TRANSACTIONAL TRACK
Real Estate

1:30 p.m.- 2:45 p.m.

Presented by
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Introduction to Iowa Residential Real Estate Transactions

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I. Purchase Agreements

A. Overview of the purchase agreement and required disclosures

1. The terms. See handout.
2. Common mistakes.
3. Conflict of interests. In Iowa, an attorney cannot represent both the buyer and seller in the same transaction without a written waiver of the conflict of interest.¹ Neither the Courts nor the Iowa Bar Association have approved a particular form, but the included waiver is a form developed to follow the current law. (See Exhibit 1.)

B. Advising sellers

Goal of meeting: To understand the clients’ intended transaction and to equip them with the knowledge and documents needed to get started with selling their real estate.

¹ See Iowa Rule of Professional Conduct 32.

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1. **Information gathering.**
   a. Name(s), current address, phone number, e-mail, and SSN;
   b. Address of real estate being sold if not the same;
   c. Length of time they have owned the real estate (2 years during the last 5 to avoid cap. gains);
   d. Forwarding address;
   e. Status of next transaction; implications for the sale;
   f. What has been done so far;
   g. Time frame for selling the real estate;
   h. Special considerations (e.g., spouse leaving the country tomorrow; divorce).

2. **Overview of the process.**

3. **Methods of setting the price for the real estate.**

4. **Projecting the net proceeds.** *(See Exhibit 2.)*
   $__________________ Sales price
   Less
   $__________________ Mortgage payoff(s)
   $__________________ Property taxes (approx. 1 year)
   $__________________ Abstracting
   $__________________ Transfer tax
   $__________________ Attorney fees
   $__________________ Realtor’s commission (if any, not adjusted for closing cost credit)
   $__________________ Credit (if any) for buyers’ closing costs
   $__________________ Wire transfer / overnight for payoff
   Equals
   $__________________ Projected net proceeds

5. **Required disclosures.**
   a. Residential sellers’ disclosure

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b. Lead paint

c. Radon

C. Advising buyers

Goal of meeting: To understand the clients’ intended transaction and to equip them with the knowledge and documents needed to get started with buying real estate, especially how to work with lenders.

1. Information gathering.
   a. Name(s), current address, phone number, e-mail, and SSN;
   b. Address of real estate being purchased;
   c. Status of negotiations;
   d. Contingencies needed – E.g., financing (the interest rate as floor or ceiling, what “pre-approval” means and does not mean) and sale of existing real estate (status?)
   e. Special considerations (e.g., spouse leaving the country tomorrow; divorce).

2. Overview of the process.

3. Review of purchase agreement and required sellers’ disclosures.

4. Introduction to financing the transaction.
   a. How to select a lender and the lost value of prudence;
   b. The good faith estimate;
   c. Review the settlement statement 24 hours prior to closing;
   d. What to expect in the closing.
II. Installment Contracts

Discuss with Sellers the risks of selling real estate by installment contract (e.g., forfeiture vs. foreclosure; and the lack of information about the prospective buyers).

A. Overview of the installment contract

1. Documents needed.
   a. Installment contract (be sure to clarify the rights of payment and forfeiture);
   b. Escrow for deed and abstract agreement (See Exhibit 3.);
   c. Warranty deed in fulfillment of contract.

2. The process.
   a. Title work. If the intended sellers are themselves buying the real estate on contract, you need to review their underlying contract to verify their ability to enter into this contract and whether there would be any barriers to providing clear title when the new contract balloons.
   b. Draft the documents.
   c. Closing the transaction. Note that the contract must be recorded within 90 days of execution.\(^2\)

   Practice pointer. Transfer tax is not paid until the deed is recorded. Show the amount on the settlement statement for reference.

III. Drafting warranty deeds

A. Overview of the warranty deed

1. The terms. See Exhibit 4 for a warranty deed form.

2. Common mistakes.

3. Notary forms. 9B.16. Short forms

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\(^2\) See Iowa Code § 558.46. Failure to record within 90 days results in a fine of not to exceed $100 per day and the loss of forfeiture as a remedy.
The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9B.16, subsection 1. Note that the acknowledgement should not recite the marital status as this is not something required under Iowa Code § 9B.5. The Bar form for the warranty deed has recently been modified to remove the recital of marital status.

1. For an acknowledgment in an individual capacity:

State of ___________________________
(County) of ________________________

This instrument was acknowledged before me on ________ by ___

_______________________________
(signature of notarial officer)
(Seal, if any)                       _______________________________
Title (and Rank)
[My commission expires: ___]

2. For an acknowledgment in a representative capacity:

State of ___________________________
(County) of ________________________

This instrument was acknowledged before me on (date) by (name(s) of person(s)) as (type of authority, e.g., officer, trustee, etc.) of (name of party on behalf of whom instrument was executed).

_______________________________
(signature of notarial officer)
(Seal, if any)                       _______________________________
Title (and Rank)
[My commission expires: ___]
IV. Overview of title examination
   A. Preliminaries

   1. The attorney’s attitude in examining abstracts of title. Iowa Land Title Standard 1.1 provides:

   Standard: The purpose of the examination of title should be to secure a title for the examiner’s client which is in fact marketable and which is shown by the record to be marketable, subject to no encumbrances other than those expressly provided for by the client’s contract. Objections and requirements should be made only when the irregularities or defects can reasonably be expected to expose the purchaser or lender to the hazard of adverse claims or litigation. To render the title to land unmarketable, there must be a reasonable probability of litigation. The mere bare possibility or remote probability that there may be litigation with respect to the title is not sufficient to render it unmarketable.

   Comments: Title Standards are primarily intended to eliminate technical objections which do not impair marketability and some common objections which are based upon misunderstandings of the law. The examining attorney, by way of a test, may ask after examining the title what defects and irregularities have been discovered by the examination and, as to each such irregularity or defect, who, if anyone, can take advantage of it as against the purported Owner and to what end. The examining attorney should be prepared, prior to objecting to title, to identify who would have standing to file a claim or commence good faith litigation challenging title, and the grounds for such claim or litigation.

   2. Anatomy of an abstract. An abstract will include a caption, abstracted entries, certifications for each continuation showing no gaps in the periods searched, and addendum entries. Under the Marketable Title Act, abstractors may produce abbreviated abstracts.

   3 See Iowa Code § 614.29-.38.
3. **Legal description.** The legal description should sufficiently describe what property is being conveyed. (A conveyance using an insufficient legal description is considered void for uncertainty.) If you have a metes and bounds description in the caption, you should be able to draw a diagram of the property. See handout. Express the legal description in as simple a form as possible to reduce the likelihood of scrivener errors. It is a good practice to read metes and bounds descriptions aloud with someone else to compare the captioned legal description from the most current continuation with the legal description used in the title opinion. In addition, legal descriptions using a plat of survey and condominiums have particular forms that need to be observed. Encourage the use of plat of survey legal descriptions over metes and bounds descriptions.

4. **Pencil notes.** Some abstractors prepare a continuation by photocopying the documents that have been filed since the last continuation and then abstracting all the documents after the closing. Be aware that pencil notes are not an abstract. Some attorneys will photocopy or scan the pencil notes to document what they examined when rendering a preliminary title opinion given the fact that those pencil notes will no longer be accessible. The attorney should reserve the right to re-examine the abstract once the pencil notes have been incorporated in the abstract.

5. **Taking notes.** See the separate handout for an example of how notes may be taken. Good notes will be invaluable when there are questions about your work in the future. As you take notes, avoid being sidetracked with researching issues that may in fact be resolved later in the abstract. If you do have a title objection, take thorough notes for future reference and make photocopies of abstract entries if needed.

**Practice pointer.** The 40-year chain of title is a requirement for all real estate described in the caption. If real estate is added to the caption (e.g., a city vacating an alley), the abstract must include a root of title for that additional real estate if a title opinion is to be rendered on all of the real estate being conveyed. (Pursuant to Iowa Code § 364.7, a conveyance of an interest in real estate from a municipality requires a

4 See the Marketable Title Act (Iowa Code § 614.29-.38).

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showing of (1) the resolution of the city council to sell the property, (2) proof of
publication of the notice, and (3) the resolution of the council following the hearing.) To
obtain a Title Guaranty policy, the legal description used in the appraisal and the title opinion must agree. Thus, if an 8-foot strip from a vacated alley does not affect the property value, then the owner could forego adding the root of title to the abstract for the 8-foot strip. (This is not recommended because the buyers are provided with an abstract that does not cover all of the real estate being conveyed, probably contrary to the purchase agreement.) Conversely, if a garage now sits on the 8-foot strip, this will likely require consistency between the title work and the appraisal.

Practice pointer. Be aware that some abstractors exclude land used for public highways from the legal description based on the mistaken belief that a lien search would be required against the government entity that has the road rights. It is unnecessary to perform a lien search against entities holding only an easement interest because liens do not attach to easement interests. Once the abstractor has excepted the road from the legal description, it is a simple matter for the defective legal to be used as the legal description for subsequent conveyances, thereby leaving the grantors owning real estate used for road purposes. This often requires corrective deeds from people long removed from the property.

Practice pointer. Generally, only abstractors should write in an abstract. Some attorneys will indicate the particular lot in an easement entry or underline spelling errors. In the event errors are discovered in the abstract, it is a better practice to bring them to the attention of the abstractor and have the entry amended by an abstractor’s certified amendment. The abstractor should not modify an abstract without informing the examining attorney.

Practice pointer. Make sure that when you refer to the legal description of an abstract that you use the legal description from the most recent continuation. There may have been changes to the legal description over time that are not reflected in the cover page.
Practice pointer. An attorney who wishes to develop an abstract examination practice should maintain a computer-based abstract log that records the details of abstracts entering and leaving the office. See Exhibit 5 for a sample abstract log sheet.

Practice pointer. You are encouraged to develop a 3-ring binder to maintain your set of the Iowa Title Standards. This will allow you to organize relevant cases, statutory sections, etc., along with the appropriate Title Standard. The Title Standards are available on the Iowa Bar website (www.iowabar.org).

B. Title opinion letter forms.

1. Attorneys should draft title opinions that are well organized (e.g., using headings); such title opinions assist lenders, realtors, and other attorneys in resolving title defects. Entries should provide enough information (i.e., the recording date and book and page or instrument number, or case number) so that another attorney could obtain necessary documents or communicate with a recorder about a recorded document or a clerk of court about a referenced case conveniently. Be generous with suggestions about how to address title defects.

2. A computer form will serve as a checklist for drafting the title opinion. See Exhibits 6 and 7 for sample forms of preliminary and final title opinions. A reference of other paragraphs is helpful for objections that are less common. See Exhibit 8 for other sample paragraphs.

Practice pointer. You should have a well-organized database on your computer for accessing your title opinions. Some attorneys use a numerical indexing system; others create folders on their computer desktop for each lender, and within each lender’s file, organize by year. Regardless of the system, be organized so that if you receive a telephone call regarding a title opinion, you can quickly access it.
C. Issues relative to particular entity ownership

1. Partnerships. Conveyances from partnerships are governed by Chapter 12 of the Title Standards. Title Standard 12.1 (Revised March 2014) states:

Real property acquired by a partnership and held in the partnership name may be conveyed only in the partnership name. Any conveyance from the partnership so made and signed by one or more members of the partnership, which conveyance appears to be executed in the usual course of partnership business, shall be presumed to be authorized by the partnership in the absence of knowledge of acts indicating a lack of authority and the recitals in the instrument of conveyance shall be accepted as sufficient evidence of such authority.

See also Title Standard 12.2. Title Standard 10.7 was revised March 2014 as follows:

To what extent may Iowa Code § 614.14A be relied upon as a statute of limitations to bar claims seeking to invalidate a deed or real estate contract by a corporation, limited liability company, partnership, cooperative or association based on the allegation that the execution of the instrument was not authorized by the entity?

Standard:

If a deed or real estate contract was recorded prior to July 1, 2013, an action seeking to invalidate the instrument based on the allegation that it was not authorized by the entity is barred after June 30, 2018.

If a deed or real estate contract was recorded on or after July 1, 2013, an action seeking to invalidate the instrument based on the allegation that it was not authorized by the entity is barred after two years from the date of recording of the instrument.
2. **Corporations.**
   
a. Authority to convey. There is a presumption that a corporation is authorized to convey real estate.\(^5\) However, if the abstract reports the articles of incorporation, the examining attorney should note any limitations on the authority to convey real estate.\(^6\)
   
b. Foreign corporations. No additional showing is required.\(^7\)
   
c. Corporate seals. For a corporation having a seal, it may, but need not be attached to the deed.\(^8\) A deed does not need to recite that a corporation does not have a seal.\(^9\)

3. **Limited liability companies.**
   
a. Prior to the recent changes to the Iowa Code Chapter 489, limited liability companies were treated the same way as corporations for conveying real estate. Title Standard 15.3 has been revised as follows:

### 15.3 PROBLEM:  

**Rev. 3/14**

If an instrument affecting real estate is executed by a limited liability company, is it necessary to obtain a showing from its certificate of organization, operating agreement, or a duly authorized company resolution that the individual who executed the instrument was authorized to do so?

### STANDARD:

**NOTE:** There are two standards that follow. Because of substantive Iowa Code amendments that became effective on July 1, 2013, there is a standard applicable to instruments executed on or after July 1, 2013, and a different standard applicable to instruments executed prior to July 1, 2013.

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\(^5\) Title Standards 3.1 and 3.3.

\(^6\) *Id.*

\(^7\) Title Standard 3.2.

\(^8\) Iowa Code § 558.2.

\(^9\) Iowa Code § 558.3.
FOR INSTRUMENTS EXECUTED ON OR AFTER JULY 1, 2013:

No. However, if the limited liability company’s certificate of organization, operating agreement, statement of authority or a duly authorized company resolution are shown in the abstract, the examiner is bound to take notice of any limitations contained in any such documents with respect to the powers of the individual to execute the instrument on behalf of the company.

Authority:
Iowa Code § 489.407 (2013)
2013 Iowa Acts (85 G.A.), ch. 108, § 4 (to be codified as Iowa Code § 489.407A)
2013 Iowa Acts (85 G.A.), ch. 108, § 5 (to be codified as Iowa Code § 558.72)

FOR INSTRUMENTS EXECUTED PRIOR TO JULY 1, 2013:

Real property acquired by a limited liability company ("LLC") and held in the LLC name may be conveyed only in the LLC name. Any conveyance from an LLC that is managed by its members so made and signed by a majority of the members and containing a recitation that the conveyance is being made in the ordinary course of the LLC’s business or affairs shall be presumed to be authorized by the LLC in the absence of knowledge of acts, facts, or restrictions indicating a lack of authority. Any conveyance from an LLC that is managed by managers so made and signed by a majority of the managers and containing a recitation that the conveyance is being made in the ordinary course of the LLC’s business or affairs shall be presumed to be authorized by the LLC in the absence of knowledge of acts, facts, or restrictions indicating a lack of authority.

The record must disclose: (1) whether the LLC is member-managed or manager-managed; (2) whether the conveyance is in the ordinary course of LLC’s business or affairs; and (3) the authority of the signer to act on behalf of the LLC.

Absent actual or constructive knowledge to the contrary, and unless a properly filed and recorded Statement of Authority contradicts any of the following showings, evidence of the foregoing matters may be provided of record by one or more of the following: (a) the LLC’s written operating agreement; (b) a duly filed and recorded Statement of Authority; (c) an affidavit signed by a person with knowledge; or (d) a recitation contained in the instrument of conveyance (including the acknowledgement of such instrument). Any instrument of conveyance signed by the person or persons (whether members, managers, or officers) so authorized of record shall be presumed to be authorized by the LLC. If the transaction is not in the ordinary course of business, the consent of all members is required.

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Authority:

COMMENT:


Real property acquired by a limited liability company ("LLC") and held in the LLC name may be conveyed only in the LLC name. An LLC may be either member-managed or manager-managed. An instrument of conveyance on behalf of an LLC is authorized either: (a) as provided in the operating agreement, (b) as provided in a statement of authority filed with the Secretary of State and county recorder, or (c) with consent of all members in a member-managed LLC or consent of a majority of all managers in a manager-managed LLC. 2013 Iowa Acts (85 G.A.), ch. 108, § 4 (to be codified as Iowa Code § 489.407A).

One of the 2013 amendments was the addition of statutory warranties providing that an instrument of conveyance from an LLC, unless clearly and conspicuously provided to the contrary in the instrument, includes a warranty to the transferee by the person executing the instrument that the person executing the instrument has been duly authorized by the LLC and has the legal capacity to execute the instrument. 2013 Iowa Acts (85 G.A.), ch. 108, § 5 (to be codified as Iowa Code § 558.72). The title examiner may rely upon the statutory warranties as if such warranties were set forth in writing in the conveyance instrument itself.

2013 Iowa Acts (85 G.A.), ch. 108, § 6 (to be codified as Iowa Code § 614.14A) provides a statute of limitations barring claims seeking to invalidate a deed or real estate contract by an LLC based on the allegation that the execution of the instrument was not authorized by the LLC. See Title Standard 10.7 and Comment.

b. Foreign limited liability companies. No additional showing is required.10

10 Title Standard 15.2.
4. Municipal corporation,¹¹ a county,¹² or school district.¹³
   a. Required showing. The following must be shown of record:
      1) The resolution to sell the property,
      2) Proof of publication of the notice, and
      3) The resolution of the entity following the hearing.

5. Trusts. Unlike conveyances from a corporation or limited liability company, a deed executed by a trustee must be accompanied by affidavits from both the grantor and grantee pursuant to Iowa Code § 614.14. See Exhibits 9 and 10 for forms. Section 616.14(7) was recently added to resolve a division of opinion as to the effect of a conveyance to a trust rather than a trustee. Subsection 7 states: “An interest in real estate currently or previously held of record by a trust shall be deemed to be held of record by the trustee of such trust.”

   Practice pointer. Some lenders are not accustomed to loaning money where a trustee owns the real estate. Hopefully this will change over time, especially as people increasingly use trusts in their estate planning. However, in the meantime, lenders may ask for the real estate to be conveyed from the trustee to the individual (often the settlor), before giving the new mortgage, and then re-convey the real estate to the trustee. Borrowers should be advised that the return conveyance may violate the terms of a due-on-sale clause in the mortgage, and therefore they should obtain written permission from the mortgagee to make the transfer back to the trustee. (This principle applies to parallel conveyances in and out of any entity.) If the lender will loan money to the trustee, they may have for an attorney to review the trust to verify that the trustee has the right to loan money and give a mortgage. The better practice is to use a Certification of Trust as provided by Iowa Code § 633A.4604. See Exhibit 11.

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¹¹ Iowa Code § 364.7. See also Marshall §§ 17.2(c) and 17.2(c)(2) and Title Standard 2.1.
¹² Iowa Code § 331.361.
¹³ Iowa Code § 297.22 et seq.
6. **Churches.** It is prudent to require a showing of the authority of those acting on behalf of a church or other religious organization when conveying real estate.\(^\text{14}\) An affidavit is provided at Exhibit 12.

**D. Marital property conveyancing.**

1. **Marital status.** A deed needs to recite the marital status of individual grantors. *See* Title Standard 5.3. If the deed was recorded over ten years ago without a recital of the marital status, no further showing is required unless a suit has been commenced or a claim has been filed in accordance with Iowa Code § 614.15. An affidavit verifying the marital status of the grantors is included as Exhibit 13. The marital status of the mortgagor(s) must also be shown on a new mortgage.\(^\text{15}\) A similar affidavit is included as Exhibit 14.

2. **Conveyance by power of attorney.** A conveyance by a person on behalf of their spouse by virtue of a power of attorney no longer needs to recite the legal description of the real estate if the real estate is their homestead property.\(^\text{16}\) However, there should be a recital that the spouse is alive and, if the power of attorney is not durable, a recital that the spouse is not under disability.

**E. Conveying real estate in the course of a dissolution of marriage.**

1. **Conveying real estate before the decree is entered.** When a couple is going through a dissolution of marriage, a deed must recite that the grantors are husband and wife until the dissolution decree is entered. It is prudent to provide two notary sections in such a situation to facilitate different occasions for signing.

2. **Dissolution decrees as muniments of title.** A dissolution decree may serve as a muniment of title. However, dissolution decrees vary as to whether the decree itself serves as a muniment of title or whether it requires a quit claim deed. This raises the question for title examiners of whether to require the prescribed quit claim deed

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\(^{14}\) *See* Marshall § 4.7.
\(^{15}\) *See* the comment to Title Standard 5.3.
\(^{16}\) *See* Iowa Code § 561.13.
or rely on the dissolution decree as a muniment of title where the quit claim deed has not been filed. A safer approach is to require the quit claim deed if there is any ambiguity because the decree contemplates an additional step. Note that the description of the marital property used in the dissolution decree should be the legal description rather than the street address of the property. If the dissolution decree inadvertently uses the street address, an order *nunc pro tunc* will resolve this. *See* Exhibit 15.

3. **Sample language for a dissolution decree as a muniment of title.**

The following is standard language for a dissolution decree where the decree serves as a muniment of title:

That pursuant to Section 598.21(11), Code of Iowa, the Court hereby orders a transfer of title in favor of <>, the Petitioner<>Respondent<>, to the following described real property located in <> County, Iowa:

If the decree is not conveying the real estate to one of the parties, but is instead converting the joint tenancy to tenancy in common, use the following language:

That pursuant to Section 598.21(11) Code of Iowa, the Court hereby orders a transfer of title in favor of <>, the Petitioner, and <>, the Respondent, as tenants in common, to the following described real property located in <> County, Iowa:

<legal description>

The Clerk of Court shall issue a title certificate under Chapter 558 relative to said real estate and deliver the same for recording to the County Recorder of <> County. The County Recorder shall deliver the certificate to the County Auditor as provided in Section 558.58(1), Code of Iowa. *See* Iowa Code § 598.21(11), Code of Iowa.

