

**265—9.1 (16) Definitions.** The following words and phrases, when used in this chapter, shall have the meanings set forth below unless a meaning is inconsistent with the manifest intent or the context of a particular rule:

*“Abstract of title”* or *“abstract,”* for the purposes of the title guaranty program, means a written or electronic summary of all matters of record including, but not limited to, grants, conveyances, easements, encumbrances, wills, and judicial proceedings affecting title to a specific parcel of real estate, together with a statement including, but not limited to, all liens, judgments, taxes and special assessments affecting the property and a certification by a participating abstractor that the summary is complete and accurate; provided, however, that for purposes of issuance of a title guaranty certificate covering nonpurchase financing, and for only such purposes, the “abstract of title” or “abstract” may also mean a title guaranty report of title.

*“Authority”* means the Iowa finance authority described in Iowa Code chapter 16.

*“Certificate”* means the division certificate to guarantee title, including any part or schedule thereof and any endorsements thereto.

*“Closing protection letter”* means an agreement by the division to indemnify a lender or owner or both for loss caused by a division closer’s theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the division closer.

*“Commitment”* means the division commitment to guarantee title, including any part or schedule thereof and any endorsements thereto.

*“Division”* means the title guaranty division of the Iowa finance authority.

*“Division board”* means the board of the title guaranty division created pursuant to Iowa Code section 16.2A(1).

*“Division closer”* means a participating attorney, a participating abstractor, or an independent closer who is authorized by the division to conduct a division closing under the protection of a closing protection letter.

*“Division closing”* means a settlement in which a division closer is appointed to finalize a real estate transaction in accordance with general and specific instructions prior to disbursement of the proceeds and for which a closing protection letter is issued.

*“Division escrow account”* means, in conjunction with division closings, escrows, settlements, and title indemnities, any checking account utilized for the purpose of:

1. Deposits, including, but not limited to, the acceptance of incoming funds from the lender or borrower or both; and
2. Disbursements, including, but not limited to, sellers’ proceeds, mortgage payoffs, expenses of sale, and professional fees.

However, “division escrow account” shall not include client trust accounts subject to the requirements of chapter 45 of the Iowa Court Rules.

*“Electronic record,”* for the purposes of the title guaranty program, means a record created, generated, sent, communicated, received, or stored by electronic means that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

“*Field issuer*” means a participating attorney, a participating abstractor, or an independent closer authorized by the division to issue commitments and certificates.

“*Form*” or “*forms*” means printed instruments used in guaranteeing title to Iowa real estate that, when completed and executed, create contractual obligations or rights affecting the division.

“*Grandfathered attorney*” means a participating attorney who has been providing abstract services continuously from November 12, 1986, to the date of application to be a participating abstractor, either personally or through persons under the participating attorney’s supervision and control, who is exempt from the requirement to own or lease a title plant.

“*Independent closer*” means a person or entity, other than a participating attorney or a participating abstractor, conducting a division closing and authorized to close a transaction under protection of a closing protection letter.

“*Manual*” means a title guaranty reference book approved by the division board containing division certificate forms and certain Iowa statutory requirements.

“*Nonpurchase financing*,” for the purposes of the title guaranty program, means a refinanced or junior mortgage securing an amount fixed by the division board and included in the manual.

“*Participant*” means a participating attorney or a participating abstractor.

“*Participating abstractor*” means an abstractor who is authorized to participate in the title guaranty program and who is in full compliance with the abstractor’s participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division.

“*Participating attorney*” means an attorney who is authorized to participate in the title guaranty program, who is in full compliance with the attorney’s participation agreement, the Code of Iowa, these rules, the manual, staff supplements, and any other written or oral instructions or requirements given by the division, and who is not subject to current disciplinary proceedings by the Iowa supreme court that preclude the attorney from practicing law in this state.

“*Person*” shall have the same meaning as in Iowa Code section 4.1(20).

“*Residential property*,” for the purposes of the title guaranty program, means residential real estate consisting of single-family housing or multifamily housing of no more than four units.

“*Supervision and control*,” for the purposes of the title guaranty program, means that a participant’s or independent closer’s shareholders, partners, associates, secretaries, paralegals, and other persons under the participant’s or independent closer’s supervision or control who transact the business of abstracting, which includes but is not limited to any manner of title search or review, opining on titles to real estate, or issuing commitments or certificates at the direction of or in the name of the participant or independent closer, shall comply with the requirements of the contracts, forms, the manual, staff supplements, and any other written or oral instructions or requirements given by the division. A participant or independent closer shall be liable to the division for loss or damage suffered by the division resulting from acts or omissions of the participant’s or independent closer’s shareholders, partners, associates, secretaries, paralegals, and other persons under the participant’s or independent closer’s supervision or control who transact the business of abstracting, which includes but is not limited to any manner of title search or review, opining on titles to real estate, or issuing commitments

or certificates at the direction of or in the name of the participant or independent closer as an agent of the division as though the act or omission were that of the participant or independent closer.

*“Title guaranty report of title,”* for the purpose of nonpurchase financing, means a written or electronic short form of the abstract of title covering the borrower’s title, liens, and encumbrances. The division board shall approve requirements and procedures for the title guaranty report of title in the manual.

*“Title search(es)”* or *“search(es),”* for the purposes of the title guaranty program, means the abstract of title.

[ARC 8458B, IAB 1/13/10, effective 2/17/10]