

# Construction Mortgage Manual

Updated September 1, 2019



**IOWA TITLE GUARANTY**

A DIVISION OF IOWA FINANCE AUTHORITY

## COMMON CONSTRUCTION MORTGAGE PRACTICE

<b>TWO-TIME CLOSE (PAYOFF &amp; REFINANCE)</b>	
<ol style="list-style-type: none"><li>1. Abstract updated.</li><li>2. Title examination + preliminary title opinion issued.</li><li>3. Construction loan closes.</li><li>4. Construction mortgage filed.</li><li>5. Construction commences.</li><li>6. Upon completion of construction, the owner refinances as follows:<ol style="list-style-type: none"><li>a. Abstract updated or Form 900 obtained.</li><li>b. Preliminary title examination + opinion completed.</li><li>c. Commitment for permanent aka “end loan” financing obtained.</li><li>d. End-loan closes.<ol style="list-style-type: none"><li>i. New end-loan mortgage is filed; and</li><li>ii. Construction loan is paid off and released.</li></ol></li><li>e. Abstract updated or Form 901 obtained.</li><li>f. Final title opinion issued.</li><li>g. <b>Certificate issued for end-loan.</b></li></ol></li></ol>	

Frequently, lenders do not request title coverage on the construction loan. Lenders wait until the borrower refinances out of the construction loan into permanent aka “end-loan” financing before obtaining a title certificate. If the borrower owned the lot prior to obtaining the construction loan, the lender treats the transition from construction to permanent financing as a non-purchase product refinance with a Form 900/901. At this time, so long as all other criteria are met for using the Form 900/901, Iowa Title Guaranty (“ITG”) permits the use of the Form 900/901 in a Two-Time Close, but only for the second closing.

**However, ITG advises against using the Form 900/901 under these circumstances.**

The Form 900 will not disclose specific plats, declarations, easements or restrictions, and therefore the ITG commitment and certificate will contain the following blanket exceptions:

*Declarations, covenants, restrictions, easements, reservations, rights, and options filed of record with the recorder's office for the county in which the property is located.*

*Plat(s) filed with the recorder's office for the county in which the property is located, including all easements, building setbacks, restrictions, reservations, and notations.*

The blanket exceptions except from coverage many significant items which are more likely to be placed of record for construction projects on newly subdivided property (e.g. rights of first refusal and other options, easements, restrictive covenants, development agreements, maintenance agreements, encroachment agreements, survey issues). Therefore, significant risk exists for both the lender and ITG when a Form 900/901 Report of Title is utilized for the end-loan mortgage.

## ITG’S NEW CONSTRUCTION MORTGAGE PRODUCT

ITG has developed a construction mortgage product which allows lenders to obtain a commitment for lender’s coverage which shall remain valid for twelve (12) months. The lender files the construction mortgage prior to commencement of construction. Upon completion of construction, the lender files a mortgage modification converting the construction mortgage to permanent financing terms. ITG will honor the commitment and provide a final certificate with the modification endorsement, provided the commitment requirements have been satisfied. This process is shown below as the **One-Time Close with Modification – Delayed Issuance**. Alternatively, in the **One-Time Close with Modification – Issue + Reissue**, the lender may obtain a certificate immediately post-closing of the construction mortgage, subject to certain limitations and exceptions that may not be removed until construction is complete, commitment requirements have been satisfied, and the modification endorsement is obtained. In either case, owner’s coverage may not be issued until construction is complete. **Regardless of which One-Time Close process is used, if construction is not completed within twelve (12), the participant must submit the final certificate to underwriting prior to issuance.**

<b>ONE-TIME CLOSE (MODIFICATION: ISSUE + REISSUE)</b>	<b>ONE-TIME CLOSE (MODIFICATION: DELAYED ISSUANCE)</b>
<ol style="list-style-type: none"> <li>1. Abstract updated.</li> <li>2. Title examination + preliminary opinion issued.</li> <li>3. Commitment* issued.</li> <li>4. Construction loan closes.</li> <li>5. Construction mortgage filed prior to commencement of construction.</li> <li>6. <b>Certificate* issued immediately after closing of the construction loan (certification date must be prior to date of commencement of construction).</b></li> <li>7. Construction commences.</li> <li>8. Upon completion of construction, mortgage modification filed converting the construction mortgage to permanent aka “end loan” financing.</li> <li>9. Updated title work obtained through the date and time of the modification filing.</li> <li>10. Updated title opinion.</li> <li>11. <b>Certificate* amended to add the modification endorsement and reissued.</b></li> </ol>	<ol style="list-style-type: none"> <li>1. Abstract updated.</li> <li>2. Title examination + preliminary opinion issued.</li> <li>3. Commitment* issued.</li> <li>4. Construction loan closes.</li> <li>5. Construction mortgage filed prior to commencement of construction.</li> <li>6. Construction commences.</li> <li>7. Upon completion of construction, mortgage modification filed converting the construction mortgage to permanent aka “end loan” financing.</li> <li>8. Updated title work obtained through the date and time of the modification filing.</li> <li>9. Updated title opinion.</li> <li>10. <b>Certificate* with modification endorsement issued.</b></li> </ol>

*\*Commitments and certificates for construction mortgages are subject to certain requirements and exceptions as described in further detail below.*

# ONE-TIME CLOSE (MODIFICATION)

## Obtaining Coverage on a Construction Loan

### A. PRIOR TO COMMENCEMENT OF CONSTRUCTION:

#### 1. ABSTRACT UPDATE.

- a. Order **abstract update** for **title examination** by an ITG participating attorney.
- b. A Form 900 may not be used.

