

## From the Director

Another busy summer is behind us and it will be one for the record books. The floods, tornados and storms left many lowans rebuilding lives, homes and communities for a long time to come. The upside of this terrible situation is the opportunity to rebuild something that is better, stronger and more resilient than before.

Iowa's real estate industry is in somewhat of a rebuilding mode, as well. Serious issues face us, some driven by the unprecedented mortgage credit crisis and its impact on local and regional builders; some by federal and state regulatory changes. No matter the driving factor, as an industry we have the opportunity to work with our partners and try to build a better landscape for real estate closings.

One area of concern is the uncertainty Iowa's Mechanic's Lien statute creates. We are working with other industry associations to develop consensus on a legislative solution. Our objective is to create a framework so contractors have recourse for payment for labor and materials provided, but home buyers' and mortgage lenders' interests are protected. It will take a cohesive effort by all concerned to create a solution to this situation.

Another area of concern is the need for licensing of abstractors and settlement companies. Our land title system is a valuable asset to all of us in the real estate industry. We agree with our partners in the Iowa Land Title Association that Iowa needs to protect the integrity of our system by ensuring that those who provide abstracting services are competent and capable.

Iowa is one of the few states with no regulation of closing providers, and we

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# Title Guaranty On The Move

## Title Guaranty – it's catching on!

The annual conference is just around the corner! This year, we return to the West Des Moines Marriott Hotel, November 6, 2008. We're offering a full agenda once again – you won't want to miss out!

Whatever your interest in the real estate industry, we've got a workshop for you. We offer a varied program consisting of workshops relevant to everyone involved in real estate and real estate closings. Today, keeping up with changes in the lending world is a challenge. We've invited a panel of underwriters from private mortgage insurance companies to discuss recent changes to their guidelines and answer your questions. If you are an abstractor, you will want to attend the session with David Erickson, Esq., on "Title Standards for Abstractors." Dave sees a lot of abstracting work across the state and will share his insights and suggestions for creating a better title product.

We will feature the industry panel – your chance to ask questions or raise issues you've encountered and hear how other participants respond. This is always a highlight of the conference. This year, we're including an additional panel to give us a preview of the upcoming state legislative session. There are many issues impacting the real estate industry, some that may be included on the legislative agenda.

A few of the speakers are Dr. Ted Jones, Sr. Vice President, Chief Economist, Stewart Title Company, and a distinguished group of some of Iowa's most experienced real estate attorneys: Jorge Gomez, Gerry Stambaugh, Bill Bartine and more.

Complete information and online registration is available on our Web site, [www.iowaFinanceAuthority.gov/titleguaranty](http://www.iowaFinanceAuthority.gov/titleguaranty) under the Updates/Events section. Or, for more information, contact Linda Berg at [linda.berg2@iowa.gov](mailto:linda.berg2@iowa.gov) or 515.725.4893.

We will offer continuing education credits for attorneys as well as mortgage originators. Plan to attend this year's conference: Title Guaranty – it's catching on!

## Frequently Asked Questions

**Q** Why is it necessary to show marital status on the mortgage and title opinion?  
**A** Iowa Code Section 561.13 states that “[a] conveyance or encumbrance of . . . the homestead, if the owner is married, is not valid, unless and until the spouse of the owner executes the same or a like instrument . . .” See also Martin v. Martin, 720 N.W.2d 732 (Iowa 2006) where the Supreme Court held an instrument of conveyance or encumbrance of the homestead is void without the signatures of both spouses. If marital status is not properly reflected on the mortgage and title opinion it is often impossible to confirm that all of the appropriate parties have signed.

### Correct:

John Jones and Mary Jones, husband and wife  
John Jones, a single person, and Mary Smith, a single person  
John Jones and Mary Jones, husband and wife, and David Jones, a single person

### Incorrect:

John Jones, married, and Mary Jones, married (cannot assume they are married to each other)  
John Jones and Mary Jones  
John Jones and Mary Smith (cannot assume they are single)

In those situations where only one of the spouses holds title, the non-titleholder spouse must still execute any conveyance or encumbrance, including the mortgage. This includes those situations where only one spouse is in title and is co-signing the mortgage as a parent for the benefit of a son or daughter. Here, too, the non-titleholder spouse must execute the mortgage to convey marital rights.

## CAP User Tip – Finding a Property

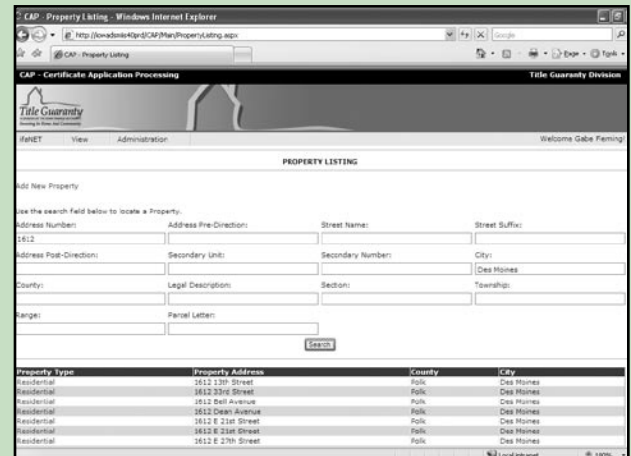
Prior to issuing a Commitment or Certificate, always search for the property first. If the property is already in the CAP database, you will save time! When performing a property search, remember that less is more. Enter the least amount of information – usually house number and city - and then click “Search.”

