TRANSACTIONAL TRACK
Real Estate

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

Presented by
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Introduction to Iowa Residential Real Estate Transactions

Nuts & Bolts 2013
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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.
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

Residential real estate transactions, p. 2
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 forfeiture and their lack of information regarding Buyers which lenders have in making lending decisions.
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 recorded within 90 days of execution.2

   Practice pointer. Transfer tax is not paid until the deed is recorded.

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. 9E.15. Short forms

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 9E.14, subsection 1. Note that the acknowledgement should not recite the marital status as this is not something required under Iowa Code § 9E.9. The Bar form for the warranty deed has recently been modified to remove the recital of marital status.

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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.
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.

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. **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

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3 See Iowa Code § 614.29-.38.
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.⁴ 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 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.

⁴ See the Marketable Title Act (Iowa Code § 614.29-.38).
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 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 the 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. The preference is that all the partners would sign the deed. The challenge comes when the examining attorney is asked to judge whether the conveyance “appears to be executed in the usual course of the partnership business.” The title standard requires the attorney to be satisfied that the conveyance is “in the usual course of the partnership business.” Where a real estate development partnership may routinely convey real estate, this requirement may not be so easily satisfied by an unknown partnership conveying real estate by only one partner.

The danger of assuming the conveyance is executed in the usual course of business is described in Patel v. Patel.\(^5\) In Patel, a partnership of a husband, wife, and son owned and managed a motel. The husband and wife attempted to convey the real estate even though the son was opposed to the conveyance. The buyer was unaware of the discord and relied on the couple’s represented authority to convey the real estate and that, as buyers, they were *bona fide* purchasers for value. However, the Court held that although the Buyers had no knowledge of the facts, they still lost the property.\(^6\) This is the seminal Iowa case on conveyance by a partnership.

2. **Corporations.**

a. Authority to convey. There is a presumption that a corporation is authorized to convey real estate.\(^7\) However, if the abstract reports the articles of incorporation, the examining attorney should note any limitations on the authority to convey real estate.\(^8\)

b. Foreign corporations. No additional showing is required.\(^9\)

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\(^6\) See Kristerin Development Co. v. Granson Inv., 394 N.W.2d 325 (Iowa 1986) (holding that “the fact finder must first determine whether the partner or partners executing the agreement apparently acted to carry on the partnership business in the usual way.”) See also Cooperative Finance Ass’n, Inc. v. Garst, 917 F.Supp 1356 (N.D. Iowa 1996).

\(^7\) Title Standards 3.1 and 3.3.

\(^8\) Id.

\(^9\) Title Standard 3.2.
c. Corporate seals. For a corporation having a seal, it may, but need not be attached to the deed. A deed does not need to recite that a corporation does not have a seal.

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. Unfortunately, the revision has now caused us to consider the “ordinary course” of business, similar to the partnership analysis. Title Standard 15.3 has been revised as follows:

15.3 PROBLEM:

Rev. 12/2010

When real property is held in the name of a limited liability company, how should title be conveyed?

STANDARD:

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.

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10 Iowa Code § 558.2.
11 Iowa Code § 558.3.
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.

**Authority:**
Iowa Code §§ 489.407(1); and .302 (2009).

**COMMENT:**


b. **Foreign limited liability companies.** No additional showing is required.\(^{12}\)

4. **Municipal corporation,\(^{13}\) a county,\(^{14}\) or school district.\(^{15}\)**
   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

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\(^{12}\) Title Standard 15.2.

\(^{13}\) Iowa Code § 364.7. *See also* Marshall §§ 17.2(c) and 17.2(c)(2) and Title Standard 2.1.

\(^{14}\) Iowa Code § 331.361.

\(^{15}\) Iowa Code § 297.22 *et seq.*
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 mean time, 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.

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. 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

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16 See Marshall § 4.7.
status of the mortgagor(s) must also be shown on a new mortgage. 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. 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 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:

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17 See the comment to Title Standard 5.3.
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:
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.

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:

   Entry 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.

   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.

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. <> reports Dissolution of Marriage Case 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

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19 See Iowa Code § 654.12B(2).
20 See Title Standard 6.6.
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.\(^{21}\) 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. <> reports Dissolution of Marriage Case 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 $<> (<> months 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 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.

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\(^{21}\) *See* Slack *v.* Mullenix, 66 N.W.2d 99 (Iowa 1954).
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 ICSRU is involved, their contact information is: https://childsupport.dhs.state.ia.us/welcome.asp and 888-229-9223. 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. I have provided the following paragraph from the Unit’s FAQ page:

Q: How do I get a lien on my house removed?

To get a lien on property removed, a Release of Lien or a Satisfaction of Judgment must be filed with the Clerk of the District Court in the county where the child support order is filed. Contact the Child Support Recovery Unit for assistance if part or all of the child support is owed to the State of Iowa. Contact a private attorney if all of the child support is owed to the other parent.

If you are presented with proof of payment to address a title objection you have raised, it is important to distinguish between “official” and “unofficial” payment records. Again, I quote the ICSRU’s FAQ page:

Q: What is the difference between an "official" payment record and an "unofficial" payment record?

