

From the Director

January is a great time to look back at the previous year and forward to the year ahead. Last year's collapse of the financial markets was largely hinged on the excesses of the previous several years. Exotic mortgages, no doc loans, interest only mortgages and other variations had replaced much of the conventional 30 year fixed rate mortgages. When the bubble finally burst, it took with it lenders — including some very large well known lenders like Washington Mutual, but also many in the title insurance business. The third largest title insurer, Land America is in deep financial straits and will probably be acquired by their competition. Locally, some of the best known and highest volume home builders closed their doors. Looking forward, I believe that we will continue to see consolidation in these industries, along with a return to more traditional, conservative underwriting.

Foreclosure rates in Iowa are sure to remain high, and many homeowners will struggle to make their house payments and hold onto their American dream. Fortunately, there are more resources nationally as well as the state level to help these families, including Iowa Mortgage Help (see article on page 7). The federal government is pumping trillions of dollars into the financial system, and we should reap the benefits of that support in 2009, whether from lower interest rates or expanded lending capability. Hopefully, the stimulus comes with the checks and balances necessary to prevent a repeat of the most recent crisis.

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Title Guaranty On The Move

Title Guaranty Pursues Legislative Agenda

Title Guaranty will be working to educate legislators on two bills during the upcoming legislative session. Title Guaranty will introduce escrow licensing legislation and the Iowa State Bar Association (ISBA) will offer a bill revising the mechanic's lien statute.

Escrow Licensing

Title Guaranty will introduce a bill to regulate independent real estate closing companies (escrow agents) in Iowa. Escrow agents, or closers, act as fiduciaries to facilitate the real estate transaction and are expected to act with fairness and in good faith. A closing involves the receipt and disbursement of funds from the lender and managing the actual closing and document signing with the buyer. Escrow agents often work on behalf of mortgage lenders who trust the closer will perform duties as directed, including assuring a first lien position for the lender and marketable title for the buyer. In addition, escrow agents serve as a last line of defense against mortgage fraud — they have responsibility to verify the identities of everyone signing the closing documents.

In many states, escrow agents are regulated as part of the oversight of the title insurance industry. Approximately 19 states regulate escrow agents independently of title insurance. In Iowa, this industry is completely unregulated. Anyone can set up an escrow operation regardless of their qualifications, education, financial security or criminal history.

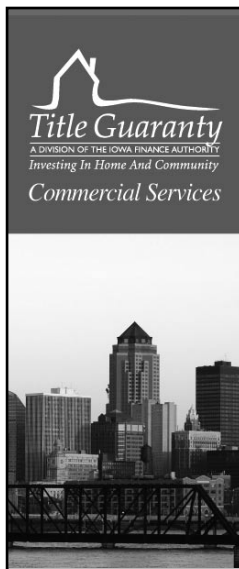
Escrow agents act as fiduciaries to facilitate the real estate transaction.

Unfortunately, there have been notable situations in Iowa where closing companies have been involved with negligent or fraudulent mortgage transactions that have hurt homeowners and lenders alike. One of the most

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Title Guaranty Expands Commercial Services Division

2008 was a year of big strides for Title Guaranty's Commercial Division. Historically, our focus has been limited to residential transactions. Like many service providers, we are working to diversify the program and bring more transactions into the Title Guaranty system. Because commercial transactions are structured much differently than residential, our commercial operations are unique. We have attorneys and support staff dedicated to commercial transactions. We offer everything from basic title services, including preparation of commitments and final certificates, to complete escrow and settlement services. We also work with and support our participating attorneys and abstractors in the field. As a public entity, Title Guaranty is uniquely positioned to offer competitive pricing, even on the largest of transactions.



We saw a 50% increase in commercial revenue over 2007 and had the opportunity to work on a broad array of transactions. Some of the highlights include nature conservancies, multi-family housing projects, agricultural, wetlands, retail, industrial, office and urban developments, mixed-use projects, senior living facilities, hotels, churches, and schools. We've also been involved in guaranteeing a significant number of Small Business Administration loans, those funds being used to rebuild and restore Iowa communities devastated by the 2008 floods.

