

TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 24
RECORDER

31-2401. BOOKS TO BE PROCURED -- CUSTODY. The recorder must procure such books or other electronic storage methods for records as the business of his office requires. He has the custody of and must keep all books, records, maps and papers deposited in his office. The recorder may keep all books, documents, records, maps and papers within an approved electronic storage system.

[(31-2401) 1863, p. 475, sec. 64; R.S., sec. 2023; reen. R.C. & C.L., sec. 2061; C.S., sec. 3633; I.C.A., sec. 30-1901; am. 1989, ch. 90, sec. 1, p. 212; am. 2005, ch. 243, sec. 1, p. 756.]

31-2402. INSTRUMENTS TO BE RECORDED. (1) He must, upon the payment of his fees for the same, record separately, in large and well-bound separate books or through approved electronic storage systems, in legible handwriting, typewriting or by photographic reproduction:

- (a) Deeds, grants, transfers and mortgages of real estate, releases of mortgages, powers of attorney to convey real estate and leases which have been acknowledged or proved and transcripts of judgments or decrees which affect the title or possession of real property, including water rights, any part of which is situate in the county of which the person is the recorder.
- (b) Certificates of marriage and marriage contracts.
- (c) Wills admitted to probate.
- (d) Official bonds.
- (e) Notices of mechanics' liens.
- (f) Transcripts of judgments which by law are made liens upon real estate.
- (g) Notices of attachments upon real estate.
- (h) Notices of the pendency of an action affecting real estate, the title thereto or possession thereof.
- (i) Instruments describing or relating to the separate property of married women.
- (j) Notices of preemption claims.
- (k) Certified copies of any petitions, with the schedules omitted, filed in, and certified copies of any order or decree made or entered in, any proceeding under the national bankruptcy act.
- (l) Financing statements under the uniform commercial code which cover timber to be cut, minerals or the like (including oil and gas), pursuant to section [28-9-301](#), Idaho Code, or fixtures.
- (m) Notice of order of a general adjudication in conformance with section [42-1408](#), Idaho Code.
- (n) Death certificates.
- (o) Such other writings as are required or permitted by law to be recorded, as determined by the recorder.

(2) The recorder may refuse to record a document which, in his discretion and through consultation with the county prosecutor, is not authorized by law to be recorded, provided that a document listed in subsection (1) (a)

through (n) of this section is authorized by law and must be recorded. Refusal pursuant to this section shall not create any liability.

[(31-2402) 1863, p. 475, sec. 70; R.S., sec. 2024; modified by 1899, p. 121; compiled and reen. R.C. & C.L., sec. 2062; C.S., sec. 3634; am. 1931, ch. 48, sec. 1, p. 83; I.C.A., sec. 30-1902; am. 1965, ch. 30, sec. 1, p. 48; am. 1980, ch. 156, sec. 4, p. 331; am. 1986, ch. 220, sec. 25, p. 582; am. 2001, ch. 208, sec. 27, p. 827; am. 2005, ch. 243, sec. 2, p. 757; am. 2021, ch. 167, sec. 1, p. 470.]

31-2402A. MICROFILM RECORDS -- METHOD OF DESIGNATION -- OFFICIAL RECORDS. In lieu of any or all of the separate books provided for in section [31-2402](#), Idaho Code, the county recorder may, in his discretion, where such record or document has been copied or reproduced by microfilm, scanned images, digital imaging, or microphotographic process or other approved electronic copying process, designate such record or document by consecutive volume and instrument numbers to be called "official records" and recorded consecutively in his office in suitable containers and cabinets or electronic storage devices.

The recording of such instruments and documents in such "official records" will impart notice in like manner and effect as if such instruments or documents were recorded in any of the separate books provided for in section [31-2402](#), Idaho Code.

[31-2402A, as added by 1963, ch. 86, sec. 1, p. 281; am. 2005, ch. 243, sec. 3, p. 757.]

31-2404. INDEXES TO BE KEPT. Every recorder must keep:

(1) An index of deeds, grants and transfers, labeled "Grantors," each page divided into four (4) columns, headed respectively, "Names of grantors," "Names of grantees," "Date of deeds, grants or transfers" and "Where recorded."

