

70. Iowa Land Records/Recorder Legislation – FeedBack Needed.

FACTS: February 4, 2025. Members of the Real Estate and Title Law Section-

There was some conversation in December 2024 on the Real Estate Listserve about legislation being proposed by Iowa Land Records and the Recorders Association. ISBA was first notified about the proposed legislation early in the summer. Kathy Law, David Erickson, and Erek Sittig, along with ISBA staff and legislative counsel, met with Iowa Land Records staff and certain Recorders numerous times over the following months to discuss the proposed legislation. As a result of our feedback, the proposal was changed to cap total recording fees, to remove requirements that parcel IDs be included on recorded documents, and to limit the “parsed location information” required for property that is part of a subdivision. The Real Estate and Title Law Section Council discussed the legislation, as well.

That said, members involved in those conversations still have concerns about certain portions of the bill, namely the following:

- Section 6 – Fees – \$10 per page is a 60% increase for the first page and a 100% increase for each additional page. It’s hard to argue that an increase isn’t needed, since the fees have been the same since the mid-1980s, but is this too much all at once? At the same time, \$10 per page would be very easy to calculate, and this legislation takes away some of the extra fees we have to think about (\$7 “Additional Transaction Fee”, \$1 Records Management Fee, and \$1 Electronic Transaction Fee). The \$3 per document fee for E-submission would remain.
- Section 14 – This is an attempt to clean up the “Back the Blue” legislation from a few years ago. There are concerns about these documents not being readily available.
- Section 16 – Some are concerned about being required to include information about associated documents.
- Section 18 – This provision states that conveyances, mortgages, and releases may only apply to on group of parties as part of the same set of transactions, meaning there can’t be batch releases of mortgages by a single lender where different borrowers are involved.

We are aware that the Iowa Land Title Association, the Iowa Association of Realtors, and the Iowa Bankers Association are all opposed to at least portions of the bill. We would like your input and ask that you review the attached bill and reply with your comments **no later than February 11, 2025**. The Real Estate and Title Law Section Council will review the bill and the comments and will discuss how we believe the Bar should register regarding the bill. Please note that giving specific reasons for your positions is helpful.

QUESTION:

RESPONSE(S):

I reviewed this and it is a lot of stuff I know nothing about. I was not clear on the pricing, but I am in favor of a fixed price – easy to calculate – and no “add ons” other than transfer tax. So, if it means \$10/page and that’s it, I can live with it. Costs of everything have to go up. I do not have comment on the remainder of the bill.

The comments on the other one that came by – which was vehemently opposed on this list serve – should be considered. I think this one was too much reading for many, so there were not a lot of responses.

* * * * *

A per-page recording fee made sense when it was labor-intensive to record documents, as the Recorder’s office had to laboriously reproduce the documents being recorded and then bind them into volumes. Now the document is uploaded to a database. The marginal cost between recording a one-page deed and a thirty-page mortgage is nearly zero. Maybe I don’t know enough about the system, but I don’t see why a straight flat fee structure wouldn’t work. \$x to record a document, adjust it for inflation every three years (heck, just tie it to the Bankruptcy Code’s three-year inflation adjustments, no additional work for anyone), review it every 12 years to see if the fee is still appropriate.

[See Attachment]

AN ACT TO MODERNIZE IOWA RECORDING POLICIES AND PRACTICES.

Section 1. Section 558.49, Code 2024, is amended to read as follows:

558.49 Index records.

The recorder ~~must~~ shall keep index records to show the following:

1. Each grantor.
2. Each grantee.
3. The date and time when the instrument was filed ~~with~~ recorded by the recorder.
4. The date ~~of the~~ on which the document or instrument ~~was executed by the parties, when feasible. If there is a variance in the date of execution by the parties, the most recent date shall be indexed.~~
5. The nature of the instrument, as indicated by the title or type of the document or instrument.
6. The document reference number where the record of the instrument may be found.
7. The parsed description of the real estate affected by the document or instrument, as indicated by the location information including the quarter section, section, township, and range, or the lot, block, subdivision name, and city, town or county, if platted.
8. Any recording reference number of an associated, recorded document or instrument, when present on a document submitted for recording.
9. The parcel identification number, when present on a document submitted for recording.

Section 2. Section 331.601A, subsection 3, Code 2024, is amended to read as follows:

3. "Electronic document" means a document or instrument that is received, processed, disseminated, or maintained in an electronic format. The submission of an electronic document through the ~~county land record information electronic services~~ system electronic submission service shall be equivalent to delivery of a document through the United States postal service or by personal delivery at designated offices in each county. Persons who submit electronic documents for recording are responsible for ensuring that the electronic documents comply with all requirements for recording.

Section 3. Section 331.601A, subsection 7, Code 2024, is amended to read as follows:

7. "Page" means a writing, printing, or drawing, other than a plat or survey or a drawing related to a plat or survey, occurring on one side only and covering all or part of such side, and not larger than eight and one half inches in width and fourteen inches in length. For the purposes of a plat of survey or a drawing related to a plat of survey, "Page" also means a writing, printing, or drawing occurring on one side only and covering all or part of such side, and with dimensions of eight and one-half inches by fourteen inches, eleven inches by seventeen inches or up to twenty-four inches by thirty-six inches.

Section 4. Section 331.601A, Code 2024, is amended by inserting the following new numbered subsection:

10. Electronic Services System. The Electronic Services System is the organization formed under a chapter 28E agreement to create and implement a statewide county land record information system. The agreement is required by 2005 Iowa Acts, ch. 179, §101, as amended by 2021 Iowa Acts, ch. 126.

Section 5. Section 331.603, subsection 5a, Code 2024, is amended to read as follows:

5. a. ~~The governing board of the county land record information system shall not enter into an agreement to provide access to electronic documents or records on a batch basis.~~ The county recorder may collect reasonable fees for access to electronic documents and records pursuant to an agreement. The fees shall not exceed the actual cost of providing access to the electronic documents and records. "Actual cost" means only those expenses directly attributable to providing access to electronic documents and records. "Actual cost" shall not include costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the county recorder ~~or the county land record information system.~~

Section 6. Section 331.604, Code 2024, is amended by striking the section in its entirety and inserting in lieu thereof the following:

331.604 Recording and filing fees.

1. Except as otherwise provided by state law, subsection 6, or section 331.605, the recorder shall collect a fee of ten dollars for each page or fraction of a page of a document or instrument which is recorded in the recorder's office. The maximum recording fee for documents with fifty or more pages is \$500.00.
2. From the total fee paid for the recording of a document or instrument, two dollars shall be allocated to a recorder's technology advancement fund as described herein. The recorder's technology advancement fund may be used for the following purposes.
 - a. Maintaining and improving equipment, software and systems associated with recording and other duties administered by the office of the county recorder.
 - b. Preserving and maintaining physical and electronic documents and instruments archived by the county recorder.
 - c. Converting physical documents to electronic documents and providing that those documents are indexed as required in sections 331.606 and 558.49. When converting physical documents to electronic documents, if it is not feasible to conform to standards for digitizing and indexing the documents separately, then funds may be used to digitize the records.
 - d. Participating in education and training for the purpose of advancing technology and improving the services provided by the office of the county recorder.

The county treasurer, on behalf of the recorder, shall establish and maintain a recorder's technology advancement fund into which all money allocated pursuant to this subsection shall be deposited. Interest earned on money deposited in the fund shall be credited to the recorder's technology advancement fund. The recorder may collaborate with other entities, boards, and agencies to advance the use of technology for the delivery of services consistent with standards established for those services.

3. From the total fee paid for the recording of a document or instrument, three dollars shall be allocated to the electronic services system as described herein. The funds may be used for the purposes described in Section 331.605B.

The county treasurer, on behalf of the recorder, shall establish and maintain a recorder's electronic services system fund into which all money allocated pursuant to this subsection shall be deposited. Interest earned on money deposited in this fund shall be computed based on the average monthly balance in the fund and shall be credited to the recorder's electronic services system fund.

4. On a monthly basis, the county treasurer shall transfer the funds deposited into the county recorder's electronic services system fund to a financial account designated by the electronic services system, a government entity established under chapter 28E. Moneys expended by the electronic services system shall be for the purposes specified in Section 331.605B and to pay the ongoing costs of operating the electronic services system.
5. The county recorder or the Electronic Services System shall make available any information required by the county auditor or auditor of state, as applicable, concerning the allocations made under subsections 2 and 3 for the purpose of determining the amount of the allocations and the uses for which such allocations are expended.
6. A county shall not be required to pay a fee to the recorder for filing or recording instruments. However, a county treasurer is required to pay recording fees pursuant to sections 437A.11 and 437B.7.

Section 7. Transfer of Funds.

1. Any funds in a county recorder's records management fund as of June 30, 2025, shall be transferred to the recorder's technology advancement fund. Alternatively, this transition may be implemented by changing the name of the county recorder's records management fund to be the recorder's technology advancement fund.
2. Any funds in a county recorder's electronic transaction fund as of June 30, 2025, shall be transferred to the county recorder's electronic services system fund. Alternatively, this transition may be implemented by changing the name of the county recorder's electronic transaction fund to be the county recorder's electronic services system fund.
3. Any funds in the local government electronic transaction fund as of June 30, 2025, shall be retained in the fund for the purposes specified in Section 331.605B until the remaining funds are exhausted.

Section 8. Section 331.605B, Code 2024, is amended by striking the section in its entirety and inserting in lieu thereof the following:

331.605B Electronic Services System

1. The Electronic Services System, as defined in Section 331.601A, shall develop, operate and maintain a statewide county land record information system and internet site for the following purposes.

- a. Provide statewide online access to recorded public documents and instruments
- b. Enable statewide electronic filing for recording documents and instruments
- c. Receive authorized payments for services provided
- d. Implement security and redaction systems to protect users and Iowa citizens
- e. Integrate with other appropriate relational property information systems
- f. Establish business and technology standards for processing, recording, indexing and archiving documents and instruments and standards for county land record management systems in Iowa and the Electronic Services System
- g. Operate a system capable of notifying users of transactional activity associated with their property, name or other public services

2. The governing board of the Electronic Services System shall collect only statutorily authorized fees for land records management, and shall not collect a fee for viewing, accessing, or printing documents in a county land record information system unless specifically authorized by statute. The governing board may collect a fee of not more than three dollars per recorded document for using the system to process electronic documents for recording. An additional service charge may be added for credit or debit card payments. Fees collected for the processing of electronic documents for recording may be used for the purposes specified in subsection 1.

3. The Electronic Services System agreement may be amended by a vote of the boards of supervisors on behalf of the respective county recorders, pursuant to the terms of the agreement, to provide for the ongoing implementation of the Electronic Services System. Each county shall participate in the Electronic Services System and shall comply with the policies and procedures established by the governing board of the Electronic Services System.

4. The governing board of the Electronic Services System shall not enter into an agreement to provide access to electronic documents or records on a batch basis.

5. Limitation of liability. The electronic services system is a unit of local government for purposes of chapter 670, relating to tort liability of governmental subdivisions. However, persons who have contracted with the governing board of the Electronic Services System to carry out the duties of the board are not employees for purposes of chapter 670, relating to tort liability of governmental subdivisions.