4. **Dissolution decrees which require a conveyance.**

a. **No transfer tax due.** When the Court requires that a quit claim deed be used to convey the real estate, remember that no transfer tax, Declaration of Value, or Groundwater Hazard statement is required where the following recital occurs in the body of the deed: This deed is given pursuant to a dissolution of marriage and is therefore exempt under §428A.2(16).
b. **The effect of a quit claim deed for a judgment holder.** A quit claim deed given by a judgment holder for alimony or child support can create a question of whether the deed extinguishes the lien since it conveys all the grantor’s interest in the real estate. For example, a decree requires Jane Doe to convey her interest by quit claim deed; John Doe owes her a monthly alimony obligation. Although every unpaid monthly payment creates a new judgment lien, the quit claim deed from Jane Doe should specifically recite that the conveyance is subject to the lien created by the decree. The recital in the body of such a quit claim deed should use the following language:

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This deed is given subject to that certain alimony / child support lien created in <> County Case No. <> by an Order dated <> and any amendments thereto.
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If the quit claim deed is silent on the judgment lien, I still require a release from the judgment holder.

5. **Judgments.**

a. **Judgments in general.**

1) **Judgments as title objections.** This is one of the most common objections raised. The following paragraph can be used when identifying a judgment:

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Enter No. <> reports a judgment in favor of <> against <> entered on <> in <> Case No. <>, in the initial amount of $<> plus interest and costs. Unless the defendant named is not the same as the titleholder shown above<> Upon recording of the deed to the proposed grantee (unless the defendant named is not the same as the grantee) this will constitute a lien against the real estate which must be paid.<> You are advised to check with the Clerk of Court prior to closing to determine the correct amount of the judgment and the amount of any court costs which may be payable.
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Be sure to sufficiently describe the judgment so that others can respond to the objection. If the judgment is actually for someone other than a titleholder or an intended titleholder, an affidavit of identity will satisfy the objection. *See* Exhibit 16. It is preferred to have a
third party sign the affidavit to avoid having a self-serving affidavit, but this varies with local practices.

b. **Judgments and homestead.** Judgments do not attach against homestead property. Iowa Code § 561.4 provides a means of platting the homestead in order to establish of record that certain real estate should be considered homestead property. In addition, subsection b of Iowa Code § 624.23(2) was rewritten to read as follows:

b. A claim of lien against real estate claimed as a homestead is barred unless execution is levied within thirty days of the time the defendant, the defendant's agent, or a person with an interest in the real estate has served written demand on the owner of the judgment. The demand shall state that the lien and all benefits derived from the lien as to the real estate alleged to be or to have been a homestead shall be forfeited unless the owner of the judgment levies execution against that real estate within thirty days from the date of service of the demand. The demand shall contain an affidavit setting forth facts indicating why the judgment is not believed to be a lien against the real estate. A warranty of title by a former occupying homeowner in a conveyance for value constitutes a claim of exemption against all judgments against the current homeowner or the current homeowner's spouse not specifically exempted in the conveyance. Written demand shall be served in any manner authorized for service of original notice under the Iowa rules of civil procedure or in a manner provided in section 654.4A, subsections 1 through 3. A copy of the written demand and proof of service of the written demand shall be filed in the court file of the case in which the judgment giving rise to the alleged lien was entered.

c. A party serving a written demand under this subsection may obtain an immediate court order releasing the claimed lien by posting with the clerk of court a cash bond in an amount of at least one hundred twenty-five percent of the outstanding balance owed on the judgment. The court may order that in lieu of posting the bond with the clerk of court, the bond may be deposited in either the trust account of an attorney licensed to practice law in this state or in a federally insured depository institution, along with the restriction that the bond not be disbursed except as the court may direct. A copy of the court order shall be served along with a written demand under this subsection. Thereafter, any execution on the judgment shall be against the bond, subject to all claims and defenses which the moving party had against the execution against the real estate, including but not limited to a lack of equity in the property to support the lien in its proper priority. The bond shall be released upon demand of its principal or surety if no execution is ordered on the judgment within thirty days of completion of service of the written demand under this subsection.
See Baratta v. Polk County Health Services, Inc., 588 N.W.2d 107, 114 (Iowa 1999) (holding “We find that the purpose of the enactment of subsection two of Iowa Code §624.23 was not to change prior law on the effect of judgment liens upon homestead rights, but to provide a simplified procedure for homestead owners to clear the title of their homesteads from any recorded judgments against them which may cloud title to the property.”) See Exhibit 17 for a Notice of Homestead Designation and Demand to Levy.

c. **Judgments and purchase money mortgages.** Iowa Code §654.12B provides that “[t]he lien created by a purchase money mortgage shall have priority over and is senior to preexisting judgments against the purchaser and any other right, title, interest, or lien arising either directly by, through, or under the purchaser.” The mortgage needs to recite that it is given as a purchase money mortgage. One of the risks associated with relying on this provision is that it is a protection where “the funds are in fact so used” for the purchase of real estate. Arguably, if the loan exceeds the amount needed to purchase the homestead real estate (e.g., a duplex where half of the building is going to be for income purposes), a judgment holder may assert its judgment has priority over the mortgage. The closing agent should verify the use of the funds where the purchase money mortgage protection is sought. The following language should be used in the title certificate:

> It is my opinion that the above-described lien is subordinate to the mortgage you intend to issue a Title Guaranty Certificate upon. This is because the mortgage is marked “purchase money mortgage” and because all of the funds advanced upon this mortgage were actually used to purchase the property or to pay for the costs in connection with the purchase. Purchase money mortgages are superior to liens against the purchaser pursuant to Iowa Code Section 542.12(B).

d. **Judgments and the supersedeas bond.** If the abstract shows a judgment against the title holder, but an appeal has been filed, it is important to note that filing a *supersedeas* bond *does not* allow the debtor to convey the real estate free of the judgment.

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17 See Iowa Code § 654.12B(2).
18 See Title Standard 6.6.
6. Child support and alimony judgments.

a. The duration of the lien. As a reminder, a judgment remains a lien for 10 years against property owned by the judgment debtor. A pitfall to avoid is to assume that there could not be a lien for child support where the child is over age 18. Read the decree carefully. The following paragraph can be used when identifying a child support or alimony obligation:

<> Entry No. <>, in which a judgment was entered on <>, in favor of <>(the Petitioner<> Respondent<> against <>(the Petitioner<> Respondent<> for child support<> alimony<> and other matters. I require the judgment holder, <>, file an Affidavit which acknowledges receipt of all child support and other judgment payments due under the decree of Dissolution up to and including the date upon which your deed and/or mortgage is recorded. You are advised to check with the Clerk of Court prior to closing to determine the amount of any court costs which may be payable.

b. Calculating the amount owed. Temporary payment obligations are not liens where a final decree has been entered and incorporates the temporary judgment into the final decree. Future unpaid installments of alimony or child support obligations are not liens against the judgment debtor’s real estate.\(^1\) Thus, where the entry showing the dissolution allows, the examining attorney should calculate the amount owed (not prorated to the closing date) and compare it to the amount paid. If the judgment debtor is current, no lien exists. I recommend that the following paragraph be used in a title opinion in this situation so as to alert the parties to the obligation in the event the closing does not take place in the month anticipated:

<> Entry No. <>, in which a judgment was entered on <>, in favor of <>(the Petitioner<> Respondent<> against <>(the Petitioner<> Respondent<> for child support<> alimony<> and other matters. I have calculated that the total amount owed through <month, year> is $<> (<month> x $<> per month). The Entry reports that $<> has been paid. Thus, there is no lien due if the closing takes place by the end of said month and year. You are advised to check with the Clerk of Court prior to closing to determine the amount of any court costs which may be payable.

In the event the closing is delayed, you are reminded that unpaid alimony or child support obligations become a lien against the real estate. This will necessitate

\(^{1}\) See Slack v. Mullenix, 66 N.W.2d 99 (Iowa 1954).
verification of the additional payments or requiring the judgment holder, <>, file an Affidavit which acknowledges receipt of all child support and other judgment payments due under the decree of Dissolution up to and including the date upon which your deed and/or mortgage is recorded.

c. **Obtaining a release.** If the judgment debtor is not current or the payment record is not accessible, the judgment debtor will need to sign a release. *See* Exhibit 18.

If the status of the obligation cannot be determined and the judgment holder refuses to sign a release, the parties may need the Court to resolve the dispute.

Also, consider whether the purchase money mortgage protection applies. Given the frequency of this problem, remind judgment debtors to pay through the clerk of court and encourage family law attorneys to draft dissolution decrees that allow for verification of compliance by payment records.

d. **Iowa Child Support Recovery Unit.** If the judgment has been assigned to the Unit, a release will need to be obtained from them. This can sometimes prove difficult, especially if time is an issue. You will want to make sure that the party with the judgment arranges for a showing of record that the judgment has been satisfied.

e. **Child support for post-secondary education.** When child support for post-secondary education is required, a release from the adult child is needed. The following language may be used in the title opinion:

```
<> Entry No. <> reports Dissolution of Marriage Case No. <>, in which a judgment was entered on <> in favor of <> (a child whose date of birth is <>), against <> (the Petitioner<>Respondent<>), for support for post-secondary education pursuant to Iowa Code § 598.1. Iowa Code § 598.1(8) indicates that this obligation may be required for educational expenses of a child who is between the ages of eighteen and twenty-two years if the child is regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or community college; or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.
```
I require the judgment holder, <>, to file an Affidavit which acknowledges receipt of all support for post secondary education due under the decree of Dissolution up to and including the date upon which your deed and/or mortgage is recorded.

f. Conveyance by warranty deed by both parties. If a dissolution decree leaves John Doe and Jane Doe as tenants in common and also creates a judgment in favor of one of them, a warranty deed from both conveys all of their interest in the real estate – including the lien. No specific release is required. However, a judgment for court costs or attorney fees would remain as a lien.

7. Property distribution. Occasionally a dissolution decree will require one of the parties to make installment payments towards a property distribution. For example, John Doe owes $10,000 to Mary Doe, with monthly payments of $500 beginning the month after the entry of the decree. This looks very similar to a child support or alimony obligation and it would seem reasonable to only have the judgment debtor current on monthly payments. However, the entire amount of the property settlement, because of the certainty of the amount owed, is a lien against the real estate and must be satisfied.\(^{20}\) In the alternative, the judgment holder can release the property from the lien without satisfying the judgment. See Exhibit 19 for such a release.

8. Attorney fees and court costs. Note whether the judgment debtor is also responsible for the attorney fees of the judgment holder. In addition, court costs also constitute a lien which must be satisfied.

F. Decedent’s estates

1. Initial step. Chapter 9 of the Title Standards determines what showing is needed for a given estate situation. The first task is to determine the factual background of the conveyance (e.g., the date of death and whether the real estate is being conveyed by an executor, surviving joint tenant, or heir) and then follow the standards.

\(^{20}\) See Marshall § 10.3.
2. **Showing nonliability for taxes.** Depending on the situation, there may be a need for a showing of nonliability for Iowa inheritance taxes, Iowa estate taxes, or federal estate taxes. *See* Exhibit 20 for a form where the affiant represents the estate falls under the exclusion amount in the absence of a probate inventory. The exclusion amounts needed for drafting the affidavit follow:

<table>
<thead>
<tr>
<th>Year of death</th>
<th>Applicable exclusion amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004 and 2005</td>
<td>$1,500,000</td>
</tr>
<tr>
<td>2006 to 2008</td>
<td>$2,000,000</td>
</tr>
<tr>
<td>2009</td>
<td>$3,500,000</td>
</tr>
<tr>
<td>2010 and 2011</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>2012</td>
<td>$5,120,000</td>
</tr>
<tr>
<td>2013</td>
<td>$5,250,000</td>
</tr>
<tr>
<td>2014</td>
<td>$5,340,000</td>
</tr>
</tbody>
</table>

3. **Authority of executor.** In order for an executor to convey real estate on behalf of the estate, the abstractor must show that the executor had the authority to convey the real estate – either by the will authorizing the executor to convey real estate without obtaining court approval or by the executor receiving authority from the Court to convey the real estate. Note that conveyances that have been recorded longer then ten years ago, even if the fiduciary lacks court approval, are considered valid.²¹ *See* Title Standard 9.12 for the requirements of what must be shown as to tax liability.

**Practice pointer.** You will want to determine local standards as to an adequate showing of death in the abstract, whether by death certificate or an affidavit.

### G. Estate planning concerns

1. **Ownership.** As an examining attorney, you will occasionally discover information that has implications for a titleholder’s estate planning. Be cautious

²¹ Iowa Code § 589.11.
in giving estate planning counsel in your title opinion. There is simply not enough
information in the abstract to properly advise someone about their estate plan. For
example, you render a preliminary title opinion where John Doe holds title. In the next
entry, a mortgage is given by both John Doe and Mary Doe, Husband and Wife, yet they
do not own the real estate as joint tenants. Resist the temptation to offer advice that a
joint tenancy should be created. Certainly it is a possibility that this is what they should
do, but there may be very legitimate reasons why they do not own the real estate jointly.
At the most, you should counsel people to seek legal advice as to how they hold title.
Conversely, when you are doing estate planning with a couple, you should verify how
they hold title beyond the clients’ own opinion. If you fail to verify how title is held, you
may find yourself with an angry client when he or she learns that they owned their real
estate as tenants in common and now needs to probate the estate of the deceased spouse.

2. **End of life issues.** Most adults, but particularly clients with failing
health, should have durable powers of attorney in place that nominate individuals or
institutions to act on their behalf in the event they are disabled by accident or illness.
There may be situations where conveying real estate with the goal of avoiding probate is
in order, but there are risks inherent with assuming that people will die in a particular
order.

3. **Tax planning.** Your clients should understand the tax implications
of how they own their real estate. This is particularly true with respect to investment
property and agricultural property. Clients with investment property should consider
deferring gains with the use of tax-deferred exchanges.

H. **Abstract review**

Once you have determined that you have an acceptable abstract, the
examination can begin. Many attorneys want an abstract that has been continued to
within 30 days of the closing, although that is not a firm rule, especially where a lender
intends to have a lien search performed when filing the new mortgage and/or deed. What
follows are additional areas for an attorney to keep in mind when examining an abstract.

Residential real estate transactions, p. 24
1. **Chain of title.** Verify that you have a continuous chain of title for at least 40 years. Be sensitive to changes of the names of individuals and entities and account for any partial interests in the real estate.

   a. **Variation of entity name.** Conveyances and mortgage releases by entities routinely vary. Title Standard 3.4 allows for minor variation (e.g., use or nonuse of “company” or “incorporated”; the interchange of “&” and “and”) and the inclusion or omission of the location of the entity. If the variation is too large to ignore, then there should be recitals which show the relationships (e.g., First World Universal Bank, Inc., f/k/a Hometown Savings Bank, Inc.). Before trying to obtain a corrective document, consult with the local abstractors to determine whether an affidavit has already been filed in the county which explains the name variation.

   b. **Variation of individual name.** Chapter 8 of the Title Standards provides direction for different situations involving variations in individual names. *Minor variations that do not rise to the level of an objection are* (1) surnames that are spelled differently, but sound the same (8.1); (2) inclusion or omission of a middle initial (8.2); abbreviation or spelling out of a name (8.3); (3) variations between a name in the body of a deed and how it is signed where the acknowledgment agrees with either (8.6); and (4) inclusion or omission of descriptive phrases and words (e.g., Jane Doe, wife of John Doe, or Dr. or Mr.) (8.7). *Variations that are objectionable are* (1) changes due to marriage (and by implication divorce) (8.4); and (2) variations in designations such as “Jr.” and “Sr.” where questions of identity are raised (8.7). Resolution of these objections may be by reliance on recital in a conveyance (e.g., Jane Doe, f/k/a Jane Smith) (8.5), affidavits of identity which state the maker’s knowledge in the transaction (8.8), or affidavits of possession under Iowa Code § 614.17A where 10 years have passed since the discrepancy (8.10).

2. **Mortgages.** Some examining attorneys recite the amount secured by the mortgage; this is unnecessary, but helpful to confirm the extent of the known mortgages. All mortgages must be released, subordinated, or assumed. A common problem is for releases to be from the wrong entity. This is usually remedied by the use
of an assignment or a new release. A defective release filed over 10 years ago is considered valid pursuant to Iowa Code § 589.8. Remember that a mortgage is unenforceable if 10 years have elapsed since the maturity date or if 20 years have elapsed where the maturity date is not shown. A second mortgage will sometimes be subordinated with a refinance transaction. See Exhibit 21 for a mortgage subordination agreement. Open-ended mortgages will often require written instructions to close the line of credit in order to obtain a mortgage release even if the outstanding balance has been satisfied. Thus, be sure to note when a mortgage is securing an open-end loan. If it is not so indicated on the payoff statement, the closing agent may not realize that a line of credit is involved and not obtain the necessary written instruction from the borrower to close the line of credit. If the borrower continues to use the line of credit, this will obviously present a significant problem. See the preliminary title opinion form at Exhibit 6 for sample language.

3. **Judgments.** See Section E.5 above.

4. **Taxes.** You will need to report any delinquent taxes, tax certificates, or special assessments.

5. **Platting procedures.** When reviewing platting procedures, be sure to verify that any mortgagees have consented to the platting. In addition, do not assume that the title opinion shown in the platting necessarily shows all the mortgages. It is prudent to note any mortgage given by the titleholder prior to the platting.

6. **Restrictive covenants.** Care should be given to review any restrictive covenants, especially if you have particular knowledge about your client’s intended usage of the property. Note whether the covenants extend beyond the 21 years permitted by the rule against perpetuities either by automatic renewal or by a statement that they run with the land. Also, some covenants require a waiver by the homeowners’ association of a first refusal to purchase the real estate. An affidavit for such a waiver is

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22 See Title Standards 10.4 and 10.5.

23 See Chipman’s Subdivision Homeowners Association, Inc. v. Carney, 814 N.W.2d (Iowa Ct. App. 2012.).
provided as Exhibit 22. Restrictive covenants occasionally contain easements you need to recite.

7. Developers’ agreement. A government body may have to file a release or satisfaction where a developer’s agreement to make improvements creates an interest in the real estate. (Some agreements are secured by a bond.) Read the agreement carefully to determine the extent of the government’s interest in the real estate.

8. Mechanic’s liens. A mechanic’s lien is barred after 2 years and 90 days from the last day work or material was provided. These liens may be lifted by the filing of a bond.

9. Mortgage foreclosure. The examining attorney should become familiar with Iowa Code Chapter 654. There are numerous issues that can arise with a mortgage foreclosure. Here are a few key issues to consider:
   a. Is the right party bringing the foreclosure? There may be a need for an assignment to correct this.
   b. Are the correct defendants named and served? For example, make sure the mortgagor’s spouse is named as a defendant. Are there junior lienholders such as judgment holders whose judgments predate the lis pendens date?
   c. Is the property being sold after the foreclosure decree but before a sheriff’s sale? If so, the junior liens remain. Sometimes an abstract will not report a release of the mortgage that was foreclosed or junior liens or interests that would have been extinguished by the foreclosure. Title Standard 7.3 clarifies that this does not cloud the title.

10. Contract conveyance and forfeiture. This is yet another area that it will be impossible to cover with sufficient thoroughness in this material. A few of common issues need to be addressed.
   a. A couple of implications of equitable conversion. When the equitable title is conveyed, the contract vendor (i.e., the seller) is left with bare legal title

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24 Iowa Code § 572.27.
25 See Title Standard 6.1.

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(i.e., personalty) by virtue of equitable conversion. As a result, judgments against the vendor subsequent to the conveyance do not attach as liens. In addition, if a contract vendor marries after the conveyance of the equitable interest, the spouse does not have a dower interest in the personalty which must be released.\(^{26}\)

b. **Assignment of contract by vendor.** You are encouraged to review Marshall § 20.1(G) for an explanation of the nature of an installment contract. A conveyance by the contract vendor is made by both (1) assignment of the vendor’s interest in the contract and (2) conveyance of the vendor’s interest in the title to the real estate.

c. **Conveyance by the contract vendee.** Marshall addresses conveyance by the vendee at § 20.1(H). The vendee’s interest in the real estate may be conveyed by an assignment with proper language of conveyance as long as the instrument is signed by the spouse (if any) and properly acknowledged.

d. **Death of the contract vendor.** Marshall explains the importance of executing a deed in fulfillment of the contract:

> The proper mechanics of a contract of sale of real estate is for the vendor, at the time of the execution of the contract, to execute and deliver in escrow a deed, to be delivered to the vendee or his assignee when the vendee has fully performed the terms of the contract. This prevents difficulty if the vendor should die before the time for transferring the legal title to the vendee. Otherwise, the conveyance must be made by the personal representative of the vendor, unless his estate has been closed, in which case his heirs or beneficiaries would make the conveyance.\(^{27}\)

e. **Contract forfeiture.** Iowa Code chapter 656 is the statutory authority for contract forfeiture. A 30-day notice is required, but there must be care given that all parties in interest receive notice. The effect of a contract forfeiture is that all parties claiming an interest in the real estate (e.g., lien holders) under the original or successor vendee lose their interest in the real estate. However, if the vendee conveys a deed to the vendor in lieu of forfeiture, this does not operate to cut off all those interests

\(^{26}\) See Marshall § 20.1(B).
\(^{27}\) Marshall § 20.1(B).
in the real estate that would have occurred by forfeiture. **Thus, if there are judgments against the vendee, the vendor should forfeit the contract rather than accept a deed offered in lieu of forfeiture.**

11. **Bankruptcy.** Many examining attorneys concur with the statement that “[n]othing is quite as unpleasant to an examining attorney as turning a page in an abstract and finding bankruptcy proceedings.”28 While it is, once again, beyond the scope of this outline to provide a thorough discussion of how bankruptcy impacts abstract examination, an important point that must be stressed is that, according to Marshall § 21.1, “[t]he effect of bankruptcy upon a judgment lien is that in the event the bankrupt is discharged he is relieved only of personal liability to all provable debts but the lien remains.”29 Thus, the lien must still be released.