(2) An index of deeds, labeled "Grantees," each page divided into four (4) columns, headed respectively, "Names of grantees," "Names of grantors," "Date of deeds, grants or transfers" and "Where recorded."

(3) An index of mortgages, labeled "Mortgagors of real property," with the pages thereof divided into five (5) columns, headed respectively, "Names of mortgagors," "Names of mortgagees," "Date of mortgages," "Where recorded," and "When discharged."

(4) An index of mortgages, labeled "Mortgagees of real property," with the pages thereof divided into five (5) columns, headed respectively, "Names of mortgagees," "Names of mortgagors," "Date of mortgages," "Where recorded," and "When discharged."

(5) An index of release of mortgages, labeled "Releases of mortgages of real property--mortgagors," with the pages thereof divided into six (6) columns, headed respectively, "Parties releasing," "To whom releases are given," "Date of releases," "Where releases are recorded," "Date of mortgages released," and "Where mortgages released are recorded."

(6) An index of releases of mortgages, labeled "Releases of mortgages of real property--mortgagees," with the pages thereof divided into six (6) columns, headed respectively, "Parties whose mortgages are released," "Parties releasing," "Date of releases," "Where recorded," "Date of mortgages released," and "Where mortgages released are recorded."

(7) An index of powers of attorney, labeled "Powers of attorney," each page divided into five (5) columns, headed respectively, "Names of parties executing powers," "To whom powers are executed," "Date of powers," "Date of recording," and "Where powers are recorded."

(8) An index of leases, labeled "Lessors," each page divided into four (4) columns, headed respectively, "Names of lessors," "Names of lessees," "Date of leases," and "When and where recorded."

(9) An index of leases, labeled "Lessees," each page divided into four (4) columns, headed respectively, "Names of lessees," "Names of lessors," "Date of leases," and "When and where recorded."

(10) An index of marriage certificates, labeled "Marriage certificates--Men," each page divided into six (6) columns, headed respectively, "Men married," "To whom married," "When married," "By whom married," "Where married," and "Where certificates are recorded."

(11) An index of marriage certificates, labeled "Marriage certificates--Women," each page divided into six (6) columns, headed respectively, "Women married" (and under this head placing the family names of the women), "To whom married," "When married," "By whom married," "Where married," and "Where certificates are recorded."

(12) An index of assignments of real property mortgages and leases, labeled "Assignments of mortgages and leases--assignors," each page divided into five (5) columns, headed respectively, "Assignors," "Assignees," "Instruments assigned," "Date of assignment," and "When and where recorded."

(13) An index of assignments of real property mortgages and leases, labeled "Assignments of mortgages and leases--assignees," each page divided into five (5) columns, headed respectively, "Assignees," "Assignors," "Instruments assigned," "Date of assignments," and "When and where recorded."

(14) An index of wills, labeled "Wills," each page divided into four (4) columns, headed respectively, "Names of testators," "Date of wills," "Date of probate," and "When and where recorded."

(15) An index of official bonds, labeled "Official bonds," each page divided into five (5) columns, headed respectively, "Names of officers," "Names of offices," "Date of bonds," "Amount of bonds," and "When and where recorded."

(16) An index of notices of mechanics' liens, labeled "Mechanics' liens," each page divided into three (3) columns, headed respectively, "Parties claiming liens," "Against whom claimed," and "Notices, when and where recorded."

(17) An index to transcripts of judgment, labeled "Transcripts of judgments," each page divided into seven (7) columns, headed respectively, "Judgment debtors," "Judgment creditors," "Amount of judgments," "Where recorded," "When recovered," "When transcript filed," and "When judgment satisfied."

(18) An index of attachments, labeled "Attachments," each page divided into six (6) columns, headed respectively, "Parties against whom attachments are issued," "Parties issuing attachments," "Notices of attachments," "When recorded," "Where recorded," and "When attachments discharged."

(19) An index of notices of the pendency of actions, labeled "Notices of actions," each page divided into three (3) columns, headed respectively, "Parties to the actions," "Notices, when recorded," and "Where recorded."

(20) An index of the separate property of married women, labeled "Separate property of married women," each page divided into five (5) columns,

headed respectively, "Names of married women," "Names of their husbands," "Nature of instruments recorded," "When recorded," and "Where recorded."