Section 9. Section 331.606, subsection 1, Code 2024, is amended to read as follows:

331.606 General filing indexing requirements.

1. In addition to the information specified in section 331.606B (2), section 558.49, and other requirements specified by law, the recorder shall note in the county land records management system the date of filing recording of each instrument, the number, type or title, and character of the instrument, and the name of each grantor and grantee named in the instrument. In numbering assigning reference numbers to the documents or instruments, the recorder ~~shall~~ may start with the number one immediately following the date of annual settlement with the board and continue to number them consecutively until the next annual settlement with the board or the recorder may start with number one on the first working day of the calendar year and continue to number the instruments consecutively until the last working day of the calendar year. Reference numbers shall not include letters or special characters. Reference numbers shall include no more than eight digits, and the county two-digit numeric number and the four-digit year shall precede each reference. In addition to the standard reference number, the recorder may also assign a book and page reference to a document or instrument.

Section 10. Section 331.606, Code 2024, is amended to by inserting the following numbered paragraphs following subsection 1:

NEW ENUMERATED PARAGRAPH _. When present in a document, associated recording references shall be indexed with the recorded document and with any referenced antecedent documents. References shall also be indexed for concurrently recorded associated documents.

NEW ENUMERATED PARAGRAPH _. When a recorded document includes a legal description, parsed location information shall be indexed. For platted land, the indexed location information shall include the lot, block, subdivision name, and the name of the applicable city, town or county. For land which is not platted, the indexed location information shall include the section, township, range and quarter section. Indexing of a quarter quarter section is recommended but not required. If a county department uses an additional parcel identifier such as a capitalized alphabetic character, or a character string of numbers separated by a hyphen, when present on a document it shall be indexed as an additional parcel identifier as specified by the electronic services system.

NEW ENUMERATED PARAGRAPH _. When present in a document or instrument submitted for recording a parcel identification number shall be indexed.

NEW ENUMERATED PARAGRAPH _. The parcel identification number index information for previously recorded antecedent documents shall not be modified unless it is for the purpose of correcting an error.

Section 11. Section 331.606, subsection 2, Code 2024, is amended to read as follows:

2. The recorder shall also note in the index the exact time of the filing recording of each document or instrument which shall be accurate to the second.

Section 12. Section 331.606A, subsections 3 and 4, Code 2024, is amended to read as follows:

3. Redaction from electronic documents. Personally identifiable information that is contained in electronic documents that are displayed for public access on an internet site, or which are transferred to any person, shall be redacted prior to displaying or transferring the documents. Each recorder that displays electronic documents and the ~~county land record information electronic services~~ system that displays electronic documents on behalf of a county shall implement a system for redacting personally identifiable information. The recorder and the governing board of the ~~county land record information electronic services~~ system shall establish a procedure by which individuals may request that personally identifiable information contained in an electronic document displayed on an internet site be redacted, at no fee to the requesting individual. ~~The requirements of this subsection shall be fully implemented not later than December 31, 2011.~~

4. Dissemination of documents. Persons who have contracted with a county recorder or the governing board of the ~~county land record information electronic services~~ system to redact personally identifiable information from electronic documents pursuant to subsection 3 shall not sell, transfer, or otherwise disseminate the electronic documents in an unaltered or redacted form, except as provided for in the contract.

Section 13. Section 331.606A, subsection 7, Code 2024, is amended by striking the subsection:

Section 14. Section 331.606A, Code 2024, is amended by inserting the following new subsection:

NEW SUBSECTION . Upon request by a peace officer, as defined in section 801.4, civilian employee of a law enforcement agency, or state or federal judicial officer or state or federal prosecutor, the county assessor or the county assessor's staff, or the county recorder or the county recorder's staff, shall redact the requestor's name contained in electronic documents that are displayed for public access through an internet site.

Upon request by a former peace officer, as defined in section 801.4, or a former civilian employee of a law enforcement agency, the county assessor or the county assessor's staff, or the county recorder or the county recorder's staff, may redact, upon the presentation of evidence that a compelling safety interest is served by doing so, the requestor's name contained in electronic documents that are displayed for public access through an internet site.

This paragraph does not apply to a requestor holding or seeking public office.

The county assessor and the county recorder shall implement and maintain a process to facilitate requests pursuant to this paragraph.

A fee shall not be charged for the administration of this paragraph.

Section 15. Section 331.606B, subsection 1, Code 2024, is amended to read as follows:

331.606B Document or document formatting standards.

1. ~~Except as otherwise provided in subsection 7, the county recorder shall refuse any document or instrument presented for recording that does not meet the following requirements:~~
The purpose of document or document formatting standards is to ensure that the documents and associated images are legible and contain the necessary information for the county recorder to perform their duty to create a permanent, unaltered archive and to index information that is accessible and searchable by the citizens of Iowa and by commercial and government organizations. If the content of a document or instrument does not conform to the requirements of this section, or if the form of a document or instrument prevents or inhibits the county recorder from performing their duty, the county recorder may decline to record a document or instrument.
The standards may relate to the physical processing or handling of a paper document, the processing of an electronic document, or the content of a document, and they are enumerated as follows.
 - a. ~~Each document or instrument shall consist of one or more individual pages not permanently bound or in a continuous form. For the purposes of this section, continuous form shall mean individual one-sided pages. The A document or instrument in a physical form shall not be permanently bound, have any attachment stapled, taped, or otherwise affixed to any page except as necessary to comply with statutory requirements, or contain text or graphics on the back side of a page. However, the individual pages of a document or instrument in a physical form may be stapled clipped together for presentation for recording. A label that is firmly attached to a document or instrument in a physical form with a bar code or return address may be accepted for recording.~~
 - b. ~~All preprinted text shall be in a legible font of at least eight ten point in size and no more than twenty sixteen characters and spaces per inch. All other text typed or computer generated, including but not limited to all names of parties to an agreement, shall be at least ten point in size and no more than sixteen characters and spaces per inch. If a document or instrument, other than a plat or survey or a drawing related to a plat or survey, presented for recording contains type smaller than eight point type for the preprinted text and ten point type for all other text, the document or instrument shall be accompanied by an exact typewritten or printed copy that meets the requirements of this section. However, a plat or survey or a drawing related to a plat or survey may contain text in a legible font of at least eight point in size.~~
 - c. ~~Each document shall be of sufficient legibility to produce a clear reproduction. If all or a portion of a document or instrument, other than a plat or survey or a drawing related to a plat or survey, is not sufficiently legible to produce a clear reproduction, the illegible portion of the document or instrument shall be accompanied by a legible copy as an attachment an exact typewritten or printed copy that meets the type size requirements of paragraph "b" and which shall be recorded contemporaneously as additional pages of the document or instrument.~~

- d. Each document or instrument in a physical form, other than a plat or survey or a drawing related to a plat or survey, shall be on standard white paper of not less than twenty-pound weight without watermarks or other visible inclusions markings. All text within the document or instrument shall be of sufficient color and clarity legibility to ensure that the text is readable when reproduced from the record.
- e. All signatures on a document or instrument shall be in black or dark blue ink and of sufficient color and clarity to ensure that the signatures are readable clear and discernable when the document or instrument is reproduced from the record. The corresponding name shall be typed, printed, or stamped beneath the original signature. The typing or printing of a name or the application of an embossed or inked stamp shall not cover or otherwise materially interfere with any part of the document or instrument except where provided by law. Failure to print or type signatures as provided in this paragraph does not invalidate the document or instrument.
- f. The first page of each document or instrument, other than a plat or survey or a drawing related to a plat or survey, shall have a top margin of at least three inches one-half inch of vertical space from left to right, and with a blank rectangular space at the top of the first page which shall be three and three-fourth inches in width and two and one-half inches in height reserved and delineated for the county recorder's use, unless the document is accompanied by a cover sheet, which shall be reserved for the recorder's use. The stamp area shall be adjacent to the top margin. All other margins on the document or instrument shall be a minimum of three-fourths of one inch. Nonessential information including but not limited to form numbers, page numbers, or customer notations may be placed in a margin except the top margin. The recorder shall not incur any liability for not showing a seal or information that extends beyond the margin of the permanent archival record.
- g. Each document or instrument presented for recording shall meet the requirements of section 331.606A, subsection 2. However, a document which includes personally identifiable information shall be recorded provided that the document is subjected to a redaction process as specified in Section 331.606A, subsection 3.

Section 16. Section 331.606B, subsection 2, Code 2024, is amended to read as follows:

- 2. Each document or instrument, other than a plat or survey or a drawing related to a plat or survey, that is presented for recording shall contain the following information on the first page below the three-inch margin or on a cover sheet or page as described in subsection 3.
 - a. The name, address, and either the telephone number or email address of the individual who prepared the document.
 - b. For any instrument of conveyance, the name of the taxpayer and a complete mailing address.
 - c. A return address.
 - d. The title or type of the document or instrument.
 - e. All grantors' names.
 - f. All grantees' names.
 - g. Any address required by statute.
 - h. The legal description of the property and parcel identification number, if required.
 - i. A document or instrument number for statutory requirements The recording reference number of an associated, recorded document or instrument, if applicable.

A document or instrument may also contain the contact information of the person who is best able to address any issue affecting the recordability of the document or instrument.

Section 17. Section 331.606B, subsection 3, Code 2024, is amended to read as follows:

- 3. If insufficient space exists on the first page for all of the information described in subsection 2, the page reference of the document or instrument where the information is located shall be noted on the first page. The information specified in 331.606B, Section 2 may also be provided in one of the following forms.
 - a. As a cover sheet or page accompanying a document or instrument in a format approved by the electronic services system. A cover sheet shall be recorded contemporaneously as an additional first page to the document or instrument and shall conform to Section 331.606B, Section 1.
 - b. If insufficient space exists on the first page or a cover sheet for all of the information described in subsection 2, the page reference of the document or instrument where the information is located shall be noted on the first page or cover sheet.

Section 18. Section 331.606B, subsection 4, Code 2024, is amended by striking the section and inserting in lieu thereof the following:

4. A document or instrument which executes a transaction for the conveyance or assignment of property, the provision of financing, or the release of a legal or financial obligation, shall be applicable only to the parties participating in the same transaction, and shall not be applicable to multiple parties participating in different transactions.

Section 19. Section 331.606B, subsection 6, Code 2024, is amended to read as follows:

6. A document or instrument rejected for recording by a recorder shall be returned to the preparer or presenter accompanied by an explanation of the reason for rejection. A physical document or instrument declined for recording by a recorder shall be returned to the submitter or preparer accompanied by an explanation of the reason for the action to decline the document. When an electronic document or instrument submitted through the electronic services system is declined for recording by a recorder, the recorder shall notify the submitter of the reason for the action to decline the document. Whenever practicable, the recorder shall also advise the preparer or submitter of any actions necessary to correct the document or instrument.

When a recording fee for an electronic document is adjusted to correct an error in the calculation of a fee, the submitter shall be notified of the reason and basis for adjusting the recording fee.

Section 20. Section 331.606B, subsection 7, Code 2024, is repealed.

**Section 21. NEW SECTION 331.612 (tentative) Recording of Surveys:
331.612 Recording of Surveys**

1. As used in this part, unless the context otherwise requires:
 - a. Parcel Identification Number means the unique identification number designated to each piece of real estate as recorded in the book of plats under section 558.63.
 - b. Additional Parcel Identifier means a capitalized alphabetic character, or a character string of numbers separated by a hyphen used to identify a proposed separate piece of real estate represented on a plat or survey or a drawing related to a plat or survey.
2. Documents and Instruments. Notwithstanding the document formatting standards specified in Section 331.606B, this section shall apply to each document or certificate prepared and signed by a licensed professional land surveyor which is submitted for recording.
3. Formatting Surveys for Recording. Any survey document or instrument which is submitted to a county for recording as described in this section shall conform to the following requirements.
 - a. Contain text in a legible font of at least eight-point in size.
 - b. Provide font colors, signatures and drawings which have sufficient weight, contrast and darkness to be reproducible.
 - c. Physical documents submitted to a county for recording shall be on standard white paper without watermarks or other visible markings and shall have a dimension which is no greater than eleven by seventeen inches.
 - d. Notwithstanding the dimensions specified for physical documents in this section, a physical document with a dimension of up to twenty-four inches by thirty-six inches may be submitted to the county if the county is able to scan or digitize the document while maintaining the original scale and quality of the document as specified in paragraphs a through c in this section.