12. **Easements.** The examining attorney should report easements involving the subject property. Typical easements deal with utilities, water pipelines, sewer lines, surface water flowage, mineral rights, and access. The examiner should be careful to note easements which involve other properties (e.g., well agreements, private road agreements, shared driveway agreements, and manure spreading agreements). Be sure to note whether these easement run with the land or are given to a specific individual. Corrective documents may be required if an easement was given to an individual and did not run with the land. In addition, these types of easements often need maintenance agreements to determine, for example, when a shared driveway should be repaired, at whose expense, etc. Utility easements are often given their own entry; however, sometimes you will find them embedded in the restrictive covenants or only shown on the survey in the platting procedures.

13. **Affidavit of surviving spouse.** Occasionally issues are raised as title objections that are not actually title objections. Because the language in the standard paragraphs require the sellers to clear all title defects, there can be disputes about who is responsible to address issues that are not clearly clouding the title. For example, John

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29 See also Title Standard 13.4.
and Mary Doe own their home as joint tenants; John dies, but the clerk has not issued the Change of Title. Mary Doe sells the house to the Smiths. The auditor may send a letter to the Smiths informing them that John Doe is still an “owner” of the real estate according to county records. You can anticipate the response from the buyers. However, the fact that John Doe remains on the tax rolls is not itself a title defect, but it may appear like one to the Smiths. Iowa Code § 558.66 provides the form for a surviving spouse. See Exhibit 23.

I. Resources

An attorney who examines abstracts on a regular basis should acquire the following resources:

1. Committee on Title Standards of the Iowa State Bar Association. Iowa Land Title Standards Eighth Addition (2011). This can be downloaded from the Iowa State Bar Association website (www.iowabar.org).


4. Rufford G. Patton and Carroll G. Patton. Land Titles: A Treatise on Title Records, Records as Muniments of Title, Priorities, Encumbrance Shown by County, State and Federal Records or Existing in Pais, Proof of Title, Examination of Title, and the Nature of Title Required to Fulfill Contracts for Sale or Security (1938).

5. Theodore L. Kubicek & David W. Kubicek, Selected Topics in Examination of Abstracts of Title, 26 Drake L. Rev. 1 (1976).

In addition, read the List Serve for the ISBA Real Estate & Title Law Section.
V. Curing title problems

A. The quiet title suit.

The development of remedial legislation and measures crafted by Title Guaranty to clear off mortgages securing loans that have been satisfied have diminished the need for quiet title actions. In addition, there are pragmatic limitations that do not favor quiet title actions. The seller and buyer need to get the real estate transaction closed as quickly and inexpensively as possible, and the lender needs to get the loan to the secondary market as quickly as possible.

1. Authority. Chapter 649 of the Iowa Code is the statute governing quiet title actions.

2. When to consider a quiet title action.
   a. Iowa Code § 649.1 Who may bring action.

   An action to determine and quiet the title of real property may be brought by anyone, whether in or out of possession, having or claiming an interest therein, against any person claiming title thereto, though not in possession.

Clearing a cloud on title is one of the reasons to file a quiet title action.³⁰

3. The petition and notice.
   a. Iowa Code § 649.2 Petition.

   The petition therefor must be under oath, setting forth the nature and extent of the petitioner's estate, and describing the premises as accurately as may be, and that the petitioner is credibly informed and believes the defendant makes or may make some claims adverse to the petitioner, and praying for the establishment of the plaintiff's estate, and that the defendant be barred and forever estopped from having or claiming any right or title to the premises adverse to the plaintiff.

   b. Serving notice. Pursuant to Iowa Code § 649.3, the notice shall accurately describe the property and, in general term, the nature and extent of the

³⁰ Peck v. Sexton, 41 Iowa 566 (Iowa 1875).
plaintiff’s claim. The plaintiff need not be in possession of the real estate. The method of service is the same as other cases. The basis of the quiet title action is not the weakness of the defendant’s claim; rather it is based on the strength of the plaintiff’s case.

c.  **Naming the proper defendants.** The decree from a quiet title action is only binding against those parties that are properly served. Thus, the plaintiff must be careful to include all persons having possible claims against the property.

### B. Remedial legislation.

1. The Iowa Marketable Record Title Act (Iowa Code §§ 614.29-.38) serves to cure most title defects that occur before 40 years. This clears ancient clouds on the title. There are eight exceptions the Act, the most common being easements and interests of the United States.\(^{31}\)

2. **Statutes of limitation.** These statutes bar claimants from asserting rights if they have neglected their claim for too long. *See* Iowa Code §§ 614.29-.38 and Chapter 10 of the Title Standards. An example of a statute of limitation is the determination that a mortgage more than twenty years old and lacking a maturity date is barred by Iowa Code § 614.21.

3. **Curative statutes.** These statutes correct matters that cloud title.

4. **Affidavit of possession.** Iowa Code §§ 614.17 and 614.17A create the basis for the Affidavit of Possession. The former bars any action based on claims to real estate which arose or existed prior to January 1, 1980; the latter bars actions based on claims which arose or existed more than ten years earlier.

   a. Iowa Code § 614.17A states:

   1. After July 1, 1992, an action shall not be maintained in a court, either at law or in equity, in order to recover or establish an interest in or claim to real estate if all the following conditions are satisfied:

   \(^{31}\) Iowa Code § 614.36.
a. The action is based upon a claim arising more than ten years earlier or existing for more than ten years.

b. The action is against the holder of the record title to the real estate in possession.

c. The holder of the record title to the real estate in possession and the holder's immediate or remote grantors are shown by the record to have held chain of title to the real estate for more than ten years.

2. The claimant within ten years of the date on which the claim arose or first existed must file with the county recorder in the county where the real estate is located a written statement which is duly acknowledged and definitely describes the real estate involved, the nature and extent of the right of interest claimed, and the facts upon which the claim is based. The claimant must file the statement in person or by the claimant's attorney or agent. If the claimant is a minor or under a legal disability, the statement must be filed by the claimant's guardian, trustee, or by either parent.

The filing of a claim shall extend for a further period of ten years the time within which such action may be brought by any person entitled to bring the claim. The person may file extensions for successive claims.

3. Nothing in this section shall be construed to revive any cause of action barred by section 614.17.

b. Possession. Unlike the quiet title action, the person asserting rights under this code section must be in possession of the real estate. See Exhibit 24 for a sample affidavit of possession.
c. **Exceptions.** Charles Augustine, in his chapter *Statutes of Limitation and Marketable Title Acts* in *The Iowa State Bar Association Real Estate Manual* 2003, lists six exceptions to the Affidavit of Possession:

1) Governmental claims;
2) Mortgages and contracts;
3) Affirmative easements;
4) Spousal claims;
5) Reversionary or future interests;
6) Reservations of mineral rights.\(^{32}\)

C. **Monetary settlement and escrow agreements.** If a cloud on title cannot be resolved prior to closing, the parties may elect to establish an escrow to fund remedial action after the closing. Title Guaranty can be of assistance with this.

D. **Tips for obtaining missing or corrective documents.**

One of the challenges in clearing title problems is obtaining missing or corrective documents, often from out-of-state lenders. This problem has been significantly increased by the frequency mortgages are assigned on the secondary market. These documents include mortgage releases and corrective assignments. While this task is often handled by the closing agent, an attorney is often consulted about how to deal with such issues. The following are steps that can assist with tracking down needed documents.

1. **The loan number.** Lenders generally cannot access a loan file by the recording information of a mortgage; in some situations, the borrower’s name is not even sufficient. Rather, the primary information needed is the loan number. In order to obtain this, begin by getting a copy of the mortgage to see if there is a loan number listed on the first page. Lenders now often recite the loan number on their recorded documents.

2. **Develop a system.** Obtaining documents from large institutions is rarely a quick process. It is common to struggle with even finding a phone number for a

\(^{32}\) *Id.* at § 5, page 4 (citations omitted).
Many lenders will require submission of a formal request to their research department. Whenever possible, note the name of your contact with the lender, a direct phone number, and when you can reasonably expect a response. This information should go into your “tickler” system. This kind of work lends itself to delegation to staff because it is very time consuming.

If the lender asks what you would like done with the desired document, encourage the lender to record the original at their expense and send you a copy of the instrument for your files so that you can alert the abstractor that the final abstracting work can now be completed. Most abstractors search for final documents on a regular schedule.

3. The Title Guaranty mortgage release program. This is a program for obtaining a release of a mortgage where the loan has been paid where a mortgage release has not been filed. See www.iowafinanceauthority.gov/TitleGuaranty.

VI. Closing the residential real estate transaction.

A. Objectives for the residential real estate closing.

1. As to lenders. Pursuant to an agreed upon settlement statement, gather and disburse funds, record the deed (for a purchase closing) and mortgage, and make sure that the mortgage is in first position.

2. As to the borrowers. Present the loan documents in a manner that will assist the borrowers in understanding the nature of the transaction and the terms of the loan. You want them to leave the closing with a general understanding of what they just signed.
3. **As to the quality of Iowa title.** Facilitate the clearing of title objections to leave the title of property in better condition than when you found it, if possible.

4. **As to the public.** Conduct the transaction in a manner that complies with – and promotes – ethical transactions. This means following the terms of the closing instructions\(^\text{33}\) as well as federal and Iowa law. For attorneys, this also means following the Iowa Rules of Professional Conduct.

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**B. Pre-execution matters.**

1. **Issue the title commitment.**

2. **Gather necessary information.**
   
   a. Names, phone numbers, and e-mails of the parties (lender, realtors, escrow companies, and attorneys).
   
   b. Closing instructions from lender and lender’s closing figures.
   
   c. Buyers’ and sellers’ closing figures and invoices.

   Every number on the settlement statement has to have documentation in the file. (Assume every file will be audited.)

   c. The closing filed should have the following documents:

   1) Lender’s instructions (Very important to read.)
   2) Seller’s Closing Statement
   3) Buyer’s Closing Statement
   4) Important emails
   5) Proposed deed
   6) Purchase agreement and any amendments
   7) Loan application and request for title commitment

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8) Documentation on the status of earnest money
9) Title opinion from a Title Guaranty Member

3. **Pull the following week’s closing files on Thursday.**
   a. This allows you to review any title objections that have not been addressed.
   b. Determine what you are missing and make a round of inquiries.
   c. Verify whether you have open-end mortgages.
   d. Are there closings with special circumstances (e.g., short sale situations, relocation companies, or government entities that need the settlement statement two or three days early, a simultaneous closing, etc.)?

4. **Dealing with unrepresented (FSBO) sellers.**
   a. Provide FSBO sellers with a list of expectations you have of them. *See* Exhibit 25 for a sample punch list. It’s easier for the sellers to obtain a payoff for their loan. Written authorization from the borrowers is needed if you are going to obtain the payoff on their behalf. We calculate the tax proration credit.
   b. Remind FSBO sellers of the timeframe for reviewing the settlement statement.
   c. Arrange with FSBO sellers how they will be signing the final settlement statement and receiving their proceeds.
      1) I do not require an original signature on the settlement statement and often receive e-mailed or faxed signatures.
      2) If an agent is going to be signing the settlement statement for the seller, require a copy of the power of attorney to permit that.
5. **Prepare the settlement statement.**

   a. The majority of this work will involve incorporating the figures from the lender and realtors into software designed to create a settlement statement that works with your accounting software, balances the inflows and outflows for a closing, and prints the checks. This is the primary tool of a closing practice.

   b. **Payoffs.**

      1) Payoffs must have the lender’s letterhead on it and provide the payoff date and a per diem. A “screen dump” showing the current payoff is not sufficient. It must have information on where to send the payoff by wire transfer or overnight courier. A hand-written number payoff is not acceptable.

      2) *If you cannot read the payoff, it doesn’t count.* Require a clean and legible copy.

      3) Be careful with credit card payoffs to make sure that you have all of the required information and the account number. Include a copy of the statement with the check.

      4) Add three business days of interest to the payoff for a purchase closing and six business days for a refinance closing.

         a) The purpose of this is that lenders vary as to when their cutoff times are for receiving a payoff. If the payment is short, a lender will often reject the entire payment and interest continues to accrue. The excess payment is returned to the borrowers.

   c. Use the settlement statement to document other important measures. Examples:

      1) A mortgage secures a loan that has no outstanding balance.

      2) Taxes that were paid outside of closing (POC).

      3) On a settlement statement for an installment contract, show what the seller will need to pay for transfer tax.
d. Any closing cost credits must be shown on the settlement statement. The settlement statement is designed to create transparencies in residential closings. The moment we start allowing parties to exchange money outside of the closing, the settlement statement becomes useless.

1) Statement for the sellers and buyers: “I have carefully reviewed this Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction.”

2) Statement for settlement agent: “The Settlement Statement which I have prepared is a true and accurate account of funds received and funds disbursed or to be disbursed for this transaction.”

3) If a lender asks you to do something you are uncomfortable with, ask them to amend their closing instructions in writing. This usually resolves the matter.

e. Double check the spelling of the parties’ names and the addresses.

f. Verify that you have a SSN for a seller (an EIN for an entity).

g. Recording fees. If you have the number of pages for the deed and mortgage when you send the draft settlement statement, include them. If not, you can estimate $12 for a one-page deed and $82 for a 16-page mortgage. Riders sometimes come later.

h. Title Guaranty premium. Verify the premium.

i. Ask to see a draft of the proposed deed.

This will allow you to verify how title is vesting, the number of pages, the accuracy of the legal description, and matching grantor name recital with how title is held.
j. The goal is to provide the parties with at least 24 hours to review the settlement statement. The closing is not the time to re-negotiate the terms of the transaction.

6. **Search the Mechanic’s Notice and Lien Registry (MNLR).**
   a. The MNLR should be searched at the time of the title opinion, the closing, and, if a refinance, the day the mortgage is filed. *See* Exhibit 26 for a sample worksheet.
   b. If the MNLR search yields a filing, be sure to file lien waivers on the MNLR.

7. **Points to reinforce to lenders.**
   a. Every titleholder and their spouse must join in giving the mortgage. *See* Wells Fargo Bank, N.A. v. Hudson.\(^{34}\)
      1) Sometimes out-of-state lenders believe that the non-borrower spouse does not need to sign the mortgage or even be present at the time of closing.
      2) The loan officer should remind the borrowers to bring certified funds to the closing or arrange for a wire transfer.

8. **Escrow agreements.**
   a. Sometimes there is work that cannot be completed prior to the closing or an issue arises during the final walk through.
   b. If, and only if, the amount of the remaining work can be determined with accuracy, set aside at least 150% of the projected amount in an escrow account. *See* Exhibit 27 for a form.

\(^{34}\) 742 N.W.2d 605 (Iowa Ct. App. 2007).
9. **Addressing title objections.**
   a. For any title objections, make sure that the file evidences the remedial measures that were taken. This can be as simple as notes on the file copy of the title opinion or as elaborate as a memo on why a particular remedy was accepted.
   b. *Document your decisions presuming: (1) you will not remember why a certain remedy was accepted and (2) you will be sued for it.*

10. **Powers of attorney (POA).**
    a. If a POA will be used in a transaction, make sure that it is approved by the lender. There are lender-specific requirements for POAs. *See Exhibit 28 for a sample form.* A lender may wish you to add the loan number, the street address, or the length of time the POA is in effect.
    
    b. Obtain direction on how the documents are to be signed. Lenders increasingly have a particular manner in which they require the documents to be signed where a POA is used. Samples:

    1)  
       \[ \text{John Doe} \]
       \[ \text{John Doe as Attorney-in-Fact for Jane Doe} \]

    2)  
       \[ \text{John Doe as Attorney-in-Fact for Jane Doe} \]

    3)  
       \[ \text{John Doe as AIF for Jane Doe} \]

    c. Remember that the acknowledgement needs to reflect the representative capacity. *See Iowa Code § 9B.15.* Consider making a stamp as follows to
help with preparing a closing package to signed with a POA or other representative capacity:

State of Iowa, _____________ County) SS.
This instrument was acknowledged before me on ________________, by
_____________________________ as Attorney-in-Fact of _________________________.

_____________________________
Notary Public in and for said County and State

11. Working with the federal government, short sale transactions, and relocation companies.

a. Greater time is required in order to obtain approval on the settlement statements. The parties will need to provide their information to you sooner than normal in order to allow you sufficient time to provide a draft settlement statement.

b. There is no transfer tax to pay when the federal government is conveying the real estate. See Exhibit 29 for a list of the exemptions under Iowa Code § 428A.2.

c. When working with a relocation company, you will want to clarify whether the transaction will involve one or two deeds.

Practice pointer. Deeds for property coming out of foreclosure often need extra review. Many times there is no joint tenancy language even if the grantees are a married couple. Sometimes there will be a blank for the closing agent to fill in the names of the grantees.


a. Highlight the signature lines and places to initial on the loan documents. Missing a signature is always bad. You might also highlight the SSN on the W-9 to have the borrowers make sure it is correct.

b. Double check recital of the name and marital status on the mortgage. Use a/k/a or f/k/a to show name variations.
c. Confirm the legal description (particularly if you have a metes and bounds legal description) and street address one last time.

d. Make copies of the package for the borrowers. It is helpful to have the temporary payment coupon on top for the borrowers.

e. Sign the documents in blue ink so that it is obvious which are the originals.

f. If there is a payoff of a line of credit mortgage, the mortgagors will need to sign instructions to close the line of credit that the lender provides or that you provide. See Exhibit 30 for sample instructions to close a line of credit.

g. See Exhibit 31 for a sample organizational list of a closing package.

13. **Suggestions for high-volume days.**

a. Order lunch for your staff.

b. Make sure that files do not get mixed up when prepping and post-closing.

c. Double check the money in and money out, and that the deposit has been made before disbursing.

d. Remind loan officers to let borrowers know you are on a tighter schedule than normal and that borrowers should arrive promptly.

e. If a file is becoming a problem, consider moving it to the end of the day so it does not throw the other files off schedule.

f. Bring in extra staff if possible. Delegate tasks where possible.

g. Give lots of grace to people.

h. Show appreciation to your staff.

i. Look at the schedule beyond the busy day to get as much done on those files before the busy day.
j. Consider asking loan officers whether some files have the flexibility to close on a different day.

C. Execution of the loan documents.

1. Your attitude in the transaction.
   a. Before every closing, remind yourself that this is a unique and large transaction for the borrowers. Let this shape the way you conduct the closing.
   b. If borrowers come across as defense or argumentative, they may just be nervous and defensive about a transaction they feel uncomfortable with. Look past it.

2. Your role as notary public.
   a. The notary has only one task in the closing: to verify the identity of the person signing the documents before you. No exceptions. Iowa Code § 9B.5 (Requirements for certain notarial acts) states:

   1. A notarial officer who takes an acknowledgment of a record shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the acknowledgment has the identity claimed and that the signature on the record is the signature of the individual.

   2. A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

   3. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notarial officer and signing the record has the identity claimed.
4. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true, and accurate transcription or reproduction of the record or item.

5. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in section 554.3505, subsection 2.

b. Consider using a notary log. This will serve as a protection for you in the event someone was to create a false notary stamp for you.

c. Make sure your notary has not expired.

3. **Pointers for signing the documents.**

a. Preliminary instructions.
   1) Explain what your goals are for the meeting.
   2) Encourage questions.
   3) Remind people to sign as typed on the documents and to use the correct date.

b. The settlement statement.
   1) Highlight the Title Guaranty owners’ policy.
   2) If new construction, explain how the escrow account will eventually have a shortfall and how to address it.
   3) Explain how the prepaid interest works and when the first payment will be due.
   4) Explain how the real estate tax proration credit works.
   5) When closing in early summer, remind borrowers who have an escrow account that the lender has received a copy and that the tax statement is not a bill.

c. The promissory note.
d. The Truth in Lending form.
   1) The Annual Percentage Rate (APR).
   2) Two approaches to making payments.

e. The mortgage.

f. Other standard forms.
   1) Insurance must be maintained without gaps.
   2) Occupancy statement. Confirm occupancy.
   3) Loan application. The financial status of the borrowers has not changed since the loan application – no change in employment or debts.

   4) Closing attendance form. See Exhibit 32 for a sample. This is encouraged by Title Guaranty in the event there is a dispute over who attended the closing.

g. The form of the borrower funds – certified funds, wire transfer, or attorney trust account checks when you are familiar with the firm.

h. If the borrowers are receiving a small check at closing, encourage them to deposit the check soon to allow you to reconcile your trust account in a timely fashion. Deposit the money for the borrowers if possible.

i. Final reminders to borrowers.
   1) Explain joint tenancy with the deed or title opinion.
   2) Encourage buyers to sign up for the homestead tax credit and military tax credit. See Exhibit 33 for a sample reminder form. Ask borrowers in a refinance closing whether they have signed up for the credit.

