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IDAPA 34
TITLE 06
CHAPTER 01

34.06.01 - RULES GOVERNING THE ELECTRONIC RECORDING OF REAL PROPERTY

000. LEGAL AUTHORITY.
In accordance with Section 67-903(9), Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the Uniform Real Property Electronic Recording Act enacted as Title 31, Chapter 29, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.06.01, "Rules Governing the Electronic Recording of Real Property," IDAPA 34, Title 06, Chapter 01. (3-20-14)

02. Scope. These rules shall govern the filing, acceptance, indexing and searching of real property records in the county recording offices under Title 31, Chapter 29, Idaho Code. (3-20-14)

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, documents relating to the interpretation of these rules, and to the documentation of compliance with this chapter, are available for public inspection and copying at the Office of the Secretary of State. (3-20-14)

003. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the filing requirements. (3-20-14)

004. INCORPORATION BY REFERENCE.
Data and document formats necessary for electronic recording are incorporated by reference. (3-20-14)

01. PRIA Standards. Electronic recording of real property documents shall meet technical standards for document formatting and document data fields and follow implementation guidelines as prescribed by the Property Records Industry Association (PRIA) which are hereby incorporated by reference, made a part of this rule, and listed below: (3-20-14)

a. PRIA Request Version 2.4.2, August 2007; (3-20-14)

b. PRIA Response Version 2.4.2, August 2007; (3-20-14)

c. Document Version 2.4.1, October 2007; (3-20-14)

d. Notary Version 2.4.1, October 2007; (3-20-14)

e. eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007; (3-20-14)

d. URPERA Enactment and eRecording Standards Implementation Guide, December 2005. (3-20-14)

02. Standards Availability. These standards are available from the Property Records Industry Association, 2501 Aerial Center Parkway, Ste. 103, Morrisville, NC 27560, and at http://www.pria.us/. (3-20-14)

005. OFFICE HOURS -- CONTACT INFORMATION.
The Office of the Secretary of State is located in Boise, Idaho, in the Statehouse located at 700 West Jefferson. The Commercial Division is in the Basement at the West End of the Capitol and is open from 8 a.m. to 5 p.m. except Saturdays, Sundays and legal holidays. The mailing address is: Secretary of State's Office, P.O. Box 83720, Boise, Idaho 83720-0080. The telephone number is (208) 334-2300. The facsimile number is (208) 334- 2282. (3-20-14)

006. PUBLIC RECORDS ACT COMPLIANCE.
All records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 74, Chapter

1, Idaho Code. (3-20-14)

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Delivery Agent. A party who has entered into an agreement with a Participating Recorder to deliver an Electronic Document from a Submitter to a Participating Recorder and to return the recorded Electronic Document to the Submitter. (3-20-14)

02. Document. The meaning shall be the same as provided in Section 31-2902, Idaho Code. (3-20-14)

03. Electronic Document. The meaning shall be the same as provided in Section 31-2902, Idaho Code. (3-20-14)

04. Electronic Document Delivery System. An automated system for the secure transmission of an Electronic Document between a Submitter and a Participating Recorder through the use of a Delivery Agent. (3-20-14)

05. Electronic Recording. The delivery and return of an Electronic Document, using an Electronic Document Delivery System, for the purpose of recording that document with the county records. (3-20-14)

06. Electronic Signature. The meaning shall be the same as provided in Section 31-2902, Idaho Code. (3-20-14)

07. Participating Recorder. A county recorder who has elected to accept Electronic Documents for recording. (3-20-14)

08. PDF (Portable Document Format). The file format originally created by Adobe Systems for document exchange allowing documents to be viewed as they were intended to appear. PDFs are a common format for image exchange or World Wide Web presentation. (3-20-14)

09. Submitter. A party who requests that an Electronic Document be recorded. (3-20-14)

10. TIFF (Tagged Image File Format). The variable-resolution bitmapped image format originally developed by the Aldus Corporation (now part of Adobe Systems) and published as ISO 12639:2004, Graphic technology-Prepress digital data exchange-Tag image file format for image technology (TIFF/IT). TIFF is a common format for high-quality black and white, gray-scaled, or color graphics of any resolution and is made up of individual dots or pixels. (3-20-14)

11. XML (Extensible Markup Language). An extensible document language for specifying document content. XML is not a predefined markup language but a metalanguage (a language for describing other languages) allowing the user to specify a document type definition (DTD) and design customized markup languages for different classes of documents. (3-20-14)

011. -- 100. (RESERVED)

101. ELECTRONIC RECORDING MODELS.
Electronic Documents shall conform to one of the following models: (3-20-14)

01. Model 1. Model 1, which utilizes scanned ink-signed Documents, transmitted without XML indexing data; (3-20-14)

02. Model 2. Model 2, which utilizes scanned ink-signed Documents or Documents that have been created and signed electronically, transmitted with XML indexing data; or (3-20-14)

03. Model 3. Model 3, which utilizes Documents that have been created and signed electronically,

transmitted with embedded XML indexing data. (3-20-14)

102. TRANSMITTED FILES.

01. Technical Standards for Transmitted Files. The technical standards for document formatting and data fields for Electronic Recording are those in effect at the time of the Electronic Recording as prescribed by the Property Records Industry Association (PRIA) in the PRIA eRecording XML Standard Version 2.4, which includes PRIA Request Version 2.4.2 (August 2007); PRIA Response Version 2.4.2 (August 2007); Document Version 2.4.1 (October 2007); and Notary Version 2.4.1 (October 2007). (3-20-14)

02. Guide to Be Consulted for Reference. The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2 (March 2007) should be consulted for reference. (3-20-14)