- e. Electronic documents submitted to a county for recording through the electronic services system shall have a dimension which is no greater than twenty-four inches by thirty-six inches.
 - f. Provide an Index Legend which includes information required for indexing and recording by the county recorder as specified in section 4.
 - g. Provide a blank rectangular space three and three-fourth inches in width and two and one-half inches in height reserved and delineated for the county recorder's use, unless the document is accompanied by a cover sheet approved by the governing board of the electronic services system.
4. Index Legend Content. An Index Legend shall be presented as a compact table or grid with lines and a reasonable separation of the data elements. For all survey documents the following data elements are required in the index legend.
- a. County Name
 - b. Parsed location description:
If not platted: Section, Township, Range, Quarter Section, and Additional Parcel Identifier if applicable. The quarter quarter section is optional.
If platted: Lot/Unit, Block, Subdivision Name (without abbreviation), Town/City/County as applicable, Section, Township and Range, and Additional Parcel Identifier, if applicable
 - c. The current Parcel Identification Number
 - d. Proprietor: Name (if applicable and if multiple proprietors – only one is required)
 - e. Requested By: Name
 - f. Any known Associated Reference to a previously recorded survey document for the property
 - g. The surveyor's name, mailing address, and phone number or email address
 - h. Information necessary for the county recorder to return the survey document
 - i. Additional information, if the survey document is a monument preservation certificate, includes the following
 - 1. The name of the government entity or other organization under which the surveyor provided the professional service
 - 2. The name of the government entity or other organization requesting the monument preservation certification as provided in 355.6A

Section 22. Section 354.18, Subsection 2 is amended to read as follows:

2. The recorder shall examine each plat of survey and subdivision plat to determine whether the plat is clearly legible and whether the approval by the applicable governing body and the other attachments required by this chapter are presented with the plat. The recorder shall also keep a reproducible physical or electronic copy of the plat from which legible copies can be made. The recorder may specify the material and the size of ~~the~~ a physical plat, not less than eight and one-half inches by eleven inches that will be accepted for recording in order to comply with this section. The recorder shall accept a plat as an electronic document with a page size as defined in 331.601A, subsection 7 and submitted through the electronic services system. The recorder shall not record a subdivision plat that violates this chapter.

Section 23. Sections 355.6A, Subsections 4a and 4b are amended to read as follows:

- a. The monument preservation certificate shall be filed with the county recorder ~~pursuant to section 331.606B, subsection 5~~, no later than thirty days after the certificate is signed by the surveyor.
- b. The county recorder shall index the monument preservation certificate according to the township, range, section number, and quarter section ~~on in~~ which the monument is located ~~within~~. If the monument is located within an official plat, the county recorder shall also index the certificate alphabetically by the official plat name

Section 24. Section 355.6A. Subsection 4c, Code 2024, is repealed.

Section 25. Section 355.12, Code 2024 is amended to read as follows:

355.12 Indexing of survey documents by recorder.

The recorder shall index survey documents and United States public land corner certificates pursuant to section 331.612 (4b) by township, range, and section number. If the survey is in a recorded subdivision, the recorder shall also index the document alphabetically by subdivision name

Section 26. EFFECTIVE DATE.

1. The provisions of Section 9. Section 331.606, subsection 1, Code 2024, relating to the requirements for recording reference numbers shall be effective January 1, 2026.

(END)

Approved DRAFT by the Iowa County Recorders Association Executive Board and the Electronic Services System Coordinating Committee

November 26, 2024.

APPROVED
DRAFT

AN ACT TO MODERNIZE IOWA RECORDING POLICIES AND PRACTICES

EXPLANATION

GENERAL – The bill updates and expands indexing and recording requirements for conveyance and other documents, updates the formatting and content requirements for documents submitted for recording, provides for the ongoing governance of the Electronic Services System, the 28E organization which hosts the Iowa Land Records website and applications, modifies and simplifies the fees charged for recording services, and establishes updated requirements for the recording of surveys and related documents.

BILL'S PROVISIONS – INDEXING OF CONVEYANCE DOCUMENTS. Section 1 clarifies that the indexes shall include certain information about recorded conveyance documents. It provides that the date and time assigned to a document is the time of recording (not the time of filing) and it clarifies that a “date of instrument” means the date on which a document is executed by the parties and the date to be indexed would be the most recent date. It clarifies that the “nature of the instrument is the title or type of the document. It clarifies that the information to be indexed about the description of the real estate should be the “parsed” location information as indicated by terms such as section, township, range or lot, block and subdivision name. It specifies that associated document references and parcel identification numbers are to be indexed if the information is present on a document.

BILL'S PROVISIONS – DEFINITIONS. Sections 2, 3 and 4 update definitions in 331.601A to clarify the use of the term electronic services system and to include larger scale survey documents in the definition of a page.

BILL'S PROVISIONS – GENERAL POWERS. Section 5 removes a reference concerning the county land record information and providing access to documents on a batch basis, but Section 8 moves the policy to an updated Section 331.605B. The effect of the amendment maintains current policy by prohibiting the Electronic Services System from providing access to documents on a batch basis.

BILL'S PROVISIONS – RECORDING FEES. Section 6 Increases the base recording fee from \$5.00 per page to \$10.00 per page and eliminates the fee for additional transactions. A cap on the recording fee in the amount of \$500.00 per document would be established. It modifies the funding for maintaining and preserving records and for the county land information system by discontinuing the additional one dollar recording fees and instead allocates funds from the base recording fee for these purposes. The effect is to simplify the calculation of recording fees and to provide the resources needed for technology and operations and projects through the Iowa Land Records system. Specifically, the revised section allocates \$2.00 from the base recording fee for each document to a recorder's technology advancement fund and replaces the additional \$1.00 fee for records management. It authorizes the technology funds for technology and equipment used for recording and other duties, records preservation, converting physical documents to electronic documents, and for education and training. Similar to the current 331.604 (2a), the new section describes the management of the technology fund by the county.

The revised section also allocates \$3.00 from the base recording fee for each document to a recorder's electronic services system fund and replaces the additional \$1.00 fee for the county land record information system. Similar to the current 331.604 (3c), the language describes the management of the recorder's electronic services system fund by the county. Funds are to be transferred to the Electronic Services System on a monthly basis.

Both funds are subject to audit. Policies relating to participation in the Electronic Services System and the purposes of the system are moved from 331.604 to an updated Section 331.605B. Policies relating to the redaction of information about law enforcement officers are moved from 331.604 to 331.606A.

BILL'S PROVISIONS – TRANSFER OF FUNDS. Section 7 makes provision for making the transition from the supplemental fees to the allocations, and the transition from the existing funds to the new funds.

BILL'S PROVISIONS – GOVERNANCE OF THE ELECTRONIC SERVICES SYSTEM. Several policies concerning the Electronic Services System may currently be found in different sections of the Iowa Code. Section 8 proposes to consolidate those subjects into a common section of the Iowa Code; specifically, section 331.605B. The general intent is to craft a coherent governance section without fundamentally changing the current policies. Section 331.605B, subsection 1 enumerates the purpose and authorizations for the electronic services system, and the purpose areas are drawn from the pre-existing purposes in sections 331.604(3b-1 a-d), 331.604(3d) and 331.605B(2). New language authorizing the creation of a notification system has been added.

Section 331.605B, subsection 2 relating to statutorily authorized fees, is drawn from the current version of Section 331.605B, subsection 2. Section 331.605B, subsection 3 relating to amendments to the Electronic Services System 28E agreement, is taken from the current version of sections 331.604(3a) and 331.604(3f). Section 331.605B, subsection 4 relating to the prohibition of batch basis records transfers is taken from the current version of Section 331.603, subsection 5a. Section 331.605B, subsection 5 relating to the limitation of liability is drawn from the current version of 331.606A, subsection 7.

BILL'S PROVISIONS – GENERAL INDEXING REQUIREMENTS. General recording and indexing requirements are also specified in both Section 558.49 and Section 331.606B, subsection 2, and the amendments included here are intended to bring all requirements into alignment. Section 9 updates terminology with respect to the date of recording, and the type or title of a document. County recording systems are currently referred to as county land records management systems and this reference is added. A standard reference numbering system is established for all Iowa counties which would include a county's two-digit number, the four digit year, and a sequential number beginning with the number 1 starting on the first working day of the calendar year. Note: Section 26 provides that the effective date of Section 9 would be January 1, 2026.

BILL'S PROVISIONS – CODIFIED INDEXING REQUIREMENTS. Current accepted recording practices include the indexing of associated references, and parsed legal descriptions, Section 10 codifies these as required data elements to be indexed. The indexing of parcel identification numbers has been identified as a valuable data connector with other land record information systems, and Section 10 adds a requirement to index the parcel information and any additional parcel identifier when it is present on the document. It also clarifies that parcel identification numbers are historical in nature, and previously recorded indexes for antecedent documents should not be updated when a parcel number is subsequently changed for any reason.

BILL'S PROVISIONS – TIME OF RECORDING. Section 11 clarifies that it is the time of recording that is important when recording, not the time when it is delivered to the recorder. It also establishes that the recording time should be accurate to the second in all counties.

BILL'S PROVISIONS – REDACTION OF PERSONALLY IDENTIFIABLE INFORMATION. Section 12 clarifies that the electronic services system is responsible for the redaction of PII as described in Section 331.606A, subsections 3 and 4.

BILL'S PROVISIONS – LIMITATION OF LIABILITY. Section 13 repeals Section 331.606A, subsection 7, because it is being relocated to Section 331.605B, subsection 5. See BILL'S PROVISIONS – GOVERNANCE OF THE ELECTRONIC SERVICES SYSTEM.

BILL'S PROVISIONS – BACK THE BLUE REDACTION. Section 14 transfers the Back the Blue redaction program from 331.604, subsection 3g, to a new subsection to 331.606A. The transferred language makes no change in current policy.

BILL'S PROVISIONS – DOCUMENT FORMATTING STANDARDS. Section 15 updates requirements in Section 331.606B, subsection 1 for formatting documents submitted for recording to align with current and best practices. The new language is intended to provide clarity about the reasons why a document may be declined, to provide clear authority for a recorder to decline a document when certain conditions are not met, and to shift from the directive of "shall refuse" to a more flexible posture - "may decline." A distinction is made between the requirements for physical documents compared to electronic documents. Archaic terms such as "typewritten" are removed. The updates provide document preparers with greater flexibility by requiring a minimum stamp area instead of a full three-inch margin at the top of the first page. More emphasis is given to legibility. An update is made to allow for the recording of documents submitted with personally identifiable information provided that a process is implemented to redact it before posting it on a website.

BILL'S PROVISIONS – REQUIRED CONTENT. Section 16 updates requirements Section 331.606B, subsection 2 for that preparers must provide recorders for indexing. Clarification of terms for document type and associated references is added. A technical change is made to remove a reference to a three-inch margin and to add a reference to the use of a cover sheet which is common practice. Changes which may facilitate better communication between recorders and submitters include the addition of providing an email address for the preparer, and the option to include contact information for a person best able to address document issues (other than the preparer).