If the property is not in the database, then select “Add New Property.” If the property is listed in the search field, select the link “Residential” that matches the property and continue with the Commitment or Certificate.

If there is more than one property address that matches, right click on the “Residential” link and select “Open in a New Window” to find the correct property, while keeping the search field open.

When adding a new property to the database, always add the entire legal description. Never use “SEE ATTACHED” or “SEE EXHIBIT A” for the legal description on the Property Details.

Contact Carrie Nutt at 515.725.4917 or [carrie.nutt@iowa.gov](mailto:carrie.nutt@iowa.gov) with questions or for more information.



## Top 10 Reasons to Attend Title Guaranty's Fourth Annual Conference Thursday, November 6, 2008

- 10** Centrally located, state-of-the-art facilities at the West Des Moines Marriott Hotel
- 9** Nominal registration fee of only \$75 for the entire conference
- 8** Breakout sessions you won't want to miss
- 7** Special legislative preview
- 6** Title issues for abstractors
- 5** Ethics panel
- 4** Industry Round Table led by industry professionals
- 3** Mortgage Insurance underwriter panel
- 2** 6.0 hours of CLEs for Attorneys
- 1** You just might learn something

# New Construction Update

The settlement of new construction transactions continues to pose challenges, although we remain committed to working with our industry partners to streamline the process. We strive to balance our role - protecting lenders and buyers – with the need to close these transactions without unnecessary delays.

Remember that mechanic's lien coverage is available to buyers via the Standard Exception Waiver Endorsement. This Endorsement is available on most transactions for just \$15. Please visit our Web site for complete details on the Endorsement and the underwriting requirements.

In an effort to provide easier access to information, we've added a new page to our Web site entitled "New Construction." The page includes a complete list of forms, including sample lien waivers, the general contractor's affidavit and more. The page also includes a list of builders who have reached an agreement with Title Guaranty concerning the collection of lien waivers. Builders who have not had an opportunity to meet with our staff are encouraged to do so.

Keep an eye out for proposed legislation that would amend Chapter 572, Iowa's Mechanic Lien Statute. The proposed changes would move Iowa to a notice state for all construction and establish a State Construction Registry as the central database to post and search for notices. The proposed amendment would bring some much needed certainty to the settlement of new construction transactions and provide balanced protection for all parties involved, including buyers, lenders, closers, contractors and material providers.



## Meet Rose Creason



Rose Creason joined Title Guaranty in November 2001 as a specialist processing attorney-issued Commitments and Certificates. Over the years, Rose has developed an expertise in Title Guaranty matters that has allowed her to branch out into processing Division-issued Commitments and Certificates, answering Help Desk questions, supervising the electronic storage of Title Guaranty records, and assisting in the Rapid Certificate program. She also processes paper-based field-issued Commitments and Certificates.

Rose is married to Vernon, and spends much of her time matching wits with her dog, Shadow.

# Good News for Mortgage Release Users

During the last legislative session, Title Guaranty successfully procured an amendment to the Mortgage Release Program, increasing the mortgage amounts eligible for release on both residential and commercial transactions. (See House File # 2700 amending Chapter 16.92)

Previously, we were limited to releasing mortgages less than \$500,000, which posed problems on some closings, particularly commercial Guaranty transactions. Title Guaranty may now release any mortgage, with proper documentation, up to \$1 million. The limit is increased to \$20 million when a Division closer pays off the mortgage as part of a Title Guaranty closing, or with prior written approval from Title Guaranty.

Our field issuing attorneys and abstractors can use these new limits with the Rapid Certificate Program to offer additional benefits and faster service to their clients.

Complete instructions and forms are available on our Web site: [www.iowaFinanceAuthority.gov/titleguaranty](http://www.iowaFinanceAuthority.gov/titleguaranty). For more information on the Mortgage Release Program, please contact Judy Peterson at 515.725.4923 or [judy.peterson@iowa.gov](mailto:judy.peterson@iowa.gov). For information on Title Guaranty Commercial Services, contact Matt Veldey, Commercial Underwriting Counsel, at 515.725.4885 or [matthew.veldey@iowa.gov](mailto:matthew.veldey@iowa.gov), or Gerry Robins, Commercial Services Officer, at 515.725.4985 or [gerald.robins@iowa.gov](mailto:gerald.robins@iowa.gov).



On The Move

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have long believed that it is in the best interest of the consumer, as well as the industry, to develop fair but fiscally responsible operating standards. We met with a number of settlement providers to discuss our proposal and look forward to more dialogue in the coming weeks. If you would like a copy of the draft legislation, or would like to share your thoughts, please contact me at 515.725.4918 or [loyd.ogle@iowa.gov](mailto:loyd.ogle@iowa.gov).

We'll be discussing these issues and more at the Title Guaranty Annual Conference, November 6, 2008, at the West Des Moines Marriott Hotel. I look forward to seeing you there!

**Loyd Ogle, Director**

## Annual Renewal Notices out in October

Once again Title Guaranty will use an electronic renewal system for participating attorneys and abstractors. Just complete the online questionnaire and fax a copy of the declaration page of the professional liability insurance policy.

The annual questionnaires will be available online this fall. We will email a notice with complete instructions in October. If your email address has changed recently, please let us know so you aren't left out! The deadline for renewal is December 1, 2008. Participants not completing the process will be considered inactive, and their abstracts and title opinions will not be valid until renewal has been accomplished.

If you have any questions or concerns about the online renewal procedure, please contact Kim Axtell at 515.725.4959 or [kim.axtell@iowa.gov](mailto:kim.axtell@iowa.gov).

We appreciate your partnership and support of the Title Guaranty program.