   3) Provide the abstract to the buyers.
      a) Have them sign an abstract receipt. See Exhibit 5.
      b) Remind the buyers that they will not need the abstract again until they sell the property and that the abstract could cost in excess of $1,000 should they lose it. Abstracts should be stored in a lock box or fire safe.
j. Miscellaneous pointers.

1) If the borrowers have signed all of the documents and there are other discussions going on, page through the documents while you are waiting to look for a missed signature or date.

2) Review the transfer documents (i.e., warranty deed, declaration of value, groundwater hazard statement, and composite mortgage affidavit) to make sure that everything was properly completed, signed, and notarized.

3) Encourage verification that the first payment comes out on time if being paid with an automatic payment.

4. Additional pointers.

a. Typical problems that arise.

1) Incorrect figures on the settlement statement.

2) Errors on the closing documents.

3) Non-English speakers.

4) Source of funds.

   a) Seller carry back.

   b) Bogus gift letters.

5) The title is only in one name, but was supposed to be in two names. You cannot add parties or parcels to a deed – scrivener error corrections only.\textsuperscript{35}

6) Borrowers who want to read all the documents.

   a) Remind them that these are standard documents and that you have provided them with a set of copies. If they insist on reading all of the documents, then attempt to provide them with a conference room so you do not have to watch them read.

   b) Be kind. They borrowers are nervous.

\textsuperscript{35} McNertney v. Kahler, 710 N.W.2d 109 (Iowa 2006).
7) Borrowers disclose something that is inconsistent with the lender’s presumptions (e.g., owner-occupied status, the source of funds, employment). Your client is the lender. **You have a duty to inform them of any adverse information.**

8) Issues with the condition of the property that arise during the final walk through. *(See Section II, H above.)*

9) The terms of the loan are not what were promised.

10) The borrowers ask you for tax or other advice.

11) Disabled borrowers. Recommend the use of a POA.

12) Borrowers who don’t want any explanation and want to sign through the package as quickly as possible. At least review the key terms of the loan.

13) Borrowers who do not understand what they are signing. The borrower needs to have at least the capacity to understand the nature of the loan, the terms, and the house is standing as security.

14) Realtors who want to run the closing.

15) If a closing falls apart, determine:
   a) Status of the rate lock;
   b) Re-draw fees, if any, charged by the lender;
   c) Status of the seller’s next closing;
   d) Whether the buyers have a place to live.

*(Early possession agreement?)*

b. Simultaneous closings.

1) Visit with lenders and realtors you work with regularly to make sure they know how important it is for you to know when the proceeds of one closing will be used for another closing that is scheduled immediately after the one you are handling.
2) Inform the lender you are closing for that you will need the funds delivered promptly.

3) Obtain wire instructions for the second closing.

5. **Prepare the filing.**
   a. Double-check the marital status recital, notary signatures and stamps, and the legal description.
   b. Verify that all of the documents are in recordable form.
   c. Send the filing with instructions. *See* Exhibit 34 for a sample.

D. **Post-execution matters.**

1. Make sure that your account balances before disbursing funds.

2. Make a copy of the loan documents for yourself and provide lender with a certified copy of the mortgage. Consider the use of a stamp:

   I certify that this a true and correct copy (including the following _______ pages).

   __________________________________________________________
   Attorney name
   Attorney at Law
   Iowa State Bar No. _____________

3. Release funds only on approval of lender, deposit of funds, and successful filing (if there is no pre-close search).

4. Parties who receive funds should sign for them. Consider making a stamp of the following to put on a page below a copy of the check:

   I acknowledge receipt of the above funds.

   X ______________________________
   Date _______________________ _________.

5. Collect information for the 1099 filings. *See* Exhibit 35 for a worksheet.
6. Do not allow third parties to deliver loan payoffs. Too much risk.

7. Trouble shooting problems.
   a. The abstractor informs you of a bridge loan mortgage at the time of filing the deed and new mortgage. Do not release the funds until a payoff for the bridge loan can be obtained.
   b. If the marital status has been omitted from a deed or mortgage, consider using a curative affidavit. *See* Exhibit 13.
   c. If there is a scrivener’s error in the legal description, considering using a curative affidavit. *See* Exhibit 14.
   d. If you are resolving a defectively released mortgage, first try to force the mortgage off the title through the Title Guaranty Mortgage Force Off program. If that is not available, pull the mortgage and determine if there is a loan number on the mortgage that will assist you when contacting the person who prepared the defective release or assignment. Also, see who notarized the document and check with the Iowa Secretary of State website to track down the notary for more information.

8. Develop a system for charting the status of closed files.

9. Review the post-closing report from the abstractor. Make sure that the file copy of the title opinion documents how all mortgages and title objections were released or resolved. Issue the title policy.

10. Scan the closing files after issuing the title policies so that you can quickly access electronic versions of your files. Keep off-site backups.
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List of Exhibits continued

31. Sample organizational list of a closing package
32. Closing attendance record
33. Homestead and military tax credit
34. Filing instructions
35. 1099 worksheet
Exhibit 1

WAIVER OF CONFLICT OF INTEREST IN A RESIDENTIAL REAL ESTATE TRANSACTION

IT IS AGREED between _____________________________________________, Seller(s), whose address for purposes of this Waiver is _____________________________________________, and ______________________________, Buyer(s), whose address for purposes of this Waiver is ______________________________, that Sellers and Buyers agree to waive the conflict of interest involving ______________________________ (hereafter Attorney) and ______________________________ (hereafter Law Firm).

Recitals
1. Sellers own real estate located at ______________________________ (hereafter Real Estate).
2. Buyers desire to purchase Real Estate.
3. Sellers desire to sell Real Estate to Buyers.
4. Sellers and Buyers desire to have the above-referenced Attorney and Law Firm represent them in said transaction (hereafter Transaction).
5. The Parties have been informed that Attorney and Law Firm are governed by Iowa Rule of Professional Conduct 32 regarding conflicts of interest.
6. The Parties have been informed that under applicable rules of professional conduct, a law firm owes each of its clients a duty of loyalty, which would normally preclude any attorney within the firm from undertaking a representation adverse to any client of the firm without the affected client’s informed consent. Other rules generally prohibit a firm from undertaking any representation involving an actual or potential conflict of interest without the informed consent of all affected parties. Such a situation exists whenever a firm represents two clients simultaneously in a situation in which their interests are actually or potentially adverse.

7. The conflict of interest, and the need for informed consent, exist no matter how cordial the business relationship between the two parties currently is or is anticipated to be, and no matter how non-controversial the transaction is anticipated to be.

8. The Parties have been informed of the following, potential risks to this dual representation:

Residential real estate transactions, p. 53
a. Compromise in negotiations on the pricing of the real estate.
b. Compromise in negotiations on the terms of payment and security for unpaid balances.
c. Compromise as to warranties as to the condition of the real estate.
d. Compromise as to the quality of title of the real estate.
e. Compromise as to negotiations on the date of closing and the risk of loss in the interim.
f. Compromise as to the tax consequences of the transaction.
g. Compromise as to the Buyers’ effort to secure financing.
h. Compromise as to relations with brokers, tenants, and title insurance providers.
i. Transaction-specific risks: ____________________________________________
   ____________________________________________
   ____________________________________________
   ____________________________________________

9. The Attorney does not recommend simultaneous representation of adverse parties, and has not recommended this simultaneous representation to the Parties. The Parties have been advised to seek separate representation. It has been recommended to each of the Parties that they seek the advice of independent counsel of their own choice regarding this written consent.

10. The Attorney is undertaking this dual representation of the Parties with respect to this transaction only because the Parties have waived the conflict of interest.

11. If a dispute should arise in the future between the Parties concerning the Transaction or any other aspect of dealings between the Parties, the Attorney would have to withdraw, or would be disqualified, from representing either Party with regard to that dispute or any other relationship they might then have with each other. The Parties would then each have to retain separate counsel, resulting in additional expense and inconvenience that might not have been incurred had the Parties been separately represented from the outset.

Acknowledgement and Consent

Despite any potential or actual conflict of interest which may exist now or in the future, the Parties hereby consent to the Attorney’s and Law Firm’s simultaneous representation of both Sellers and Buyers with respect to the transaction described above. We further agree that the Law Firm may withdraw its representation of either client or both clients without prejudice should it determine that continued representation might violate applicable rules of professional conduct.

Signatures by Parties

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Exhibit 2

Net Proceeds Projection

$__________________ Sales price
Less
$__________________ Mortgage payoff(s)
$__________________ Property taxes (approx. 1 year)
$__________________ Abstracting
$__________________ Transfer tax
$__________________ Attorney fees
$__________________ Realtor’s commission (if any)
$__________________ Credit (if any) for buyers’ closing costs
$__________________ Wire transfer / overnight for payoff
Equals
$__________________ Projected net proceeds

Checklist of What to Do Once the Purchase Agreement is Signed

Contact the loan originator who is financing the purchase for the buyer. Tell them:
1. Your contact information.
2. You are being represented by an attorney and my contact info.
3. Your attorney will prepare the deed and other documents a week before the closing.
4. If there is a mortgage payoff, you will provide it a week before closing.
5. You expect to see the draft settlement statement (a/k/a HUD-1) 24 hours before the closing. Use the net proceeds analysis to review the draft settlement statement.

On the day of the closing:
1. If you are in town, arrange to sign the settlement statement and pick up your check.
2. If you are not in town, arrange to have the final settlement statement faxed or emailed to you, then you can sign it and send it back. It does not require a notarized signature. You will need to arrange to receive your proceeds.
3. If you need the proceeds from the sale of your house for the purchase of another house that will close on the same day (or soon after) as the sale of your house, arrange for wire transfer to the institution closing your purchase.

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ESCROW FOR DEED AND ABSTRACT

TO: <>, ESCROW AGENT.

WE HEREBY DELIVER to you in escrow the following legal documents and papers:

1. Warranty Deed dated ______________, 20___ for the following described real estate:

<legal description>

from the undersigned Seller(s) to the undersigned Buyer(s).

2. Abstract of Title for the real estate above described, continued to <>, and approved <>not approved<> by Buyers.

3. Real estate contract referred to below for the sale of the real estate described above (original or exact copy).

All, except the real estate contract is for delivery to said Buyers when and only when said real estate contract between Sellers and Buyers is fully performed. The delivery of this deed and abstract (if delivered) is a completed delivery and unconditional, absolute and irrevocable except under the following conditions:

a. Forfeiture or foreclosure of the contract as provided by law.

b. Other devolution of the title or interest in the real estate, or change in the legal status of some of the parties which makes the escrowed deed useless.

c. All parties or their successors in interest give the escrow agent specific directions in writing canceling this escrow agreement or modifying its terms.

d. An adjudication by any court of competent jurisdiction ordering a variance in the original terms of the escrow agreement or ordering its cancellation.

In the event of a., b., c., or d. above, the escrow shall be considered terminated and, unless otherwise ordered by the court as in d. above or directed by the agreement of the parties as in c. above, the escrowed legal documents and papers shall be returned to the Sellers, or their successors in interest, whereupon the duties of the Escrow Agent are terminated.
If the Buyers fully perform and are, at the time of such performance, entitled to the legal documents and papers as part of their chain of title, the Escrow Agent shall deliver same to Buyers. This authority shall include a delivery of the legal documents and papers to a transferee authorized in writing by Buyers.

Information in writing to Escrow Agent by either the Sellers or their representative that the Real Estate Contract is paid in full shall be complete and sufficient authority to deliver said legal documents and papers to Buyers.

The Escrow Agent shall have no responsibility whatever to see that Buyers and Sellers perform any of the terms of the contract between them, nor keep in force any insurance. Responsibility is limited to effecting the transfer of legal documents and papers as directed by this agreement.

All parties shall share any reasonable expense of the Escrow Agent for services, legal or otherwise, necessarily incurred in carrying out the agent's duties.

This escrow, power, authority, and direction may similarly be used by any and all members of your firm or successors thereof. You may at any time discharge your responsibility to the Sellers and Buyers or their respective successors in interest by <> days actual notice to them, or written notice addressed to their last known addresses, of your election to do so. Your responsibility will terminate upon delivery of the papers to any successor escrow agent then designated by the parties or, in default of such designation, by return of the papers to the party depositing them.

Dated _________________________, 20____.

Sellers

______________________________     ______________________________
Print name:                                Print name:

______________________________      ______________________________
Print name:                                Print name:

Subscribed and sworn or affirmed before me by <>, this _____ day of _________________________, 20____.

Print name here:

Notary Public in and for said State and County

Residential real estate transactions, p. 57
RECEIPT

The undersigned hereby acknowledges receipt of the above-described legal documents and papers, agrees to act as Escrow Agent for this transaction and to perform pursuant to instruction as above directed.

Dated _______________________, 20____.

<>.

by________________________
Escrow Agent

Subscribed and sworn or affirmed before me by <> as <> for <>, this _____ day of _____________________, 20____.

___________________________________________
Print name here: ________________________________

Notary Public in and for said State and County
Exhibit 4

| Prep By: Attorney’s Name, Att’y at Law, Attorney’s address and phone number |
| Sent Tax Statement To: |
| Return Document To: |

**WARRANTY DEED**

KNOW ALL PERSONS THAT BY THIS INSTRUMENT:

<>, a married couple<> a single person<>; for valuable consideration CONVEY(S) to:

<>, a married couple<>, as JOINT TENANTS WITH RIGHT OF SURVIVORSHIP AND NOT AS TENANTS IN COMMON, the following described real estate in <> County, Iowa:

<legal description>

**Consummation of contract**

This deed is given in consummation of a certain real estate contract recorded on <>, in Book <>, Page <>, of the <> County Records.<>

**Exemption from transfer tax**

This deed is <SUMMARIZE THE EXEMPTION<> and is therefore exempt under §428A.2(<>)

**Power of attorney**

The undersigned Attorney-in-Fact warrants that the principals are alive on the date the deed is delivered. If the power of attorney is triggered upon disability, the principal(s) is/are disabled.

AND the Grantor(s) do HEREBY COVENANT with the Grantee(s), and successors in interest, that Grantor(s) hold this real estate by TITLE IN FEE SIMPLE; that they have good and lawful AUTHORITY TO SELL AND CONVEY the same; that this real estate is FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES WHATSOEVER, except as may be stated above; and Grantor(s) covenant to WARRANT AND DEFEND the real estate against the lawful claims of all persons whomsoever except as may be stated above. If a spouse who is not a titleholder executes this deed, that spouse does not join in the warranties stated above, but executes solely for purposes of releasing rights of dower, homestead and distributive share.

Each of the undersigned releases all rights of dower, homestead and distributive share in and to the real estate described above. Words and phrases herein, including the acknowledgment, shall be construed as in the singular or plural number and as masculine, feminine or neuter gender, according to the context.
Signed this _____ day of _____________________, 20__

_________________________________________  ______________________________
Print name:                                Print name:

State of Iowa, <> County) SS.

Subscribed and sworn or affirmed before me by <>, this _____ day of
________________________, 20__.

_________________________________________
Print name here:
Notary Public in and for said State and County

State of Iowa, <> County) SS.

Subscribed and sworn or affirmed before me by <> as <> of <>, this _____ day
of _____________________, 20__.

_________________________________________
Print name here:
Notary Public in and for said State and County
Exhibit 5

**ABSTRACT RECEIPT**

Abstract Receipt for _________________________________ (address)
Borrower(s) ________________________________________________

Multiple Parts: Yes / No

Received By: ____________________________ Company: ______________
Date: ________________________________

Date In Rec’d From Work Lender Date Out / Whom

**Legal Description**

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Date Completed T.O. Lender Attorney Our Matter
Dear Sir or Madam:

I have examined the abstract of title to the following described real estate located in <> County:

[select paragraph]
which abstract was initially certified by <> from <> to <> at <> M., subsequently by other abstracters and finally by <> to <> at <> M., consisting in all of <> entries.

which abstract is in <> parts as follows:

a. Part I, initially certified by <> from <> to <>, subsequently certified by <> to <>, <> entries,
b. Part II, subsequently certified by <> to <> at <> M., <> entries; and
c. Part III, subsequently certified by <> to <> at <> M., <> entries, totaling <> entries in all.

Pencil notes by <> to <> at <> M., referred to as Abstract Number <>.

I reserve the right to re-examine the abstract once the pencil notes have been incorporated into the Abstract.

which abstract was certified by <> from <> to <> at <> M., consisting of <> entries in all.
I submit the following report concerning the abstract:

A. **Title to Real Estate and Proposed Deed**

1. The abstract as certified shows record title to the real estate in: <<>, Husband and Wife, as Joint Tenants with Rights of Survivorship and not as Tenants in Common, subject to the following comments and restrictions. The following is a 24-month chain of title:

   a. Entry No. <> shows a warranty deed to the titleholder(s) filed <> as Inst. No. <> of the county records.

2. Caution: you should review the deed and/or mortgage which will consummate your transaction to be sure that the names shown above are matched exactly on these documents. The names used by borrowers to take title should be the same exact names on the mortgage. Borrowers should sign their names exactly as they are typed on the mortgage documents and their marital status must be shown. **If title is in one person, but the person is married, the spouse must join in executing the mortgage or deed.**

   <> A copy of the proposed deed has been submitted with the abstract. I find it to be proper in form and content, provided it is properly executed<<>, with the following exceptions: <>.

   <> Since this deed will be executed by the trustee, there must be recorded along with the deed current affidavits from both the grantor and grantee, under § 614.14, Code of Iowa.<>

   a. Title is in the trustee or trustees by virtue of a deed executed by <<>, Husband and Wife<<>, which was recorded on <> in Book <>, Page <> of the county records.

   <> NOTE: since the deed consummating this transaction will be executed by a limited liability company I require (a) all of the members of the company execute the deed and (b) the following language be included in the deed:

   “The undersigned are all of the members of the grantor.”
B. CONTRACTS, LEASES, MORTGAGES. (WHICH MUST BE CONSUMMATED OR RELEASED, UNLESS YOU ARE TAKING YOUR INTEREST SUBJECT TO THESE ITEMS)

1. Entry No. <> reports the real estate is encumbered by a mortgage given to <> on <> and recorded on <> as Inst. No. <> in Book <>, Page <> of the county records. The mortgage secures a loan in the amount of $<>.

I advise that you determine whether this mortgage is securing a line of credit that will require written instructions from the borrower in order to obtain a mortgage release.

<>. Entry No(s). <> reports<> this mortgage was ultimately<> assigned to <> by an assignment recorded on <> as Inst. No. <> in Book <>, Page <> of the county records.

<>. Entry No. <> reports the equitable title has been conveyed by real estate contract to <>, which contract was recorded on <> as Inst. No. <> in Book <>, Page <> of the county records.

C. OTHER LIENS AND OTHER ENCUMBRANCES. (WHICH MUST BE RELEASED, UNLESS YOU ARE TAKING YOUR INTEREST SUBJECT TO THESE ITEMS)

<>. Entry No. <> reports a judgment in favor of <> against <> entered on <> in <> Case No. <>, Docket <>, Page <> in the initial amount of $<> plus interest and costs. Unless the defendant named is not the same as the titleholder shown above<> Upon recording of the deed to the proposed grantee (unless the defendant named is not the same as the grantee) this will constitute a lien against the real estate which must be paid.<> You are advised to check with the Clerk of Court prior to closing to determine the correct amount of the judgment and the amount of any court costs which may be payable.

<>. Entry No. <> reports Dissolution of Marriage Case No. <>, Docket <>, Page <> in which a judgment was entered on <> in favor of <> (the Petitioner<>Respondent<>) against <> (the Petitioner<>Respondent<>) for child support<> alimony<> and other matters. I require the judgment holder, <>, file an Affidavit which acknowledges receipt of all child support and other judgment payments due under the decree of Dissolution up to and including the date upon which your deed and/or mortgage is recorded.

<>. Entry No. <> reports a deed to <> and <> as joint tenants. Entry No. <> reports the death record of <> on <>. I require a showing that his estate was not subject to Iowa Estate Tax. See Iowa Land Title Examination Standard 9.9. An affidavit by a
competent party that his estate was less than $<Exclusion amount> will satisfy this requirement.

1. The last continuation of the abstract shows that the abstractor has performed a standard search against the following name(s):

<>  

2. Notice on Lien Search. Since a Report can never be continued to the precise time of closing, there is always a time gap between the date of continuation and the date of closing. During this time gap, matters may be filed with the Iowa Secretary of State Mechanic’s Notice and Lien Registry website (https://sos.iowa.gov/mnlr/search/search.aspx) which affect title but which do not appear on the Report. You are advised to have the abstractor perform a lien search prior to filing your deed or mortgage and advise me of any matters appearing since the last continuation before recording.