BILL'S PROVISIONS – CONTENT OPTIONS. Section 17 is an updated Section 331.606B, subsection 3 and it further describes the option to use a cover sheet to provide the required information referenced in 331.606B, subsection 2, and the option to include a page number reference if necessary. Both options reflect current submission and recording practices.

BILL'S PROVISIONS – UNRELATED TRANSACTIONS. Section 18 seeks to clarify in Section 331.606B, subsection 4 that while there would no longer be an extra fee for “additional transactions”, preparers should be discouraged from combining unrelated transactions into a single document submitted for recording. Current language relating to formatting requirements for surveys are moved to a new section of the Iowa Code as described in Section 21.

BILL'S PROVISIONS – DECLINE REASONS. Section 19 in an updated Section 331.606B, subsection 6 clarifies that a declined physical document is to be returned to the preparer while a submitter of a declined electronic document may simply be informed (through the Iowa Land Records E-Submission service) that a correction is needed. This reflects current practice. The update also requires that fee changes for electronic documents must also be explained to a submitter. This is also a reflection of current practice.

BILL'S PROVISIONS – NONSTANDARD FEE REPEAL. Section 20 would repeal Section 331.606B, subsection 7a and discontinue the nonstandard recording fee of ten dollars when a nonconforming document is recorded. This will simplify the calculation of recording fees. Nonconforming documents must be corrected. subsection 7b would also be repealed as the revised introduction to 331.606B(1) provides clear authority for the recorders to decline documents which do not conform to the updated standards.

BILL'S PROVISIONS – SURVEY RECORDING STANDARDS. Section 21 would consolidate and update document formatting and recording standards for surveys, corner certificates, monument preservation certificates and other documents prepared by a licensed land surveyor. A new Code section is proposed. It establishes formatting requirements for any survey document submitted for recording, clarifies the requirements for the use of an “index legend” to provide recorders with the necessary information for indexing, and defines the terms “parcel identification number” and “additional parcel identifier” which may be included in some survey documents.

BILL'S PROVISIONS – SURVEY SIZE STANDARDS. Section 22 would update Section 354.18, subsection 2. Current practices are that all counties be able to scan physical documents with dimensions of up to 11 inches by seventeen inches. Electronic survey documents are accepted through the Electronic Services System with a dimension of up the twenty-four inches by thirty-six inches. The suggested change would align this section of the Code with current practices.

BILL'S PROVISIONS – REFERENCE UPDATES. Section 23 would update Section 355.6A, subsections 4a and 4b. The change to subsection 4a removes an incorrect and unnecessary Code reference. The change to subsection 4b is editorial and not substantive.

BILL'S PROVISIONS – SURVEY INDEX LEGEND. Section 24 would repeal Section 355.6A, subsection 4c relating to the “index legend.” This subject is addressed in the new Code section referenced in Section 21.

BILL'S PROVISIONS – INDEXING SURVEYS. Section 25 would update Section 355.12 relating to indexing surveys and corner certificates. The update would align the indexing requirements with the suggested new Section 331.612, subsection 4b which is referenced in Section 21.

BILL'S PROVISIONS – EFFECTIVE DATE. Section 26 provides that the effective date of requirements for recording reference numbers are to be effective and implemented as of January 1, 2026.

**71. Memo to the Legislative Committees and the Section Councils
Dated September 5, 2024.**

FACTS: For your consideration for your legislative proposals--PLEASE.

Iowa Code section 428A.2(22) creates an exemption from transfer tax for distributions from a trust.

Iowa Code section 428A.1(2) imposes a declaration of value statement requirement on persons filing a deed, but it then also says:

"A declaration of value is not required for those instruments described in section 428A.2, subsections 2 through 5, 7 through 13, and 16 through 21, ..."

The department of revenue is requiring the recorders to collect a declaration of value statement for trust distributions with NO consideration because the new-ish subsection 22 is not excepted in section 428A.1, even though there is no consideration and nothing to do but fill out names and addresses and ZERO consideration.

Please no emails telling me to use a different exception.... I get it.

Following is a portion of an email shared with me by a recorder:

From: Chambers, Susan <susan.chambers@iowa.gov>
Sent: Wednesday, April 3, 2024 9:47 AM
To: [redacted]
Cc: [redacted]
Subject: Re: Ex. 22

I'm not sure about the reference documents to which you refer; however, to the best of my knowledge there has been no revision to Iowa Code 428A.1 and so the exception under Iowa Code 428A.2(22) is not included in the exceptions that do not require a DOV. See the attached highlighted area.

Susan Chambers, Program Manager for Equalization
Local Government Services Division
Iowa Department of Revenue
1305 E. Walnut Street, Des Moines IA 50319
515-474-4002
Susan.Chambers@iowa.gov
tax.iowa.gov

Of course, the Ground Water Hazard Statement requirement is tied to the DOV requirement.

QUESTION: Could we please get this in front of the General Assembly and get it fixed?

RESPONSE(S): Here are a couple additional proposals for consideration:

Proposal #1:

Iowa Code 558.69(8) & 558.69(9) – The Recorders differ by County whether a cover sheet can count as the “first page” of the deed, instrument or writing for purposes of the groundwater hazard exemption language. I would like to see all counties treat the situation the same, and would suggest adding “cover sheet” to each section:

558.69(8)(a) “If there are no conditions present, as described in subsection 1, then a groundwater hazard statement shall not be submitted. In lieu of the submission of a groundwater hazard statement, any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed shall include on the first page of the cover sheet, deed, instrument, or writing the following statement:”

558.69(8)(a) “If a required declaration of value is not accompanied by a groundwater hazard statement, if required under this section, or if the first page of the cover sheet, deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed does not include the statement provided in subsection 8, paragraph “a”, if required under this section, the county recorder shall refuse to record the deed, instrument, or writing.

Proposal #2:

Tax books are updated with the filing of a contract, but not the filing of a memorandum of contract. I would suggest the following changes to bring uniformity to the situation:

558.46(4) “If a real estate contract is required to be recorded under this section, the requirement is satisfied by recording either the entire real estate contract or a memorandum of the contract containing at least the names and addresses of all parties named in the contract, the name and address of the taxpayer, a description of all real property and interests in the real property subject to the contract, the length of the contract, and a statement as to whether the seller is entitled to the remedy of forfeiture and as to the dates upon which payments are due.”

(new subsection)558.66(3)(e) A memorandum of real estate contract pursuant to section 558.46(4).

72. Recorder Modernization.

FACTS: ISBA Real Estate and Title Law Section Members:

Iowa Land Records has been working on what they're calling "Recorder Modernization" proposals. These include changes to formatting requirements, additional required information on conveyances, looking into blockchain for land records, and making recorder practices more consistent from county to county, among other things. Suffice it to say these projects could make substantial changes to what we do on a daily basis.

Iowa Land Records would like practicing attorneys at the table to give input about the proposals they're making. If you are willing to participate and have time to thoroughly review proposals and make suggestions, please let me know as soon as possible.

QUESTION:

RESPONSE(S): I would be happy to participate. I've been a land records user from the beginning, in this and many jurisdictions.

73. Recording Fee Doubling.

FACTS: I see that the Iowa Land Records, perhaps with the Recorders, are proposing a doubling of the recording per page filing fee from \$5/page to \$10/page.

I am not in favor of that hefty 100% increase.

I ask the ISBA Real Estate Section to ask the Board of Governors to oppose that legislation.

If others agree with me, let Harry Shipley and your district BOG member(s) know.

QUESTION:

RESPONSE(S): The CPI has nearly tripled since 1985, when the rates were last updated. A first-class letter (another government-provided service) cost 22¢ in 1985 and it's now 68¢. A mere doubling over 40 years seems like a bargain!

My pipe dream would be to bake in periodic inflation adjustments (say every three to five years) to all dollar amounts laid out in the Iowa Code, with select items excepted for cause. Model it after 11 U.S.C. § 104, but make it opt-out instead of opt-in. Iowa's \$7,000 motor vehicle exemption hasn't changed since July 1, 2006, but the amount of car you can exempt with that has shrunk drastically in the intervening 18 years.

* * * * *

A first-class letter is now 73¢, not 68¢. Recognize that slippery slope?

With everything else going up, how is one to afford a doubling of recording costs. Looking back on my hourly fee I'm wondering why it hasn't doubled or tripled since 1981 when I think my wife calculated I hadn't cleared Iowa's minimum wage for the hours I worked that year; not sure this year'll be any better, so let's keep the costs down for the little guy and gal, or whatever noun is proper these days; or nights, not to be discriminatory between the two; day & night that is, which I believe vary depending on whether we are on, or off, of day light savings time.

Oh, forget it; but it is 73¢, not 68¢, and I still prefer the stamps you lick; sometimes the glue is my lunch for the day; so send any old ones you don't want to use to the address below; the glue tastes better with age, just like a fine wine; I'm told.

* * * * *

As a general observation from someone who practices on both sides of the Mississippi, recording fees in Illinois range anywhere from \$68-85 depending on the county you wish to record in, and get ratcheted up about once every two years or so.

While I don't like costs going up per se, things could be worse, and in comparison the fees in Iowa look like a massive bargain even if raised as proposed.

* * * * *

As a note for those who have noted that your rates haven't increased in some time, I would point out that Mr. Critelli once noted that it is possible to have an unethically low fee if that fee results in an inability to effectively represent your clients.

There needs to be a recognition that it costs a certain amount of money to make the gears of justice turn. While the point isn't the money, we do need to reflect on what that cost truly is.

One example we have, we recently increased our fees across the board and have started managing our real estate deals as hourly matters. This is due to the increases in complexity of transactions over the years and the need to reevaluate our flat fees as they no longer realistically aligned with our hourly rates.

I encourage you to evaluate how you have set your rates and adjust accordingly. If an increase in recording this small is off-putting to you, please take a look at your business model and make sure it fits your needs and the needs of your clients.

Something to consider as we, as a profession, move forward.

74. Recording Fee Doubling & FAKE NEWS.

FACTS: I also like the flat fee idea. I work with a lot of lenders who require closing disclosures to be finalized well in advance of providing a copy of the actual mortgage document, just for me to then see the page count they told me does not match their actual document. The number of times I've eaten that \$5-10 extra just to get the closing done on time... I know all the lenders I work with would appreciate a flat fee.

QUESTION:

RESPONSE(S): I love this proposal! The State of Minnesota has a flat fee of \$47.00 for any document. Why should it matter how many pages the document is, it's not as if it takes the Recorder more time to scan because it has more than one page.

* * * * *

Minnesota went to flat fee a while ago and it dramatically reduced rejections and simplified the closing process. I would expect the recorders would find it more simple and therefore efficient as well.

It is more than an irritation when recording a document is delayed because someone miscounted a document by a single page.

Flat fee helps assure prompt recording.

75. IRS Notice of Tax Sale Redemption.

FACTS:

QUESTION: I had a question from an attorney that asked if anyone had contact information (or where to find it) to serve the IRS on a Notice of Redemption for a tax sale.

RESPONSE(S): Attached are a copy of the Instructions for Form 14497 and instructions for where to mail it. The Stop should be 2850F, not 28850F.

I mail Form 14497 plus the Notice of Expiration of Right of Redemption

I send duplicate copies with a stamped return envelope and check the box at the bottom that says Acknowledgement Requested.

[See Attachment]



Collection Advisory Offices Contact Information

Use this publication to determine which office to contact with questions about Notices of Federal Tax Lien and where to submit requests for lien-related certificates, such as those listed below.

