately caused by his official misconduct.

(2) The employer of a notary public shall be jointly and severally liable with such notary public for all damages proximately caused by the official misconduct of such notary public if:

(a) The notary public was acting within the scope of his employment; and

(b) The employer had actual knowledge of, or reasonably should have known of, the notary public's official misconduct.

[I.C., § 51-118, as added by 1984, ch. 259, § 2, p. 620.]

51-119. CRIMINAL PENALTIES.

(1) Any notary public who knowingly and willfully commits an act of official misconduct under the provisions of section 51-112, Idaho Code, shall be guilty of a misdemeanor.

(2) Any employer of a notary public who willfully induces such notary public to commit an act of official misconduct under the provisions of section 51-112, Idaho Code, shall be guilty of a misdemeanor.

(3) Any person who shall willfully act as or otherwise impersonate a notary public while not lawfully commissioned as such nor otherwise officially authorized to perform notarial acts shall be guilty of a misdemeanor.

(4) Any person who shall steal or wrongfully possess a notary public's seal with the intent to use it in the commission of any crime shall be guilty of a felony. The penalties prescribed in this section shall not be exclusive.

[I.C., § 51-119, as added by 1984, ch. 259, § 2, p. 620.]

51-120. NOTARY HANDBOOK.

The secretary of state shall prepare a handbook for notaries public which shall contain the provisions of this chapter and such other information as the secretary of state shall deem

proper. A copy of the handbook shall be given to each applicant for appointment as a notary public.

[I.C., § 51-120, as added by 1984, ch. 259, § 2, p. 620.]

51-121. FILING FEES.

(1) The fee for filing an application for appointment as a notary public shall be thirty dollars (\$30.00).

(2) There shall be no fee charged for filing a letter of resignation, a certified copy of a judgment of conviction, a certified copy of findings of fact or extract therefrom, public record of proof of material misstatement of fact in an application, certified copy of order adjudging incompetency, or notice of death.

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

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

[I.C., § 51-121, as added by 1984, ch. 259, § 2, p. 620; am. 1985, ch. 255, § 3, p. 708.]

51-122. SEVERABILITY.

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional.

[I.C., § 51-122, as added by 1984, ch. 259, § 2, p. 620.]

51-123. TRANSITION.

(1) Each notary commission which was granted under the prior law shall be terminated upon the expiration of the notary bond which was in effect on December 31, 1984.

(2) Except for sections 51-103, 51-104, and 51-105, Idaho Code, the provisions of this chapter shall apply to notaries public who were commissioned under the prior law.

(3) This section shall be in full force and effect from January 1, 1985, to January 1, 1989.

[I.C., § 51-123, as added by 1984, ch. 259, § 2, p. 620.]

TITLE 55. PROPERTY IN GENERAL CHAPTER 7. ACKNOWLEDGMENTS

55-701. BY WHOM TAKEN -- ANY PLACE WITHIN STATE.

The proof or acknowledgment of an instrument may be made at any place within this state, before a justice or clerk of the Supreme Court, or a notary public, of the secretary of state, or United States commissioner.

[1864, p. 528, § 4; R.S., § 2950; reen. R.C. & C.L., § 3123; C.S., § 5387; am. 1929, ch. 64, § 1, p. 94; I.C.A., § 54-701; am. 1943, ch. 74, § 2, p. 156.]

55-702. BY WHOM TAKEN -- WITHIN LIMITED TERRITORY.

The proof or acknowledgment of an instrument may be made in this state within the city, county or district for which the officer was elected or appointed, before either:

1. A judge or a clerk of a court of record; or,
2. A county recorder; or,
3. A justice of the peace.

[1864, p. 528, § 4; R.S., § 2951; reen. R.C. & C.L., § 3124; C.S., § 5388; am. 1929, ch. 64, § 2, p. 94; I.C.A., § 54-702.]

55-703. BY WHOM TAKEN -- OUTSIDE OF STATE.

The proof or acknowledgment of an instrument may be made without this state, but within the United States, and within the jurisdiction of the officer, before either:

1. A justice, judge or clerk of any court of record of the United States; or,
2. A justice, judge or clerk of any court of record of any state or territory; or,
3. A commissioner appointed by the governor of this state for that purpose; or,
4. A notary public; or,
5. Any other officer of the state or territory where the acknowledgment is made,

authorized by its laws to take such proof or acknowledgment.