(21) An index of possessory claims, labeled "Possessory claims," each page divided into five (5) columns, headed respectively, "Claimants," "Notices," "When received," "Date of notices," and "When and where recorded."

(22) An index of homesteads, labeled "Homesteads," each page divided into five (5) columns, headed respectively, "Claimants," "Date of declaration," "When and where recorded," "Abandonment," and "When and where recorded."

(23) An index of agreements and bonds affecting the title of real property, labeled "Real property agreements," each page divided into four (4) columns, headed respectively, "Vendors," "Vendees," "Date of agreement," and "When and where recorded."

(24) An index of mining claims, labeled "Mining claims," each page divided into five (5) columns, headed "Locators," "Name of claim," "Date of location," "When filed for record," and "Where recorded."

(25) An index of water rights, labeled "Water rights," each page divided into four (4) columns, labeled, "Locators," "Date of notice," "When filed for record," and "Where recorded."

(26) A general index of all papers to be entered as they are filed.

(27) An index, labeled "Financing Statements," as required under Part 5 of the Uniform Commercial Code--Secured Transactions, [chapter 9, title 28](#), Idaho Code.

(28) In lieu of the above-named indexes, a recorder may create an electronic management system into which all of the above-named indexes are file names. Each of these files shall segregate the above-referenced records and permit search and retrieval capabilities of each file type under each of the above-enumerated categories.

[(31-2404) 1863, p. 475, sec. 72; R.S., sec. 2025; reen. R.C. & C.L., sec. 2063; C.S., sec. 3636; I.C.A., sec. 30-1904; am. 1967, ch. 272, sec. 5, p. 745; am. 2005, ch. 243, sec. 4, p. 758; am. 2021, ch. 321, sec. 12, p. 952.]

31-2405. INDEXING OFFICIAL DEEDS. Deeds made by sheriffs, collectors, administrators, trustees and other officers, in their official capacity, shall be indexed by the recorder in the name of the owner of the property conveyed, as grantor, by the officer, naming him and his office.

[(31-2405) 1907, p. 95, sec. 1; reen. R.C. & C.L., sec. 2064; C.S., sec. 3637; I.C.A., sec. 30-1905.]

31-2406. CERTIFICATES OF SALE. The recorder must keep in his office a book to be called "Certificates of sale," and record therein all certificates of sale of real estate sold under execution or under order made in any judicial proceeding. He must also prepare an index thereto, in which he must enter, in separate columns, the names of the plaintiff in the execution, the defendant in the execution, the purchaser at the sale, and the date of the sale.

[(31-2406) R.S., sec. 2026; am. and reen. R.C. & C.L., sec. 2065; C.S., sec. 3638; I.C.A., sec. 30-1906.]

31-2407. JUDGMENTS AFFECTING LAND. When requested and paid the fee therefor, the recorder must record with the record of deeds, grants and transfers, certified copies of final judgments, decrees or transcripts of judgments or decrees partitioning or affecting the title or possession of real property, including water rights, any part of which is situate in the county of which he is recorder.

[(31-2407) R.S., sec. 2027; reen. R.C. & C.L., sec. 2066; C.S., sec. 3639; I.C.A., sec. 30-1907; am. 1986, ch. 220, sec. 26, p. 583; am. 1989, ch. 90, sec. 3, p. 212.]

31-2408. DECREE OF PARTITION -- RECORD IMPARTS NOTICE. Every such certified copy of a decree of partition, from the time of delivery of the same with the recorder for record, imparts notice to all persons of the contents thereof; and subsequent purchasers, mortgagees and lienholders, purchase and take with like notice and effect as if such copy of decree was a duly recorded deed, grant or transfer.

[(31-2408) R.S., sec. 2028; am. and reen. R.C. & C.L., sec. 2067; C.S., sec. 3640; I.C.A., sec. 30-1908; am. 1989, ch. 90, sec. 4, p. 212.]

31-2409. SEVERAL INDEXES IN SAME VOLUME. The recorder may keep in the same volume any two (2) or more of the indexes required to be kept, but the several indexes must be kept distinct from each other, and the volume must be distinctly marked on the outside in such way as to show all the indexes kept therein. The names of the parties in the first column in the several indexes must be arranged in alphabetical order.