An "official" payment record has been certified by a designated employee of the Collection Services Center as a true, accurate, and correct copy of the original on file. You may want to use one when showing your payments to the court or applying for a loan, for example.

An "unofficial" payment record has been printed from this website and has not been certified by a designated employee of the Collection Services Center. You may want to use one to compare your records to those of the Collection Services Center or to verify your eligibility for certain assistance programs, such as subsidized housing or energy assistance.

Residential real estate transactions, p. 20
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. 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.

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>2000 and 2001</td>
<td>$675,000</td>
</tr>
<tr>
<td>2002 and 2003</td>
<td>$1,000,000</td>
</tr>
<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</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>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>
</tbody>
</table>

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22 See Marshall § 10.3.
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 than ten years ago, even if the fiduciary lacks court approval, are considered valid.\(^{23}\) 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 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.

\(^{23}\) *Iowa Code § 589.11.*

Residential real estate transactions, p. 23
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.

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.24 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.

24 See Title Standards 10.4 and 10.5.
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.\(^\text{25}\) 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 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.\(^\text{26}\) 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. It is beyond the scope of this outline to present a thorough presentation of this subject. However, be sure that the owner’s spouse is named in the foreclosure.\(^\text{27}\) Sometimes an abstract will not report a release of the mortgage that was

\(^{25}\) See Chipman’s Subdivision Homeowners Association, Inc. v. Carney, 814 N.W.2d (Iowa Ct. App. 2012.).
\(^{26}\) Iowa Code § 572.27.
\(^{27}\) See Title Standard 6.1.
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 (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.\(^{28}\)

   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

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\(^{28}\) See Marshall § 20.1(B).
vendor, unless his estate has been closed, in which case his heirs or beneficiaries would make the conveyance.\(^{29}\)

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 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.”\(^{30}\) 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.”\(^{31}\) 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

\(^{29}\) Marshall § 20.1(B).

\(^{30}\) Theodore L. Kubicek & David W. Kubicek, *Selected Topics in Examination of Abstracts of Title*, 26 DRAKE L. REV. 1, 7 (1976).

\(^{31}\) See also Title Standard 13.4.
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 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).


3. **George F. Madsen. Marshall’s Iowa Title Opinions and Standards (2d ed. 1978).**

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,**

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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.32

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

32 Peck v. Sexton, 41 Iowa 566 (Iowa 1875).

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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 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.\(^{33}\)

2. Statutes of limitation. These statutes bar claimants from asserting rights if they have neglected their claim for too long. \(\text{See Iowa Code §§ 614.29-.38 and Chapter 10 of the Title Standards.}\) 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.

\(^{33}\) Iowa Code § 614.36.
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:

   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.34

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

34 Id. at § 5, page 4 (citations omitted).
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 is 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 department that can issue corrective documents. The preparer information on a recorded document can be a helpful resource. The internet may also lead to a contact with the lender.

   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.ifahome.com/partner_tgd_mortgage_release.asp.

**VI. Closing the transaction**

**A. Developing a closing practice**

1. **HUD software.** Invest in a HUD program 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.
2. **Develop a closing spreadsheet.** As your closing practice develops, it will be critical for you to respond to lender requests for the status of their loans. See Exhibit 25 for a sample closing spreadsheet.

3. **Train and supervise staff.** We are ethically bound to supervise our staff. Provide constraints on your staff to make sure they do not offer legal opinions. Also, you remain responsible for your trust account.

4. **Talk with your malpractice carrier.** Make sure your carrier knows you are starting a closing practice. Many lenders will require that you carry a higher amount of coverage than what attorneys usually carry.

5. **Have an attorney that you can talk to if you have questions.** There appears to be an infinite number of questions that can arise in a closing practice. Lenders will often look to you to decide whether something should be allowed. Closing agents should have other attorneys they can call to discuss issues that arise.

6. **Participate with the Real Estate List Serve.** This is a great place to learn from other attorneys and ask questions when you need help.

**B. Steps to take before the closing**

1. **Gather information about the closing.** There is a lot of information that you should have in your file when setting up a closing. See Exhibit 26 for a sample worksheet.

   a. Contact the sellers if unrepresented and let them know what you will expect of them and what they can expect of you. See Exhibit 27 for instructions to give unrepresented sellers.

   b. Obtain and review the purchase agreement and any amendments. The lender must have all amendments.

   c. Review the structure of the closing to determine if there are any special steps that will be needed (e.g., relocation company approval of the HUD, contract payoff).
d. Obtain and review the title opinion. Make sure that the attorney who prepared the preliminary title opinion is a member of Title Guaranty so that a Title Guaranty policy can be obtained. The last continuation of the abstract should be approximately 1 month from the closing date.

2. Search the Iowa Mechanic’s Lien and Notice Registry (MNLR). In order to determine whether there are mechanic’s liens that need to be released or lien waivers obtained, search the MNLR located on the Iowa Secretary of State website (https://sos.iowa.gov/mnlr). See Exhibit 28 for a worksheet to document the MNLR search.