You can find answers to many of your lien questions on our website www.irs.gov. There you can type a key word or phrase of your question in the search box and then choose a resulting page matching your topic. For example:

- For general lien information, type "lien" and select the "Understanding a Federal Tax Lien" page (<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Understanding-a-Federal-Tax-Lien>).
- To get the total amount of your tax debt, type "payoff" and select the "View Your Account" page (<http://www.irs.gov/payments/view-your-tax-account>).
- For information about decedent situations and federal estate tax liens, type "deceased" and select the "Deceased Taxpayers – Probate, Filing Estate and Individual Returns, Paying Taxes Due" page (<http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Deceased-Taxpayers-Probate-Filing-Estate-and-Individual-Returns-Paying-Taxes-Due>).

If you cannot find an answer on our website or if you need specific case assistance, contact our offices as shown below.

Topic	Instructions, Forms, or Additional Information*	Office to contact
General question about a Notice of Federal Tax Lien	IRS website: Understanding a Federal Tax Lien	Centralized Lien Operation P.O. Box 145595, Stop 8420G Cincinnati, OH 45250-5595 Phone: 800-913-6050 Outside the U.S.: 859-320-3526 Fax: 855-390-3530
Getting a lien release or lien payoff balance	Publication 1450, Instructions on How to Request a Certificate of Release of Federal Tax Lien	
Selling or transferring property subject to the lien	Publication 783, Instructions on how to apply for a Certificate of Discharge of Property From Federal Tax Lien	Advisory Consolidated Receipts 7940 Kentucky Drive Stop 2850F Florence, KY 41042 Phone: 859-594-6090 Fax: 844-201-8382
Borrowing or refinancing using property subject to the lien	Publication 784, How to Prepare an Application for a Certificate of Subordination of Federal Tax Lien	
Borrowing to purchase property when taxes are owed	Publication 785, Purchase Money Mortgages and Subordination of Federal Tax Lien	
Clarifying who lien is against or what lien attaches	Publication 1024, How to Prepare an Application for a Certificate of Non-Attachment of Federal Tax Lien	
Removing the effect of the notice of lien in the public record	Form 12277, Application for Withdrawal of Filed Form 668(Y), Notice of Federal Tax Lien	
Foreclosure — Non-Judicial sale notices	Publication 786, Instructions for Preparing a Notice of Non-Judicial Sale and Application for Consent to Sale	
Foreclosure — General questions	IRS website: Understanding a Federal Tax Lien	Advisory office for state where the notice of lien is filed
Foreclosure — Redeeming property	Publication 487, How to Prepare an Application Requesting the U.S. Release Its Right to Redeem Property Secured by a Federal Tax Lien	Advisory office for state where the notice of lien is filed
General question about lien on deceased taxpayer	IRS website: Deceased Taxpayers	Advisory office for state where the taxpayer last resided
Making a claim for refund; Question on issues not shown	Publication 594, The IRS Collection Process	Advisory office for state where the taxpayer resides

*Publications and Forms referenced above can be obtained through the www.irs.gov website or the contact office. Certain topics also have supplemental instructional videos at <http://www.irsvideos.gov/Professional/IRSLiens>.

For the complete listing of Advisory offices and their contact information, see page two. To find the office serving your location, match the number for your State with the corresponding Advisory office in the table.

Advisory Offices

For requests not going to Advisory Consolidated Receipts (see page 1), contact the Advisory office associated with the State.

State	Address	State	Address	State	Address
Alabama	11	Iowa	14	Oklahoma	21
Alaska	29	Kansas	15	Oregon	29
Arizona	1	Kentucky	20	Pennsylvania (Southeast) Incl. Philadelphia, Chester, Lehigh, Carbon, Monroe Counties	22
Arkansas	25	Louisiana	11	Pennsylvania (All other areas)	23
California (North, Central) includes Monterey, San Benito, Merced, Madera Counties	4	Maine	24	Rhode Island	24
California (Central, South) includes Los Angeles, San Luis Obispo, Fresno Counties	3	Maryland	22	South Carolina	19
California (South) Includes Orange, San Bernardino, Inyo Counties	2	Massachusetts	24	South Dakota	14
Colorado	5	Michigan	13	Tennessee	25
Connecticut	24	Minnesota	14	Texas (North) Includes Dallas, Ft. Worth, Abilene, Lubbock, Odessa, Tyler	26
Delaware	22	Mississippi	11	Texas (South) Includes Houston, Austin, Beaumont, El Paso, Waco	27
District of Columbia	12	Missouri	15	Utah	5
Florida (North) Includes Tallahassee, Jacksonville, Orlando, Tampa, St. Petersburg	6	Montana	29	Vermont	24
Florida (South) Includes Ft. Lauderdale, Miami, Sarasota, Port St. Lucie	7	Nebraska	14	Virginia	28
Georgia	8	Nevada	1	Washington	29
Hawaii	3	New Hampshire	24	West Virginia	20
Idaho	5	New Jersey	16	Wisconsin	30
Illinois	9	New Mexico	1	Wyoming	29
Indiana	10	New York (NYC area) Incl. Westchester, Rockland, Nassau and Suffolk counties	17	International Includes Puerto Rico, U.S. Possessions & Territories	7
		New York (All other areas)	18		
		North Carolina	19		
		North Dakota	14		
		Ohio	20		

#	Address	Phone/Fax
1	4041 N. Central Ave., Suite 112, MS 5021PHX, Phoenix, AZ 85012	Ph 602-636-9358 Fx 877-477-9225
2	24000 Avila Rd., MS 5905 Laguna Niguel, CA 92677	Ph 949-575-6425 Fx 877-477-9239
3	300 N. Los Angeles St., MS-5021 Los Angeles, CA 90012	Ph 213-372-4545 Fx 855-673-2055
4	1301 Clay St., Suite 1410S Oakland, CA 94612	Ph 510-907-5173 Fx 877-477-9228
5	1999 Broadway, MS 5021DEN Denver, CO 80202-2490	Ph 303-603-4570 Fx 877-477-9236
6	400 West Bay St. Stop 5710 Jacksonville, FL 32202	Ph 904-665-0832 Fx 855-851-8234
7	7850 SW 6th Court, MS 5780 Plantation, FL 33324	Ph 954-991-4008 Fx 855-851-8235
8	401 W. Peachtree St., NW, Stop 333-D Atlanta, GA 30308	Ph 470-639-2495 Fx 855-847-7741
9	Stop 5012 CHI, 230 S Dearborn, Rm 2630 Chicago, IL 60604	Ph 312-292-2892 Fx 877-477-8752
10	Stop SB 461, 575 N. Pennsylvania St. Indianapolis, IN 46204	Ph 414-231-2121 Fx 877-477-9261
11	1555 Poydras St, Suite 220-Stop 65 New Orleans, LA 70112-3747	Ph 504-202-9630 Fx 877-477-9213
12	31 Hopkins Plaza, MS 1150 Baltimore, MD 21201	Ph 443-853-5417 Fx 855-851-8233
13	985 Michigan Ave., Stop 47 Detroit, MI 48226	Ph 313-234-2398 Fx 877-816-8631
14	M/S 5900, 30 E. 7th St. St. Paul, MN 55101-4940	Ph 314-339-1604 Fx 877-477-9247
15	Stop 5333STL, Rm 9203, 1222 Spruce St St. Louis, MO 63103	Ph 314-339-1604 Fx 877-477-9247

#	Address	Phone/Fax
16	4 Paragon Way, Suite 2 Freehold, NJ 07728	Ph 973-921-4283 Fx 855-564-8324
17	290 Broadway, MS 05-A New York, NY 10007	Ph 212-436-1046 Fx 877-477-8744
18	11A Clinton Ave., Suite 521 Albany, NY 12207	Ph 518-242-5404 Fx 888-981-4255
19	4905 Koger Blvd. Suite 102, MS #8 Greensboro, NC 27407	Ph 336-690-6095 Fx 855-847-7742
20	550 Main St., Room 9010B Cincinnati, OH 45202	Ph 513-975-6685 Fx 855-807-0661
21	55 N. Robinson, MS 5021 OKC Oklahoma City, OK 73102	Ph 405-982-6604 Fx 855-564-4242
22	600 Arch St., Suite #03-A14-01 Philadelphia, PA 19106	Ph 267-941-6205 Fx 855-847-7739
23	1000 Liberty Ave., Room 701-A Pittsburgh, PA 15222	Ph 412-404-9700 Fx 877-477-8750
24	380 Westminster St., 4th floor Providence, RI 02903	Ph 617-316-2608 Fx 877-477-8740
25	801 Broadway, MDP 53 Nashville, TN 37203	Ph 615-250-5306 Fx 877-477-9209
26	1100 Commerce St., Mail Code 5028 DAL Dallas, TX 75242	Ph 405-982-6604 Fx 877-477-9223
27	1919 Smith St., 5021 HOU Houston, TX 77002	Ph 713-209-4399 Fx 877-477-9214
28	400 N. 8th St., Room 898, Box 75 Richmond, VA 23219	Ph 804-916-8039 Fx 855-851-8233
29	915 2nd Ave, MS W245 Seattle, WA 98174	Ph 206-946-3080 Fx 877-477-9227
30	Stop 5303MIL, 211 W. Wisconsin Ave Milwaukee, WI 53203	Ph 414-231-2121 Fx 877-477-9261

76. Post-Tyler New Jersey Tax Sale Case.

FACTS: This is all interesting – and ripe for changes in the current normal course of action.

Everyone has their war stories. So here is mine.

Client owned her combination residence/business property outright.

For whatever reason she did not pay her real estate tax.

It sold on tax sale. And tax deed issued.

Then she hired attorney.

She wanted to keep the property.

The “buy back” demand was for FMV. Resulting in huge windfall to buyer.

I offered them a fair return on their investment. Nope. They wanted the windfall. That was their business model - Windfall profits.

I leaned on fact I knew them when they were 3 year olds running around in their underwear along the lake shore in front of their parents summer cottage in my home town. Nope. They wanted the windfall.

My client paid it. So she paid full price for the property twice.

I can see the argument for the ruling in Tyler.

You can counter that she only has herself to blame for ignoring the taxes, and tax sale procedures. Yet, the loss of the substantial equity should not be left to such, “Too Bad, So Sad” glossing. If the tax deed holder is gaining a windfall, that should be the add-on cost of acquiring the property. One idea could be the original owner holds a lien on the property for the equity over and above the tax obligation covered by the sale (as shown on the assessor records), with a ten year life as a judgment lien holds.

QUESTION:

RESPONSE(S): Following up on an earlier posting copied below, yesterday the New Jersey Supreme Court determined the state’s tax sale law was unconstitutional based on considerations similar to the Nebraska Supreme Court had relied up in the decision described in the earlier posting. The New Jersey decision is available @ https://www.njcourts.gov/system/files/court-opinions/2025/a_29_23.pdf and a referenced set of subsequently enacted amendments is available @ https://pub.njleg.state.nj.us/Bills/2024/PL24/39_PDF .

Although the earlier posting mentioned possible legislative changes in Iowa tax sale procedures being considered by a committee being assembled by the Iowa State County Treasurer’s Association, I am not aware of any forthcoming along the lines of the responses to Tyler concerns enacted New Jersey and Nebraska.