03. Storage Formats. Electronic Documents shall be transmitted and stored as either TIFF or PDF files, in accordance with the TIFF 6.0 specification, published by the International Organization for Standardization as ISO 12639:2004, Graphic technology - Prepress digital data exchange - Tag image file format for image technology (TIFF/IT), or the PDF 1.7 specification, published by the International Organization for Standardization as ISO 32000-1:2008, Document management - Portable document format - Part 1: PDF 1.7. (3-20-14)

103. DATA FORMATS.
The data format for Electronic Recordings shall meet technical standards and data fields set forth by the Property Records Industry Association (PRIA) in the PRIA eRecording XML Standard Version 2.4, which includes PRIA Request Version 2.4.2 (August 2007); PRIA Response Version 2.4.2 (August 2007); Document Version 2.4.1 (October 2007),; and Notary Version 2.4.1 (October 2007). The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2 (March 2007) should be consulted for reference. (3-20-14)

104. PARTICIPATING RECORDER.

01. Documents Accepted. A Participating Recorder is only required to accept Electronic Documents containing Electronic Signatures or notarizations that the Participating Recorder has the technology to support. (3-20-14)

02. Authentication. A Participating Recorder has no responsibility to authenticate Electronic Signatures or notarizations. (3-20-14)

105. ELECTRONIC RECORDING PROCESSING REQUIREMENTS.

01. Notice Requirements. A Participating Recorder shall provide appropriate notification to the Delivery Agent of the confirmation or rejection of an Electronic Recording through the Electronic Document Delivery System. (3-20-14)

a. A notice of confirmation shall identify and include recording information for the recorded Electronic Document. (3-20-14)

b. A notice of rejection shall identify the rejected Electronic Document and include a brief explanation of the reason for rejection. (3-20-14)

c. The Delivery Agent shall notify the Submitter of the confirmation or rejection of the Electronic Document. (3-20-14)

d. The failure of a Submitter to receive actual notice of confirmation or rejection of a recording shall not affect the validity of the confirmation or rejection. (3-20-14)

02. Contact Information. A Participating Recorder may contact a Submitter regarding an Electronic Document submitted for recording prior to sending a notice of confirmation or rejection. The Delivery Agent shall ensure that the Submitter includes telephone or email contact information with each Electronic Document submission. (3-20-14)

03. Time of Receipt. A Participating Recorder shall enter the time of receipt of Electronic Documents in accordance with Section 31-2410, Idaho Code. (3-20-14)

106. SECURITY REQUIREMENTS.

Procedures shall be implemented and maintained to ensure the security of the Electronic Document Delivery System, including the authenticity and integrity of the Electronic Documents maintained by the Participating Recorder. (3-20-14)

01. Secure Method. A Participating Recorder shall provide a secure method for accepting Documents through the Electronic Document Delivery System and for recording and maintaining Electronic Documents within the Participating Recorder's records. (3-20-14)

02. Security Procedures. A Delivery Agent shall implement and maintain security procedures for all electronic transmissions and shall be responsible for maintaining the security of the systems within their offices. (3-20-14)

03. System and Security Failures. Electronic Document Delivery Systems shall protect against system and security failures and, in addition, shall provide backup, disaster recovery and audit trail mechanisms. Delivery Agents shall provide audit trail information to Participating Recorders on request. (3-20-14)

04. Unauthorized Party. Electronic Document Delivery Systems shall not permit any unauthorized party to modify, manipulate, insert or delete information, without detection, in Electronic Documents or in the public record maintained by the Participating Recorder. (3-20-14)

05. Notification of Breach. If a breach in security is detected by the Participating Recorder, Delivery Agent or Submitter, the party discovering the breach shall notify the other parties immediately. All parties shall work cooperatively to take remedial action and to resolve any issues related to a breach. (3-20-14)

107. AGREEMENT AND PROCEDURES.

01. Participation Agreement. The Delivery Agent and the Participating Recorder shall enter into an agreement specifying the requirements for Electronic Document recording with the county. At a minimum, the agreement shall address the following items: (3-20-14)

a. Accepted Electronic Recording models; (3-20-14)

b. Accepted Electronic Document types; (3-20-14)

c. Defined technical specifications for data formats, document formats, electronic transmissions and security; (3-20-14)

d. If used by the Participating Recorder, indexing fields required for each Electronic Document; (3-20-14)

e. Electronic Signature and notarization requirements; (3-20-14)

f. Payment options for recording fees and applicable taxes; (3-20-14)

g. Hours during which Electronic Documents will be accepted and processing schedules that affect order of acceptance; (3-20-14)

h. Electronic Document acceptance and rejection requirements and procedures; (3-20-14)

i. Responsibility of the Delivery Agent to review the qualifications of each potential Submitter and to approve the potential Submitter prior to granting access to the Electronic Document Delivery System; and (3-20-14)

j. Responsibility of the Delivery Agent to enter into an agreement with each approved Submitter, in which the Submitter agrees to submit Electronic Documents for recording in accordance with all applicable state statutes and rules and to maintain the security of the systems within the Submitter's offices. (3-20-14)

02. Other Procedures and Requirements. A Participating Recorder may include in the agreement other procedures and requirements needed in order to implement fully an Electronic Recording program. (3-20-14)

03. Establishment and Posting of Procedures. A Participating Recorder shall establish procedures for Electronic Recording in the municipality and shall post the procedures in the recorder's office, on the municipality's Internet website, if available, and through the Electronic Document Delivery System, and shall make a copy of the procedures available on request. The procedures shall cover, at a minimum, the items listed above in this subsection. (3-20-14)

108. -- 999. (RESERVED)

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