3. Lender instructions. Read these carefully. Be sure to note:
   a. Amount of title coverage and required endorsements.
      (Don’t forget the owners’ coverage.)
   b. Procedure for HUD approval and funding.
   c. Whether the lender allows a power of attorney.
   d. Whether the lender requires an insured closing protection letter.

4. Prepare and distribute the settlement statement (HUD-1). See handout for a sample HUD-1. Make sure that you have approval from all parties. The closing is not the time to work out unresolved issues.

   Practice pointer. Title insurance cannot be shown on a settlement statement.\(^{35}\)

5. Prepare the closing package for closing. Organize the closing file in the order you will present the documents (e.g., HUD, note, truth in lending, mortgage). Highlight the signature lines. Make copies of the package for the borrowers with the lender’s contact information and temporary payment coupons on the front.

   Practice pointer. If the mortgage is a purchase money mortgage, the mortgage should recite “This is a purchase money mortgage” on the first page. All of the money borrowed should be used for the purchase. Explain to the buyers that pre-

\(^{35}\) See Iowa Code § 535.8(10).

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existing judgments may still attach to the real estate and may have to be addressed when selling or refinancing.

Practice pointer. The mortgage must recite the marital status of those giving the mortgage. All titleholders and their spouses must sign the mortgage. The mortgage is void if all the spouses do not join in giving the mortgage. See Wells Fargo Bank, N.A. v. Hudson.36

6. Relocation companies. Determine the timeframes for HUD approval. Typically, a relocation company will require additional time for HUD approval.

C. The closing

1. Present the closing package to the borrowers for signature.

Practice pointer. If a power of attorney is being used, remember to use the representative capacity acknowledgement (See Iowa Code § 9E.15) and to record the power of attorney. Review the power of attorney. The lender must also approve it.

Practice pointer. At the end of the closing, remind buyers of the homestead and veteran tax credits, when they should expect to receive their abstract, and how to store their abstract. The abstract should go with the buyer.

2. Common issues to arise at closing.

a. Disputes over the condition of the property.

Practice pointer. If realtors are involved, encourage the listing side to establish an escrow account with 1.5 times the amount projected to make the repairs and a date by which the repairs need to be completed before the money reverts to the buyers to make repairs. There should be a written agreement.

b. The spouse does not attend the closing.

c. The terms of the loan are not what were promised.

d. Problem borrowers.

36 742 N.W.2d 605 (Iowa Ct. App. 2007).
Practice pointer. Do not assume the problem borrowers are being difficult for the sake of being difficult. People are sometimes defensive because they are nervous about the transaction.

e. **Tax questions.**

   Practice pointer. Be cautious about giving tax advice. In order to give accurate tax advice about the borrowers’ specific situation, you will often need to gather additional information that will take you beyond the scope of your closing.

f. **You discover something improper.** If you learn something that you know to be improper for the structure of the loan, you have a duty as agent for the lender to immediately disclose the information to the lender. For example, if a lender is treating a purchase as an owner-occupied transaction (and hence with more favorable terms for the buyer), a buyer’s disclosure that (1) he will not be living in the house and (2) now has renters for the new property will trigger a duty to inform the lender. Another issue that has been arising lately is closing cost credit from the seller paid of the HUD.

D. **Steps to take after the closing**

   1. **Post-closing file work.**

      a. Make copies of the signed package for yourself and copies of the mortgage for the lender.

      b. Prepare instructions for the abstractor who will be handling the filing. See Exhibit 29.

      c. Gather the information required for filing the 1099. See Exhibit 30. Most of this information is taken from the DOV. Be sure that the seller’s address is not the property address, but the forwarding address. Obtain 1099 forms from the IRS.

      d. Release funds on approval of lender and successful filing.

         Practice pointer. Examples of surprises at the time of filing include a bridge loan the sellers took out after the abstract was continued, mechanic’s liens, and judgments against one of the parties.
Practice pointer. Keep control of who delivers loan payoffs. This is too big of a responsibility to leave to someone else. Wire transfers are better.

2. Once the title certificate is issued, obtain a Title Guaranty policy.
3. Remember to reconcile your trust account on a monthly basis.

E. Miscellaneous comments
1. Additional practice pointers
   a. Be sure to observe the requirements for filing documents with the recorder.
   b. If a loan originator learns that the borrowers will want to study all the documents before signing them, make arrangements to provide a copy of the package in advance of the closing.
   c. Keep the pace of the closings manageable for your staff.
   d. Be cautious of lender representatives who will tell you orally that a deviation from the closing instructions is permitted but will not reduce it to writing.

