IACRC
RECORDING
COMMITTEE
2019
ACCESS TO RECORDING PROGRAM

Idaho Statute 31-3205 (2) Electronic copies shall include copies provided via internet download, on a compact disc, floppy disc, or other electronic means. The county recorder shall provide electronic copies if the record is maintained in electronic form and if the person specifically requests an electronic copy.
Power County

$50 per month ($600 a year)

One time set up fee $100 payable to Computer Arts

Access to Tax Data, Recording Information by name and instrument number, and other information as approved by County.

Access from 9:00 a.m. to 5:00 p.m. Monday through Friday

County assigns passwords

Mailing List prohibition.

Disclaimer – County makes no warranty or representation to the accuracy, correctness, current status of the records or documents.

Termination – immediately by County for breach of Agreement.

Shoshone County

$175 per month ($2100 a year)

Title Company responsible for costs of setup.

Shall not use its access under this agreement to offer a public document copying service for the public for a fee.

Access from 7:00 a.m. to 10:00 p.m. Monday through Sunday.

County assigns passwords

Mailing List prohibition

Disclaimer – County does not warrant the accuracy of the data.
Consider adding a Section: In the event a virus is transmitted that infects the County records and/or computers, and if it is determined to have been transmitted from the Title Company, the Title Company is responsible for the cost to repair the data.

Contact your Attorney for specific wording.
MILITARY DISCHARGE REQUEST FORM

Presented by Donna Atwood
Washington County Clerk
TITLE 65
SOLDIERS AND SAILORS
CHAPTER 3
OFFICIAL SERVICES FOR VETERANS

65-301. PERFORMANCE WITHOUT FEE — SERVICES ENUMERATED. (1) Any state, county, city or public officer, or board, or body, acting in his or her or its official capacity on behalf of the state, county, or city, including notaries public, shall not collect, demand or receive any fee or compensation for recording or indexing the discharge papers of any male or female veteran who had active service in any war or conflict officially engaged in by the government of the United States; or for issuing certified copies thereof, or for any service whatever rendered by any such officer or officers, in the matter of a pension claim, application, affidavit, voucher, or in the matter of any claim to be presented to the United States department of veterans affairs or for the purposes of securing any benefits under acts of congress providing pension benefits for honorably discharged veterans of any war, and all acts or parts of acts amendatory thereto, or for furnishing a certified copy of the public record of a marriage, death, birth, divorce, deed of trust, mortgage, or property assessment, or making a reasonable search for the same, wherein the same is to be used in a claim for pension, or a claim for allotment, allowance, compensation, insurance, automatic insurance, or otherwise provided for by any and all legislation by congress providing pension benefits for honorably discharged veterans of any war.

(2) Any veteran wishing to record his or her discharge papers may do so with personal identifying information such as date of birth, social security number, home address(es), blood type and other personal identifying information redacted from the document. The name of the veteran may not be redacted from the document.
(3) Any veteran or surviving spouse of any veteran of the United States armed forces or his or her surviving spouse, attorney, personal representative, executor or court appointed guardian has the right to request that a county recorder remove from the official records any of the following forms recorded before, on or after July 1, 2003, by or on behalf of the requesting veteran: DD-214; DD-215; WD AGO 53; WD AGO 55; WD AGO 53-55; NAVMC 78-PD; and NAVPERS 553. The request must specify the identification page number of the form to be removed. The request shall be made in person and with appropriate identification to allow determination of identity. The county recorder has no duty to inquire beyond the requestor to verify the identity of the person requesting removal. No fee shall be charged for the removal. Any paper and reasonably retrievable electronic likeness, the removal of which will not affect other recorded documents, shall be removed from the record.

(4) No DD-214, DD-215, WD AGO 53, WD AGO 55, WD AGO 53-55, NAVMC 78-PD, and NAVPERS 553, which is recorded at the request of any veteran of the United States armed forces or his or her surviving spouse, attorney, personal representative, executor or court appointed guardian shall be a public record subject to release by the provisions of chapter 1, title 74, Idaho Code, without the express written consent of one (1) of the above enumerated individuals.
(5) Nothing in this section shall create or permit any cause of action against a county, county employee or the state of Idaho based upon harm caused by information released from the records of the county.

History:

REQUEST FOR COPIES OF MILITARY RECORDS

I, the undersigned, hereby consent to the release of the recorded military records of ________________________________.

__________________________________________
Date

[ ] Veteran, [ ] Surviving Spouse, [ ] Legal Representative

State of Idaho )
) County of Washington

On this ____ day of _____________________ in the year 20____, before me, a Notary Public in and for the State of Idaho, personally appeared _____________________, proved to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same.

Subscribed and sworn before me:

__________________________________________
Notary Public
Commission Expires ___________________

Information to Locate Record:

Name of Veteran _____________________ Date of Birth _____________________
Branch of Service _____________________ Last 4 Digits of SS # _____________________
RECORDING UCC’S / FINANCING STATEMENTS / FIXTURE FILINGS

Needs for clarification of recording standards.
WHO’S EXCITED TO TALK ABOUT UCC’S?

Seriously? Is anyone excited?
YOUR PROJECT SUMMARY NEEDS MORE JARGON AND ACRONYMS.

THE GOAL IS TO MAKE OURSELVES LOOK SMART WHILE MAKING THE READERS FEEL DUMB.

WHAT ABOUT CLARITY?

CLARITY IS NOT OUR FRIEND ON THIS ONE.
DEFINITIONS:

"Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 28-9-502(a) and (b), Idaho Code. The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

"Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

-Idaho Code, Title 28, Chapter 9, Section 102 (39-42).
(1) The office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; OR

(2) The office of the secretary of state or any office duly authorized by the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.
YESTERDAY I ASKED FOR CLARIFICATION ON MY ASSIGNMENT.