In 2008, we partnered with a new reinsurance provider, Stewart Title, a nationally recognized leader in the title industry. Stewart is known for technology and their innovative transaction management system. We have implemented a similar system at our office and look forward to offering access to this technology to commercial attorneys, settlement provider partners, and clients.

Title Guaranty's Commercial Team looks forward to 2009 as the year to continue spreading the word about our new services. For more information on commercial transactions, please contact Matt Veldey at 515.725.4885 or matthew.veldey@iowa.gov or Becky Petersen at 515.725.4981 or becky.petersen@iowa.gov.

Field Issue Program Continues to Grow

What a difference a year makes! As 2008 comes to an end, nearly 80% of Title Guaranty Certificates are now issued by attorneys, abstractors, and independent closers. We have 174 partners across Iowa participating in the Field Issue Program. When we implemented our online processing system just two years ago, fewer than 20% of Certificates were issued in the field. By including independent closers in the program, we expect to bring even more transactions into the Title Guaranty system, which in some cases, means new opportunities for participating attorneys and abstractors. Partnering with independent escrow companies gives Title Guaranty more chances to provide excellent service to our lenders. There are a number of markets in our state where the majority of the closings are handled by independent escrow companies not affiliated with participating attorneys or abstractors. Our objective is to grow Title Guaranty by providing the local solution to the lender's title needs.

Why use field issue? The advantages are many — from keeping the transaction local to getting final Certificates more quickly with the Rapid Certificate program. The Rapid Certificate program eliminates the need to chase after mortgage releases — if the lender doesn't release their mortgage in a reasonable period of time, Title Guaranty uses the Mortgage Release program to clear the lien. Those offices that have successfully implemented the Rapid Certificate program can testify to the improved efficiency and ease in dealing with post-closing matters.

We are pleased to report that through November 30, 2008 Title Guaranty has paid over \$823,000 to attorneys, abstractors and closers for issuing Certificates on our behalf. That's money returned to your local market!

We have also expanded our Closing Protection Letter program to include qualified independent closing companies that meet our standards. To identify your local service providers, you may search our Web site www.IowaFinanceAuthority.gov/titleguaranty under "Closing/Settlement Services" and search by the criteria that are necessary for your transaction.

By including more of the industry in our process, we hope to provide even better service to our participants in all parts of the state.

The Title Guaranty Board of Directors

The Title Guaranty Board is appointed by the governor and includes an attorney, an abstractor, a real estate broker, a representative of a mortgage lender and a representative of the housing development industry. Current board members are:



Deborah Petersen, is an attorney in Council Bluffs, Iowa. She practices primarily in the areas of real estate law, business law and estate matters. She serves as a Panel Trustee for the U.S. Bankruptcy Court for the Southern District of Iowa. Deborah has been and remains active on many boards and commissions, including the Title Standards Committee of the Iowa State Bar Association and the Iowa Supreme Court Attorney Disciplinary Board. She currently serves as the Chair of the Board of the Council Bluffs Area Chamber of Commerce and is Chair of the Title Guaranty Board.



Surasee Rodari, Vice President, Bankers Trust Company, Des Moines, Iowa. Surasee is originally from Thailand, moving to the United States in 1972. He is a graduate of the University of Northern Iowa and is an active participant in the community. He serves on the boards of American Red Cross Iowa Chapter, Community Housing Development Corporation, Highland Park Business Club, Iowa Reading Radio Information Systems for the Blind and Handicapped, Title Guaranty and the State Banking Council.



Mitchell Taylor is a partner in the law firm Cray, Goddard, Miller & Taylor, LLP in Burlington, Iowa. In addition to general practice law, Mitch is also a Certified Public Accountant, is Vice President of Abstract & Title Guaranty of Des Moines County and is

involved with several residential and commercial real estate development projects in the Burlington area. He served as chair of the Title Guaranty board for several years and currently serves on the Commission of the Unauthorized Practice of Law, Des Moines County Compensation Board, real estate section of the Iowa State Bar Association and lectures at several area colleges. He is a lifetime member of Citizens for Community Improvement.