2. Examples of bizarre things I have been asked to do at a closing.
   a. Allow the borrowers to date documents with a date other than the date of signature (e.g., sign a 3-day right of rescission form in advance of when it is needed to save the borrowers a trip back to your office once the 3 days have elapsed).
   b. Notarize documents that have been signed outside your presence.
   c. Lie to the lender about when the closing is to take place so that the documents and funding can come early.
   d. Allow seller carry back even if the lender will not allow it.
   e. Allow someone other than the actual borrowers – without a power of attorney – to sign the loan package.
f. Ignore terms that are clearly not permitted by the lender (e.g., an owner-occupied loan where the buyers are buying the property for investment purposes).

g. Accept a personal check for $70,000.

h. Allow an origination fee to be paid outside of closing when the lender would not allow the fee to be paid.
List of Exhibits

1. Waiver of conflict of interest in a residential real estate transaction
2. Net proceeds projection and checklist of what to do once the purchase agreement is signed
3. Escrow for deed and abstract
4. Warranty deed
5. Abstract log sheet
6. Preliminary title opinion
7. Attorney’s certificate of title
8. Sample title opinion paragraphs
9. Trustee’s § 614.14 affidavit
10. Grantee’s § 614.14 affidavit
11. Certification of trust
12. Affidavit for showing authority to convey real estate from a religious organization
13. Affidavit to show grantor’s marital status
14. Affidavit to show mortgagor’s marital status
15. Order nunc pro tunc to establish equivalence between street address and legal description in a divorce decree
16. Affidavit of identity to distinguish judgment debtor from titleholder or intended titleholder
17. Notice of homestead designation and demand to levy
18. Receipt for child support and/or alimony payments
19. Partial release of judgment lien
20. Affidavit for showing of no tax liability
21. Mortgage subordination agreement
22. Affidavit to waive first right of refusal by homeowners’ association
23. Affidavit of surviving spouse
24. Affidavit of possession
25. Closing spreadsheet
26. Closing set-up worksheet
27. Instructions to a party selling real estate without an agent or attorney
28. MNLR search verification
29. Filing instructions
30. 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:

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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.
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 e. 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:

Buyers

______________________________
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

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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
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>

This deed is given subject to that certain mortgage given to <>, and recorded on <>, in
Book <>, Page <>, of the <> County Records, which mortgage Grantee(s) agree to
assume and to hold Grantor(s) harmless thereon.<>

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

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

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__
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Exhibit 5

Abstract Log 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
Exhibit 6

Writer’s e-mail: <>

<>

Client

Attn.: <>

Our Matter:  
Borrower(s):
Property address:

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.

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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 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<br>, 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

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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.

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. <>

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 renew the covenants. See Compiano v. Jones, 269 N.W.2d 459 (Iowa 1978). You 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.
Exhibit 7

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. 60
Very truly yours,
<>

by
<> 

Iowa Title Guaranty No. <>
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

 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. 62
Residential real estate transactions, p. 63

(the Petitioner) 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, <>, 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 show 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.
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.
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. 65
Exhibit 10

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/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. 66
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. 67
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.
Exhibit 12

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, <>, 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. 69
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
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. 71
IN THE IOWA DISTRICT COURT FOR <> COUNTY

IN RE: THE MARRIAGE OF <> and <>

UPON THE PETITION OF <>: EQUITY NO. ________________
Petitioner,:

AND CONCERNING <>: ORDER NUNC PRO TUNC
Respondent.:

__________________________:

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>
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
Exhibit 17

IN THE IOWA DISTRICT COURT FOR <> COUNTY

<>,
Plaintiff, : Case No. <>

vs. : Notice of Homestead

<>,
Defendant. : Designation and Demand to

: Levy (Iowa Code § 624.23)

and Proof of Service

________________________________________________________________________

TO: ________________________________

______________________________

______________________________

You obtained a judgment lien in the following action: ________________________

vs. _______________________________, <> County Case No. <>.

This judgment is a potential lien against the real estate, located in <> County, Iowa,
legally described as: _______________________________________________________

__________________________

_______________________________________________________________________.

YOU AND EACH OF YOU ARE HEREBY NOTIFIED that the undersigned declares that the above-described real estate is or has been the homestead of the undersigned and FURTHER RESPECTFULLY DEMANDS that you levy execution against the above-described real estate, within thirty (30) days from the date of service of the demand.

Pursuant to Iowa Code Section 624.23, 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.

Residential real estate transactions, p. 74
The undersigned, being first duly sworn or affirmed do hereby depose and state of my personal knowledge that:

1. I make this affidavit from my personal knowledge for purposes of establishing of record, pursuant to § 624.23(2) of the Code of Iowa, certain facts known to me and affecting the chain of title to the above-described real property.

2. The above-described real estate was conveyed to <> by a warranty deed filed <> as Inst. No. <> / in Book <>, Page <>, of the <> County records.

3. From the time I purchased the above-described real estate through __________________________, I occupied the premises as my homestead.

As a result of the above-described real estate being by 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).

STATE OF IOWA, <> COUNTY) SS:

_________________________________________ 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 <> (the attorney of record for the Plaintiff).

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. 75
IN THE IOWA DISTRICT COURT FOR <> COUNTY

IN RE: THE MARRIAGE OF <> and <>

UPON THE PETITION OF:
<>,
Petitioner,

AND CONCERNING:
<>,
Respondent.

EQUITY NO. <>

RECEIPT FOR PAYMENTS

______________________________ 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. <>

Petitioner<>Respondent<>

<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

Residential real estate transactions, p. 76
IN THE IOWA DISTRICT COURT FOR <> COUNTY

IN RE: THE MARRIAGE OF <> and <>

UPON THE PETITION OF:

<> , Petitioner,

AND CONCERNING:

<> , Respondent.

