

# TITLE INSURANCE

**ISSUE** - Recent legislative proposals would remove current statutory language (Iowa 515.48(10)) that prohibits insurance companies doing business in Iowa from offering title insurance policies for sale.

**ISBA POSITION** - The Iowa State Bar Association strongly opposes the legalization of title insurance in Iowa. The ISBA supports the Iowa Title Guaranty program operated under the Iowa Finance Authority.

**BACKGROUND** - Iowa currently has the premiere land title transfer system in the United States. It is the envy of the rest of the country. Our system of land title transfer provides that titles in Iowa are very stable. Being the only State in the nation which prohibits the sale of title insurance is not a negative, it is a positive.

Title insurance is not needed in most real estate transactions in the State of Iowa. It is only needed when a mortgage lender decides to sell the buyer's mortgage on the secondary market. Many, if not the majority, of Iowa real estate transactions have no need whatsoever for title insurance. When the mortgage is not being sold in the secondary market title insurance is an unnecessary expense.

In situations where mortgages are sold on the secondary market, Iowa has established a State program which provides the advantages of title insurance with none of the disadvantages. The Iowa Title Guaranty Program is of tremendous benefit to the State of Iowa and to persons purchasing property in the State. Since its inception, Iowa Title Guaranty has transferred over \$52.5 million to the Iowa Finance Authority Housing Program Fund. 100 percent of Title Guaranty premiums stay in the State of Iowa and do not go to out of state insurance corporations. These revenues are used to fund additional real estate transaction and to fund homebuyer programs. Iowa Title Guaranty is fully accepted on the secondary market.

Coverage provided by an Iowa Title Guaranty certificate is the same as that provided by American Land Title Association policies, which are those commonly used by title insurance companies. The Iowa State Bar Association and its Real Estate and Title Law Section will continue to work closely with Iowa Title Guaranty to assure that their product is competitive in the market and provides the protection required by the secondary market.

Generally, title insurance is more expensive than Iowa Title Guaranty. Iowa Title Guaranty premiums just \$110 for the first \$500,000 and an additional \$1 per thousand over \$500,000. Title insurance premiums typically are three to five times greater. Furthermore, legalization of title insurance does not provide consumers more choice. Typically, consumers are told that they have to purchase a title insurance policy, and told which company to use to obtain the policy as well as coverage is required by their lender.

Title insurance insures for risk of defects in title which are not of record. Because of Iowa's existing system of maintaining public records and the 40-year marketable title act enacted by the Iowa Legislature, defects in title are very rare. The Iowa Supreme Court has characterized title insurance as an "invidious form of business." See *Chicago Title v. Huff*, 256 NW 2nd 17 (Iowa 1977). This is because in most instances, title insurance companies incur a zero loss ratio for their products in the State of Iowa. In other words, they collect millions of dollars in premiums yet pay out virtually nothing in losses. Why should Iowa consumers send their money to big out of state corporations, when they can obtain necessary title coverage in Iowa, and have their customers' premiums reinvested in the Iowa housing market through IFA programs.

The wisdom of the Iowa Supreme Court expressed in *Chicago Title* over 37 years ago is evidenced by the statistics of the history of Iowa Title Guaranty claims. See the attached chart. Since 1994 there have been 927,619 title certificates issued. In the 20 years of issuing certificates there have been only 636 claims and more remarkably only 64 claims paid. Almost a zero loss ratio on nearly one million title certificates.

Last updated 9-15-2014

## Additional Resources

[Iowa Title Guaranty Claims History](#)