3. I performed a search on the Iowa Secretary of State Mechanic’s Notice and Lien Registry website against the legal description, address, current titleholder(s), and parcel number of the real estate. The MNLR website should be searched at the time of closing and filing the mortgage.

   a. A Commencement of Work / Preliminary Notice was filed by <> on <> (MNLR #<>). **I require a lien waiver to be obtained and filed on the MNLR.**

D. **TAXES, SPECIAL ASSESSMENTS. (WHICH MUST BE PAID UNLESS YOU ARE TAKING YOUR INTEREST SUBJECT TO THESE ITEMS)**

1. Entry No. <> reports the real estate taxes for FY <>-<>, payable FY <>-<>, and all prior years have been paid in full. <>At the time this abstract was last continued the FY <>-<> taxes, payable FY <>-<> had not yet been certified to the County Treasurer and are therefore not shown. <>

   The following taxes for FY <>-<>, payable FY <>-<>, are due and payable:

   a. First install.: $<>, due, not delinquent<>  
   b. Second install.: $<>, due, not delinquent<>  

   The parcel number of the real estate is: <>.  

2. Entry No. <> reports there are no unpaid special assessments spread on the Treasurer's Tax List. This report includes Resolutions of Necessity passed by the governing body and certified to the Treasurer.
<> Entry No. <> reports the following special assessments: Special Assessment No. <>, total amount $<>, in <> installments, <> paid, <> unpaid, <> delinquent.

<> Entry No. <> reports that the real estate was sold at Tax Sale and Tax sale Certificate No. <> issued on <>. This means that the Tax Sale Certificate must be redeemed or purchased before the expiration of the statutorily defined period or a Tax Deed will be issued to the certificate holder. You are advised to contact the County Treasurer's Office to determine the cost of redemption, the name of the Certificate holder and the procedure for redemption. In the alternative, you may wish to contact the Certificate holder and negotiate a purchase of the Certificate.

E. LEGAL DESCRIPTION AND EASEMENTS. (PRIMARILY FOR YOUR INFORMATION, UNLESS THEY CONTAIN MATTERS WHICH ARE NOT CONSISTENT WITH YOUR UNDERSTANDING OF THE TRANSACTION)

1. Entry No. <> shows the dimensions of the real estate. <> The dimensions of the plat map are illegible. Therefore I require a showing of a legible version showing the subject real estate. (See Middle Road Developers, L.C. v. Windmiller Design and Develop. Co., 746 N.W.2d 279 (Iowa Ct. App. 2008)). You are advised to familiarize yourself with the location of the corners and boundaries as they appear on the ground. Should you desire to verify these reported dimensions or boundaries you should employ a surveyor to accomplish this by competent measure.

1. The abstract does not show the dimensions of the real estate. You are advised to familiarize yourself with the location of the corners and boundaries as they appear on the ground. Should you desire to verify the dimensions or boundaries you should employ a surveyor to accomplish this by competent measure.

<> Entry No. <> shows a utility easement given to the City of <> over, under and across the <> of the real estate relative to <>the construction and maintenance of electric lines, poles and other electrical or utility apparatus. <>a sewer or sanitary sewer system line. <>access for adjoining property. <> The easement was filed <> as Inst. No. <> of the county records.

You are therefore cautioned against the construction or erection of any permanent fences, structures or plantings within the area designated that could not readily be removed in the event the owner of the easement desired to utilize its access rights.
F. ZONING, COVENANTS AND OTHER RESTRICTIONS. (PRIMARILY FOR YOUR
INFORMATION, UNLESS THEY CONTAIN MATTERS WHICH ARE NOT CONSISTENT WITH YOUR
UNDERSTANDING OF THE TRANSACTION)

1. Entry No. <> reports that the real estate is subject to the restrictions of a
zoning ordinance of the City of <>, which is number <>. It reports that the real estate lies
within the area designated as Class <>. It does not report the zoning of the real estate, so
you are advised to contact the zoning official to ascertain this information. <> You should
verify both the zoning and that your proposed use of the real estate is permitted by the
zoning classification.

1. The abstract does not report the zoning of the real estate, so you are
advised to contact the zoning official to ascertain this information. You should verify that
your proposed use of the real estate is permitted by the zoning classification.

<>. Entry No. <> reports the real estate is subject to certain restrictive
covenants which govern the use of the real estate. For a copy of these restrictive
covenants, please contact the homeowners' association. <> These restrictive covenants
provide for automatic renewal. The automatic renewal provision will not serve to
should consult your real estate advisor to determine what effect, if any, the absence of
these restrictive covenants may have on the marketability of the real estate. The potential
unenforceability of these restrictive covenants could also have an adverse effect on your
ability to obtain financing. In addition, I recommend amending the covenants to provide
for extending the covenants by filing a verified claim.
The covenants were filed <> as Inst. No. <> of the county records.

If this real estate is subject to restrictive covenants it may be subject to
homeowner's dues or assessments. You are advised to consult the homeowner's
association to determine whether any dues remain unpaid and determine whether you
may become liable for their payment.

<>. Entry No. <> reports the real estate may be subject to certain agreements
made with the County SCS. You are advised to consult that office to determine if there
are any such agreements in effect.

<>. You are advised that if the real estate uses a private sewage disposal
system it is subject to Iowa Department of Natural Resources rules. It may also be subject
to County Board of Health rules. With certain exceptions, these rules require all such
systems be inspected for compliance upon transfer of ownership. You should determine
for yourself if the real estate is subject to these requirements. If an inspection is required,
the deed will not be accepted by the County Recorder for recording without a report from
a certified inspector or an alternate document called a “binding acknowledgment.” If the
real estate also uses a well for potable water, then in some counties an inspection of the well and testing of the water must also be made upon transfer of ownership.

G. CAUTIONS. You are strongly advised to review the cautions shown on the attached sheet and make the inquiries noted.

Very truly yours,
<>

by
<>

Iowa Title Guaranty No. <>
CAUTIONS. An abstract of title is a multi-page document typically prepared by a commercial abstracting firm. It consists of numbered entries containing information abstracted from the public records on file in the county courthouse that affect the title to the real estate described in the abstract of title. However, these public records do not necessarily disclose all rights in, claims against or restrictions upon the real estate. Therefore, you should make a careful inspection of the real estate and make diligent inquiry to satisfy yourself as to the following additional matters:

1. The rights of any person in actual possession of the real estate such as a tenant in possession under a lease agreement.
2. The rights, under the Iowa mechanic’s lien law, of persons who have furnished labor or materials in the past 90 days for improvements to the real estate.
3. The rights of creditors under the Iowa Uniform Commercial Code to a security interest in improvements to the real estate in the form of fixtures, such as a furnace or water heater, which have been installed so recently as to allow the creditor to file notice of such rights after the period of time covered by the abstract.
4. Unpaid charges for public utility services furnished to the real estate which may become a claim against the real estate.
5. The existence of any security interest in growing farm crops disclosed by financing statements filed in the office of the Iowa Secretary of State.
6. The existence of any easement over the real estate which is apparent from physical evidence of its use or the actual location of the boundary lines of the real estate.
7. Any encroachment upon the real estate from adjacent real estate by way of third party use or by building overlapping the boundary lines and any other facts that may be disclosed by a survey.
8. Availability of reasonable and convenient access to the real estate from an existing public right of way.
9. Any law, ordinance or governmental regulation (including but not limited to zoning, subdivision and rental housing ordinances, which are state or local laws, or Federal laws such as the Americans with Disabilities Act or the laws restricting discrimination in housing) restricting, regulating or prohibiting the occupancy, use or enjoyment of the real estate, or regulating the character, dimensions or location of any improvement now or hereafter erected on the real estate, or prohibiting a separation in ownership or a reduction in the dimensions or area of the real estate. For such information, you should consult the local building and zoning officials having jurisdiction or the Federal agencies having jurisdiction.
10. The legal competency (as affected by age or mental disability) of each individual titleholder executing a deed, mortgage or other instrument affecting the real estate; the authority of each person executing a deed, mortgage or other instrument affecting the real estate in a representative or fiduciary capacity; and the authenticity of all signatures appearing on such instruments.
11. Any other matter affecting the real estate which may have been filed as a part of the public records in the county courthouse after the period of time covered by this Title Opinion.
12. To the extent the premises in the caption may include real estate caused by action of any riparian waters, no opinion is expressed as to the marketability of title including accretions to such real estate.
13. There are matters which can only be satisfactorily determined by a survey. The plat or survey shown in the abstract, if one is shown, normally does not show the location of improvements with respect to the boundary lines. Buyers are encouraged to have a site survey (sometimes referred to as an ”as built” survey) done to locate any improvements with respect to the boundary lines. This site survey could be recorded to benefit both the buyer and the future buyers of the real estate. A site survey should reveal such problems as encroachments on the property, improvements built too close to or even over the boundary line and substandard lot size. Improvements not meeting zoning requirements may be considered nonconforming uses under applicable zoning and building codes. An owner may be prohibited from or restricted in rebuilding a nonconforming use under applicable zoning or building codes. A nonconforming use may also jeopardize the amount of recovery under the owner’s insurance policy. A nonconforming use may also prevent a buyer from obtaining a mortgage on the property.
14. The abstract does not disclose the existence of hazardous substances, pollutants, contaminants, hazardous wastes, underground storage tanks, drainage wells, active or abandoned water wells, and other
environmentally regulated activities. You are cautioned that federal, state and local legislation may, in the event there are environmental or public health violations, permit injunctive relief and require removal and remedial actions or other "clean-up." The cost of such "clean-up" may become a lien against the real estate, and you may have personal liability even though you may not have disposed of any hazardous substances, pollutants, contaminants, or hazardous wastes on the real estate or used any underground storage tanks or wells.
ATTORNEY’S CERTIFICATE OF TITLE

TO:  <>
and its successors in interest

We hereby certify we have examined the Abstract of Title, which begins with the Government Entry, Plat or Root of Title to real estate described as follows:

<>

from the date shown in our original Title Opinion through the last continuation, which has been certified by <> to <> at <> o’clock <> M., which abstract we deem sufficiently complete and reliable for examination; subject, however to the Cautions shown on our original Title Opinion.

We certify that the last continuation of the abstract shows that the real estate described above has been conveyed by the prior titleholders to <>, Husband and Wife<>
a single person.<>

We further certify that the mortgage dated <>, made and executed by <>, Husband and Wife<>
a single person<> to you in the amount of $<>, recorded on <> as Inst. No. <> in Book <>, Page <> of the mortgage records of the above county (which mortgage is shown at Entry No. <> of the abstract) constitutes a valid first and paramount mortgage lien on the said real estate. Entry No. <> reports this mortgage was assigned to <> by an assignment recorded <> as Inst. No. <> in Book <>, Page <> of the county records.<>

It is my opinion that the above-described lien is subordinate to the mortgage you intend to issue a Title Guaranty Certificate upon. This is because the mortgage is marked “purchase money mortgage” and because all of the funds advanced upon this mortgage were actually used to purchase the property or to pay for the costs in connection with the purchase. Purchase money mortgages are superior to liens against the purchaser pursuant to Iowa Code § 542.12(B).

We further certify that all taxes and assessments against the real estate are paid up to and including the following:

a.  FY <>, FY <> first instal.:  $<>, due, not delinquent<>  
b.  ”  second instal.:  $<>, due, not delinquent<>  

Dated <>

Residential real estate transactions, p. 71
Very truly yours,
<>

by

<>  
Iowa Title Guaranty No. <>
Exhibit 8

Sample title opinion paragraphs

Development agreement and the need for a building permit (liens and other encumbrances)

<>. Entry No. <> reports the real estate is encumbered by a Developers Agreement entered into with the City of <>, which was recorded on <> as Inst. No. <> of the county records. This Agreement provides for liens and covenants which run with the land. It also states “This covenant shall not be binding with respect to any officially platted lot for which a City building permit has been issued.” The developer should provide a letter in advance of the closing that the improvements have been made.

If no building permit has been issued with respect to the above lot prior to the recording of your mortgage, your mortgage will be subordinate to this encumbrance to the City of <>. The developer should provide a letter in advance of the closing that the improvements have been made.

<>. Entry No. <> shows an agreement with the City of <> for the construction of sidewalks and the planting of trees. The instrument was filed <> as Inst. No. <> of the county records. If the sidewalks have not been constructed or the trees not planted, this could prevent the issuance of or cause the revocation of an occupancy permit. The developer should provide a letter in advance of the closing that the improvements have been made.

24 months to install (Section F)

<>. Entry No. <> shows an agreement with the City of <> for the construction of sidewalks and the planting of trees. The instrument was filed <> as Inst. No. <> of the county records. Note that the sidewalks and trees must be installed no later than 24 months from the date of issuing the occupancy permit otherwise the occupancy permit may be revoked.

Paragraph showing title in an executor

<>. The abstract as certified shows record title to the real estate in: <>, as Executor of the Estate of <>, subject to the following comments and restrictions. Entry No. <> reports that the requirements of Title Standard 9.12 have been met.

Child support for college

<>. Entry No. <> reports Dissolution of Marriage Case No. <>, in which a judgment was entered on <> in favor of <> (a child whose date of birth is <>) against <>

Residential real estate transactions, p. 73
Residential real estate transactions, p. 74

Iowa Code § 598.1(8) indicates that this obligation may be required:

for educational expenses of a child who is between the ages of eighteen and twenty-two years if the child is regularly attending a course of vocational-technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs; or is, in good faith, a full-time student in a college, university, or community college; or has been accepted for admission to a college, university, or community college and the next regular term has not yet begun.

I require the judgment holder, <>, file an Affidavit which acknowledges receipt of all support for post-secondary education due under the decree of Dissolution up to and including the date upon which your deed and/or mortgage is recorded.

Child support owed

In the alternative, the abstractor shows that the Petitioner has paid $<> in child support from <> to <>. The judgment requires payments of $<> per month. Therefore, the Petitioner would owe $<> through the month of <>. If the Petitioner pays $<> and you record your mortgage in <>, then this objection would be satisfied.

Plat of Survey legal

Parcel “< >” in the <> 1/4 of the <> 1/4 of Section <>, Township <> North, Range <> West of the 5th P.M., <> County, Iowa, as shown in the Plat of Survey, recorded <> as Inst. No. <> of the <> County records.

Condo

< >, Entry No. <> reports the Declaration of Submission of Property to Horizontal Property Regime filed <> as Inst. No. <> of the county records. This document governs the use of the real estate. You should carefully review this document and make appropriate inquiries if you have any questions concerning its effect on your use of the real estate.

Note that the real estate may be subject to homeowner's dues or assessments. You are advised to consult the homeowner's association to determine whether any dues remain unpaid and determine whether you may become liable for their payment.

Residential real estate transactions, p. 74
Stray mortgage
Pursuant to Iowa Land Title Standard 4.5, I require the following:

1) An affidavit or disclaimer showing no interest in the property from
   <>.
   and
2) A release of the mortgage.

OR

3) If neither (1) or (2) can be obtained, then an affidavit of a person
   having personal knowledge of the facts.

Stray deed
Pursuant to Iowa Land Title Standard 4.5, I require one of the following:

1) An affidavit or disclaimer showing no interest in the property from the
   grantee of the deed;

2) A corrected deed setting out the true facts and stating that the description
   in the prior deed was in error;

3) If neither (1) or (2) can be obtained, then an affidavit of a person having
   personal knowledge of the facts.
Exhibit 9

Space above for recording data

By: Attorney’s Name, At’t’y at Law, Attorney’s address and phone number

AFFIDAVIT IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.

I/We, <>, being first duly sworn or affirmed do hereby depose and state of our personal knowledge that:

1. We are the trustees under the trust dated <>, to which the above described real estate was conveyed to the trustees by <>, pursuant to an instrument recorded on <>, in the office of the <> County Recorder in Book <>, Page <> or as Inst. No. <>.

2. We are the presently existing trustees under the trust and are authorized to convey the above-described real estate, without any limitation or qualification whatsoever.

3. The trust is in existence and I/we as trustees am/are authorized to transfer the interests in the real estate as described in paragraph 2, free and clear of any adverse claims.

4. The grantors of the Trust are alive.

5. The Trust is revocable or, if the trust is irrevocable, none of the beneficiaries of the trust are deceased.

6. This affidavit is given pursuant to § 614.14, Code of Iowa.

____________________________________ _____________________________
print name:      Date

Subscribed and sworn or affirmed before me by <>, this _____ day of _________________, 20__.

___________________________________________
Print name here:                          Notary Public in and for said State and County

Residential real estate transactions, p. 76
State of Iowa, <> County) SS.

I/We, <grantee>, being first duly sworn or affirmed do hereby depose and state of my/our personal knowledge that:

1. I/We am/are the grantee(s)<vendee(s) of the deed<contract dated <>, by which the above described real estate was conveyed to me by <>, pursuant to an instrument to be recorded in the office of the <> County Recorder.

2. In connection with the delivery of this deed to me, the Trustee(s) executing the deed<contract< provided me with an Affidavit which states the following, or substantially the following:
   a. I/We am/are the presently existing trustee(s) under the trust and am/are authorized to convey the above-described real estate, without any limitation or qualification whatsoever.
   b. The trust is in existence and I/we as trustee(s) am/are authorized to transfer the interests in the real estate as described above, free and clear of any adverse claims.
   c. This affidavit is given pursuant to §614.14, Code of Iowa.

3. I have relied on this Affidavit in accepting this deed<contract<.

4. I have no notice or knowledge of any adverse claims which will arise out of the execution and recording of the deed<contract from the trustee.

____________________________________ _____________________________
print name:      Date

Subscribed and sworn or affirmed before me by <>, this _____ day of ______________________, 20___.

Print name here: ________________________________________________
Notary Public in and for said State and County

Residential real estate transactions, p. 77
Exhibit 11

CERTIFICATION OF TRUST

State of Iowa, <> County) SS.

I/We, __________________________________________________________, being first duly sworn or affirmed do hereby depose and state of my/our personal knowledge that undersigned certify(ies) that I/we have established a Revocable Living Trust with the name(s) shown below. I/we further certify that:

a. The trust(s) was/were established by a written document during my/our lifetime(s).

b. I/We reserve the right to revoke the trust(s) during my/our lifetime(s).

c. The trustee(s) has/have power to mortgage the real estate of the trust(s) for the purpose of securing a loan to the trust.

d. I/we am/are the primary beneficiary(ies) of the trust(s).

e. The consent of the beneficiary(ies) is not required for the trust(s) to borrow money.

f. There are no unusual risks or impairments of lender’s rights.

g. The trust(s) is/are valid under Iowa law.

h. The trustee(s) are is/are the individual(s) who established the trust.

The Trustee(s) named above has full authority to enter into transactions on behalf of the Trust. The trust has not been revoked, modified, or amended in any manner which would cause the representations contained in this certification of trust to be incorrect. It is being signed by all of the currently acting trustees of the trust and is sworn and subscribed to or affirmed under penalty of perjury before a notary public. You are authorized to deal directly with the Trustee or any duly authorized successor Trustee. The undersigned agree(s) to indemnify you for any liability which may arise as a result of your reliance on this document.

_________________________________________________________ [Name of trust]

by___________________________________ ______________________________ 

____________________________, Trustee Date

by___________________________________ ______________________________ 

____________________________, Trustee Date

Subscribed and sworn or affirmed to under penalty of perjury by _________________

____________________________ before me on ______________________, 20______.

____________________________________

Notary Public in and for the State of Iowa

Residential real estate transactions, p. 78
NOTICE TO RECIPIENT: THE IOWA CODE CONTAINS THE FOLLOWING PROVISION REGARDING COPIES OF A TRUST AGREEMENT:

633A.4604. Certification of trust

1. A trustee may present a certification of trust to any person in lieu of providing a copy of the trust instrument to establish the existence or terms of the trust.

2. The certification must contain a statement that the trust has not been revoked, modified, or amended in any manner which would cause the representations contained in the certification of trust to be incorrect and must contain a statement that it is being signed by all of the currently acting trustees of the trust and is sworn and subscribed to under penalty of perjury before a notary public.

3. A certification of trust need not contain the dispositive provisions of the trust which set forth the distribution of the trust estate.

4. A person may require that the trustee offering the certification of trust provide copies of those excerpts from the original trust instrument and amendments to the original trust instrument which designate the trustee and confer upon the trustee the power to act in the pending transaction.

5. A person who acts in reliance upon a certification of trust without knowledge that the representations contained in the certification are incorrect is not liable to any person for so acting and may assume without inquiry the existence of the facts contained in the certification. Knowledge shall not be inferred solely from the fact that a copy of all or part of the trust instrument is held by the person relying upon the trust certification. A transaction, and a lien created by a transaction, entered into by the trustee and a person acting in reliance upon a certification of trust is enforceable against the trust assets.

6. A person making a demand for the trust instrument in addition to a certification of trust or excerpts shall be liable for damages, including attorney fees, incurred as a result of the refusal to accept the certification of trust or excerpts in lieu of the trust instrument if the court determines that the person acted unreasonably in requesting the trust instrument.

7. This section does not limit the rights of beneficiaries to obtain copies of the trust instrument or rights of others to obtain copies in a proceeding concerning the trust.
AFFIDAVIT IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.

I, <>, Recording Clerk for <name of church>, being first duly sworn or affirmed do hereby depose and state on behalf of said <name of church>, that:

1. By a special business meeting on _____________________________,
<name of church>, duly elected <name>, <name of office>, and <name>, <name of office>, as qualified representatives of said <name of church>, to convey the above-captioned real estate.

<name of church>

By_________________________________  _____________________________
<>, Recording Clerk       Date

Subscribed and sworn or affirmed before me by <> as Recording Clerk of <name of church>, this _____ day of _________________, 20__.

Print name here:
___________________________________________
Notary Public in and for said State and County

Residential real estate transactions, p. 80
Exhibit 13

Affidavit in re
Real Estate Located in <> County, Iowa
Described as follows:

<legal description>

State of Iowa, <> County) SS.