CD-DM NO. <>

RELEASE OF JUDGMENT LIEN

____________________________________:___________________________________

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. 77
Exhibit 20

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. 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 credits 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

Residential real estate transactions, p. 78
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 OF <> )

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 name: 

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. 81
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
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

Residential real estate transactions, p. 83
Exhibit 25

Closing Spreadsheet for ______________ (Year)

<table>
<thead>
<tr>
<th>File No.</th>
<th>Borrower</th>
<th>Lender</th>
<th>Purch. / Date</th>
<th>Refi of clsg. Date</th>
<th>Date policy issued</th>
</tr>
</thead>
</table>
Exhibit 26

**CLOSING SET-UP WORKSHEET**

_________________________ to _________________________

Projected Closing Date _____________________

Today’s date:

**Lender**  
Name:  
Contact person:  
Phone #:  
Fax #:  
E-mail:

Purchase / Refinance

**Sellers** (if a purchase)  
Name:  
Contact info (if fsbo)  
Phone #:  
Fax #:  
E-mail:  
Forwarding address:

Realtor (if applicable):  
Attorney (if applicable):  
Who will obtain payoff(s):

**Buyers / Borrowers**  
Name:  
Contact info (if fsbo)  
Phone #:  
Fax #:  
E-mail:  
Forwarding address:

**Other parties**  
Escrow company:  
Contact info (if fsbo)  
Phone #:

---

Residential real estate transactions, p. 85
Fax #: 
E-mail: 

Relocation company: 
  Contact info (if fsbo) 
  Phone #: 
  Fax #: 
  E-mail: 

Special Instructions 
2nd loan? 

Location of earnest money: 

Closing Instructions 
Anticipated date for receipt of closing instructions: 

Authorization process: Table funded or approval required 

Special instructions:
INSTRUCTIONS 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 28

**MNLR Search Verification**

<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>

**Filings found**

____________________________________________________________

____________________________________________________________

Instructions: Initial the line to verify the search was performed. This form stays with the closing file.
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 30

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
October 31, 2013

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 appurtenant servient estates, but subject to any reasonable encumbrances of record for public utilities or roads, any zoning restrictions, customary restrictive covenants and mineral 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 with 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 initial and attached herein 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 portion of 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 portion shall be based on the actual assessed value, legislative tax adjustments 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 stricken, 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, whichever 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 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 ___________, ________, 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, but prior to possession by BUYERS. 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 filing of title transfer documents) upon the delivery of the title transfer documents to BUYERS and receipt of all funds due at closing from BUYERS under the Agreement.

6. FIXTURES. Included with the Property shall be all fixtures that integrally belong to, or 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...
The following items shall not be included:

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 becomes due and the Buyer has the right to inspect the property before closing. Any items which are not within the control of the Buyer shall be noted at the time of the inspection.

B. Within ___ days after the acceptance of this Agreement, the SELLERS shall make all repairs necessary to bring the property into compliance with all applicable codes, ordinances, and covenants. The Buyer shall inspect the property during this time and may request additional inspections if necessary. Any items which are not within the control of the Buyer shall be noted at the time of the inspection.

C. If "B" is deleted, the Buyer acknowledges 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 property are under construction or are to be constructed, the Agreement shall be subject to approval of plans and specifications by the parties within ___ days acceptance of this Agreement. New construction shall have the warranties implied by law, those specifically made by suppliers of materials/apparatus, and those specifically permitted by the local authorities.

8. ABSTRACT AND TITLE. SELLERS, at their expense, shall promptly obtain an abstract of title to the Property and deliver it to the Buyer. The abstract shall be prepared by a reputable title company and shall include a search of public record and all other relevant documents. The abstract shall be delivered to the Buyer within ___ days after the acceptance of this Agreement.

9. SURVEY. The Buyer may, at their expense, obtain a survey of the property and request a copy of any recorded easements or restrictions. The survey shall be delivered to the Buyer within ___ days after the acceptance of this Agreement.

10. ENVIRONMENTAL MATTERS. (a) SELLERS warrant to the Buyer that there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the property. The Buyer may request an environmental assessment of the property at their expense. SELLERS warrant to the Buyer 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. The Buyer may request an environmental assessment of the property at their expense.

(b) BUYERS may, 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, the Buyer shall be responsible for the removal or containment of the matter reasonably satisfactory to the Buyer. However, in the event of any hazardous materials, substances, conditions or wastes located on the Property, the Buyer may cancel the transaction and recover the deposit paid to the Agent. The Buyer shall have the option to cancel the transaction and request a refund of the deposit paid to the Agent. The buyer may cancel the transaction if the Buyer determines that the environmental assessment is not satisfactory or if the cost of removal or containment of the hazardous materials, substances, conditions or wastes exceeds $_____.

11. DEED. Upon payment of the purchase price, SELLERS shall convey the Property to the Buyer by a good, clear, and marketable 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 the Buyer.

