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Director

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Idaho State Legislature

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MEMORANDUM

TO: Rules Review Subcommittee of the Senate State Affairs Committee and the House State Affairs Committee
FROM: Principal Legislative Research Analyst - Eric Milstead
DATE: September 17, 2013
SUBJECT: Secretary of State

IDAPA 34.06.01 - Rules Pertaining To The Rules Governing the Electronic Recording of Real Property (Docket No. 34-0601-1301)

The Secretary of State submit notice of temporary and proposed rulemaking at IDAPA 34.06.01 -- Rules Governing the Electronic Recording of Real Property. This temporary and proposed rule is a new rule and, according to the agency, is designed to create uniformity in all of Idaho's real property recording agencies. The rule comports with provisions of the Electronic Recording Commission (Section 31-2905, Idaho Code) and the Uniform Real Property Recording Act as provided for in Title 31, Chapter 29, Idaho Code.

The new rule governs the filing, acceptance, indexing and searching of real property records in county recording offices pursuant to Title 31, Chapter 29, Idaho Code. The rule includes administrative provisions dealing with the rule's scope, interpretation, incorporation of standards by reference, office hours and compliance with the public records act, as well as more substantive sections providing definition of terms and governing electronic recording processing requirements (Rule Section 105), security requirements and agreements (Rule Section 106) and procedures (Rule Section 107).

The agency notes that negotiated rulemaking was not feasible because of the need for temporary rulemaking. The agency explains that the practices and procedures found in the rules have been in effect for many months but have not be recorded in rule. The agency also states that it did not have the financial resources to conduct negotiated rulemaking.

The effective date of the temporary rule was May 21, 2013.

The agency's temporary and proposed rule appears to be authroized pursuant to sections 67-903(9) and 67-5226(1), Idaho Code.

cc: Jeff Harvey, Secretary of State's Office