[1864, p. 528, § 4; R.S., § 2952; reen. R.C. & C.L., § 3125; C.S., § 5389; I.C.A., § 54-703.]

55-704. BY WHOM TAKEN -- OUTSIDE UNITED STATES.

The proof or acknowledgment of an instrument may be made without the United States, before either:

1. A minister, commissioner or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made; or,
2. A consul or vice consul of the United States resident in the country where the proof or acknowledgment is made; or,
3. A judge of a court of record of the country where the proof or acknowledgment is made; or,
4. Commissioners appointed for such purposes by the governor of the state pursuant to statute; or,
5. A notary public.

[1864, p. 528, § 4; R.S., § 2953; reen. R.C. & C.L., § 3126; C.S., § 5390; I.C.A., § 54-704.]

55-705. BY WHOM TAKEN -- MEMBERS OF THE ARMED FORCES.

Any officer of any component of any branch of the armed forces of the United States as may be designated to take a deposition, shall have the general powers of a notary public in the administration of oaths, the execution and acknowledgment of legal instruments, the attestation of documents and all other forms of notarial acts to be executed by persons in any of the armed forces of the United States or subject to military or naval law and/or their wives and/or dependents. Such an acknowledgment or oath, whether heretofore or hereafter so taken within or without the state of Idaho or the United States and whether with or without seal or stamp, shall have the same force and effect as an acknowledgment or oath before a notary public duly commissioned by and residing in the state of Idaho. Recital in the certificate of such officer that he holds the office stated in the certificate and that the affiant is a member of the armed forces or subject to military or naval law, or wife or dependent of such member, shall be prima facie evidence of such facts.

[I.C.A., § 54-704A, as added by 1943, ch. 80, § 1, p. 164; am. 1959, ch. 190, § 1, p. 420; am. 1967, ch. 13, § 1, p. 21.]

55-706. ACKNOWLEDGMENT BEFORE DEPUTIES.

When any of the officers mentioned in the four (4) preceding sections are authorized by law to appoint a deputy, the acknowledgment or proof may be taken by such deputy, in the name of his principal.

[R.S., § 2954; reen. R.C. & C.L., § 3127; C.S., § 5391; I.C.A., § 54-705.]

55-707. REQUISITES OF ACKNOWLEDGMENT.

The acknowledgment of an instrument must not be taken, unless the officer taking it

knows, or has satisfactory evidence from a credible source, that the person making such acknowledgment is the individual who is described in, and who executed, the instrument; or, if executed by a corporation, that the person making such acknowledgment is the president or vice president or secretary or assistant secretary of such corporation; or other person who executed on its behalf; or if executed in the name of the state of Idaho or that of any county, political subdivision, municipal or quasi-municipal or public corporation, that the person making such acknowledgment is one (1) of its officers executing the same; or if executed in a partnership name, that the person making the acknowledgment is the partner or one (1) of the partners subscribing the partnership name to such instrument; or, if executed by a limited liability company, that the person making such acknowledgment is a manager or member of such limited liability company or other person who executed on its behalf.

[1864, p. 528, § 6; R.S., § 2955; reen. R.C. & C.L., § 3128; C.S., § 5392; am. 1923, ch. 144, § 1, p. 209; am. 1929, ch. 183, § 1, p. 94; I.C.A., § 54-706; am. 1937, ch. 176, § 1, p. 291; am. 1982, ch. 225, § 1, p. 600; am. 1999, ch. 213, § 1, p. 568.]

55-707A. ACKNOWLEDGMENT BY ENTITY ON BEHALF OF ANOTHER ENTITY.

(1) As used in this section

(a) A corporation, partnership, limited liability company, trust or other legal entity which is the party executing an instrument and the party, or one (1) of the parties, to be bound thereby shall be referred to as the “maker” of the instrument;

(b) A corporation, partnership, limited liability company, trust or other legal entity which is a partner, manager, member, trustee or other authorized representative of the maker shall be referred to as the “constituent entity” of the maker;

(c) The natural person who signs the written instrument as an officer, partner, manager, member, trustee or other authorized representative 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 which 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 which 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 which is a partnership, acting through a constituent entity which 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
[I.C., § 55-707A, as added by 1999, ch. 213, § 2, p. 568.]

55-708. ACKNOWLEDGMENT BY MARRIED WOMAN.