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 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 the sale, and any continuing or recaptured rights of SELLERS in the Property, shall belong to SELLERS as joint tenants with right 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. JOINER BY SELLER'S SPOUSE. If the Buyer is the sole 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 the 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 rescind this Agreement 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 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 such part of this Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Agreement shall apply to and bind the successors in interest 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 context.

20. ADDITIONAL PROVISIONS: (check if applicable)

☐ A. SALE OF BUYERS' PROPERTY. This Agreement is contingent upon the sale and settlement of the BUYERS' property located on

☐ B. TENURE INSPECTION. The expenses shall be the Property inspected for tenants 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 or fumigated by a licensed pest exterminator and having any damage repaired at 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 inspection or repairs.

☐ C. WELLS TEST. SELLERS' expense 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 shall notify the BUYERS of the unsatisfactory report and, upon written notice from SELLERS to the BUYERS, this Agreement shall be null and void and all earnest money paid herein shall be returned immediately to BUYERS.

☐ D. SEPTIC SYSTEM TEST. SELLERS, at SELLERS' expense, shall provide BUYERS within_____days after acceptance of this offer a report issued by the county health department, or a qualified testing service, indicating the capability of the septic tank system as determined by the inspector. 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 SELLERS to the BUYERS, this Agreement shall be null and void and all earnest money paid herein shall be returned immediately to BUYERS.

☐ E. 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.

☐ F. OTHER: Attach Addendum.

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

Accepted________________________ Direct________________________

SELLERS

BUYERS

SSN

SSN

Address________________________ Address________________________

Telephone______________________ Telephone______________________

(3)
FINANCING ADDENDUM
TO
RESIDENTIAL PURCHASE AGREEMENT

INITIAL IF APPLICABLE:

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 note interest at ______% 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.

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 it has not been obtained within 5 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 SELLERS have obtained a mortgage commitment or a denial.

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 at ______%.

If consent of the holder of such mortgage or contract is required then the Agreement is contingent upon such consent and to pay all expenses and assumption fees related thereto. If BUYERS have not procured such consent on or before ______, then SELLERS may rescind this Agreement by giving written notice to the BUYERS stating that if such consent is not obtained within 5 working days of receipt of such notice, then this Agreement shall be null and void. All payments due prior to and including the date of closing are to be paid by the SELLERS.

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 provisions, in which event Paragraphs 2 and 3 herein shall not apply.

This Agreement is not 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 balance, together with accrued interest is paid in full, or until the amount due is reduced to the amount of the mortgage now or hereafter 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 adjustment for closing costs to be added or deducted from this amount. If SELLERS now have or hereafter 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) be due and payable in full upon sale or assignment by the BUYERS:

This contract (shall) (shall not) require 11/2 of the annual insurance premium and taxes be 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 tax payments are not escrowed, SELLERS shall pay all real estate tax instalments, or portions thereof, for taxes that accrue prior to possession. BUYERS shall pay all real estate tax instalments, or portions thereof, for taxes that accrue after the date of possession. The parties shall pay the instalments for which they are responsible as they become due and prior to delinquency.

D. OTHER: Attach Addendum.
SECTION/QUARTER SECTION

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 5'

# 52 WD (1970) THOMAS JEFFERSON

# 56 WD (1974) ABRAHAM AND MARY LINCOLN, HAW, JT

# 57 MTG. 57/213 FIRST NAT'L BANK 6/1, 1/74

# 58 MTG. 62/91 ?? 2/4, 10/75

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

# 70 WD (2000) DWIGHT AND MAMIE EISENHOWER, HAW, JT

FILED 7/1/00 AS INT. NO. 00-07444

SEE # 82

# 71 MTG. 00-07445 WELLS FARGO BANK, N.A. 7/1, 1/00 $100,000

A # 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

AMT. PAID THROUGH 12/1/09 = 105

AMT. PAID $8,000 $47,250

LD CURRENT.

R-E TO MAMIE, DWIGHT TO GIVE QC COST PAID
#76 QC (2009) DWIGHT EISENHOWER FROM MAMIE E., SINGLE
- FILED 2/1/03 AS INST. NO. 03-00215

2

#80 MTG. 00-12459 WELLS FARGO BANK, NA 6/1, 5/01/10
$92,000

#82 REL. OF MTG. AT 471 BY INST. FILED 10/15/10 10-19869
- RELEASE IS GIVEN BY MERS, NO ASSIGNMENT

TO MAKE REL. EFFECTIVE.

**REQ: ASSIGNMENT OR PROPER RELEASE**

#90 RESTRICTIVE COVENANTS - NO AUTOM 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
2ND - $ , DUE, NOT DEL.

