

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 107, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO INSTRUMENTS; AMENDING SECTION 55-805, IDAHO CODE, TO CLARIFY THE APPLICATION AND EFFECT OF THE REVISED UNIFORM LAW ON NOTARIAL ACTS ON CERTAIN INSTRUMENTS AND NOTARIAL ACTS; AND DECLARING AN EMERGENCY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 55-805, Idaho Code, be, and the same is hereby amended to read as follows:

55-805. ACKNOWLEDGMENT NECESSARY TO AUTHORIZE RECORDING. (1) Before an instrument may be recorded, unless it is otherwise expressly provided, its execution must be acknowledged by the person executing it, or if executed by a corporation, by its president or vice president, or secretary or assistant secretary, or other person executing the same on behalf of the corporation, or if executed in the name of the state of Idaho or any county, political subdivision, municipal, quasi-municipal, or public corporation, by one (1) or more of the officers of such state, county, political subdivision, municipal, quasi-municipal, or public corporation executing the same, or if executed in a partnership name, by one (1) or more of the partners who subscribed the partnership name thereto, or if executed by a limited liability company, by the manager, member or other person executing the same on behalf of the limited liability company, or the execution must be proved and the acknowledgment or proof, certified in substantially the manner prescribed by chapter 1, title 51, Idaho Code; provided, that if such instrument shall have been executed and acknowledged in any other state or territory of the United States, or in any foreign country, according to the laws of the state, territory or country wherein such acknowledgment was taken, the same shall be entitled to record, and a certificate of acknowledgment indorsed upon or attached to any such instrument purporting to have been made in any such state, territory or foreign country, shall be prima facie sufficient to entitle the same to such record.

(2) (a) The validity of an instrument recorded prior to July 1, 2017, shall not be affected by the failure of a notary public to perform a duty or meet a requirement specified in chapter 1, title 51, Idaho Code. Such a failure does not invalidate a notarial act performed by the notary public.

(b) The validity of a notarial act complying with the provisions of chapter 1, title 51, Idaho Code, does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking remedies authorized by federal or state law other than the provisions of chapter 1, title 51, Idaho Code.

(c) This subsection does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts.

1           SECTION 2. An emergency existing therefor, which emergency is hereby  
2 declared to exist, this act shall be in full force and effect on and after its  
3 passage and approval.