77. Recent Post – Tyler Nebraska Tax Sale Case.

FACTS: In the course of preparing to be away for a couple of weeks, I discovered that the Nebraska Supreme Court has determined that the former owner of land may have a viable takings claim against the recipient of a tax deed for the value of the land in excess of the amount of the tax obligation. See Continental Resources v. Fair, 317 Neb. 391, ___ N.W. 3d ___, 2024 WL 3908797 (Aug. 23, 2024). The per curiam opinion also held that the former owner did not have a viable takings claim against the county for its part in the tax sale process, and on both issues a concurring in part and dissenting in part opinion reached essentially opposite conclusions on both issues.

The case had been remanded by the U.S. Supreme Court for reconsideration in light of Tyler v. Hennepin County, 598 U.S. 631 (2023). The tax sale had been held under Nebraska tax sale procedures not unlike Iowa's current tax sale procedures except that the lottery among interested tax sale bidders occurred without first providing anything like the frequently non-occurring percentage bid-down procedure currently required in Iowa tax sales. Notably, less than two weeks after Tyler was decided, Nebraska's tax sale statute was amended to require tax deed recipients to enforce their rights by judicial foreclosure absent payment to the former owner of the value of their interest when that value is not in excess of \$25,000 (see <https://www.iowabar.org/docdownload/2464880>).

The possibility some prospective changes may be in the offing was suggested last June in a Des Moines Register article's indication that the Iowa County Treasurer's Association was assembling a committee of treasurers, county attorneys, and county supervisors to consider possible legislative responses to Tyler's implications for the validity of Iowa's tax sale processes (see <https://www.iowabar.org/docdownload/2464881>). If Iowa courts were to follow the Nebraska court's reasoning, retrospective consequences could be quite considerable in light of its determination that the taking occurs upon the tax deed's issuance and the possibility such claims could be asserted for up to five years after such issuance (cf. K & W Electric, Inc. v. State, 712 N.W.2d 107 (2006)). The Nebraska court's reasoning that tax deed recipients act under color of state law might also support reliance on 42 U.S.C. § 1983 and the attendant possibility of attorney's fees under 42 U.S.C. § 1988.

Between Tyler and Continental Resources, some consideration perhaps should be given to including appropriate cautionary language in title opinions to persons purchasing land from tax deed recipients within five years of the deed's issuance and perhaps subsequent grantees within that same period of time.

QUESTION:

RESPONSE(S):

78. Tax Sale Deed.

FACTS: I am reading an abstract of title with a tax sale as follows:

1. Tax Sale held on June 17, 2019 for taxes assessed for 2017/2018 and payable in 2018/2019. Publication Notice of Tax Sale is shown in the abstract
2. Certificate of Tax Sale Purchase is issued to tax sale bidder (TSB) on June 17, 2019.
3. Attorney for TSB prepares an Affidavit of Service of Notice to Redeem from Tax Sale, which is in good form and is proof of service to the persons entitled to notice under Iowa law. The Affidavit is received by Treasurer on June 16, 2022.
4. The abstract entry detailing the tax sale includes the following: "Assigned to: [another entity] this date of 11/02/2022. Assigned amount: \$472.24 (signature illegible), Original Purchaser" TSB is not identified by name in the paragraph about the assignment.
5. Tax Sale Deed by Treasurer dated and filed on November 4, 2022 purporting to convey ownership to TSB.
6. No 120-day Affidavit shown by TSB or any other party.
7. On December 1, 2022 [another entity] conveys ownership of real estate to current party who has signed a sales agreement to convey the real estate to my client.

QUESTION:

A. Is the Tax Sale Deed valid? / Does TSB have marketable title?

 If yes, it follows that TSB may convey ownership to [another entity].

B. If Tax Sale Deed is invalid, does the Treasurer have authority to convey a corrected Tax Sale Deed to [another entity] more than two years later?

RESPONSE(S): Iowa Code section 589.14 will cure the problem—in about seven years. No help right now...
Iowa Code section 448.12 will cut off all litigation over title as of November 22, 2025. Help is on the way...

Steps 1 through 3, so far so good. TSB is the owner of the land by tax deed. Iowa Code sec. 448.3, .4, and .5.

Step 4—have you found the original “assignment” that the abstracter alleges exists?

In what county record did/does it appear? Treasurer? Recorder?

Probably you want to personally examine that document.

Seems to me: if TSB is not clearly certified as actual ASSIGNOR, then no assignment occurred?

No authentication/verification of the signature appears; was signer a person w/ right to represent TSB?

Forgeries of assignments affecting real estate are not unknown in the law...

See, e.g., *Wyllis v. Haun*, 47 Iowa 614 (1878).

Step 5, always good to have a tax deed, which is on its face presumptively valid. Iowa Code sec. 448.6(1)

Another Entity (AE), at this point, appears to have no title. Therefore Current Party (CP) doesn't either.

TSB's tax deed might still be cancellable.

But CP must make the showings required by Iowa Code Section 448.6(2), (3) and (4).

Step 6, having a 120-day Affidavit along with the tax deed would be best practice, but not fatal to tax title.

Iowa Code Sections 448.15 and .16 achieve shortcut cutoff of all competing claimants. AE & CP would be out.

Step 7. Ouch. Litigation alert. But AE & CP face a tall hill to climb, in a short time. Iowa Code Sec 448.6 and .12.

The writer provides an excellent example of why we real estate lawyers ought to weed through the Code, identify all the hoary old curative statutes, and persuade the Legislature to pass a bill updating them for current use.

Helpful here would be a

Iowa Code Section 589.15 and .16, with dates of 2025 rather than 1935.

Or Iowa Code Section 589.16A with dates to 2024/25, rather than 1986/87.

Floating statute of limitation, without dates, would be even better.

* * * * *

For what it's worth, typically the tax certificate assignment is not “recorded” but included in the tax deed application. Looks like the Treasurer didn't pick up on the assignment and issued the deed to the original certificate holder?

79. Title Examination Question: Tax Certificate No Tax Deed.

FACTS:

QUESTION: If there is a tax certificate issued but no Tax Deed is any showing required?

RESPONSE(S): Any buyer's counsel would object to delinquent unpaid taxes for a proposed conveyance by the titleholder. The showing would be payment of taxes.

The tax sale certificate holder doesn't have anything to sell except an assignment of the certificate.

See also the very thoughtful and comprehensive Chapter 16 of Iowa Land Title Standards for all other tax sale deeds.

80. Abstract & Quiet Title Decree.

FACTS:

QUESTION: How far back must the abstract show a title history **after a Decree Quieting Title** is shown? I realize it would need to show any easements and the like that are required for a 40-year abstract, but if the Decree is more than 20 years old and the title history shown is unbroken from that date and all the required exceptions are shown that are more than 40 years, must the abstract show title documents pre-dating the Quiet Title Decree to be acceptable?

RESPONSE(S): It seems to me that you still need a 40-year abstract to know if all the necessary parties were involved in the quiet title action to establish that there are no other co-owners. Yes, the Decree is unimpeachable as to the parties whose title was lost, but I am unaware of a statute of limitations which would apply to a non-party co-tenant with a valid ownership claim under a root instrument.

Posit that Bob Brown, John Jones, and Sam Smith are co-tenant owners of White Acre following the death of their grandfather in 1983, and there were defects in their grandfather's chain of title from the late 1970s. Suppose Bob Brown is not in possession but wants to obtain a mortgage over his interest in 2003. Title search reveals a defect which can only be cured by a quiet title action in 2003 for him to obtain his financing (e.g., boundary description issue and uncooperative neighbor). Bob Brown (without joinder of John Jones or Sam Smith who do not want to participate in a dispute with the neighbor) obtains a Decree quieting title against the neighbor in 2003 vesting title in his name only (while incorrect, possible in an uncontested matter) curing the boundary defect—at least as to Bob Brown's interests.

In my opinion, the Decree would be insufficient to remove the ownership interests of John Jones and Sam Smith as they were not parties to the action—this is a 5th Amendment federal due process requirement under the U.S. Constitution. So, if a new abstract were being built today, I would want it to go back to the 1983 death of their grandfather.

Yes, the Marketable Record Title Act could ultimately facilitate this result after 40 years, and that has been upheld as constitutional (e.g., suppose John Jones and Sam Smith never appear again of record—they obtain no mortgages, sign no easements, and file no preservation claims under Iowa Code Section 614.34—and suppose a new abstract is prepared in 2045 using the decree as the root instrument). However, I fail to see how a quiet title action in a shorter time frame than Iowa Code Chapter 614 can provide marketable title. So, without a statute which would cut off the claims of the non-party co-tenant, I think you still need to

review a 40-year chain to ensure all co-tenants are accounted for before the quiet title Decree to prove the awarded party was indeed awarded the entire fee simple and not simply a fractional fee interest.

* * * * *

Keep that statutory 40-year protection. (Unless you can show that “***all persons interested have been made parties to the action and have been legally served.***”)

2 *Patton & Palomar on Land Titles 3d* section 464, “Dependence upon Validity of Judgment or Decree,” pp. 411-413 (2003) (emphasis added):

“The judgment must, of course, emanate from a duly constituted court or tribunal 6 that has jurisdiction to decide the question involved and to offer the relief granted.

The main points an examiner needs to investigate are jurisdiction of the parties and jurisdiction of the subject matter of the action.

Ensuing sections of this chapter will show that *jurisdiction of the parties is essential to the validity of judgments in personam...*”

FN6 cites *Balm v. Nunn*, 63 Iowa 641, 19 N.W. 810 (1884)

Section 465, “Judgments *in personam* – Jurisdiction of the Parties,” pp. 419-20 (emphasis added):

“[T]he weight of authority is that *no valid personal judgment can be rendered against even a resident defendant upon whom the service of process was merely constructive and who did not appear.*” 16

FN16 cites

Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565 (1877) [an Oooold Friend of ours from Civil Procedure class!]

Griffith v. Milwaukee Harvester Co., 92 Iowa 634, 61 N.W. 243 (1894)

Smith v. Griffin, 59 Iowa 409, 13 N.W. 423 (1882)

3 *Patton & Palomar on Land Titles 3d* section 539 “Checking Validity and Sufficiency of Decree”, p. 63 (2003) (emphasis added)

“A judgment in favor of a plaintiff who claims absolute title is all that is necessary to bar every right of ownership that the defendant might have alleged. 1

Whether the records show ownership in the prevailing party or not, the examiner must assume that competent evidence was submitted to the court.

But, as in the case of other judgments, so long as the files of the action are in existence, the examiner should not rely on recitals

showing jurisdiction, nor on presumptions as to regularity. *The petition or complaint, notices or summonses, and returns of service particularly, should be checked as outlined previously, 2 to **ascertain that all persons interested have been made parties to the action and have been legally served.***”

FN1 cites Reed v. Douglas, 74 Iowa 244, 37 N.W. 181 (1888).

FN2 refers to prior chapter 9; I think specifically to the sections 464 and 465 I quote above.

81. Affidavit of Surviving Joint Tenant – Sister – Inheritance Tax Concern.

FACTS: Title shows an affidavit of surviving joint tenant stating that the deceased joint tenant was her sister but that an Iowa inheritance tax return is not required to be filed as a result of her death. Sister died in 2020. (Surviving joint tenant has actually died now too and her estate is selling the real estate.)

I believe Title Standard 9.9 Sale by Surviving Joint Tenants would apply though which states:

A. A showing of the payment of or non-liability for Iowa estate and inheritance taxes is necessary. No showing is necessary as to generation skipping transfer tax unless the lien of the tax has been perfected by recording.

B. Concerning Iowa inheritance taxes, a clearance of inheritance tax (CIT) pursuant to Iowa Code § 450.22 is necessary unless:

- (1) the death occurred more than ten years ago, or
- (2) the property passed to the surviving spouse of a decedent, or
- (3) the property passed to a lineal ascendant or an adopted or biological child, stepchild or other lineal descendant of a decedent.

