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**IDAPA 18
TITLE 01
CHAPTER 01**

IDAPA 18 - DEPARTMENT OF INSURANCE

18.01.01 - TITLE INSURANCE DEFINITION OF TRACT INDEXES AND ABSTRACT RECORDS

000. LEGAL AUTHORITY.

This Rule is promulgated pursuant to the general rule making authority in Idaho Code, Section 41-211, to aid in the effectuation of Idaho Code, Section 41-2702. (4-2-08)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 18.01.01, "Title Insurance Definition of Tract Indexes and Abstract Records." (4-2-08)

02. Application of Rule. The provisions of this rule shall apply to all title insurers and title insurance agents. This rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Section 41-2702, Idaho Code. (4-2-08)

03. Purpose. The purpose of this Rule is to define and clarify the meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code. (4-2-08)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(1)(v), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of the chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. (4-2-08)

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Chapter 2, Title 41, Idaho Code, and the Idaho Administrative Procedure Act, Title 67, chapter 52, Idaho Code, and IDAPA 04.11.01, Idaho Rules of Administrative Procedure of the Attorney General - General Provisions. (4-2-08)

004. INCORPORATION BY REFERENCE.

No documents have been incorporated by reference into these rules. (4-2-08)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB ADDRESS.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays (4-2-08)

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (4-2-08)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, ID 83720-0043. (4-2-08)

04. Web Site Address. The department's web address is <http://www.doi.idaho.gov>. (4-2-08)

006. PUBLIC RECORDS ACT COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (4-2-08)

007. -- 010. (RESERVED).

011. TRACT INDEXES OR ABSTRACT RECORDS.

For clarification and guidance, the following is considered to be the correct definition or meaning of “a complete set of tract indexes or abstract records” as used in Section 41-2702, Idaho Code: A set of indexes from which the record ownership and condition of title to all land within a particular county can be traced and ascertained. (4-2-08)

01. Basic Component Parts. The basic component parts of such a set of indexes are: (7-1-93)

a. An index or indexes, to be complete from the inception of title from the United States of America, in which the reference is to geographic subdivisions of land, classified according to legal description, (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to: (4-2-08)

i. All filed or recorded instruments legally affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and (7-1-93)

ii. All judicial proceedings in the particular county legally affecting title to particularly described parcels of real property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in Subsection 012.01.b. below. (7-1-93)

iii. No requirement is hereby made for taxes and assessments, water or otherwise, or for water and mineral rights, land use regulations, and zoning ordinances to be made a part of the plant records. (7-1-93)

b. A name index or indexes wherein notations of or references to all instruments, proceedings and other matters of record in the particular county which legally affects or may legally affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named therein and affected thereby, including guardianships, absentee, bankruptcies, receiverships, divorces and mental illness matters, if available, are posted, filed, entered or otherwise included in that part of the indexing system which designates the same. (7-1-93)

02. Index Maintenance. The indexes prescribed in Subsection 012.01 may be maintained in bound books, looseleaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems. (7-1-93)

03. Subdivision or Refinement. The extent to which the prescribed indexes shall be subdivided or refined is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirements are entitled to consideration in such determination. (7-1-93)

04. Discarding or Destroying. Any requirement set forth in this rule to the contrary notwithstanding, it shall be permissible to discard and destroy prior index books, jackets, folders, cards, photoprints or files pertaining to recorded instruments affecting title to particularly described parcels of real property once the titles to such particularly described parcels have been searched, examined and a policy of owner’s title insurance issued thereon. The discarding and destruction of prescribed index components herein provided for is applicable only when a permanent copy of the search notes, examiner’s opinion and issued policy is retained in lieu of the discarded and destroyed index components. (7-1-93)

013. SEVERABILITY.

If any provision of this Rule is for any reason held to be invalid, the remainder of the Rule shall not be affected thereby. (4-2-08)

014. -- 999. (RESERVED).

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