I, <>, being first duly sworn or affirmed, do hereby depose and state of my personal knowledge that:

1. A warranty deed was given by <> which conveyed the above-described real estate. The warranty deed was dated <> and recorded <> in Book <>, Page <> or Inst. No. <> of the county records. The deed did not recite the marital status of the grantor(s).

2. At the time of the execution and delivery of said warranty deed, <> was a single person or <> and <> were a married couple.

____________________________________ _____________________________
print name:      Date

Subscribed and sworn or affirmed before me by <>, this _____ day of ______________________, 20__.

__________________________________________________________
Print name here:      
Notary Public in and for said State and County

Residential real estate transactions, p. 81
Exhibit 14

Space above for recording data
By: Attorney’s Name, Att’y at Law, Attorney’s address and phone number

AFFIDAVIT IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.

I, <>, being first duly sworn or affirmed, do hereby depose and state of my personal knowledge that:

1. A mortgage was given by <> and <> which encumbered the above-described real estate. The mortgage was dated <> and recorded <> in Book <>, Page <> or Inst. No. <> of the county records. The mortgage did not recite the marital status of the mortgagors.

2. At the time of the execution and delivery of said mortgage, <> and <> were single persons / a married couple. [Modify as needed.]

____________________________________ _____________________________
print name:      Date

Subscribed and sworn or affirmed before me by <>, this ______ day of _________________. 20__.

___________________________________________
Print name here:      
Notary Public in and for said State and County

Residential real estate transactions, p. 82
IN THE IOWA DISTRICT COURT FOR <> COUNTY

IN RE: THE MARRIAGE OF <> and <>

UPON THE PETITION OF <>
Petitioner,

AND CONCERNING <>
Respondent.

EQUITY NO. ________________

ORDER NUNC PRO TUNC

IT IS THE ORDER OF THIS COURT that the Order dated <>, should reflect that the legal description of the real estate located at <the street address>, is the equivalent of <legal description>.

Dated ________________, 20__.

Judge of the <> Judicial District

Clerk to furnish copies to:
<parties>
AFFIDAVIT IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.

I, <>, currently of <>, Iowa, being first duly sworn or affirmed do hereby depose and state of my personal knowledge that:

1. I am acquainted with <>, currently of <>, Iowa.

2. The following judgments are of record in the <> County Clerk of Court:
   a. On <>, 20___, a judgment was entered in <> County Case No. <>, against <>.  
   b. On <>, 20___, a judgment was entered in <> County Case No. <>, against <>.  
   c. On <>, 20___, a judgment was entered in <> County Case No. <>, against <>.  

3. According to the <> County Clerk of Court’s files, the address of <> named in the above-referenced judgments was <> and his year of birth is <>.  

4. <> has never lived in <> and his year of birth is <>.  [Note that you cannot use the social security number as a distinguishing characteristic.]  

5. I hereby state that the references to <> in the above-referenced judgments do not refer to one and the same person as <>, currently of <>, Iowa.

____________________________________ _____________________________
print name:      Date

Subscribed and sworn or affirmed before me by <> on <> ________, 20__.

__________________________________________
Notary Public in and for said State and County
IN THE IOWA DISTRICT COURT FOR <> COUNTY

<>,

Plaintiff,

vs.

<>,

Defendant.

Case No. <>

Notice of Homestead
Designation and Demand to Levy (Iowa Code § 624.23)
and Proof of Service

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the undersigned declares that the following real estate is or has been the homestead of the undersigned and FURTHER RESPECTFULLY DEMANDS that you levy execution of the judgment created in this matter against the following real estate, located in <> County, Iowa, within thirty (30) days from the date of service of the demand:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Residential real estate transactions, p. 85
Parcel Identification Number: _________________________.

If you fail to levy within thirty (30) days from the date of service of the demand, the lien and all benefits derived from the lien as to said real estate alleged to be or to have been homestead, SHALL BE FORFEITED.

The undersigned, being first duly sworn or affirmed do hereby depose and state of our personal knowledge that:

1. We make this affidavit from our personal knowledge for purposes of establishing of record, pursuant to § 624.23(2) of the Code of Iowa, certain facts known to us and affecting the chain of title to the above-described real property situated in <> County, Iowa.

2. The above-described real estate was conveyed to <> and <>, a married couple, by a warranty deed filed <> as Inst. No. <>, of the <> County records.

3. From the time we purchased the above-described real estate through the present, we have occupied the premises habitually and in good faith as our homestead.

4. The property is within the city limits of the City of <> , Iowa, and does not exceed one-half acre in extent and its value is exceeds $500.

5. Our homestead does not embrace more than one dwelling house or any other buildings.

6. The debt to the Plaintiff on this Notice was contracted subsequent to our acquisition of the property as our homestead, and said debt was not incurred for work done or material furnished exclusively for the improvement of the homestead.

As a result of the above-described real estate being our homestead property, the above-referenced judgment does not attach as a lien affecting the real estate. *Baratta v. Polk County Health Services, Inc.*, 588 N.W.2d 107, 113 (Iowa 1999).

<>
Date

<>
Date

Residential real estate transactions, p. 86
State of Iowa, <> County) SS.

________________________________________
print name:      Date

Subscribed and sworn or affirmed before me by <> on <> _______, 20___.

________________________________________
Notary Public in and for said State and County

Original sent by certified mail to:

________________________________________

Copy sent by certified mail to:

________________________________________
Attorney at Law

Copy of demand and certified mail receipt filed with the <> County Clerk of Court.

Proof of Service
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on __________________________, 20___.

By: [ ] U.S. Mail  [ ] FAX
    [ ] Hand Delivered  [ ] Overnight Courier
    [X] Certified Mail  [ ] Other

Signature ________________________________

Residential real estate transactions, p. 87
State of Iowa, <> County) SS.

COMES NOW <petitioner> <respondent>, Petitioner<>Respondent<> in the above matter and acknowledges that all payments for child support ordered by the Court in the Decree entered in the above matter on <>, have been paid through that due <>. I do not acknowledge payment of any amounts after those due <>. This receipt is in full release and satisfaction of this judgment. Nothing further is owed to me in this matter.<>

<legal description>.

Parcel number:

______________________________________________  __________________________
<petitioner> <respondent> Date

Subscribed and sworn or affirmed before me by <petitioner> <respondent>, this ______ day of ________________________, 20____.

__________________________________________
Notary Public in and for
said State and County
IN THE IOWA DISTRICT COURT FOR <> COUNTY

IN RE: THE MARRIAGE OF <> and <>

UPON THE PETITION OF
<>,
Petitioner,

AND CONCERNING
<>,
Respondent.

State of Iowa, <> County) SS.

COMES NOW <>, Petitioner/Respondent<> in the above matter and the present holder of judgments ordered by the Court in the Decree entered in the above matter on <>, 20__, and does hereby release the following described real estate from all liens in her/his<> favor:

<>

This instrument constitutes a release of the lien of said judgments only as to the real property described above and shall not affect the lien of said judgments on the remaining real estate subject to the judgments, which shall remain in full force and effect.

____________________________________ _____________________________
print name: Date

Subscribed and sworn or affirmed before me by <> on <> ______, 20__.

_______________________________
Notary Public in and for said State and County

Residential real estate transactions, p. 89
AFFIDAVIT IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.
I, <>, being first duly sworn or affirmed, do hereby depose and state of my personal knowledge that:

1. I am an attorney practicing in <>, Iowa.
2. I am familiar with the estate of <>, who died on <>, as I was the designated attorney for said estate proceedings.
3. The gross value of <>'s Estate for Federal Estate Tax purposes (including but not limited to: real and personal property (both exempt and nonexempt); transfers in contemplation of death, transfers with a retained interest, and powers of appointment; life insurance payable to or for the estate, or in which the decedent possessed an incident of ownership) is less than the amount allowed by the Unified Credit for Federal Estate and Gift Taxes (Federal Estate Tax Exemption Equivalent), as reduce by the amount allowable as credit s for any prior gifts by the decedent, and that all of the assets passed by form of ownership to the surviving spouse, children, or step-children, and therefore no Federal Estate Tax or Iowa Inheritance Tax Returns need be filed.

____________________________________ _____________________________
print name: Date

Subscribed and sworn or affirmed before me by <> on <> _______, 20___.

________________________________________
Notary Public in and for said State and County
MORTGAGE SUBORDINATION AGREEMENT

KNOW ALL PERSONS BY THIS INSTRUMENT that the undersigned, <<>, Mortgagee of the mortgage hereinafter described, does hereby subordinate said mortgage as recited below:

a. Mortgagee is the owner and holder of a certain note dated <<>, secured by a certain mortgage made by <<> (hereafter Mortgagors) to Mortgagee, dated <<> and recorded <<> as Inst. No. <<> of the <<> County recorder’s office, and covering the following described property:

<<>

b. Mortgagors gave a mortgage to <<> (hereafter Lender) dated <<> and recorded <<> as Inst. No. <<> of the <<> County recorder’s office, and covering the above-described property.

c. To induce Lender to make such a loan, it is necessary that the mortgage held by Mortgagee be subordinated to the lien of the mortgage made by Lender as set forth above.

For the reasons set forth above, and in consideration of the mutual covenants and promises of the parties hereto, Mortgagee subordinates its mortgage as follows:

1. Subordination. Mortgagee hereby covenants, consents, and agrees with Lender that the above-mentioned mortgage held by Mortgagee is and shall continue to be subject and subordinate in lien to the lien of the mortgage made by Lender as described above.

2. Consideration. In consideration of Mortgagee so subordinating the mortgage held by Mortgagee to the mortgage made to the Lender, Lender made the above-described loan and, in further consideration, paid the sum of one dollar and other valuable consideration to Mortgagee.

3. Binding Effect. This agreement shall be binding upon and inure to the benefit of the respective heirs, legal representatives, successors, and assigns of the parties hereto.
Mortgagee

by___________________________________
Print name and office:

State of Iowa, <> County) SS.

Subscribed and sworn or affirmed before me by <> as <> of <> on <> ______, 20___.

__________________________________________
Notary Public in and for said State and County
AFFIDAVIT: WAIVER OF FIRST REFUSAL
IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.

WHEREAS, the Declaration of Submission to Horizontal Property Regime for <> (hereinafter “Declaration”) dated <>, was filed of record <>, as Inst. No. <> of the <> County Recorder’s Office.

WHEREAS, paragraph <> of said Declaration grants an option to exercise a right of first refusal to <> (the “Association”) as more particularly set forth therein; and

WHEREAS, the above legally-described unit is to be sold, given as a gift, devised, leased or otherwise transferred from the Unit Owner: <>

NOW, THEREFORE, the Association hereby expressly waives, relinquishes and releases any and all option rights in and to the real estate described above set forth in Paragraph <> of the Declaration with respect to this specific ownership transfer; the transferring Unit Owner for the transfer is listed as: <>. 

I further certify that all Association assessments have been paid to and including the month of ________________, 20<>. 

____________________________________ _____________________________
Print name:      Date
Print office:  

Subscribed and sworn or affirmed before me by <> as <> of <>, this _____ day of ________________, 20__.

______________________________________
Print name here:  
Notary Public in and for said State and County

Residential real estate transactions, p. 93
AFFIDAVIT OF SURVIVING SPOUSE

State of Iowa, <> County) SS.

I, _________________________, being first duly sworn or affirmed, do hereby depose and state of my personal knowledge that:

1. I am the surviving spouse of _________________________, who died on ____________.

2. The following described real estate was owned only by _________________________ and _________________________, as joint tenants with full rights of survivorship at the time of _________________________’s death:

   ______________________________________________________
   ______________________________________________________

3. I hereby request that the auditor enter this information on the transfer books pursuant to section 558.66 of the Iowa Code.

4. I have consulted with a qualified attorney licensed to practice law in the State of Iowa, having advised and informed that attorney of the nature and full extent of the property owned by <> at the time of decedent’s death on <>, and have been advised by that attorney that no liability exists for Federal Estate and Gift Tax or Iowa Estate or Inheritance Tax.

   Dated this _______ day of ____________________________, 20____.

   ______________________________________________________

   Print name:

   Subscribed and sworn or affirmed before me by _________________________,
   this _____ day of ____________________________, 20__.

   ______________________________________________________

   Notary Public in and for said County and State

Residential real estate transactions, p. 94
AFFIDAVIT OF POSSESSION IN RE
REAL ESTATE LOCATED IN <> COUNTY, IOWA
DESCRIBED AS FOLLOWS:

<legal description>

State of Iowa, <> County) SS.

The undersigned first being duly sworn (or affirmed) upon oath deposes and states that <> are now the record titleholders of the above-described real estate.

The undersigned further states that <> are now in complete, actual, and sole possession of all of said real estate except as may be herein stated. This affidavit is made from the personal knowledge of the undersigned who is familiar with the real estate, its titleholders, and its parties in possession; and is for the purpose of confirming title to the above-described real estate under the provisions of Iowa Code § 614.17, and other statutes relative thereto.

Words and phrases herein, including jurat and marginal entry hereof, shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender according to the context.

_____________________________ _____________________________
print name: Date

Subscribed and sworn or affirmed before me by <>, this _____ day of _______________________, 20___.

___________________________________________
Print name here: Notary Public in and for said State and County
POWER OF ATTORNEY

The undersigned, owner in possession of the property described above, hereby directs that this affidavit be filed of record and hereby appoints the County Recorder of the County wherein the land is situated as the authorized attorney in fact to file the same.

______________________________
Owner in Possession

State of Iowa, <> County) SS.

On this _____ day of ___________________, 20___, before me a Notary Public in and for said County and State, personally appeared <>, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

______________________________
Notary Public in and for said State and County

MARGINAL ENTRY

State of Iowa, <> County) SS.

The undersigned Recorder in and for <> County, Iowa, hereby certifies that the foregoing affidavit was filed in the Recorder's Office by the owner in possession as named in said affidavit or by his attorney in fact as shown by the records; and duly recorded and entered on the records thereon on the _____ day of ___________________, 20___.

______________________________
<> County Recorder

Residential real estate transactions, p. 96
INSTRUCTION TO A PARTY SELLING REAL ESTATE WITHOUT
AN AGENT OR ATTORNEY

The following documents need to be provided to me as the closing attorney no later than 48 hours in advance of the closing:

1. Warranty deed (should be prepared by an attorney).
2. Declaration of Value (should be prepared by an attorney).
3. Groundwater Hazard Statement (should be prepared by an attorney).
4. Title Guaranty Composite Mortgage Affidavit (should be prepared by an attorney).
5. Power of Attorney (if one is used, it should be prepared by an attorney).
6. Payoff statement from each mortgage holder. The payoff needs to include the interest per diem.
7. Invoices for any bills you would like to have paid out of your proceeds (assuming there are proceeds). E.g., abstracting, attorney fees.
8. Instructions with what to do with your proceeds. The proceeds can be mailed, picked up, or wire transferred to your account.
9. Instructions on how to provide you with a draft of the settlement statement to review (preferably by fax). You will need to sign this.
10. You are responsible for addressing any title problems that are presented in the preliminary title opinion. I suggest that you ask the broker if there are such issues. Examples of such problems include unpaid judgments, liens, child support, alimony, court costs, estate matters, unpaid taxes, and boundary matters.
11. You do not need to obtain the real estate tax proration. We will prepare this.
I also recommend that you consider the following:

1. Make sure all arrangements for the transfer of keys, garage door openers, etc. are resolved well in advance of the closing.

2. Allow enough time between the final walk-through inspection and the closing to resolve any matters that come up during the walk through.

3. **Obtain legal counsel to review your rights and obligations as the seller and to assist you with document preparation.**

   Please call me if you have any questions.
Exhibit 26

**MNLR Search Verification**

Borrower(s): ________________________________

Address: ________________________________

Instructions: Initial the line to verify the search was performed. This form stays with the closing file.

<table>
<thead>
<tr>
<th>Search term</th>
<th>Title opinion</th>
<th>Closing</th>
<th>Filing of refi. mtg.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal description</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tax id number</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Property address</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Owner</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Date & time of search: ___________ ___________ ___________

Filings found:

________________________________________________________________________
________________________________________________________________________
________________________________________________________________________
________________________________________________________________________

Residential real estate transactions, p. 99
ESCROW AGREEMENT
Postponed or Uncompleted Improvements or Repairs

Seller(s): _______________________________
Buyer(s): _______________________________
Builder(s): _______________________________
Escrow Agent: _______________________________

Property Address: _______________________________
Legal Description: ________________________________________________________
                                                                                   _____________________________________________________________________
                                                                                   _____________________________________________________________________

The undersigned agree as follows:

1. **Work and costs.** The following items remain to be completed by the _______________________________ (referred to as “Responsible Party”) and shall be known as the “work”:

<table>
<thead>
<tr>
<th>To be completed</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>a.</td>
<td>$</td>
</tr>
</tbody>
</table>

2. **Purpose of agreement.** The purpose of this Escrow Agreement is to allow _______________________________ to close Buyers’ mortgage loan prior to completion of the above-described work and to insure the prompt completion of said work.

3. **Deadline for completion and amount held in escrow.** The Responsible Party agrees to complete the above work no later than _______________________________. If the work is not completed by this date, the Escrow Agent may employ any third party satisfactory to it for the purpose of completing any or all of the above items of work. In order to secure the Responsible Party’s performance and the completion of the above items in a timely and satisfactory manner, Escrow Agent or its agent shall hold in escrow 150% of the estimated cost of completion, or $________________ of the Responsible Party’s proceeds in a non-interest bearing account. The Escrow Agent may use any portion or all of the funds held in escrow for the purpose of paying any third party employed by Escrow Agent in accordance with the terms of this agreement.
4. **Mechanic’s liens.** The Responsible party shall by personally liable for the satisfactory completion of the work, including waiver or discharge of any mechanic’s lien in connection therewith.

5. **Inspection upon completion.** When the work is completed, Responsible Party shall notify the Escrow Agent and Buyer. The items of work shall then be inspected to determine whether all of the work required herein has been satisfactorily completed. Select one of the following:

   ______ **Appraiser inspection.** Escrow Agent shall assign the inspection to an appraiser of its choice duly licensed as such the State of Iowa. If the appraiser approves of all the work to be performed hereunder, the Escrow Agent shall release the balance of the funds held in escrow, if any, to the Responsible Party. The appraiser’s decision as to the satisfactory completion of the work will be final.

   OR

   ______ **Buyer inspection.** Buyers will inspect the work performed. If the Buyers approve of all the work performed hereunder, the Escrow Agent shall release the balance of the funds held in escrow, if any, to the Responsible Party. The Buyer’s decision as to the satisfactory completion of the work will be final.

The Responsible Party will provide satisfactory evidence to assure that no mechanic’s liens are outstanding or can attach on account of the work. Should the Responsible Party wish, the Escrow Agent will pay directly to a contractor the sum required to reimburse said contractor for the work done to the property.

6. **Escrow agent liability.** The Responsible Party and the Buyer agree to hold the Escrow Agent and its agent harmless from any liability with respect to performance of its duties as escrow agent, the Escrow Agent’s decision with respect to any release of the escrow funds, and the employment of any third party.

7. **Lien on funds.** Escrow Agent shall have a prior lien on the funds deposited herewith for any costs, including inspections, fees, court costs, and reasonable attorney fees, which it may incur during the course of administration of this agreement, or as a consequence of becoming a party to any legal or equitable proceeding which is brought by any third party claiming an interest in the escrowed funds or by any party which disputes the manner of the disposition of the funds.

8. **Contract with the Buyer to do the work.** If the Responsible Party is a Seller or a Builder, and agrees to contract with the buyer to do the work, an agreement must be signed at closing between the Seller or Builder and the Buyer which must contain a specific amount which the Buyer is to receive for completing the work. The Escrow Agent must be provided a copy of any such agreement.
Dated _________________________.

**Buyers**

________________________________ ________________________________

Print name:     Print name: ________________________________

**Seller** - ________________________________

by ________________________________

________________________________________ (print name and office)

**Escrow Agent** - ________________________________

By ________________________________

________________________________________ (print name and office)
POWER OF ATTORNEY
OF
<>

KNOW ALL PERSONS BY THIS INSTRUMENT that the undersigned <>, of ___________ County, Iowa does hereby make, constitute and appoint <>, of Story County, Iowa, his<> true and lawful Agent, with full right, power and authority for him<>, and in his<> name, place and stead to execute all documents, including a promissory note and mortgage, in order to BORROW MONEY or MORTGAGE PROPERTY or to complete, extend, modify or renew any obligations, giving either security (including but not restricted to real estate mortgages, stock certificates and insurance policies as collateral) or unsecured, negotiable or non-negotiable obligations of the undersigned, at a rate of interest and upon terms satisfactory to the Agent, with regards to the real estate described as follows:

<>

(locally known as ___________________________)

The undersigned further gives unto said Agent the full power and authority to do and perform each and every act, deed, matter, and thing whatsoever required and necessary to be done in and about the foregoing, as fully as the undersigned might or could do if personally present and acting.

The undersigned further directs that this Power of Attorney shall take effect immediately and shall be irrevocable unless and until such time as there is filed of record a duly acknowledged revocation of this instrument in the office of the Story County Recorder or, if this instrument is filed in another office, in the same office.

Each of the undersigned hereby authorizes the Agent to relinquish all rights of dower, homestead and distributive share in the event this instrument authorizes the conveyance of real estate.

Signed this _____ day of ________________, 20___

______________________________     ______________________________
Print name:                                Print name:
State of Iowa, <> County) SS.