[(31-2409) 1863, p. 475, sec. 73; R.S., sec. 2029; modified by 1907, p. 95; compiled and reen. R.C. & C.L., sec. 2068; C.S., sec. 3641; I.C.A., sec. 30-1909.]

31-2410. ENDORSEMENT ON INSTRUMENTS. When any instrument, paper or notice, authorized by law to be recorded, is deposited in the recorder's office for record, the recorder must endorse upon the same the time when it was received, noting the year, month, day, hour and minute of its reception, and at once enter it in the proper index or approved electronic storage and retrieval system, and must record the same without delay, together with the acknowledgment, proofs and certificates, written upon or annexed to the same, with the plats, surveys, schedule and other papers thereto annexed, in the order and as of the time when the same was received for record, and must note on the instrument the exact time of its reception, and the name of the person at whose request it was recorded.

[(31-2410) 1863, p. 475, sec. 74; R.S., sec. 2030; reen. R.C. & C.L., sec. 2069; C.S., sec. 3642; I.C.A., sec. 30-1910; am. 1988, ch. 5, sec. 1, p. 5; am. 2005, ch. 243, sec. 5, p. 760.]

31-2411. ENDORSEMENT OF BOOK AND PAGE OF RECORD -- DELIVERY TO PARTY. The recorder must also endorse upon each instrument, paper or notice, the book and pages or instrument number in which it is recorded, and must thereafter deliver it upon request to the party leaving the same for record. If an approved electronic system is used, the recorder shall endorse upon

each instrument a suitable reference number to enable direct retrieval of the recorded document from the electronic system.

[(31-2411) 1863, p. 475, sec. 75; R.S., sec. 2031; reen. R.C. & C.L., sec. 2070; C.S., sec. 3643; I.C.A., sec. 30-1911; am. 1989, ch. 90, sec. 5, p. 213; am. 2005, ch. 243, sec. 6, p. 760.]

31-2412. NUMBER TO BE STAMPED ON INSTRUMENTS. It is hereby made the duty of each county recorder in this state, when any instrument, paper or notice authorized by law to be recorded is deposited in the recorder's office for record, immediately to write or stamp thereon an instrument number, and the numbers so stamped shall be consecutive in the order of filing, in only one (1) series of numbers, commencing with the general reception number next in order, upon this amendment becoming effective, in each county and following in the order of the filing of all instruments, papers or notices, and priority of number shall be prima facie evidence of priority of filing: provided, that when such recorder shall receive by mail or other like inclosure more than one (1) instrument, paper or notice at a time, he shall affix such numbers in the consecutive order in which said instruments, papers or notice actually came into his hand on opening, save that when more than one instrument, paper or notice is received from the same source at the same time, he may follow such directions as the sender may give in relation to such numbering. In addition to general reception numbers as above provided the county recorder may use such additional numbers as may be convenient for filing and indexing.

[(31-2412) 1903, p. 428, sec. 1; reen. R.C. & C.L., sec. 2071; C.S., sec. 3644; I.C.A., sec. 30-1912; am. 1949, ch. 164, sec. 1, p. 352.]

31-2413. RECEPTION BOOK. There shall be provided by the county recorder of each county, a book for use in the office of the recorder to be known as the reception book, in which shall be entered, immediately after numbering, all instruments, papers or notices authorized by law to be recorded. Such book shall be ruled in parallel columns and in the first column at the left hand side of the page shall be entered the instrument number; in the second column, the day, hour and minute of filing; in the third column, the grantor, or person executing the instrument; in the fourth column, the grantee, or person to whom the instrument is executed, if there be such; in the fifth column, the character of the instrument; in the sixth column, the book and page where recorded; in the seventh column a brief description of the property, if any, described therein; and in the last column at the right, the name of the person to whom delivered. Such book shall be a part of the public records of such office, and open to public inspection during office hours.

[(31-2413) 1903, p. 428, sec. 2; reen. R.C. & C.L., sec. 2072; C.S., sec. 3645; I.C.A., sec. 30-1913; am. 1989, ch. 90, sec. 6, p. 213.]