The acknowledgment of a married woman to any instrument in writing shall be taken and certified to in the same manner and form as that of a single person, and must be substantially in the form prescribed by section 55-710.

[1907, p. 5, § 1; reen. R.C. & C.L., § 3129; C.S., § 5393; I.C.A., § 54-707.]

55-709. CERTIFICATE OF ACKNOWLEDGMENT

An officer taking the acknowledgment of an instrument must endorse thereon a certificate substantially in the forms hereinafter prescribed.

[1864, p. 528, § 5; R.S., § 2957; reen. R.C. & C.L., § 3130; C.S., § 5394; I.C.A., § 54-708.]

55-710. FORM OF CERTIFICATE.

The certificate of acknowledgment, unless it is otherwise in this chapter provided, must be substantially in the following form:

State of Idaho,
County of, ss.

On this day of, in the year of, before me (here insert the name and quality of the officer), personally appeared, known or identified to me (or proved to me on the oath of), to be the person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same.

[1864, p. 528, § 8; R.S., § 2958; reen. R.C. & C.L., § 3131; C.S., § 5395; I.C.A., § 54-709; am. 1982, ch. 225, § 2, p. 600.]

55-711. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY CORPORATION.

The certificate of acknowledgment of an instrument executed by a corporation must be substantially in the following form:

State of Idaho,
County of, ss.

On this day of, in the year, before me (here insert the name and quality of the officer), personally appeared known or identified to me (or proved to me on the oath of) to be the president, or vice-president, or secretary or assistant secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.
[R.S., § 2959; reen. R.C. & C.L., § 3132; C.S., § 5396; am. 1923, ch. 144, § 2, p. 209; I.C.A., § 54-710; am. 1937, ch. 176, § 2, p. 292; am. 1982, ch. 225, § 3, p. 600.]

55-711A. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY LIMITED LIABILITY COMPANY.

The certificate of acknowledgment of an instrument executed by a limited liability company must be substantially in the following form

State of Idaho,
county of, ss.

On this day of, in the year, before me (here insert the name and quality of the officer), personally appeared, known or identified to me (or proved to me on the oath of), to be the manager or a member of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.
[I.C., § 55-711A, as added by 1999, ch. 213, § 3, p. 568.]

55-712. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY ATTORNEY.

The certificate of acknowledgment by an attorney in fact must be substantially in the following form:

State of Idaho,
county of, ss.

On this day of, in the year, before me (here insert the name and quality of the officer), personally appeared, known or identified to me (or proved to me on the oath of) to be the person whose name is subscribed to the within instrument as the attorney in fact of, and acknowledged to me that he subscribed the name of thereto as principal, and his own name as attorney in fact.
[R.S., § 2961; reen. R.C. & C.L., § 3133; C.S., § 5397; I.C.A., § 54-711; am. 1982, ch. 225, § 4, p. 600.]

55-712A. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY PERSON SIGNING BY MARK.

The certificate of acknowledgment by a person signing by mark shall be substantially in the following form:

“Mark:

Mark affixed by (printed or typewritten name of person signing by mark) in the

officer) personally appeared, known or identified to me (or proved to me on the oath of), to be the person whose name is subscribed to the within instrument as (here insert the official or representative capacity in which the instrument is executed) and acknowledged to me that he (or they) executed the same as such (here insert again the official or representative capacity in which the instrument is executed).

[C.S., § 5397(A), as added by 1929, ch. 183, § 2, p. 324; I.C.A., § 54-712; am. 1982, ch. 225, § 5, p. 600.]

55-714. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY PARTNERSHIP.

The certificate of acknowledgment of an instrument executed in a partnership name must be substantially in the following form:

State of Idaho,
County of, ss.

On this day of, in the year, before me (here insert the name and quality of the officer), personally appeared, known or identified to me (or proved to me on the oath of), to be one of the partners in the partnership of (here insert partnership name signed to instrument), 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 same in said partnership name.

[C.S., § 5397(B), as added by 1929, ch. 183, § 3, p. 94; I.C.A., § 54-713; am. 1982, ch. 225, § 6, p. 600.]

55-715. FORM OF CERTIFICATE -- ACKNOWLEDGMENT BY STATE OR POLITICAL SUBDIVISION.