(None of these apply here).

QUESTION: Do I need a CIT (or a release of lien from Iowa Department of Revenue)? I think I do - I can't see any way that the inheritance tax return would not be required to be filed as the affidavit states.

RESPONSE(S): I have been retired now for over 12 years, but (unless there have been changes in the tax law since then) I would believe that you are correct for the reasons stated. All you need to do is file an Iowa inheritance tax return and pay any tax owing.

82. Clerk of Court Change of Title.

FACTS: I am being asked to prepare it for the clerk and neither clerk nor recorder can tell me what it needs to look like. I can guess of course - legal description and identifying owner.

QUESTION: Does anyone have a form of the actual administrative change of title?

RESPONSE(S): I think you are looking for the IowaDocs/XpressDocs Certificate of Change of Title #112.

83. Corporate Entity Titleholder that Never Filed with the SOS.

FACTS:

QUESTION: How are you clearing title on the rare occasion that a parcel of land is shown titled in the name of a corporate entity that was never filed with the Iowa Secretary of State's Office and Seller claims has been dissolved for decades?

RESPONSE(S):

84. DBA Designation.

FACTS: Title was conveyed to grantee as "John Doe, Mary Doe, John Smith and Mary Smith, d/b/a Acme Properties." John Smith and Mary Smith are deceased.

I am trying to determine from whom a subsequent conveyance should be made and in what form.

QUESTION: Is the DBA sufficient to indicate that this is a partnership? There is otherwise no evidence that a true partnership existed (e.g., no partnership agreement, no partnership tax return, no intent to carry on a business for profit, no activity, etc.).

Or should the DBA be disregarded and the four "partners" treated as tenants-in-common?

RESPONSE(S): I see no evidence to support any conclusion other than that the four individuals took title as tenants in common.

* * * * *

In my opinion: "d.b.a." is nothing more than an alias.

A common law partnership (with or without a written partnership agreement) must file a tradename filing under Iowa Code Chapter 547 in the county(ies) that it conducts business.

In the absence of a tradename filing, the co-owners are tenants in common.

* * * * *

Much depends upon the intentions of the parties at time the Smiths were still living and received their conveyance.

IF they all thought of themselves as partners in "Acme Properties", and acted as such —

then perhaps a survivor could file an Affidavit Explanatory of Title reciting that and other pertinent facts.

If not—then you may have a tenancy in common situation.

IMO you need more indicia of partnership than ONLY "doing business as".

DBA might be treated as "indicating a partnership". Locasio v. Erie Ins. Group, 2003 Ohio 978, 2003 WL 74643 (Ohio App. 2003).

But it also might not. Providence Washington Ins. Co. v. Valley Forge Ins. Co., 42 Cal.App.4th 1194, 50 Cal.Rptr.2d 192 (1996).

All DBA indicates for certain is that Acme Properties is a "fictitious business name." *Providence Washington*.

Smiths are deceased. Was an estate administered for either or both?

If yes, then how did the administrator report the interest in Acme Properties?

* * * * *

A good way to evaluate intent, if there isn't anyone who can make an affidavit, may be to look at how the money was handled. Tax filings may be informative here.

85. Dissolution.

FACTS: Abstract states as follows:

- H purchases property in 2019 with no marital status;
- In 1998, Divorce Proceedings between H and W1; modified in 2002 for child support until kids reach 18 (doesn't state age of children);
- 2020: CSRU states showing of \$0 for child support as of 2020 but no statement about whether a parent owes additional interest. Also note that W1 (apparently, as name is not clear) died in 2012;
- 2020: Divorce between H and W2 where H owes spousal support to W2 for 6 years (real estate in question not stated in Stipulation);
- 2020: W2 QCD property to H;
- 2022: Warranty Deed from H and W2, "husband and wife" to new Buyer;
- 2022: Entry stating that spousal support judgment from 2020 remains unsatisfied.

QUESTION:

- W1: Is the 2020 order that no money due to them sufficient? Does the fact that W1 appears to pass away in 2012 sufficient under TS 1.1 that there is no claim? Or would you require something?
- W2: It appears that H and W2 may have reconciled. They transferred the property as husband and wife 2 years after dissolution decree. Does the fact that W2 signed a warranty deed to buyers negate any potential claims she would have against the property for Spousal Support? I would argue it does.

RESPONSE(S):

86. Effect of Corrective Deed.

FACTS: I am reading an abstract for a refinance. I did not read the abstract when my client purchased the property. The abstract starts with Lots 1 and 2, but my client only owns Lot 2.

In 1996, Owner A transferred Lots 1 and 2 to Trust B. In 2000, a Corrective Warranty Deed was filed from Owner A to the Trustees of Trust B for Lot 1 only. The Corrective Warranty Deed referenced the original deed, with the added language, "This deed is given to correct a warranty deed ... to correctly transfer the property." Then Trustees of Trust B transferred Lot 1 to Owner C. In 2002, Trust B transferred Lot 2 to Owner D (trust beneficiary), and then Owner D transferred to my client in 2007.

QUESTION: What is the effect of the corrective warranty deed since it used a different legal description? Does the original transfer from Owner A to Trust B for both Lots 1 and 2 stand, and the corrective deed only applies to Lot 1? Or did the corrective deed have the effect of changing both the grantees and the legal description of the original transfer? If so, what would be the best way to remedy this issue?

RESPONSE(S): The key here is in the comment to Title Standard 1.1:

The examining attorney should be prepared, prior to objecting to title, to identify who would have standing to file a claim or commence good faith litigation challenging title, and the grounds for such claim or litigation.

As I see it, there is no reasonable chance that A, B, C or D would be able to successfully challenge your owner's title, since each have conveyed their interest away.

* * * * *

My thought in reading abstracts is that the corrective deed replaces the original deed. Thus here I would think Trust B did not receive title to Lot 2 and it remained with Owner A. Otherwise wouldn't a corrective deed always require a quit claim deed from the original transferee?

* * * * *

In any case, though, I believe an Affidavit of Possession would cure the issue as client has had title for more than 10 years. No challenge to client's vesting deed could be brought.

* * * * *

My approach to real estate has always been "No harm, no foul." Since A, B, C and D have all deeded away their interests, they cannot successfully claim title; even more so if they had conveyed by warranty deed, which would estop them from attacking the grantee's title. Granted that the deeds in this case were rather confusing, but the job of a title examiner is to determine whether there is a credible threat to title, not to insist on the correction of immaterial defects.

87. Has a Gift Been Made?

FACTS: A, B, C and D each owned an undivided 25% of real estate as Tenants in Common.

In a Quit Claim Deed, on advice of C and D's counsel (whose only stated goal was to "put it in Joint Tenancy to avoid probate,") they all transferred all of their interest to "A,B,C, D and E as JTWFRS."

A and B have now severed the Joint Tenancy.

QUESTION: 1. By virtue of the Quit Claim Deed, have A and B each made gifts to each of C, D and E?

2. Since A and B did not know that they were making gifts and did not intend to do so, is the Quit Claim Deed arguably reformable in order to void the gifts and restore the 25% share to A and B that each held prior to the Quit Claim Deed? *Assume no one will assert that gifts were intended to be made by the Quit Claim Deed and that its only purpose was to "put everything in Joint Tenancy."*

RESPONSE(S): In my opinion no. Each joint owner (whether tenancy in common (tc) or joint with right of survivorship (jt)) has the right to a proportionate share of income. Assuming income or sales proceeds divided proportionately there is no gift. If a death occurred there is potentially an inheritance or FET issue but since the jt arrangement has been severed prior to death there is no donative transfer of corpus.

* * * * *

Curious why a fifth co-owner was added if the only intent was to put it into JT to avoid probate. Lots of consequences to that decision.

On this record, if I was examining the abstract for a buyer, I would assume that a gift was made and that each of the five owned 20%, and I would require a deed from each of the five (and their spouses) for my buyer to have good title. I would believe that E could require 20% of net proceeds to be paid to him/her at closing, and I would believe that E's creditors could access 20% of the value of the property. I would also believe that E could force partition of the property.

So now, before there is a sale pending or partition action or creditor's claim looming, if A and B each expect to own 25% then Quit Claim Deeds should be exchanged between the five co-owners specifying the percentage of everybody's ownership, which parties co-own as TC, and which parties co-own as JT.

* * * * *

From my perspective, the title is clearly now clouded and if not resolved informally and corrected of record, an action will have to be brought to reform the title and/or quiet title. The burden will be on the petitioner to establish that there was no intent to gift. One hopes that people act in good faith and testify honestly, and that the evidence is not conflicting.

* * * * *

I agree there is still clouded title under the facts, unfortunately. I was merely addressing the statements about it being a gift. My faith in humanity has wavered more and more each year I'm in the profession, so like you, I hope they act in good faith and commit to honesty.

88. Iowa Code Chapter 562B FED.

FACTS: I rarely do mobile home evictions. Here is an unfortunate scenario concerning a mobile home park LOT tenant who represented herself at the FED.

Tenant owns the mobile home.

Tenant has a rental agreement for the lot upon which it is situated.

Tenant failed to pay lot rent.

Landlord filed a FED and prevailed.

Order reference the address and Lot number.

Sheriff knocked and told the lot tenant she needed to vacate her mobile home – following directions she left with a suitcase.

All her possessions were emptied and tossed from HER mobile home.

QUESTION:

RESPONSE(S): The mobile home has a title and separate tax obligations. If she was simply evicted from the lot, she still owns the mobile home but she will have to move it to a different location.

* * * * *

But are there any repercussions for the Sheriff evicting her from her mobile home and allowing her belongings to be tossed to the curb?

* * * * *

The manufactured home and personal property can remain on the lot after execution of the writ only if the landlord agrees and makes an election pursuant to Iowa Code Section 648.22A. Outside of landlord making that election, the Sheriff should be requiring the removal of all personal property, including the home, at the time of execution of the writ. Most Sheriffs' offices do not require that, but I do not believe they have a legally justifiable reason for doing so.

* * * * *

It's been many years since I've handled L/T matters so take this for what it's worth, but when I was representing landlords, the Sheriff would routinely place personal property on the curb when enforcing a writ of removal.

* * * * *

Personal property being thrown on the curb is one thing.

Hauling a mobile home out of a mobile home park's lot, I don't know if there is an instruction book on that.

* * * * *

I've never seen that done involuntarily before. Most parks will simply wait until it sat there empty for the requisite number of days and then file an abandonment proceeding so they can become owners of the unit.

* * * * *

Years ago when I did these, we hired a "toter" to move the mobile home to the curb. It might sit for a bit and then we'd pay the toter to move it off the property to an empty lot. Then, proceed with the title issue earlier mentioned. And, if there is a lienholder, the lienholder will usually come in to take over.

* * * * *

Abandoned mobile home instructions: Iowa Code Section 562B.27 - which indicates the abandoned mobile home claim can be joined with a FED.

89. Iowa Code Sections 614.17 or 614.17A.

FACTS: X receives title to blackacre in 1951.

X and wife #1 deed blackacre to A in 1956. Abstract does not contain this information, but I pulled this deed and there is a notation on the deed that says "Documentary Stamps \$3.85 cancelled."

X and wife #2 deed the property to themselves as joint tenants with rights of survivorship in the year 2000. In 2022, X dies and wife #2 executes Affidavit of Surviving Spouse. Wife #2 now desires to sell blackacre to my client.

QUESTION: Does wife #2 have title to convey?