#### 2. COMMITMENT.

- a. Obtain a **commitment** from an ITG field issuer.
- b. Transaction Type.
  - i. Refinance (abstract update) - if no owner's coverage is requested; OR
  - ii. Purchase – if the borrower desires owner's coverage.
- c. Coverage Amounts.
  - i. Lender Coverage.
    1. If the lender requests a certificate immediately after filing the construction loan (prior to completion of construction), enter the amount shown on the original mortgage.
    2. If the lender is comfortable with waiting until construction is complete before receiving a final certificate (commitment for a construction mortgage is valid for 12 months), enter the amount of the mortgage as expected to be modified by the modification agreement.
  - ii. Owner Coverage.
    1. The owner's coverage amount may be entered as the estimated final appraised value at the commitment phase.
    2. You may not issue the final Owner Certificate until construction is complete.
  - iii. **NOTE: If the property, as fully constructed, will increase coverage over \$500,000.00, ITG will require payment of the additional premium that was not contemplated at the time of commitment.**
- d. Commitment Requirements.
  - i. Survey Requirements. You must **ADD** the following non-record requirement related to **survey** coverage to Schedule B, Part I of the commitment:
    1. Coverage \$750,000 or less: *If the lender desires add to the Comprehensive and/or Location Endorsements or remove Standard Exception 2 or 3 upon completion of construction, ITG will require the submission of either a **recent survey or Real Property Inspection Report** prepared by a licensed surveyor or engineer showing the boundary lines, the location of any improvements relative to the property lines, easements, building setback lines, property dimensions, completed house and showing no possible encroachments; **OR** a **final appraisal** showing no possible encroachments.*
    2. Coverage over \$750,000: *If the lender desires to add the Comprehensive and/or Location Endorsements or remove Standard Exception 2 or 3 upon completion of construction, ITG will require the submission of a **recent Survey or Real Property Inspection Report** prepared by a licensed surveyor or engineer showing the*

*boundary lines, the location of any improvements relative to the property lines, easements, building setback lines, property dimensions, completed house and showing no possible encroachments.*

3. Upon completion of construction and satisfaction of the above requirement, you may add the Comprehensive and Location Endorsements and remove Standard Exceptions 2 and 3 from the certificate.
- ii. Mechanic's Lien Requirements. You must add the following non-record requirement related to mechanic's lien coverage to Schedule B, Part I of the commitment:
  1. *As the proposed Guaranteed Mortgage is a Construction Mortgage, for any certificates issued pursuant to this Commitment, Standard Exception No. 4 which excepts from coverage mechanic's liens will remain in the certificate until construction is complete. If the lender desires to remove Standard Exception No. 4 from the final Certificate once the construction is complete, ITG will require a search of the MNL, lien waivers, releases and/or withdrawals for postings to the Registry.*
  2. Upon completion of construction and satisfaction of the above requirement, you may remove Standard Exception 4 from the certificate.

### 3. CERTIFICATE.

- a. If lender requires a **certificate** immediately after filing the construction mortgage but prior to construction:
  - i. Add Standard Exceptions 2, 3 and 4 to Schedule B, Part I the Certificate;
  - ii. Omit the Comprehensive and/or Location Endorsements; and
  - iii. Do not add Owner Certificate at this stage.

## B. UPON COMPLETION OF CONSTRUCTION:

### 1. MORTGAGE MODIFICATION.

- a. File/Record the mortgage modification.

### 2. ABSTRACT UPDATE.

- a. Obtain an **abstract update** through the date and time of the mortgage modification filing for title examination by an ITG participating attorney.

### 3. REQUIREMENTS.

- a. Confirm commitment **requirements have been met.**

### 4. LENDER CERTIFICATE WITH MODIFICATION ENDORSEMENT.

- a. Field issuer issues **Lender Certificate with no cost Modification Endorsement.**
- b. If the necessary survey and mechanic's lien requirements have been met, you may:
  - i. Add the Comprehensive and Location Endorsements; and
  - ii. Remove Standard Exceptions 2, 3 and 4 from the certificate.
- c. If the survey requirements have not been met:
  - i. Omit comprehensive coverage.
  - ii. Standard Exception 2 must remain on Schedule B, Part I of the final certificate:

*Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.*

- iii. Standard Exception 3 must remain on Schedule B, Part I of the final certificate:  
*Any easement of claim of easement not shown by the Public Records.*
  - d. If the mechanic's lien requirements have not been met:
    - i. Standard Exception 4 must remain on Schedule B, Part I of the final certificate:  
*Any lien or right to lien for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by Public Records.*
  - e. **All modification endorsement requirements must be satisfied. Any new matters filed of record after the date and time of filing the original mortgage and before the date and time of filing the Modification Endorsement must be shown as exceptions on the Modification Endorsement.**
5. OWNER CERTIFICATE.
- a. If owner's coverage was contemplated at the commitment phase, field issuer issues **Owner Certificate for the appraised value** of the property at no additional cost.