Subscribed and sworn or affirmed before me by <>, this _____ day of ______________________, 20___.

___________________________________________
Print name here: ________________________________________________________________

Notary Public in and for said State and County
IOWA CODE § 428A.2. EXCEPTIONS

The tax imposed by this chapter shall not apply to:
1. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.
2. Any instrument of mortgage, assignment, extension, partial release, or satisfaction thereof.
3. Any will.
4. Any plat.
5. Any lease.
6. Any deed, instrument, or writing in which the United States or any agency or instrumentality thereof or the state of Iowa or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor; and any deed, instrument or writing in which any of such unit of government is the grantee or assignee where there is no consideration.
7. Deeds for cemetery lots.
8. Deeds which secure a debt or other obligation, except those included in the sale of real property.
9. Deeds for the release of a security interest in property excepting those pertaining to the sale of real estate.
10. Deeds which, without additional consideration, confirm, correct, modify, or supplement a deed previously recorded.
11. Deeds between husband and wife, or parent and child, without actual consideration. A cancellation of indebtedness alone which is secured by the property being transferred and which is not greater than the fair market value of the property being transferred is not actual consideration within the meaning of this subsection.
12. Tax deeds.
13. Deeds of partition where the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest a tax is due on the greater values, computed at the rate set out in section 428A.1.
14. The making or delivering of instruments of transfer resulting from a corporate merger, consolidation, or reorganization or a merger, consolidation, or reorganization of a limited liability company under the laws of the United States or any state thereof, where such instrument states such fact on the face thereof.
15. Deeds between a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company and its stockholders, partners, or members for the purpose of transferring real property in an incorporation or corporate dissolution or the organization or dissolution of a partnership, limited partnership, limited liability partnership, or limited liability company under the laws of this state, where the deeds are given for no actual consideration other than for shares or for debt securities of the
corporation, partnership, limited partnership, limited liability partnership, or limited liability company. For purposes of this subsection, a family corporation, partnership, limited partnership, limited liability partnership, or limited liability company is a corporation, partnership, limited partnership, limited liability partnership, or limited liability company where the majority of the voting stock of the corporation, or of the ownership shares of the partnership, limited partnership, limited liability partnership, or limited liability company is held by and the majority of the stockholders, partners, or members are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendants of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related and where all of its stockholders, partners, or members are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons.

16. Deeds for the transfer of property or the transfer of an interest in property when the deed is executed between former spouses pursuant to a decree of dissolution of marriage.

17. Deeds transferring easements.

18. Deeds giving back real property to lienholders in lieu of forfeitures or foreclosures.


20. Deeds transferring distributions of assets to heirs at law or devisees under a will.

21. Deeds in which the consideration is five hundred dollars or less.
LETTER OF INSTRUCTION TO CLOSE AN OPEN-END LINE OF CREDIT LOAN

Date: _______________________

To: _______________________
_______________________
_______________________
_______________________
_______________________

RE: Line of Credit
Loan No: ____________________________
Borrower(s): ____________________________
Property Address: ____________________________
____________________________

Dear Sir or Madam,

I am writing you to instruct you to close the above-referenced line of credit. As a result of paying off the loan in full and providing you this instruction, we expect that the mortgage will be released within thirty days as required by the Iowa Code. Please call me immediately if there is a problem.

Thank you for your assistance with this matter.

Sincerely,

______________________________  ______________________________
Phone No. _________________

Residential real estate transactions, p. 107
Exhibit 1

SAMPLE ORGANIZATIONAL LIST OF A CLOSING PACKAGE

Settlement statement
Signature addendum
Note
Truth in Lending
Mortgage
Temporary payment coupon / first payment letter
Initial escrow disclosure statement
Itemization of amount financed
Notice of right to cancel (refinance only)

Other documents

Loan application (Form 1003)
Composite mortgage affidavit
Title Guaranty attendance form

For borrowers’ copies
Copy of title opinion
Title Guaranty owners’ policy brochure
Business card
Homestead tax credit reminder

Residential real estate transactions, p. 108
Exhibit 32

CLOSING ATTENDANCE RECORD

Date: _____________________  Time: _____________________

Location: _____________________

Attorney verified identification: ________ (initial)

<table>
<thead>
<tr>
<th>Name</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Phone</td>
<td>Phone</td>
</tr>
<tr>
<td>____ Attorney</td>
<td>____ Attorney</td>
</tr>
<tr>
<td>____ Lender</td>
<td>____ Lender</td>
</tr>
<tr>
<td>____ Borrower</td>
<td>____ Borrower</td>
</tr>
<tr>
<td>____ Realtor</td>
<td>____ Realtor</td>
</tr>
<tr>
<td>____ Other</td>
<td>____ Other</td>
</tr>
<tr>
<td>(______________)</td>
<td>(______________)</td>
</tr>
</tbody>
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<td>____ Lender</td>
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<td>____ Borrower</td>
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_________________________   _________________________
Signature                  Signature

Residential real estate transactions, p. 109
Exhibit 33

______________ COUNTY HOMESTEAD AND MILITARY TAX CREDIT

Under the Code of Iowa, homeowners are allowed to file for exemptions from and credits toward their yearly property tax bill. To qualify for an exemption, applications must use their primary residence address for filing the qualifying credits.

If you are a veteran of the United States Armed Services, you may also qualify for an additional tax credit on your property taxes.

You can access the required forms at: _______________________________________.

Additional county-specific instructions about the procedure for filing.

You are also able to sign up for these credits in person at the following address:

________________________ County Assessor Office
________________________

Phone: _____________________

It is the responsibility of each owner to file a homestead tax credit with the county assessor on or before July 1st of the year the owner is first claiming the credit. You should wait approximately ten days prior to signing up for this credit to allow for the recordation of the deed.

This credit will remain on the property until you sell the property or no longer use it as your primary residence.
Exhibit 34

FILING INSTRUCTIONS

Date of filing: ___________________

Abstractor: ___________________

Borrower: ___________________

Enclosed please find the following for your attention:

- Warranty deed, DOV, and GHS
- Mortgage
- Assignment of mortgage
- Second mortgage
- March / Sept. taxes $___________
- Recording fees of $___________
- Revenue stamps of $___________
- _______________________________

Please do the following:

- Run final search on all parties.
- Record documents.
- Call to confirm that filing has been completed.
- Issue a post-closing search certification upon filing the deed, mortgage (and other documents), instead of completing a final continuation.

We will be issuing a Rapid Certificate Final Title Policy following the closing; thus, we request that you do not need to wait for the filed releases of the prior mortgage(s) before you complete and return the post-closing certification to our office.

If any of these documents are not attached, or if you have any questions, please contact us immediately.
Exhibit 35

1099 WORKSHEET

______________________________ to ____________________________

Closing Date: ____________________________

Address of Property Sold: _____________________________________________

Purchase Price: $___________________________

Sellers’ Name: _____________________________________________

Forwarding Address: _____________________________________________

One of Seller’s SSN: _______ - _______ - _______

Buyers’ Name: _____________________________________________

Address: _____________________________________________

One of Buyer’s SSN: _______ - _______ - _______
Handout for Introduction to Iowa Residential Real Estate Transactions
Nuts & Bolts 2014

Timothy L. Gartin
Hastings, Gartin & Boettger, LLP
409 Duff Ave.
Ames, IA 50010
O: 515.232.2501 / F: 515.232.2525
timothy.gartin@amesattorneys.com
RESIDENTIAL PURCHASE AGREEMENT

TO: ________________________ (SELLERS)

The undersigned BUYERS hereby offer to buy and the undersigned SELLERS by their acceptance agree to sell the real property situated in ____________, Iowa, locally known as ________________________, and legally described as:

...together with any easements and appurtenant servient estates, but subject to any reasonable covenants of record for public utilities or roads, any zoning restrictions, customarily restrictive covenants and restrictions, reservations of record, if any, herein referred to as the "Property", upon the following terms and conditions provided BUYERS, on possession, are permitted to use the Property for residential purposes.

1. PURCHASE PRICE. The Purchase Price shall be $_________ and the method of payment shall be as follows:

$_________ with this offer to be deposited upon acceptance of this offer and held in trust by ______________________, as earnest money to be delivered to the SELLERS upon performance of SELLERS' obligations and satisfaction of BUYERS' contingencies, if any; and the balance of the Purchase Price:

(a) in cash at the time of closing for adjustment for closing costs to be added or deducted from this amount. This Agreement is not contingent upon BUYERS obtaining such funds.

(b) upon the terms specified in alternative ________ of the Financing Addendum to Residential Purchase Agreement as initiated and attached hereafter and incorporated herein.

2. REAL ESTATE TAXES. A. SELLERS shall pay all real estate taxes that are due and payable as of the date of possession and constitute a lien against the Property, including any unpaid real estate taxes for any prior years.

B. SELLERS shall pay their prorated share, based upon the date of possession, of the real estate taxes for the fiscal year in which possession is given (ending June 30, ________ due and payable in the subsequent fiscal year (commencing July 1, ________).

BUYERS shall be given a credit for such payment at closing (unless this agreement is for an installment contract) based upon the last known actual net real estate taxes payable according to public record. However, if such taxes are based upon a partial assessment of the present property improvements or a changed tax classification as of the date of possession, such proration shall be based on the current millage rate, the assessed value, legislative tax limitations and real estate tax exemptions that will actually be applicable as shown by the Assessor's Records on the date of possession.

C. BUYERS shall pay all subsequent real estate taxes.

3. SPECIAL ASSESSMENTS. A. SELLERS shall pay in full all special assessments which are a lien on the Property as of the date of acceptance ________.

B. If "A" is checked, then SELLERS shall pay all installments of special assessments which are a lien on the Property and, if not paid, would become delinquent during the calendar year this offer is accepted, and all prior installments thereof.

C. All charges for solid waste removal, sewage and maintenance that are attributable to SELLERS' possession, including those for which assessments arise after closing, shall be paid by SELLERS.

D. Any preliminary or deficiency assessment which cannot be discharged by payment shall be paid by SELLERS through an escrow account with sufficient funds to pay such lien when payable, with any unused funds returned to SELLERS.

E. BUYERS shall pay all other special assessments.

4. RISK OF LOSS AND INSURANCE. SELLERS shall bear the risk of loss or damage to the Property prior to closing or possession, whenever first occurs. SELLERS agree to maintain existing insurance and BUYERS may purchase additional insurance. In the event of substantial damage or destruction prior to closing, this Agreement shall be null and void, provided, however, BUYERS shall have the option to complete the closing and receive insurance proceeds regardless of the extent of damages. The property shall be deemed substantially damaged or destroyed if it cannot be restored to its present condition or on or before the closing date.

5. POSSESSION AND CLOSING. If BUYERS timely perform all obligations, possession of the Property shall be delivered to BUYERS on ________ at ________, and any adjustments of rent, insurance, taxes, interest and all charges attributable to the SELLERS' possession shall be made as of the date of possession. Closing shall occur after approval of title by buyers' attorney and vacation of the Property by SELLERS. SELLERS agree to permit BUYERS to inspect the Property within ________ hours prior to closing to assure that the premises are in the condition required by this Agreement. If possession is given on a day other than closing, the parties shall make a separate agreement with adjustments as of the date of possession. This transaction shall be considered closed (upon the signing of title transfer documents) upon the delivery of the title transfer documents to BUYERS and receipt of all funds then due at closing from BUYERS under this Agreement.

6. FIXTURES. Included with the Property shall be all fixtures that integrally belong to, are specifically adapted to or are a part of the real estate, whether attached or detached, such as: attached wall-to-wall carpeting, built-in appliances, light fixtures (including light
7. CONDITION OF PROPERTY. A. The property as of the date of this Agreement including buildings, grounds, and all improvements will be preserved by the SELLERS in its present condition until possession, ordinary wear and tear excepted.

B. Within ______ days after the acceptance of this Agreement BUYERS may, at their sole expense, have the property inspected by a person or persons of their choice to determine if there are any structural, mechanical, plumbing, electrical, environmental, or other deficiencies. Within this same period, the BUYERS may notify in writing the SELLERS of any deficiency. The SELLERS shall immediately notify the BUYERS in writing of what steps, if any, the SELLERS will take to correct any deficiencies before closing. The BUYERS shall be immediately in writing notify the SELLERS that (1) such steps are acceptable, in which case this Agreement, as so modified, shall be binding upon all parties; or (2) that such steps are not acceptable, in which case this Agreement shall be null and void, and any earnest money shall be returned to BUYERS.

C. If "B" is deleted, BUYERS acknowledge that they have made a satisfactory inspection of the Property and are purchasing the Property in its existing condition.

D. NEW CONSTRUCTION: If the improvements on the subject property are under construction or are to be constructed, this Agreement shall be subject to approval by plans and specifications by the parties within ______ days of acceptance of this Agreement. New construction shall have the warranties implied by law, those specifically made by suppliers of materials/apparatus, and those specifically rendered by the contractor.

8. ABSTRACT AND TITLE. SELLERS, at their expense, shall promptly obtain an abstract of title to the Property continued through the date of acceptance of this Agreement, and deliver it to BUYERS' attorney for examination. It shall show marketable title in SELLERS' fee simple with this Agreement, Iowa law, and Title Standards of the Iowa State Bar Association. The SELLERS shall make every reasonable effort to promptly perfect title. If closing is delayed due to SELLERS' inability to provide marketable title, this Agreement shall continue in force and effect until either party rescinds the Agreement after giving ten days written notice to the other party. The abstract shall become the property of BUYERS when the purchase price is paid in full. SELLERS shall pay the costs of any additional abstracting and title work due to any act or omission of SELLERS, including transfers by or the death of SELLERS or their assignees.

9. SURVEY. BUYERS may, at BUYERS' expense prior to closing, have the property surveyed and certified by a Registered Land Surveyor. If the survey shows any encumbrance on the Property or if any improvements located on the Property are not legal for the land of others, the encumbrances shall be treated as a title defect. If the survey is required under Chapter 354, SELLERS shall pay the cost thereof.

10. ENVIRONMENTAL MATTERS. (a) SELLERS warrant to the best of their knowledge and belief that there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Property, the Property does not contain levels of radon gas, asbestos or urea-formaldehyde foam insulation which require remediation under current governmental standards, and SELLERS have done nothing to contaminate the Property with hazardous wastes or substances. SELLERS warrant that the Property is not subject to any local, state, or federal judicial or administrative action, investigation or order, as the case may be, regarding wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks. SELLERS shall also provide BUYERS with a properly executed GROUNDWATER HAZARD STATEMENT showing no wells, solid waste disposal sites, hazardous waste and underground storage tanks on the Property unless disclosed here:

(b) BUYERS may at their expense, within ______ days after the date of acceptance, obtain a report from a qualified engineer or other person qualified to analyze the existence or nature of any hazardous materials, substances, conditions or wastes located on the Property. In the event any hazardous materials, substances, conditions or wastes are discovered on the Property, BUYERS' obligation hereunder shall be contingent upon the removal of such materials, substances, conditions or wastes or other action, at the cost and expense of SELLERS, reasonably satisfactory to BUYERS. However, in the event SELLERS are required to expend any sum in excess of $ ______ to remove any hazardous materials, substances, conditions or wastes, SELLERS shall have the option to cancel this transaction and refund to BUYER all Earnest Money paid and declare this Agreement null and void. The expense of any inspection shall be paid by SELLERS. The expense of any necessary action to remove or otherwise make safe any hazardous material, substance, condition or waste shall be paid by SELLERS, subject to SELLERS' right to cancel this transaction as provided above.

11. DEED. Upon payment of the purchase price, SELLERS shall convey the Property to BUYERS by a deed, free and clear of all liens, restrictions, and encumbrances except as provided in this Agreement. General warranties of title shall extend to the time of delivery of the deed excepting liens or encumbrances suffered or permitted by BUYERS.

12. JOINT TENANCY IN PROCEEDS AND IN REAL ESTATE. If SELLERS, immediately preceding acceptance of the offer, hold title to the Property in joint tenancy with full right of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of the SELLERS, then the proceeds of this sale, and any continuing or recaptured rights of SELLERS in the Property, shall belong to SELLERS as joint tenants with full rights of survivorship and not as tenants in common; and BUYERS in the event of the death of any SELLER, agree to pay any balance of the price due SELLERS under this contract to the surviving SELLERS and to accept a deed from the surviving SELLERS consistent with Paragraph 15.

13. JOINDER BY SELLER'S SPOUSE. SELLER'S spouse, if a title holder immediately preceding acceptance, executes this agreement only for the purpose of relinquishing all rights of dower, homestead and distributive share or in compliance with Section 551.13 of the Code of Iowa and agrees to execute a deed or real estate contract for this purpose.

14. STATEMENT AS TO LIENS. If BUYERS intend to assume or take subject to a lien on the Property, SELLERS shall furnish BUYERS with a written statement prior to closing from the holder of such lien, showing the correct balance due.

15. USE OF PURCHASE PRICE. At time of settlement, funds of the purchase price may be used to pay taxes and other liens and to acquire outstanding interests, if any, of others.

16. APPROVAL OF COURT. If the Property is an asset of an estate, trust or conservatorship, this Agreement is contingent upon Court approval unless declared unnecessary by BUYERS' attorney. If the sale of the Property is subject to court approval, the fiduciary shall promptly submit this Agreement for such approval. If this Agreement is not so approved by ______, either party may declare this Agreement null and void, and all payments made hereunder shall be returned to BUYERS.
17. REMEDIES OF THE PARTIES. A. If BUYERS fail to timely perform this Agreement, SELLERS may forfeit it as provided in the Iowa Code (Chapter 656), and all payments made shall be forfeited or, at SELLERS option, upon thirty (30) days written notice of intention to accelerate the payment of the entire balance because of BUYERS' default (during which thirty days the default is not corrected), SELLERS may declare the entire balance immediately due and payable. Thereafter this agreement may be foreclosed in equity and the Court may appoint a receiver.

B. If SELLERS fail to timely perform this Agreement, BUYERS have the right to have all payments made returned to them.

C. BUYERS and SELLERS are also entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain judgment for costs and attorney fees as permitted by law.

18. NOTICE. Any notice under this Agreement shall be in writing and be deemed served when it is delivered by personal delivery or by certified mail return receipt requested, addressed to the parties at the address given below.

19. GENERAL PROVISIONS. In the performance of each part of this Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of rights or a waiver of any existing or subsequent default. This Agreement shall apply to and bind the successors and assigns of the parties. This Agreement shall survive the closing. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of the Agreement. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender according to the context.

20. ADDITIONAL PROVISIONS: (check if applicable)

☐ A. SALE OF BUYERS' PROPERTY. This Agreement is contingent upon the sale of the BUYERS' property located , of before . If settlement has not been made by this date, the SELLERS may rescind the Agreement by giving notice to BUYERS that unless sale and settlement of BUYERS' property is made within five (5) business days of such notice, then this Agreement shall be null and void. Unless SELLERS give such written notice, this Agreement shall remain valid until the sale of BUYERS' property.

☐ B. RESERVE the right to continue to offer the Property for sale. Should SELLERS receive another offer which they desire to accept, BUYERS shall have ________ days from the delivery of written notice to waive the "contingency of sale." Notice from the SELLERS to the BUYERS, removing the contingency of sale, shall be timely delivered to the SELLERS along with reasonable assurance that BUYERS are completing the purchase with the sale of the property referenced above.

If BUYERS do timely remove such contingency, this Agreement will remain in full force and effect (but without being contingent on the sale of BUYERS' property). If BUYERS do not timely remove such contingency, SELLERS will immediately return to BUYERS all earnest money paid, this Agreement will be of no further force and effect, and neither party will have any further obligation to the other hereunder.

☐ C. TERMITE INSPECTION. At their expense, SELLERS will have the Property inspected for termites or other wood-destroying insects by a licensed pest inspector prior to closing. If active infestation or damage due to prior infestation is discovered, SELLERS shall have the option of either having the Property treated for infestation by a licensed pest exterminator and having any damage repaired to the BUYERS' satisfaction or, declining this Agreement: null and void and returning all earnest money to BUYERS. This provision shall not apply to fences, trees, shrubs or outbuildings other than garages. BUYERS may accept the property in its existing condition without such termite or repair.

☐ D. WELL TEST. SELLERS shall provide BUYERS with ________ days after acceptance of this offer, a report issued by the county health department, or a qualified testing service, indicating the location of any well on the Property and that water from each well (1) is safe for its intended use and (2) is in sufficient quantity for its intended use. If BUYERS receive an unsatisfactory report, the basis for which cannot be resolved between BUYERS and SELLERS within ________ days, SELLERS will then upon written notice from BUYERS to SELLERS, this agreement shall be null and void and all earnest money paid hereunder shall be returned immediately to BUYERS.

☐ E. SEPTIC SYSTEM TEST. SELLERS shall provide BUYERS with ________ days after acceptance of this offer a report issued by the county health department, or a qualified testing service, indicating that the septic systems for the Property are operating satisfactorily. If BUYERS receive an unsatisfactory report, the basis of which cannot be resolved between BUYERS and SELLERS within ________ days of receipt thereof, then upon written notice from BUYERS to SELLERS, this agreement shall be null and void and all earnest money paid hereunder shall be returned immediately to BUYERS.

☐ F. NO REAL ESTATE AGENT OR BROKER. Neither party has used the services of a real estate agent or broker in connection with this transaction. SELLERS agree to indemnify BUYERS and hold BUYERS harmless from any claim by any real estate agent or broker arising out of or related to this transaction between SELLERS and BUYERS.