Walter Murphy has been an abstractor for more than 42 years, first in Black Hawk County and for the past 36 years, as President of G. T. Murphy Abstracter in New Hampton, Iowa. A graduate of the University of Northern Iowa, Wally is a US Army veteran and a past president of the Iowa Land Title Association. He has also been director and past president of the New Hampton Development Corporation, Homestead Cooperative, and United Fund and is currently Secretary of the Carnegie Cultural Center.



Pat Schneider is a real estate broker with Ferguson Commercial Real Estate Services in Des Moines. Prior to her career in real estate, Pat served as the head of the United Way Foundation of Iowa, and was with US West Communications for more than 23 years in various sales and marketing capacities. In addition to serving on the Title Guaranty Board, she is actively involved in numerous civic organizations, including Junior League and is on the Boards of Bras for the Cause, Winefest, Eyerly Ball Mental Health, Des Moines Playhouse, Drake Bulldog Board, Nexus, Planned Parenthood Foundation and the Blank Park Zoo Capital Campaign.

Title Guaranty Sponsored Events – 2008

Title Guaranty offered many opportunities to earn continuing education credits during 2008. From attorneys to Realtors to mortgage originators, our conferences and workshops were a popular venue. In addition to the Annual Conference, we hosted five Regional Academies in Des Moines, Mason City, Iowa City, Sioux City and Council

Bluffs; our first ever workshop for settlement companies attracted 85 attendees from around the state; and we held a series of workshops for our field issuing attorneys and abstractors. We are in the process of scheduling the Regional Academies for Spring 2009 — watch for more information coming soon!

Building Relationships

**Guest commentary by Dan Moore,
President of the Iowa State Bar Association**

Building relationships among The Iowa State Bar Association and various interests groups has been a focus during my term as president. Nowhere is the need for strong relationships



more evident than in real estate. The value of our land title system in Iowa depends on attorneys, abstractors and Title Guaranty working together to offer our clients superior service and a quality title product. I believe it's important for the ISBA to strengthen its relationship with Title Guaranty and the Iowa Land Title Association. We must continue to work together to address the needs of our citizens in real estate transactions. Civility, professionalism and ethical behavior are the foundation to the successes we enjoy with our system of transacting real estate business in the State of Iowa. Serving the public must always be at the forefront of all we do to improve our system. Settlement providers also play a critical role in transferring title from one party to the next.

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to improve the system.***

We must continually strive to provide excellent service without compromising the integrity of our land records. My friends at Title Guaranty have made tremendous strides over the past few years, working to create a title product that provides superior coverage at a competitive price. As an industry, I believe that we must all focus on the importance of service. This is a competitive business — all of us involved are at risk of losing out to others willing to provide similar services faster and cheaper. The risk to our land title system is even greater when considering that sometimes the faster and cheaper options jeopardize the quality of our land title system. Whether you are an abstractor, attorney, or

settlement provider, one thing we all have in common is our client — the lender. We must continually strive to meet the needs of our lender clients while maintaining the quality and integrity of our land title system.

Finally, as lawyers, we have a duty to use our knowledge of the law to reform and improve the law. We will continue to work closely with our legislators each session to accomplish this obligation. The ISBA's legislative agenda this year includes several real-estate related proposals, including changes to the foreclosure laws, tax sale procedures, and mechanic's lien laws. We also expect to see legislation which would license and regulate independent closing companies in Iowa. Each of these legislative initiatives was prompted by lawyers who recognized the need for change and improvement in existing laws.

We are blessed to have an excellent real estate bar in the State of Iowa. Iowa lawyers are dedicated to maintaining respect for the rule of law. The professionalism and courtesy we extend to one another is exemplary — I am proud to be part of Iowa's real estate bar and Iowa's land title system. And I am proud to support the efforts of Title Guaranty in working to build a better title product for our lenders and home buyers.



Dan Moore is a partner in the Sioux City law firm of Berenstein, Moore, Heffernan, Moeller, & Johnson, L.L.P. and currently serves as president of The Iowa State Bar Association. Dan received his law degree from Drake University and is a frequent lecturer in the areas of real estate and property law.

New Construction – 2008

To call 2008 a pivotal year for new construction would certainly be an understatement. The bursting of the housing “bubble” took down a number of builders, including some well-established Iowa businesses. On a positive note, buyers continued to purchase newly constructed homes, lenders made mortgages and Title Guaranty issued coverage for lenders and buyers.