NO SPECIALS

#94 LIEN SEARCH

DWIGHT EISENHOWER
MAMIE

ISSUES FOR T-O:

- DEFECTIVE MTG. RELEASE

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

**B. Type of Loan**
- □ FHA
- □ RHB
- □ Conv. Unins.

**C. Note:** This form is furnished 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
- Jane Doe
- 123 Washington Street
- Ames, Iowa 50010

**E. Name and Address of Seller**
- Joe Smith
- 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. Gardin
- Hastings & Gardin LLP
- 409 Duff Avenue
- Ames, IA 50010

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

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>101. Contract sales price</td>
<td>134,000.00</td>
</tr>
<tr>
<td>102. Personal property</td>
<td>402. Personal property</td>
</tr>
<tr>
<td>103. Settlement charges to borrower (line 1400)</td>
<td>4,173.14</td>
</tr>
<tr>
<td>104.</td>
<td>404.</td>
</tr>
<tr>
<td>105.</td>
<td>405.</td>
</tr>
<tr>
<td>Adjustments for items paid by seller in advance</td>
<td>Adjustments for items paid by seller in advance</td>
</tr>
<tr>
<td>106. City/town taxes</td>
<td>406. City/town taxes</td>
</tr>
<tr>
<td>107. County taxes</td>
<td>407. County taxes</td>
</tr>
<tr>
<td>108. Assessments</td>
<td>408. Assessments</td>
</tr>
<tr>
<td>109.</td>
<td>409.</td>
</tr>
<tr>
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<td>410.</td>
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<td>111.</td>
<td>411.</td>
</tr>
<tr>
<td>112.</td>
<td>412.</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>134,000.00</td>
</tr>
<tr>
<td>402. Personal property</td>
<td>402. Personal property</td>
</tr>
<tr>
<td>403.</td>
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</tr>
<tr>
<td>Adjustments for items paid by seller in advance</td>
<td>Adjustments for items paid by seller in advance</td>
</tr>
<tr>
<td>406. City/town taxes</td>
<td>406. City/town taxes</td>
</tr>
<tr>
<td>407. County taxes</td>
<td>407. County taxes</td>
</tr>
<tr>
<td>408. Assessments</td>
<td>408. Assessments</td>
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<tr>
<td>409.</td>
<td>409.</td>
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<tr>
<td>410.</td>
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<tr>
<td>411.</td>
<td>411.</td>
</tr>
<tr>
<td>412.</td>
<td>412.</td>
</tr>
</tbody>
</table>

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

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<thead>
<tr>
<th>Item</th>
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</thead>
<tbody>
<tr>
<td>220. Total Paid by/Fr. Borrower</td>
<td>137,500.00</td>
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</table>

**M. Cash At Settlement to/from Borrower**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>300. Cash At Settlement to/from Borrower</td>
<td>60. Cash At Settlement to/from Seller</td>
</tr>
</tbody>
</table>

**N. Cash At Settlement to/from Seller**

<table>
<thead>
<tr>
<th>Item</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>301. Gross amount due from borrower (line 120)</td>
<td>138,173.14</td>
</tr>
<tr>
<td>302. Less amounts paid by borrower (line 220)</td>
<td>(137,500.00)</td>
</tr>
<tr>
<td>303. Cash from To To</td>
<td>673.14</td>
</tr>
</tbody>
</table>