BUT YOUR CLARIFICATION SOUNDED NOTHING LIKE THE ORIGINAL ASSIGNMENT.

SOMETIMES IT'S GOOD TO GET A SECOND OPINION.

NOT FROM THE SAME PERSON.
(ii) Trust deeds or mortgages of real property, including fixture filings, security agreements and assignments of leases and rents if contained within the same instrument for recording ........ $45.00.

-Idaho Code 31-3205 (b) (ii)

Most counties are just charging $10 for the first page and $3 for each additional for UCC's.

This does not appear to match the code.
QUESTIONS?

- Fees
- Signatures

Sometimes they have signatures,
QUESTIONS?

- Fees
- Signatures

Sometimes they have signatures,
But sometimes they don’t.
QUESTIONS?

- Fees
- Signatures
- Legal descriptions

Some UCC’s arrive with a complete meets and bounds legal description,

Others have only an abbreviated legal or even just a parcel number.
The 2016 version of the Recorder’s Manual states that, for Financing Statements, the recorder must keep the original per Idaho Code 28-9-105.

Code 28-9-105 discusses “CONTROL OF ELECTRONIC CHATTEL PAPER” and does not specifically mention the county recorder.

Idaho Code 31-2402A states that the recorder may designate digital images as official records.
Despite 29 years passing since this law changed, our county still regularly receives continuations for recording.
Idaho Code 9-515

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) A record of mortgage that is effective as a financing statement filed as a fixture filing...remains effective ...until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.
POSSIBLE SOLUTIONS

• Form a UCC Committee
• Standardize/Simplify Fees
• Include a special section in the Recorders Manual for UCC’s
• EDUCATION, EDUCATION, EDUCATION!
31-3205. RECORDER’S FEES. (1) The county recorder is allowed and may receive for his services the following fees to be paid him by the party procuring his services:

(4) All instruments delivered to the county recorder for record shall be recorded rather than filed with the exception of plats, surveys, cornerstone markers and instruments under the uniform commercial code.
Should a satisfaction of judgment and lis pendens be filed with the Court before they are recorded in the Recorder’s office?
Record as presented before it is filed with the Court. Up to the Attorney to decide.

If it’s a document that has a date and time (file stamp) from the Court, require a certified copy before recording.
32-403...

(2) Every application for a marriage license shall include the social security numbers of the parties applying for the license.

**Issue:**

Cassia County had an employee fabricate a social security number on a marriage certificate for her undocumented to be spouse. The County Attorney advised:

- Be shown the social security card or some other document such as bank statement, medicare card etc that includes their social security number. Or go to item (b)
32-403...

(b) An applicant who has not been assigned a social security number shall:
   - (i) Present written verification from the social security administration that the applicant has not been assigned a social security number;

AND

Details:

SSA Forms:
1) SSA-L676 – SSN denied
2) SSA-5028 – application completed and accepted.
(Per Dept of Health and Welfare letter dated April 7, 2000)
(ii) Submit a birth certificate, passport or other documentary evidence issued by an entity other than a state or the United States;

AND

Details:
Needs to originate from the person’s own country, such as a birth certificate or passport. (Per Dept of Health and Welfare letter dated April 7, 2000)
32-403...

(iii) Submit such proof as the department may require that the applicant is lawfully present in the United States.

Issue:

- Per Department of Health and Welfare, letter April 7, 2000 and again June 4, 2008;
- This section does not specify who the “department” is. Because it does not, the Department of Health and Welfare does not claim authority to act in this matter. Furthermore, this section applies to the issuance of marriage license applications, which is a county function, not a state function.”
- *They have no plans to take action to change the statute.*

**Shall we??**
MARRIAGE LICENSES -2

Recording of Marriage Licenses

Issue:
- Personally identifiable information
MARRIAGE LICENSES -2, CONT’D

Issue:

- Has been scanned into public records system, contains personally identifiable information.
We no longer scan the affidavit; Our system makes us scan something... So...
MARRIAGE LICENSES -2, CONT’D

Old Certificate

Issue:
- Has been scanned into public records system, contains personally identifiable information.
Resolved issue of Marriage certificate recording; No personally identifiable information.

**Issue:** What do we do with the old ones?
Bigger Question

Should Marriage Certificates be a public record?
MARRIAGE LICENSES -2, CONT'D

From Robert Adelson, Deputy Attorney General;

“Documents such as marriage licenses and death certificates and their supporting affidavits, have been traditionally viewed as public records, available.”

“However, the Public Records Act also provides, in Idaho Code 74-103(33), that personal information is exempt from disclosure.”
"...the Idaho Bureau of Vital Records ... maintains such records in sealed files which are only available to those with a 'direct and tangible interest.'

IDAPA 16.05.01.011 defines who has a direct and tangible interest."
Conclusion:

We keep the original affidavit, no recording. (Noted paper if needed)

New Marriage Certificates — No problem

“one solution to the concerns ..would be to redact the personal information and make those copies available to the public. The original unredacted documents could be maintained in a sealed file accessible to certain people or in specific situations.”
Go back to a Marriage Recording book with an index and printed record?

OR

Print, delete, redact, rescan?

What about records requests?
OK – now What do we do with the already recorded documents?

Print, delete old recording, record a noted paper?
Go back to a Marriage Recording book with a printed record?

OR

Print, delete, redact, rescan?

What about records requests?
Need a records request form like for military records with specific requests outlined.

Need to define a standard process so we can be consistent from county to county.

Recording Manual