One product of the building crunch is a greater awareness of the special risks involved in the new construction process as well as some flaws in our current mechanic’s lien statute. It became very apparent that under Iowa’s current system, there is no practical way to determine who provided labor or materials on a given property. Without this knowledge, it is nearly impossible to close a new construction mortgage with any assurance that all labor and materials have been paid for. The closer bears an unreasonable risk in closing the loan. The home buyer bears the risk of having paid the general contractor the full purchase price of the home and still being liable to any unpaid subcontractors or suppliers. The lender risks losing the first lien priority of a mortgage to a later filed mechanic’s lien.

Title Guaranty worked closely with the industry throughout 2008 to facilitate closings of new construction sales. We continue to meet with builders and reach workable arrangements

Title Guaranty worked closely with the industry throughout 2008 to facilitate closings of new construction sales.

to provide for smoother closings. Prudent underwriting standards require obtaining lien waivers from each and every supplier of labor or materials prior to closing. Many times, it is impractical to try and get 100% lien waivers prior



to closing on the sale of the new home. It’s quite common for last minute work to be completed right up to the day of closing. We understand this and work with the builder to reach a reasonable accommodation that will protect the lender and the homebuyer in the event a mechanic’s lien is filed post closing. This may take the form of a letter of credit, a bond or other answer. There is no one solution to every situation, and we work hard to balance the interests of all parties.

We’ve recently enhanced the Title Guaranty Web site www.iowaFinanceAuthority.gov/titleguaranty with additional information regarding new construction closings. You’ll find information on the standard requirements for new construction closings, sample forms and a list of the builders with whom we have made specific arrangements. If you are currently working with a builder that is not on our list, you may want to encourage them to contact Bob Skelley, bob.skelly@iowa.gov or 515.725.4984 for more information.

Title Guaranty Pursues Legislation Agenda *continued from page 1*

frequent circumstances we encounter is an escrow agent suddenly ceasing operations, many times with unfinished files. We've heard from lenders that cannot get the final documents necessary to sell their loan because they can no longer locate the escrow agent. We've also had situations where escrow agents have misdirected closing funds, causing losses to buyers, sellers, and lenders.

In the past year, Title Guaranty has worked with the real estate industry to develop a fair and efficient mechanism to regulate entities specializing in closing real estate transactions. Our proposal to license and regulate escrow agents is designed to limit the risk of fraud and negligent practices without adding undue cost or burden to the industry. The proposed legislation establishes an Escrow Agent Examining Board to issue licenses, conduct examinations and establish minimum education requirements.

Mechanic's Liens

The Iowa State Bar Association, with assistance from Title Guaranty, is working closely with industry groups to develop legislation that will replace Iowa's confusing and cumbersome mechanic's lien law with a straightforward and effective system.

The objective is to create a process where those providing labor and materials are paid as they deserve while protecting home buyers and lenders from surprise liens filed days or weeks after closing. We believe we have arrived at a solution that will be of benefit to all segments of the industry.

The collapse of high profile builders across Iowa and the resulting flurry of mechanic's lien filings provided an object lesson to all in the industry. Lenders and closing companies have significantly tightened their standards for closing. General contractors have been forced to produce more paperwork and documentation than they've ever had to before and closings are often delayed. Many Realtors are hesitant to show new construction because they are concerned about potential liability. These difficulties highlight many of the challenges we face with our current system.

The ISBA's vision is to implement a State Construction Registry as the centralized database to file mechanic's lien notices. Under the current system, subcontractors and suppliers are required to give owner-occupants a notice in order to preserve the right to file a mechanic's lien. However, it's difficult to decide who to give this notice to, where to send it, and ultimately to determine whether the notice was actually provided. A centralized registry offers a clear-cut mechanism for contractors and suppliers to preserve their rights. For general contractors, this change will significantly streamline closings — it'll be easier to get buyers in new construction properties. Closing companies will check the State Construction Registry to make certain that all legitimate claims are resolved prior to conducting the closing. Homebuyers and lenders will be protected from surprise mechanic's liens. This system is currently in place elsewhere in the country to the satisfaction of homebuilders, lenders, consumer protection advocates and other interested parties.