The certificate of acknowledgment of an instrument executed in the name of the state of Idaho or any county, political subdivision, municipal, quasi-municipal or public corporation, must be substantially in the following form:

State of Idaho,
County of, ss.

On this day of, in the year, before me (here insert the name and quality of the officer), personally appeared, known or identified to me (or proved to me on the oath of), to be the (here insert the official capacity of the officer making the acknowledgment) of the (here insert the name of state, county, subdivision or corporation executing the instrument) that executed the said instrument, and acknowledged to me that such (here insert name of state, county, political subdivision, municipal or public corporation executing the instrument) executed the same.

[C.S., § 5397(C), as added by 1929, ch. 183, § 4, p. 324; I.C.A., § 54-714; am. 1982, ch. 225, § 7, p. 600.]

55-716. AUTHENTICATION OF CERTIFICATE.

Officers taking and certifying acknowledgments or proof of instruments for record must authenticate their certificates by affixing thereto their signatures, followed by the names of their offices; also their seals of office, if by the laws of the territory, state or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

[1864, p. 528, § 5; R.S., § 2962; reen. R.C. & C.L., § 3134; C.S., § 5398; I.C.A., § 54-715.]

55-717. CERTIFICATE OF JUSTICE -- AUTHENTICATION.

The certificate of proof or acknowledgment, if made before a justice of the peace, when used in any county other than that in which he resides, must be accompanied by a certificate under the hand and seal of the recorder of the county in which the justice resides, setting forth that such justice, at the time of taking such proof or acknowledgment, was authorized to take the same, and that the recorder is acquainted with his handwriting, and believes that the signature to the original certificate is genuine. [R.S., § 2963; reen. R.C. & C.L., § 3135; C.S., § 5399; I.C.A., §54-716.]

55-718. PROOF OF EXECUTION.

Proof of the execution of an instrument, when not acknowledged, may be made either:

1. By the parties executing it, or either of them; or,
2. By subscribing witness; or,
3. By other witnesses in the cases hereinafter mentioned.

[1864, p. 528, § 10; R.S., § 2964; reen. R.C. & C.L., § 3136;C.S., § 5400; I.C.A., § 54-717.]

55-719. IDENTITY OF WITNESS MUST BE KNOWN OR PROVED.

If by a subscribing witness such witness must be personally known to the officer taking the proof, to be the person whose name is subscribed to the instrument, as a witness, or must be proved to be such by the oath of a credible witness.

[1864, p. 528, § 11; R.S., § 2965; reen. R.C. & C.L., § 3137;C.S., § 5401; I.C.A., § 54-718.]

55-720. PROOF OF IDENTITY OF GRANTOR.

The subscribing witness must prove that the person whose name is subscribed to the instrument as a party is the person described in it, and that such person executed it, and that the witness subscribed his name thereto as a witness.

[1864, p. 528, § 12; R.S., § 2966; reen. R.C. & C.L., § 3138; C.S., § 5402; I.C.A., § 54-719.]

55-721. PROOF OF INSTRUMENT BY HANDWRITING.

The execution of an instrument may be established by proof of the handwriting of the party and of a subscribing witness, if there is one, in the following cases:

1. When the parties and all the subscribing witnesses are dead; or,
2. When the parties and all the subscribing witnesses are nonresidents of the state; or,
3. When the place of their residence is unknown to the party desiring the proof, and cannot be ascertained by the exercise of due diligence; or,
4. When the subscribing witness conceals himself or cannot be found by the officer, by the exercise of due diligence, in attempting to serve the subpoena or attachment; or,
5. In case of the continued failure or refusal of the witness to testify for the space of one (1) hour, after his appearance.

[1864, p. 528, § 14; R.S., § 2967; reen. R.C. & C.L., § 3139; C.S., § 5403; I.C.A., § 54-720.]

55-722. PROOF OF INSTRUMENT BY HANDWRITING -- WHAT EVIDENCE MUST PROVE.

The evidence taken under the preceding section must satisfactorily prove to the officer the following facts:

1. The existence of one or more of the conditions mentioned therein; and,
2. That the witness testifying knew the person whose name purports to be subscribed to the instrument as a party, and is well acquainted with his signature, and that it is genuine; and,

3. That the witness testifying personally knew the person who subscribed the instrument as a witness; and is well acquainted with his signature, and that it is genuine; and,

4. The place of residence of the witness.

[1864, p. 528, § 15; R.S., § 2968; reen. R.C. & C.L., § 3140; C.S., § 5404; I.C.A., § 54-721.]