*The Public Request for this collection of information is authorized by 30 minutes per response (collection, conveying, and reporting the data). This agency may not collect this information, and you are not required to complete the form, unless it displays a currently valid OMB control number, for confidentiality or accuracy reason of disclosure is mandatory. This is designed to provide the parties to a real estate-related transaction with information during the settlement process.*
<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>700</td>
<td>Total Real Estate Broker Fees</td>
<td>$0,380.00</td>
</tr>
<tr>
<td>701</td>
<td>Division of Commission (line 700) as follows:</td>
<td></td>
</tr>
<tr>
<td>702</td>
<td>to (includes 1,000.00 deposit)</td>
<td></td>
</tr>
<tr>
<td>703</td>
<td>Commission paid at Settlement</td>
<td>$0,380.00</td>
</tr>
<tr>
<td>800</td>
<td>Items Payable In Connection With Loan</td>
<td></td>
</tr>
<tr>
<td>801</td>
<td>Our origination charge ($625.00 (from GFE #1))</td>
<td>$625.00</td>
</tr>
<tr>
<td>802</td>
<td>Your credit or charge (points) for the specific interest rate chosen ($</td>
<td></td>
</tr>
<tr>
<td>803</td>
<td>Your adjusted origination charges (from GFE #A)</td>
<td>$625.00</td>
</tr>
<tr>
<td>804</td>
<td>Appraisal fee to (from GFE #3)</td>
<td>$355.00</td>
</tr>
<tr>
<td>805</td>
<td>Credit Report to (from GFE #3)</td>
<td>$22.00</td>
</tr>
<tr>
<td>806</td>
<td>Tax service to (from GFE #3)</td>
<td>$19.00</td>
</tr>
<tr>
<td>807</td>
<td>Flood certification (from GFE #3)</td>
<td></td>
</tr>
<tr>
<td>808</td>
<td></td>
<td></td>
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<td>809</td>
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<td>810</td>
<td></td>
<td></td>
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<tr>
<td>811</td>
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<td>812</td>
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<td>813</td>
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<td></td>
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<tr>
<td>814</td>
<td></td>
<td></td>
</tr>
<tr>
<td>901</td>
<td>Daily Interest charges from 09/20/2011 to 10/01/11 @ .00.08/day</td>
<td>$84.90</td>
</tr>
<tr>
<td>902</td>
<td>Mortgage insurance premium for months to</td>
<td></td>
</tr>
<tr>
<td>903</td>
<td>Homeowner's insurance for years to (from GFE #11)</td>
<td>$887.00</td>
</tr>
<tr>
<td>904</td>
<td></td>
<td></td>
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<tr>
<td>905</td>
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<td>906</td>
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<tr>
<td>913</td>
<td></td>
<td></td>
</tr>
<tr>
<td>914</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1000</td>
<td>Reserves Deposited With Lender</td>
<td>$1,121.24</td>
</tr>
<tr>
<td>1001</td>
<td>Initial deposit for your escrow account (from GFE #8)</td>
<td></td>
</tr>
<tr>
<td>1002</td>
<td>Homeowner's Insurance 4 months @ $73.92 per month $295.68</td>
<td></td>
</tr>
<tr>
<td>1003</td>
<td>Mortgage insurance months @ $</td>
<td></td>
</tr>
<tr>
<td>1004</td>
<td>Property taxes 4 months @ $299.83 per month $1,199.32</td>
<td></td>
</tr>
<tr>
<td>1005</td>
<td>months @ $</td>
<td></td>
</tr>
<tr>
<td>1006</td>
<td>months @ $</td>
<td></td>
</tr>
<tr>
<td>1007</td>
<td>months @ $</td>
<td></td>
</tr>
<tr>
<td>1008</td>
<td>Aggregate escrow adjustment $-373.76</td>
<td></td>
</tr>
<tr>
<td>1100</td>
<td>Title Charges</td>
<td></td>
</tr>
<tr>
<td>1101</td>
<td>Title services and lender's title insurance (from GFE #4)</td>
<td>$865.00</td>
</tr>
<tr>
<td>1102</td>
<td>Settlement or closing fee to Hastings, Garin &amp; Boettger</td>
<td>$375.00</td>
</tr>
<tr>
<td>1103</td>
<td>Owner's title insurance (from GFE #6)</td>
<td></td>
</tr>
<tr>
<td>1104</td>
<td>Lender's title insurance to Treasurer, State of Iowa $110.00</td>
<td></td>
</tr>
<tr>
<td>1105</td>
<td>Lender's title policy limit $134,000.00</td>
<td></td>
</tr>
<tr>
<td>1106</td>
<td>Owner's title policy limit $134,000.00</td>
<td></td>
</tr>
<tr>
<td>1107</td>
<td>Agent's portion of the total title insurance premium $</td>
<td></td>
</tr>
<tr>
<td>1108</td>
<td>Underwriter's portion of the total title insurance premium $</td>
<td></td>
</tr>
<tr>
<td>1109</td>
<td>Abstracting Fees to Abstract &amp; Title Services $200.00</td>
<td>$500.00</td>
</tr>
<tr>
<td>1110</td>
<td>Title Examination to Hastings, Garin &amp; Boettger $180.00</td>
<td></td>
</tr>
<tr>
<td>1111</td>
<td>Deed Preparation to Hastings, Garin &amp; Boettger $35.00</td>
<td></td>
</tr>
<tr>
<td>1112</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1300</td>
<td>Government Recording and Transfer Charges</td>
<td></td>
</tr>
<tr>
<td>1301</td>
<td>Government recording charges Story County Recorder (from GFE #7)</td>
<td>$94.00</td>
</tr>
<tr>
<td>1302</td>
<td>Deed $12.00 Mortgage $82.00 Release $</td>
<td></td>
</tr>
<tr>
<td>1303</td>
<td>Transfer taxes (from GFE #8)</td>
<td>$0.00</td>
</tr>
<tr>
<td>1304</td>
<td>County tax stamps: Deed $ Mortgage</td>
<td></td>
</tr>
<tr>
<td>1305</td>
<td>State tax stamps: Deed $213.60 Mortgage $</td>
<td>$213.60</td>
</tr>
<tr>
<td>1306</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1307</td>
<td></td>
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<td>1308</td>
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<tr>
<td>1309</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1310</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1400</td>
<td>Total Settlement Charges (enter on lines 103, Section J and 502, Section K)</td>
<td>$4,173.14</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$10,128.60</td>
</tr>
</tbody>
</table>
### 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 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>0.00</td>
<td><strong>1,295.00</strong></td>
</tr>
</tbody>
</table>

**Increase between GFE and HUD-1 Charges**

1,295.00 (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**: 6.25%
- **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?**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Yes, it can rise to a maximum of .</td>
</tr>
</tbody>
</table>

**Even if you make payments on time, can your loan balance rise?**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>No</td>
<td>Yes, it can rise to a maximum of .</td>
</tr>
</tbody>
</table>

**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 $373.75 that results in a total initial monthly amount owed of $1,062.70. 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                                      Joe Smith

09/26/11                                          09/26/11

Jane Doe                                      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

WARNING: It is a crime to knowingly make false statements to the United States on this form. Penalties upon conviction can include a fine and imprisonment. For details see Title 18 U.S. Code Section 1001 and Section 1028.