We understand some in the industry will have reservations about this change, but we believe it will prove superior to the unworkable system we now have in place. We are hopeful that the ISBA proposal will reduce the transaction costs of residential new construction and provide greater protection and fairness to all involved in the new construction industry.

Annual Renewal Reminder

If you have not yet completed your 2009 annual renewal, please do so soon. The questionnaire is online, and you will need your user id and password. For help, contact Kim Axtell at 515.725.4959 or kim.axtell@iowa.gov. Participants who do not complete the renewal process by February 15, 2008 may be deactivated.

“Iowa Mortgage Help” Aids Homeowners Struggling with Mortgage Payments

The housing crisis in America is seriously impacting thousands of Iowans. Many homeowners across the state have already sought help through “Iowa Mortgage Help,” and others who are starting to feel the pressure are encouraged to call the hotline at 877.622.4866.

The “Iowa Mortgage Help” initiative was created in late February of 2008, as an enhancement on the “Iowa Foreclosure Hotline.” It has received more than 12,000 calls and provided approximately 3,500 Iowans with individualized, confidential counseling to best address their mortgage situation. The hotline currently receives an average of 22 calls a day, from all corners of the state.

Nationally, research shows that nearly 50 percent of people who are unable to pay their mortgage never contact their lender or seek assistance from a trained counselor. The Iowa Mortgage Help campaign’s goal is to encourage homeowners to call for help no matter the reason for their financial trouble and regardless of the severity of their situation.

The initiative was initially fueled by a \$1.5 million grant from the federal government, and it recently received an additional \$766,925 grant with funds provided by the National Foreclosure Mitigation Counseling Program, and administered by Neighbor-Works® America to support its outstanding progress. The Iowa Finance Authority submitted the grant applications in partnership with the Attorney General’s Office, Iowa Mediation Service, the Iowa Home Ownership Education Project and Iowa Legal Aid.

Homeowners are encouraged to call the Iowa Mortgage Help hotline at 877.622.4866 or visit www.IowaMortgageHelp.com.



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With all that we have just experienced, I believe that the real estate industry in Iowa will emerge from this experience stronger and better prepared to serve our homebuyers and sellers. I am proud that Title Guaranty is an integral part of the system, and that we have been able to take a balanced approach to underwriting and risk management so that we can continue to offer the best possible title coverage at a fair price. We look forward to working with you, our customers in the coming year. My best wishes for a successful 2009

— Loyd Ogle, Director.

Do We Have Your Email Address?

Beginning Spring 2009, the On the Move Newsletter will be sent in an electronic format. The change will help us save expenses, trees and allow us to be more timely with our newsletter information. Contact Linda Berg at 515.725.4893 or linda.berg2@iowa.gov to provide or update your email contact information.



On The Move

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Title Issues – 2008

Title Guaranty noticed several disturbing trends in claims filings in 2008. Two that are particularly troubling are issues involving notaries and non-compliance with Iowa's spousal signature requirements.

One of the most common functions of a notary is to prevent fraud in the signing of documents. Proper procedures include: 1) all documents signed in the presence of the notary; 2) assessment of the competence of the signer; 3) establish the identity of each signer through personal knowledge or verification of id; 4) keep a journal of all notarizations. According to the Iowa Secretary of State, the most frequent causes of lawsuits against notaries involve notarization of a signature not made in the notary's presence and failure to positively identify the signer.

In fact, Title Guaranty is currently involved in claims where there are allegations that the borrowers did not sign the

notarized mortgage in front of the notary. In one case the borrower said they never even saw the notary/closer. In another case there were allegations that the notary was likewise not present for the signatures. In that claim, the borrower said that there was a forgery in a mortgage signature and that she knew this because she was the one that forged the signature! It goes without saying that notaries need to be fulfilling their duties according to the notary laws, rules and regulations.

Title Guaranty is also aware of cases involving closings where spouses allegedly did not sign the mortgage. Under Iowa law, failure to obtain a spouse's signature may result in a void mortgage. As foreclosure filings increase across the state, we may see more lenders facing the predicament of holding an unenforceable mortgage. It is critical to include marital status on the mortgage, and if that status is married — make sure that all necessary parties are in fact signing.