31-2414. CERTIFICATE OF TIME OF RECEPTION. When any such instrument, paper or notice is numbered and entered in the reception book and indexed, it shall be recorded, as now provided by law; and it shall be the duty of the recorder to write or stamp, or cause to be written or stamped, at the beginning of the record thereof, if recorded, the words "Instrument number" and add thereto the number stamped or written on such instrument, paper or notice, and to add immediately after the record thereof, a certificate setting

forth the exact time of the reception of such instrument, paper or notice, giving the day, hour and minute as set out in the original notation of recording made by him upon the instrument, paper or notice itself, and the name of the person at whose request it is recorded, which record and certificate he shall authenticate with his official signature, but for which certificate and authentication he shall not be authorized or permitted to collect a fee.

[(31-2414) 1903, p. 428, sec. 3; reen. R.C. & C.L., sec. 2073; C.S., sec. 3646; I.C.A., sec. 30-1914; am. 1989, ch. 90, sec. 7, p. 213.]

31-2415. FAILURE TO RECORD INSTRUMENT PROPERLY -- LIABILITY AND PENALTY. If any recorder neglects or refuses or fails to record any instrument, paper or notice authorized by law to be recorded, in the manner provided for in sections [31-2412](#), [31-2413](#) and [31-2414](#), Idaho Code, he shall be liable to the party aggrieved for the amount of the damages which may be occasioned thereby, and for each such neglect or failure or refusal, whether damages are recovered by an aggrieved party or not, he shall pay into the current expense fund of his county the sum of fifty dollars (\$50.00), which may be recovered by an action which it is the duty of the prosecuting attorney to prosecute. All penalties provided by this section shall be recoverable from the recorder upon his official bond.

[(31-2415) 1903, p. 428, sec. 4; reen. R.C. & C.L., sec. 2074; C.S., sec. 3647; I.C.A., sec. 30-1915; am. 1989, ch. 90, sec. 8, p. 214.]

31-2417. LIABILITY FOR NEGLECT. (1) If any recorder to whom an instrument, proved or acknowledged according to law, or any paper or notice which may by law be recorded, is delivered for record:

- (a) Neglects or refuses without any legal basis to record such instrument, paper or notice within a reasonable time after receiving the same; or
- (b) Records any instruments, papers or notices untruly, or in any other manner than as hereinbefore directed; or
- (c) Neglects or refuses to keep in his office such indexes as are required by this chapter, or to make the proper entries therein; or
- (d) Alters, changes or obliterates any records deposited in his office or inserts any new matter therein.

He is liable to the party aggrieved for the amount of the damages which may be occasioned thereby.

(2) Under no circumstances shall a recorder be liable for the release of any recorded information pursuant to a request and payment of fees.

[(31-2417) 1863, p. 475, sec. 77; R.S., sec. 2033; reen. R.C. & C.L., sec. 2076; C.S., sec. 3649; I.C.A., sec. 30-1917; am. 1989, ch. 90, sec. 9, p. 214; am. 2005, ch. 243, sec. 7, p. 760.]

31-2418. FEES TO BE PREPAID. The county recorder is not bound to record any instrument or file any paper or notice, or furnish any copies, or to render any service connected with his office, until the fees for the same, as prescribed by law, are, if demanded, paid or tendered.

[(31-2418) 1863, p. 475, sec. 84; R.S., sec. 2034; reen. R.C. & C.L., sec. 2077; C.S., sec. 3650; I.C.A., sec. 30-1918; am. 1989, ch. 90, sec. 10, p. 214.]

31-2419. RECORDS OPEN TO INSPECTION. All books of record, maps, charts, surveys and other papers on file in the recorder's office, must, during office hours, be open for the inspection of any person who may desire to inspect them, and may be inspected without charge; and the recorder must arrange the books of record and indexes in his office in such suitable places as to facilitate their inspection. The recorder may provide one (1) or more public access terminals through which the public may access electronically stored versions of recorded documents. Any person inspecting the records who makes any attempt to alter any record in any way shall be guilty of a misdemeanor.

[(31-2419) 1863, p. 475, sec. 80; R.S., sec. 2035; reen. R.C. & C.L., sec. 2078; C.S., sec. 3651; I.C.A., sec. 30-1919; am. 2005, ch. 243, sec. 8, p. 761.]