55-723. CERTIFICATE OF PROOF.

An officer taking proof of the execution of any instrument must, in his certificate indorsed thereon or attached thereto, set forth all the matters required by law to be done or known by him, or proved before him on the proceeding, together with the names of all the witnesses examined before him, their places of residence respectively, and the substance of their testimony.

[R.S., § 2969; reen. R.C. & C.L., § 3141; C.S., § 5405; I.C.A., § 54-722.]

55-724. AUTHORITY OF OFFICERS TAKING PROOF.

Officers authorized to take proof of instruments are authorized in such proceedings:

1. To administer oaths or affirmations as prescribed in the Code of Civil Procedure.
2. To employ and swear interpreters.
3. To issue subpoenas, as prescribed in the Code of Civil Procedure.
4. To punish for contempt as prescribed in the Code of Civil Procedure. The civil

damages and forfeiture to the party aggrieved are prescribed in the Code of Civil Procedure for a witness disobeying a subpoena.

[1864, p. 528, §§ 16, 17; R.S., § 2970; reen. R.C. & C.L., § 3142; C.S., § 5406; I.C.A., § 54-723.]

55-725. CORRECTION OF DEFECTIVE CERTIFICATE.

When the acknowledgment or proof of the execution of an instrument is properly made, but defectively certified, any party interested may have an action in the district court to obtain a judgment correcting the certificate.

[R.S., § 2971; reen. R.C. & C.L., § 3143; C.S., § 5407; I.C.A., § 54-724.]

55-726. ACTION TO PROVE INSTRUMENT.

Any person interested under an instrument entitled to be proved for record may institute an action in the district court against the proper parties to obtain a judgment proving such instrument.

[R.S., § 2972; reen. R.C. & C.L., § 3144; C.S., § 5408; I.C.A., § 54-725.]

55-727. JUDGMENT ENTITLES INSTRUMENT TO RECORD.

A certified copy of the judgment in a proceeding instituted under either of the two (2) preceding sections, showing the proof of the instrument, and attached thereto, entitles such instrument to record, with like effect as if acknowledged.

[R.S., § 2973; reen. R.C. & C.L., § 3145; C.S., § 5409; I.C.A., § 54-726.]

55-728. PRIOR INSTRUMENTS NOT AFFECTED.

The legality of the execution, acknowledgment, proof, form or record of any conveyance or other instrument made before this code goes into effect, executed, acknowledged, proved or recorded, is not affected by anything contained in this chapter, but depends for its validity and legality upon the laws in force when the act was performed.

[1864, p. 528, § 41; R.S., § 2974; reen. R.C. & C.L., § 3146; C.S., § 5410; I.C.A., § 54-727.]

55-729. RECORD OF PRIOR INSTRUMENTS.

All conveyances of real property made before this code goes into effect, and acknowledged or proved, according to the laws in force at the time of such making and acknowledgment or proof, have the same force as evidence, and may be recorded in the same manner and with like effect, as conveyances executed and acknowledged in pursuance of this chapter.

[1864, p. 528, § 40; R.S., § 2975; reen. R.C. & C.L., § 3147; C.S., § 5411; I.C.A., § 54-728.]

55-730. RECORD OF PRIOR INSTRUMENTS AS NOTICE.

Any instrument affecting the title to real property which heretofore or on or before sixty (60) days after the adjournment of the legislature of the state of Idaho for 1947, is copied into the proper book of record, kept in the office of any county recorder, imparts notice of its contents to subsequent purchase (purchasers) and encumbrancers, notwithstanding any defect, omission or informality in the execution of the instrument, or in the certificate of acknowledgment thereof, or the absence of any such certificate; but nothing herein affects the rights of previous purchasers or encumbrancers. Duly certified copies of the record of any such instrument may be read in evidence with like effect as copies of an instrument duly acknowledged and recorded, provided, when such copying in the proper book of record occurred within five (5) years prior to the trial of the action, it be first shown that the original instrument was genuine.

[R.S., § 2976; am. 1907, p. 28, § 1; am. R.C., § 3148; compiled and reen. C.L., § 3148; C.S., § 5412; I.C.A., § 54-729; am. 1935, ch. 33, § 1, p. 57; am. 1947, ch. 134, § 1, p. 329.]