☐ OTHER: Attach Addendum.

21. ACCEPTANCE. When accepted, this Agreement shall become a binding contract. If not accepted and delivered to BUYERS or before the day of , this Agreement shall be null and void and all payments made shall be returned immediately to BUYERS.

Accepted ____________________ ____________________

SELLERS
Name ____________________ ____________________
Address ____________________ ____________________
Phone ____________________ ____________________

BUYERS
Name ____________________ ____________________
Address ____________________ ____________________
Phone ____________________ ____________________
FINANCING ADDENDUM
TO
RESIDENTIAL PURCHASE AGREEMENT

INITIAL IF A NEW MORTGAGE: This Agreement is contingent upon the BUYERS obtaining a commitment in writing for a mortgage for not more than ______% of the purchase price with a note interest rate of ______ % or less with a term of no less than ______ years. BUYERS agree to pay all customary loan costs. The SELLERS agree to pay a discount and/or origination fee, if required, of ______ % or less of the new mortgage obtained by the BUYERS. BUYERS agree upon acceptance of this offer to immediately make application for such mortgage with a lender and to make their best effort to obtain a mortgage commitment as above provided.

BUYERS

If BUYERS have not obtained a written commitment or loan denial on or before ______, then SELLERS may rescind this Agreement by giving written notice to the BUYERS that if a mortgage commitment has not been obtained within ______ business days of receipt of such notice, then this Agreement shall be null and void. If SELLERS do not choose to give such written notice, then this Agreement shall remain valid until the BUYERS have obtained a mortgage commitment or a denial.

SELLERS

In addition to the proceeds of the aforementioned mortgage, the BUYERS shall pay the balance of the purchase price in cash at the time of closing with adjustment for closing costs to be added or deducted from this amount.

B. ASSUMPTION OF MORTGAGE OR CONTRACT: The BUYERS shall pay a portion of the purchase price by assuming and agreeing to pay the mortgage or contract currently on this property with an approximate balance of $__________ with principal and interest payments of approximately $__________ with current interest of ______%.

BUYERS

The balance of the purchase price shall be paid in cash at the time of closing with adjustment for closing costs to be added or deducted from this amount. If the SELLERS have an escrow account in relation to such mortgage or contract, such account shall be brought current and BUYERS shall (check one)

[ ] Purchase such escrow account and the balance of SELLERS’ tax obligation under paragraphs 2 and 3, if any, shall be credited to BUYERS at the time of closing.

[ ] Assume said escrow account in lieu of SELLERS’ tax obligations and tax postponements, in which event Paragraphs 2 and 3 shall not apply.

This Agreement (is/are) contingent upon SELLERS’ release from liability on the mortgage/contract being assumed.

The mortgage/contract being assumed (does/does not) provide for a variable interest rate.

The mortgage/contract being assumed (does/does not) contain a balloon payment. Date of balloon, if any:

C. CONTRACT: BUYERS and SELLERS will execute a real estate installment contract with a balance due in the amount of $__________, on the form of the Iowa State Bar Association in which BUYERS agree to pay monthly payments of $__________, including principal and interest at the rate of ______%, until the unpaid principal balances together with accrued interest is paid in full, or until the amount due is reduced to the amount of the mortgage or hereinafter placed on the property by SELLERS, at which time SELLERS shall deliver to BUYERS a warranty deed. Interest shall commence on the date of possession and the first monthly payment shall be 30 days after the date of possession unless otherwise mutually agreed by the parties. The balance of the purchase price is to be paid in cash at the time of closing, with SELLERS adjust for closing costs to be added or deducted from this amount. If SELLERS have or hereinafter place a mortgage(s) on the property, such mortgage(s) may not exceed the real estate contract balance, and the interest rate and amortization thereof shall be no more onerous than the interest rate and amortization on the real estate contract. This Agreement is contingent upon the SELLERS’ lender’s approval, if required.

This contract (shall/shall not) have a balloon payment. Date of balloon, if any:

This contract (shall/shall not) allow BUYERS to prepay all or any part of the principal without penalty.

This contract (shall/shall not) allow the principal to be forgiven in full upon sale or assignment by the BUYERS.

This contract (shall/shall not) require 1/12 of the annual insurance premium and taxes paid to SELLERS with the monthly payments into an escrow fund established by SELLERS. SELLERS shall use these funds to pay real estate taxes and insurance prior to their delinquency. The parties shall review and make adjustments in the escrow account during the term of the real estate installment contract.

In the event that the real estate taxes are not escrowed, SELLERS shall pay all real estate tax installments, or portions thereof, for taxes that accrue prior to possession. BUYERS shall pay all real estate tax installments, or portions thereof, for taxes that accrue after the date of possession. The parties shall pay the installments for which they are responsible as they become due and prior to delinquency.

D. OTHER: Attach Addendum.
QUARTER SECTION: 1 cm. = 165' = 1 small box = .625 acre
SECTION: 1 cm. = 330' = 1 small box = 2.5 acres
LENDER (BORROWERS) - TO DATE

LEGAL DESCRIPTION.

INIT: ABSTRACTOR FROM ___ TO ___ AT ___ AM ___

SUB: ABSTRACTOR TO ___ AT ___ AM ___ ENTRIES.

# 40 PLAT (1955) - Dim.

T. O. - ATTY - TITLE IN MARTHA WASHINGTON

# 41 EASEMENT CITY OF ___ FILED ___ AS

INST. NO. ___ / BOOK ___ PAGE ___

UTILITY N S

# 52 WD (1970) THOMAS JEFFERSON

# 56 WD (1974) ABRAHAM AND MARY LINCOLN, H&W, JT

# 57 MTO. 57/233 FIRST NAT'L BANK 6/1, 11/74

# 58 MTO. 62/91 . . . 2/9, 10/75

# 59 ASSIGN TO IOWA BANKERS MTO. CORP. 2/10/75 62/92

# 70 WD (2000) DWIGHT AND MAMIE EISENHOWER, H&W, JT

FILED 7/1/00 AS INT. NO. 00-07944

# 71 MTO. 00-07945 WELLS FARGO BANK, N.A. 7/1, 1/00 $100,000

# 75 DISS. OF MARRIAGE - DWIGHT EISENHOWER, PET. AND MAMIE

EISENHOWER, RESP. CASE NO. ___; DEGREE DATED ___

CHILD SUPPORT

DWIGHT OWES $450/MO BEG. 2/1/03 $47,250

A.MT. PAID THROUGH 12/1/09 = 105 MO. X $450 = $47,250

A.MT. PAID $47,250

CURRENT.

R-E. TO MAMIE; DWIGHT TO GIVE QC COST PAID
#76 QC (2004) D Dwight Eisenhower from Mamie E., Single

- Filed 2/1/03 as Inst. No. 03-00215

2

- 80 Mtl. 10-12459 Wells Fargo Bank, NA 6/1, 5/2010

$ 92,000

- 82 REL. OF MTL. AT 471 BY INST. FILED 10/15/10 10-19889

- Release is given by MERS. No Assignment

- To make rel. effective.

- REQ: Assignment or Proper Release

- 90 RESTRICTIVE COVENANTS - NO AUT. RENEWAL.

- FILED 3/1/11 AS INST. NO. 11-09700

- 91 ZONING Ames #3557 (Residential Low Density Zone)

- 93 TAXES (PARCEL No. ____________)

10-11, 11-12

1ST - $ __________, PAID

20 - $ __________, DUE, NOT DEL.

NO SPECIRES

- 94 LIEN SEARCH

D Dwight Eisenhower

Mamie "

ISSUES FOR T-D:

- DEFECTIVE MTL. RELEASE

- CHILD SUPPORT - CURRENT - NOTHING REQD
**A. Settlement Statement (HUD-1)**

**B. Type of Loan**
- [ ] FHA
- [ ] RHB
- [ ] Conv. Units
- [ ] VA
- [ ] Conv. Inc.

**C. Note:** This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

**D. Name and Address of Borrower**
John Doe and
Jane Doe
123 Washington Street
Ames, Iowa 50010

**E. Name and Address of Seller**
Joe Smith and
Jane Smith
123 Lincoln Street
Ames, Iowa 50010

**F. Name and Address of Lender**
Big Bank
123 Jefferson Street
Ames, Iowa 50010

**G. Property Location**
123 Main Street
Ames, Iowa 50010

**H. Settlement Agent**
Timothy L. Gartin
Hastings & Garth, LLP
Hastings Garth & Boettiger LLP
409 Duff Avenue
Ames, IA 50010

**I. Settlement Date**
09/26/11

**J. Summary of Borrower's Transaction**

<table>
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<th>Item</th>
<th>Amount</th>
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<tr>
<td>101. Contract sales price</td>
<td>134,000.00</td>
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<td>102. Personal property</td>
<td>492. Personal property</td>
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<tr>
<td>103. Settlement charges to borrower (line 1400)</td>
<td>4,173.14</td>
</tr>
<tr>
<td>104. City/town taxes to</td>
<td>406. City/town taxes to</td>
</tr>
<tr>
<td>105. County taxes to</td>
<td>407. County taxes to</td>
</tr>
<tr>
<td>106. Assessments to</td>
<td>408. Assessments to</td>
</tr>
<tr>
<td>107. Payoff of first mortgage loan</td>
<td>504. Payoff of first mortgage loan</td>
</tr>
<tr>
<td>108. Payoff of second mortgage loan</td>
<td>505. Payoff of second mortgage loan</td>
</tr>
<tr>
<td>109. Seller Paid Closing Cost Credit</td>
<td>2,500.00</td>
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<tr>
<td>110. Adjustments for items paid by seller in advance</td>
<td>409. Adjustments for items paid by seller in advance</td>
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<td>111. Adjustments for items paid by seller</td>
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<td>112. Gross Amount Due from Borrower</td>
<td>138,173.14</td>
</tr>
</tbody>
</table>

**K. Summary of Seller's Transaction**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>400. Gross Amount Due to Seller</td>
<td>134,000.00</td>
</tr>
<tr>
<td>401. Contract sales price</td>
<td>400. Contract sales price</td>
</tr>
<tr>
<td>402. Settlement charges to seller (line 1400)</td>
<td>10,128.80</td>
</tr>
<tr>
<td>403. City/town taxes to</td>
<td>403. City/town taxes to</td>
</tr>
<tr>
<td>404. County taxes to</td>
<td>404. County taxes to</td>
</tr>
<tr>
<td>405. Assessments to</td>
<td>405. Assessments to</td>
</tr>
<tr>
<td>406. Payoff of first mortgage loan</td>
<td>406. Payoff of first mortgage loan</td>
</tr>
<tr>
<td>407. Payoff of second mortgage loan</td>
<td>407. Payoff of second mortgage loan</td>
</tr>
<tr>
<td>408. Seller Paid Closing Cost Credit</td>
<td>408. Seller Paid Closing Cost Credit</td>
</tr>
<tr>
<td>409. Adjustments for items paid by seller</td>
<td>409. Adjustments for items paid by seller</td>
</tr>
<tr>
<td>410. Adjustments for items paid by seller in advance</td>
<td>410. Adjustments for items paid by seller in advance</td>
</tr>
<tr>
<td>411. Adjustments for items paid by seller</td>
<td>411. Adjustments for items paid by seller</td>
</tr>
<tr>
<td>412. Gross Amount Due from Borrower</td>
<td>412. Gross Amount Due from Borrower</td>
</tr>
</tbody>
</table>

**L. Total Paid by/for Borrower**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>520. Total Reduction Amount Due Seller</td>
<td>12,628.60</td>
</tr>
<tr>
<td>521. Cash From To Borrower</td>
<td>1,213,714.40</td>
</tr>
<tr>
<td>603. Cash From To Seller</td>
<td>1,213,714.40</td>
</tr>
</tbody>
</table>

---

The public should be aware that this form is subject to the Real Estate Settlement Process Act (RESPA). This form is designed to provide the parties with a clear understanding of the costs associated with a real estate transaction. It is important to review all the information provided on this form to ensure that all costs are accurately reflected.
### L. Settlement Charges

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
<th>Paid From</th>
<th>Paid From</th>
</tr>
</thead>
<tbody>
<tr>
<td>700. Total Real Estate Broker Fees</td>
<td>$2,380.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Division of Commission (line 700) as follows:</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>701. $ 9,380.00</td>
<td></td>
<td>to</td>
<td>Settlement</td>
</tr>
<tr>
<td>(includes 1,000.00 deposit)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>702. $ 9,380.00</td>
<td></td>
<td>to</td>
<td>Settlement</td>
</tr>
<tr>
<td>703. Commission paid at Settlement</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>704.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>800. Items Payable In Connection With Loan</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>801. Our origination charge</td>
<td>$625.00</td>
<td>(from GFE #1)</td>
<td></td>
</tr>
<tr>
<td>802. Your credit or charge (points) for the specific interest rate chosen</td>
<td></td>
<td>(from GFE #2)</td>
<td></td>
</tr>
<tr>
<td>803. Your adjusted origination charges</td>
<td></td>
<td>(from GFE #A)</td>
<td>$625.00</td>
</tr>
<tr>
<td>804. Appraisal fee to</td>
<td></td>
<td>(from GFE #3)</td>
<td>355.00</td>
</tr>
<tr>
<td>805. Credit Report to</td>
<td></td>
<td>(from GFE #3)</td>
<td>22.00</td>
</tr>
<tr>
<td>806. Tax service to</td>
<td></td>
<td>(from GFE #3)</td>
<td></td>
</tr>
<tr>
<td>807. Flood certification</td>
<td></td>
<td>(from GFE #3)</td>
<td>19.00</td>
</tr>
<tr>
<td>808.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>809.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>810.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>811.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>812.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>813.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>814.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>900. Items Required By Lender To Be Paid In Advance</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>901. Daily Interest charges from 09/29/11 to 10/01/11 @ 6% per day</td>
<td>$8.90</td>
<td>(from GFE #10)</td>
<td></td>
</tr>
<tr>
<td>902. Mortgage insurance premium for months to</td>
<td></td>
<td>(from GFE #3)</td>
<td></td>
</tr>
<tr>
<td>903. Homeowner's insurance for years to</td>
<td></td>
<td>(from GFE #11)</td>
<td>$887.00</td>
</tr>
<tr>
<td>904.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>905.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1000. Reserves Deposited With Lender</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1001. Initial deposit for your escrow account</td>
<td>$1,121.24</td>
<td>(from GFE #9)</td>
<td></td>
</tr>
<tr>
<td>1002. Homeowner's Insurance 4 months @ $73.92 per month</td>
<td>$295.68</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1003. Mortgage Insurance models @ $ per month</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>1004. Property taxes 4 months @ $29.93 per month</td>
<td>$1,190.32</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1005. models @ $ per month</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>1006. models @ $ per month</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>1007. models @ $ per month</td>
<td></td>
<td>$</td>
<td></td>
</tr>
<tr>
<td>1008. Aggregate escrow adjustment</td>
<td>$137.76</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1100. Title Charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1101. Title services and lender's title insurance</td>
<td>$865.00</td>
<td>(from GFE #4)</td>
<td></td>
</tr>
<tr>
<td>1102. Settlement or closing fee to Hastings, Gartin &amp; Boettger</td>
<td>$375.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1103. Owner's title insurance</td>
<td></td>
<td>(from GFE #5)</td>
<td></td>
</tr>
<tr>
<td>1104. Lender's title insurance to Treasurer, State of Iowa</td>
<td>$110.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1105. Lender's title policy limit</td>
<td>$134,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1106. Owner's title policy limit</td>
<td>$134,000.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1107. Agent's portion of the total title insurance premium</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1108. Underwriter's portion of the total title insurance premium</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1109. Abstracting Fees to Abstract &amp; Title Services</td>
<td>$200.00</td>
<td></td>
<td>$500.00</td>
</tr>
<tr>
<td>1110. Title Examination to Hastings, Gartin &amp; Boettger</td>
<td>$180.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1111. Deed Preparation to Hastings, Gartin &amp; Boettger</td>
<td>$36.00</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1112.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1113.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1300. Government Recording and Transfer Charges</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1301. Government recording charges Story County Recorder</td>
<td>$94.00</td>
<td>(from GFE #7)</td>
<td></td>
</tr>
<tr>
<td>1302. Deed $12.00 Mortgage $82.00 Release $</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1303. Transfer taxes</td>
<td></td>
<td>(from GFE #8)</td>
<td>$0.00</td>
</tr>
<tr>
<td>1304. City property tax stamps: Deed $</td>
<td></td>
<td></td>
<td>Mortgage $</td>
</tr>
<tr>
<td>1305. State property tax stamps: Deed $213.60 Mortgage $</td>
<td></td>
<td></td>
<td>$213.60</td>
</tr>
<tr>
<td>1306.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1307.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1308.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1309.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1310.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1311.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1400. Total Settlement Charges (enter on lines 103, Section J and 502, Section K)</td>
<td>$4,173.14</td>
<td></td>
<td>$10,128.60</td>
</tr>
</tbody>
</table>

Previous editions are obsolete

Page 3 of 3

HUD-1
### Comparison of Good Faith Estimate (GFE) and HUD-1 Charges

<table>
<thead>
<tr>
<th>Charges That Cannot Increase</th>
<th>HUD-1 Line Number</th>
<th>Good Faith Estimate</th>
<th>HUD-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Our origination charge</td>
<td># 801</td>
<td>0.00</td>
<td>625.00</td>
</tr>
<tr>
<td>Your credit or charge (points) for the specific interest rate chosen</td>
<td># 802</td>
<td>0.00</td>
<td>0.00</td>
</tr>
<tr>
<td>Your adjusted origination charges</td>
<td># 803</td>
<td>0.00</td>
<td>625.00</td>
</tr>
<tr>
<td>Transfer taxes</td>
<td># 1203</td>
<td>0.00</td>
<td>0.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Charges That In Total Cannot Increase More Than 10%</th>
<th>Good Faith Estimate</th>
<th>HUD-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government recording charges</td>
<td># 1201</td>
<td>0.00</td>
</tr>
<tr>
<td>Appraisal fee</td>
<td># 804</td>
<td>0.00</td>
</tr>
<tr>
<td>Credit report</td>
<td># 805</td>
<td>0.00</td>
</tr>
<tr>
<td>Flood certification</td>
<td># 807</td>
<td>0.00</td>
</tr>
<tr>
<td>Title services and lender's title insurance</td>
<td># 1101</td>
<td>0.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>0.00</td>
</tr>
</tbody>
</table>

| Increase between GFE and HUD-1 Charges            | $1,395.00           |
|                                                  | (Enter GFE amount)  |

### Charges That Can Change

<table>
<thead>
<tr>
<th>Charges That Can Change</th>
<th>Good Faith Estimate</th>
<th>HUD-1</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial deposit for your escrow account</td>
<td># 1001</td>
<td>0.00</td>
</tr>
<tr>
<td>Daily interest charges</td>
<td># 901</td>
<td>0.00</td>
</tr>
<tr>
<td>Homeowner's insurance</td>
<td># 903</td>
<td>0.00</td>
</tr>
</tbody>
</table>

### Loan Terms

- **Your initial loan amount is**: $134,000.00
- **Your loan term is**: 30 years.
- **Your initial interest rate is**: 4.625%
- **Your initial monthly amount owed for principal, interest, and any mortgage insurance is**: $668.95
  - **Includes**: Principal, Interest, Mortgage Insurance
- **Can your interest rate rise?**
  - ☐ No
  - ☑ Yes, it can rise to a maximum of 1.8%. The first change will be on __________ and can change again every __________. Every change date, your interest rate can increase or decrease by 1.8%. Over the life of the loan, your interest rate is guaranteed never to be lower than % or higher than %.
- **Even if you make payments on time, can your loan balance rise?**
  - ☐ No
  - ☑ Yes, it can rise to a maximum of $.
- **Even if you make payments on time, can your monthly amount owed for principal, interest, and mortgage insurance rise?**
  - ☐ No
  - ☑ Yes, the first increase can be on __________ and the monthly amount owed can rise to $.
  - **The maximum it can ever rise is $**.
- **Does your loan have a prepayment penalty?**
  - ☐ No
  - ☑ Yes, your maximum prepayment penalty is $.
- **Does your loan have a balloon payment?**
  - ☐ No
  - ☑ Yes, you have a balloon payment of $ due in __________ years on __________.
- **Total monthly amount owed including escrow account payments**
  - ☐ You do not have a monthly escrow payment for items, such as property taxes and homeowner's insurance. You must pay those items directly yourself.
  - ☑ You have an additional monthly escrow payment of $747.75 that results in a total initial monthly amount owed of $1,662.70. This includes principal, interest, any mortgage insurance and any items checked below.
    - Property taxes
    - Flood insurance
    - Homeowner's Insurance

**Note:** If you have any questions about the Settlement Charges and Loan Terms listed on this form, please contact your lender.
Addendum to Settlement Statement

This page is attached to and made part of the Settlement Statement in the matter described on Page 1 of the Settlement Statement.

I have carefully reviewed this Settlement Statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the Settlement Statement.

Borrower(s) __________________________ 09/26/11 Seller(s) __________________________ 09/26/11
John Doe
______________________________ 09/26/11 Jane Doe
Joe Smith
______________________________ 09/26/11 Jane Smith

The Settlement Statement which I have prepared is a true and accurate account of funds received and funds disbursed or to be disbursed for this transaction.

09/26/11 ____________________________________________ Timothy L. Gartin, Settlement Agent