# TWO-TIME CLOSE (PAYOFF & REFINANCE)

## Obtaining Coverage on a Construction Loan

### A. PRIOR TO COMMENCEMENT OF CONSTRUCTION:

#### 1. ABSTRACT UPDATE.

- a. Order **abstract update** for **title examination** by an ITG participating attorney.
- b. A Form 900 may not be used.

#### 2. COMMITMENT.

- a. Obtain a **commitment** from an ITG field issuer.
- b. Transaction Type.
  - i. Refinance (abstract update) - if no owner's coverage is requested; OR
  - ii. Purchase – if the borrower desires owner's coverage.
- c. Coverage Amounts.
  - i. Lender Coverage.
    1. If the lender requests a certificate for the construction mortgage (prior to completion of construction), enter the amount shown on the mortgage.
  - ii. Owner Coverage.
    1. The owner's coverage amount may be entered as the estimated final appraised value at the commitment phase.
    2. You **may not** issue the final Owner's Certificate until construction is complete.
- d. Commitment Requirements.
  - i. Survey Requirements. You must **ADD** the following non-record requirement related to **survey** coverage to Schedule B, Part I of the commitment:
    1. Coverage \$750,000 or less: *If the lender desires add to the Comprehensive and/or Location Endorsements or remove Standard Exception 2 or 3 upon completion of construction, ITG will require the submission of either a **recent survey or Real Property Inspection Report** prepared by a licensed surveyor or engineer showing the boundary lines, the location of any improvements relative to the property lines, easements, building setback lines, property dimensions, completed house and showing no possible encroachments; **OR** a **final appraisal** showing no possible encroachments.*
    2. Coverage over \$750,000: *If the lender desires to add the Comprehensive and/or Location Endorsements or remove Standard Exception 2 or 3 upon completion of construction, ITG will require the submission of a **recent Survey or Real Property Inspection Report** prepared by a licensed surveyor or engineer showing the boundary lines, the location of any improvements relative to the property lines, easements, building setback lines, property dimensions, completed house and showing no possible encroachments.*
  - ii. Mechanic's Lien Requirements. You must add the following non-record requirement related to mechanic's lien coverage to Schedule B, Part I of the commitment:
    1. *As the proposed Guaranteed Mortgage is a Construction Mortgage, for any certificates issued pursuant to this Commitment, Standard Exception No. 4 which exempts from coverage mechanic's liens will remain in the certificate until*

*construction is complete. If the lender desires to remove Standard Exception No. 4 from the final Certificate once the construction is complete, ITG will require a search of the MNL, lien waivers, releases and/or withdrawals for postings to the Registry.*

2. Upon completion of construction and satisfaction of the above requirement, you may remove Standard Exception 4 from the certificate.
3. LENDER CERTIFICATE.
  - a. Field issuer issues a Lender Certificate subject to the following:
    - i. Add Standard Exceptions 2, 3 and 4 to Schedule B, Part I of the Certificate;
    - ii. Omit the Comprehensive and/or Location Endorsements.
4. OWNER CERTIFICATE.
  - a. The Owner Certificate may **NOT** be issued at this stage.

#### **B. UPON COMPLETION OF CONSTRUCTION:**

1. ABSTRACT UPDATE OR FORM 900.
  - a. Obtain an **abstract update** or **Form 900 Report of Title\*** for title examination by an ITG participating attorney.
2. COMMITMENT.
  - a. Obtain a commitment from an ITG field issuer.
3. REFINANCE.
  - a. Refinance of the construction mortgage into end-loan/permanent financing.
    - i. Borrower executes new end-loan.
    - ii. End-loan is filed with the County Recorder's Office.
    - iii. The construction mortgage is paid off at closing.
4. LENDER CERTIFICATE.
  - a. Obtain a **Lender Certificate** from an ITG field issuer.
  - b. If the necessary survey and mechanic's lien requirements have been met, you may:
    - i. Add the Comprehensive and Location Endorsements; and
    - ii. Remove Standard Exceptions 2, 3 and 4 from the certificate.
  - c. If the survey requirements have not been met:
    - i. No comprehensive coverage.
    - ii. Standard Exception 2 must remain on the final certificate:

*Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land.*
    - iii. Standard Exception 3 must remain on the final certificate:

*Any easement of claim of easement not shown by the Public Records.*
  - d. If the mechanic's lien requirements have not been met:
    - i. Standard Exception 4 must remain on the final certificate:

*Any lien or right to lien for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by Public Records.*
5. OWNER CERTIFICATE.
  - a. If owner's coverage was contemplated at the commitment phase, field issuer issues **Owner Certificate for the appraised value** of the property at no additional cost.