It appears that this would fall under Iowa Code Section 614.17, as the claim of A stems back to 1956, correct? And since wife #2 does not have chain of title since 1980, then I would need A to disclaim their interest or sign a quit claim deed? Does the cancellation of the documentary stamps affect title? (What is interesting is the current code requires the recorder to NOT record a document if transfer taxes have not been paid, but the 1954 Iowa Code - the version in place in 1956 - simply made it mandatory that the recorder record everything they receive!).

RESPONSE(S): Answer is--I think--NO. Wife #2 lacks title. That title lies in A (or his heirs or assigns).

To obtain clear title your client will need conveyance from A (or his heirs or assigns).

How did you find the 1956 deed if the abstract omitted it? Or do you mean only that the abstract omitted reference to the revenue stamps?

Presumably the "stamps cancelled" reference indicates Husband's payment of the real estate transfer tax.

Upon evidence of Recorder's application of tax, the Recorder treated this deed as effective, conveying whatever it purported to convey.

See Iowa Code section 428A.1(1) and *In re Champion's Estate*, 206 Iowa 6, 218 N.W. 37 (1928).

No, the "cancellation" of the stamps does not "affect" title.

Rather, the cancellation affirms official recognition of conveyance by Husband & Wife #1.

Can't find any authority on that point, but I think it was standard practice, in the elder days when tax "stamps" stalked upon deeds.

90. Iowa Code Section 614.17A vs Petition to Quiet Title.

FACTS: This is a question I go back and forth on. Should I accept an affidavit under Iowa Code Section 614.17A or require a Petition to Quiet Title?

I prepared a title opinion on behalf a bank.

Borrower took title from a railroad in 2021.

Abstract shows portions of the property was deeded away to two separate entities (Entity A and Entity B) in the 1950s. There is no showing in the abstract showing that neither Entity A nor Entity B conveyed their interest in the property in a subsequent conveyance

There a no showing how the railroad claimed title to the property.

QUESTION: I objected that I required a showing of the chain of title from Entity A and Entity B to the railroad or a Petition to Quiet Title. Counsel for the Borrower pushed back relying on Iowa Code Section 614.17A.

I'm inclined to require a Petition to Quiet Title.

RESPONSE(S): I am typically one to rely heavily on Iowa Code Section 614.17A and utilize an Affidavit of Possession when possible; however, in your case, I do not believe the facts you put forth below support the use of an Affidavit of Possession.

Most significantly, Iowa Code Section 614.17A(1)(c) provides, "The holder of the record title to the real estate in possession [borrower] and the holder's immediate or remote grantors [the railroad] are shown by the record to have held chain of title to the real estate for more than ten years."

You provided below that borrower was conveyed title from the railroad in 2021, but the record does not reveal how the railroad took title to the property. Application of these facts to the above code section show that the code section cannot apply in this situation as the record does not establish the chain of title for more than ten years.

I completely support your requirement of a showing of the chain of title from Entity A and Entity B to the railroad or a Petition to Quiet Title.

That is my take on what you presented, but I am interested in other opinions as well.

* * * * *

I would also see if you can track down how the railroad took an interest in the property. Perhaps it is an easement interest, and you could then explore options under Iowa Code sections 327G.76 and 327G.77.

* * * * *

Does the abstract show a deed for the entirety of the subject property to the railroad that was recorded more than 10 years ago? If so, you can rely on Iowa Code Section 614.17A. If not, your objection is valid.

* * * * *

Quiet title; unless you can show that the railroad held good title.
(Did the RR in fact own the land? Or merely hold an easement??)
I guess that your abstract was newly-generated.
New abstracts tend to show only 40 years of title matters preceding certification.
So the RR would appear as the only "owner".

Maybe a talk with your county abstracter would be in order.
See if they can find the original conveyance to the railroad.
If RR took actual ownership in 1881 or sometime then you're good.
But 19th century RRs had multiple methods of getting Right of Way.
Many methods produced not actual ownership but only easements.
For which see Iowa Code Chapter 327G.

91. Joint Tenancy After Life Estate Deed.

FACTS: H&W take title as Joint Tenants With Full Rights of Survivorship and Not as Tenants in Common in 1974 -- my question is solely focused on their ownership and not the remainder owners created in the next sentence.

In June 2015 H&W execute a Warranty Deed to their two children as tenants in common reserving a life estate in grantors. The grantors' marital status is listed, but the word "joint" or "survivor" are not shown on the deed.

H dies in April 2024. I am reading the abstract for W, who plans to refinance the property.

QUESTION: Iowa Code Section 557.15 was amended effective January 1, 2015. Does that statute preserve the joint tenancy of H&W or did the life estate deed break the joint tenancy?

W is prepared to sign an affidavit that she did not think H and she were changing their ownership as joint tenants in 2015. Would such an affidavit satisfy the Johnson intent standard if Iowa Code Section 557.15 does not help?

RESPONSE(S): Once H&W conveyed the fee to their two children, subject to their joint life estates, the original joint tenancy was severed, and only the life estates remained in H & W. When H died, W then had a life estate in the entire property, but no larger interest. The two children hold the vested remainders as Tenants in Common and will have the fee title when W dies.

* * * * *

You use the phrase, "subject to their joint life estates," which is the point of my question. Since grantors owned the real estate as joint tenants prior to the 2015 deed, your position holds that the joint tenancy for H&W continued in the life estates even though their joint tenancy is not stated in the deed. When I draft similar deeds, I expressly state that grantors' ownership of the retained life estate will be as joint tenants with right of survivorship.

You also use the phrase, "the original joint tenancy was severed," by the conveyance to the remainders. If the original joint tenancy was severed by the 2015 conveyance, one could argue that H&W then owned the respective life estates as tenants in common. Ergo, the two remainders would now own the fee to H's undivided one half interest subject to the on-going possession of the surviving life tenant, W (this is homestead property).

Perhaps, I am just second guessing this situation because the life estate deed was drafted differently than my standard language for similar situations.

* * * * *

As I understand this, when the deed was issued the joint tenancy in the fee title terminated as well as the joint tenancy being severed.

However, each grantee reserved a life estate. When H died, only H's life estate was terminated. W's life estate continues for the whole property. There is no need for a joint tenancy continuing as to life estates. The only possible exception would be a specific provision stating that the deed only preserves only a half interest in the whole property as to each life estate for each of the grantors. That would be unusual.

* * * * *

If they signed a deed, isn't her interest merely the life estate and not an ownership at all?

* * * * *

A "life estate" can't be held as a joint tenancy, upon death of a life tenant there is no interest for another life tenant to possess that has nexus in the deceased. Joint Tenants refer to fee, Life Estate is a possessory interest, not a fee interest.

The kids own the property, they can deed it back if mom wants to refinance.

* * * * *

Is the termination of Life Estate the taxable event or is the Warranty Deed that reserves a Life Estate? Is the termination of Life Estate another taxable event inasmuch as fee absent the Life Estate possessory interest has more value. Reconveyance also would implicate tax issues.

92. Looking For a Form – Transfer of Property After 5 Years.

FACTS: Looking for a form to transfer title to property that was titled as tenants in common between spouses. Wife died more than 5 years ago. There was no probate of her estate. Seeking to transfer title to the husband.

QUESTION:

RESPONSE(S): Iowa Land Title Standard 9.8 Affidavit.

* * * * *

Here is a form you can use.

[See Attachment]

Space above for recording data

Prepared By: Timothy L. Gartin, Att'y at Law, 409 Duff, Ames, IA 50010 515-232-2501

Return Document To:

**Affidavit Pursuant to Iowa Land Title Standard 9.8 in re
Real Estate Located in <> County, Iowa
Described as Follows:**

<>.

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 <> of <> and am familiar with his/her/their affairs.
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. <> died <> in <> County, <>.
4. The Estate of <> has not been administered upon.
5. When <> died, he/she was survived by his/her <>, <> and the following children:
<>.
6. As to liability for Iowa inheritance taxes and federal estate taxes for <>:
 - a. <> A clearance of inheritance tax pursuant to Iowa Code section 450.22 is not necessary because the property passed to his surviving spouse;
 - b. The assets of <> were under \$<>, and thus it was unnecessary to file a federal estate tax return.

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

93. Mobile Home.

FACTS: A buys mobile home from Z, who held title alone. Z's husband (not on title) signed an installment contract a few years back with T, who is currently living in the mobile home for the purchase of the mobile home. Z's husband is MIA. This installment contract isn't your standard ISBA form but does have a clause that says buyer forfeits the mobile home and any money paid towards the contract if she misses a payment. T has not made payments per the contract for about 7 months.

QUESTION: What is A's recommended course of action to remove T from the mobile home?

RESPONSE(S):

94. No Trustee Warranty Deed.

FACTS: A client seeks assistance with a platting opinion. I reviewed title and discovered that the client took title to the property by Warranty Deed early last year. The Seller was an Inter Vivos Trust, but no Trustee Affidavit pursuant to Iowa Code Section 614.14(2), Purchaser's Affidavit, or Trustee Warranty Deed was obtained. Seller's counsel says they have no way to reach the Seller.

QUESTION: Apart from working to contact the Seller, what would you propose would be necessary to resolve this mark on title?

RESPONSE(S):

95. Remainderman Predeceases Life Tenant.

FACTS: 2010 - Owner, a single person, executes Quit Claim Deed retaining life estate and naming remaindermen A and B as tenants in common.

2023 - Remainderman A dies, survived by spouse and issue.

2024 - Owner dies.

The property is to be sold.

QUESTION: Who must sign the deed to convey the interest of Remainderman A? Is A's Will relevant?

RESPONSE(S): My comments on title are inserted in highlight below.

What I would do is approach A's spouse and ask if an estate is contemplated. If so, the estate can (if necessary, by probate court order) sell the estate's half interest to a bona fide purchaser for value (BFPFV).

But, let's say that A's widow(er) is not on board or is just not cooperative. Unless you want to open an estate for A, I would consider having B sue A's estate for partition of the property, which you can do by naming as defendants [A's surviving spouse], [each of A's known or easily ascertainable (e.g., as indicated in the obituary) issue] and "all persons with an interest in the estate of [A], who died a resident of [county] County on [date of death]." I would ask that your real estate broker be appointed the receiver, and the fee will be the normal real estate commission. When the property is sold, after notice to all persons with an interest in A's estate who appeared, get an order either interpleading them to determine who gets the money, or if they show no signs of life, just an order transferring A's share to the Iowa Treasurer's unclaimed property fund.

In regards to partition, you might want to read this.

A Completely New Partition Law is Coming to Iowa July 1

An entirely renovated Iowa partition law will go into effect on July 1, 2018.

On April 11, 2018, Governor Reynolds signed SF 2175 into law. This new law reorganizes and replaces the current Iowa Code chapter 651 and integrates many provisions from the Iowa Rules of Civil Procedure (Division XII), which currently govern partition actions in Iowa. Notably, SF 2175 creates a new

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2010 - Owner, a single person, executes Quit Claim Deed retaining life estate and naming remaindermen A and B as tenants in common.

2023 - Remainderman A dies, survived by spouse and issue. Now the property is owned by O for life, with remainder to whoever is entitled to inherit from A, and B, as tenants in common.

2024 - Owner dies. So now, the property is owned by the estate of A, and B as tenants in common. But until 2029, A's former interest in the property is subject to the claims of creditors, and an estate would generally be required to convey.

The property is to be sold. Who must sign the deed to convey the interest of Remainderman A? Is A's Will relevant? Definitely. But it must first be probated to establish that it is the proper distribution of A's interest.