

FINAL REPORT
MODERNIZATION OF IOWA PLATTING STATUTES STUDY COMMITTEE

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Availability of Minutes

Copies of the minutes of the meeting of the Study Committee are available from the Legislative Service Bureau.

F I N A L R E P O R T

MODERNIZATION OF IOWA PLATTING STATUTES STUDY COMMITTEE

January, 1989

AUTHORIZATION AND APPOINTMENT

The Modernization of Iowa Platting Statutes Study Committee was established by the Legislative Council to "[r]eview Chapter 355 of the Iowa Code and examine the practice of land surveying and the preparation, recording, and vacating of plats, and recommend changes, if necessary." The following members were appointed:

Senator C. Joseph Coleman, Clare, Co-chairperson
Representative Kay Chapman, Cedar Rapids, Co-chairperson
Senator Donald Doyle, Sioux City
Senator Hurley Hall, Marion
Representative Louis Muhlbauer, Manilla
Representative Bill Royer, Essex

MEETING DAY AND PREPARATORY MEETING

The Interim Study Committee was authorized to hold one meeting which was held Monday, December 19, 1988. On November 10, 1988, an informal meeting was held with Legislative Service Bureau staff in attendance. Representatives from the Iowa State Bar Association, Society of Land Surveyors of Iowa, Iowa State Association of Counties, and other interested persons attended. The meeting was held in order to receive recommendations and proposed bill drafts.

PRESENTATIONS AND TESTIMONY

At the December 19, 1988, meeting the Study Committee received information from Mr. Ray Willis, Deputy Polk County Auditor, representing the Iowa State Association of Counties (ISAC). Prior to the meeting, the ISAC proposed bill draft was distributed to the Committee members. The proposed bill draft recommended repeal of current Iowa Code Chapters 355 and 409, and inserting the new provisions in proposed Code Chapters 114A and 409A, respectively. Mr. Willis directed his presentation to proposed Code Chapter 409A. He outlined for the Committee the proposal's major revisions, which included establishing a covenant of warranty by

the grantor in conveying land that has been subdivided; establishing "acquisition plats" for right-of-way purposes; providing for local government jurisdictions to review subdivision plats within two miles of a city; providing for auditor's plats and enforcement of the platting statutes; and providing for the vacation of official plats.

Mr. Larry Boyer, Chairperson of the Legislative Committee for the Society of Land Surveyors of Iowa, and Dale Wight, Vice Chairperson, Iowa Engineering and Land Survey Examining Board, discussed proposed Code Chapter 114A, the need for its adoption, and the particular need for a statutory mechanism to permanently maintain "corner certificates" to record corners of lots.

Mr. George Madsen, Chairperson, Platting Subcommittee, Iowa State Bar Association, explained the grantor-grantee method imposed by the current Code to determine a parcel's chain of title. He requested the Committee adopt his subcommittee's recommendation of a statutory Parcel Identification Number (PIN) system, and commented on its universal acceptance by experts in the real estate field.

Mr. James Graham, Right-of-Way Administrator, Iowa Department of Transportation, discussed the necessity of plats to simplify conveying of real estate in Iowa.

Mr. Doug Boothroy, League of Iowa Municipalities, discussed his Association's recommended modification to the ISAC proposed bill draft.

Mr. Jay D. Stewart, President-Elect, Iowa Land Title Association, indicated to the Committee the benefits of the ISAC proposal, and recommended its adoption.

COMMITTEE RECOMMENDATIONS

The Study Committee made the following recommendations based upon consideration of the testimony presented and Committee discussion:

1. That the proposed bill draft revising Code Chapters 355 and 409, together with the comments and objections of the various interested persons, be forwarded to the President of the Senate and Speaker of the House of Representatives for appropriate committee assignment.
2. That any suggested changes to the proposed bill draft by persons presenting testimony to the Study Committee, if completed

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prior to commencement of the Legislative Session, be made part of the appendix to the Study Committee's Final Report.

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A P P E N D I X

- Proposed bill draft presented to the Study Committee
- Written Testimony of Iowa Land Title Association
- Written Testimony of Mr. Douglas Boothroy
(on behalf of the League of Iowa Municipalities)
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THANE R. JOHNSON
JOHN C. POLLAK



LEGISLATIVE SERVICE BUREAU

STATE CAPITOL BUILDING
DES MOINES, IOWA 50319
515 281-3566
DONOVAN PEETERS, DIRECTOR
DIANE E. BOLENDER, DEPUTY DIRECTOR

ADMINISTRATIVE CODE DIVISION

LUCAS BUILDING 515 281-5285
PHYLLIS V. BARRY
ADMINISTRATIVE CODE EDITOR

PUBLIC INFORMATION OFFICE

GERALDINE FRIOLINGTON
KENT A. PETERSON
PUBLIC INFORMATION OFFICERS

IOWA CODE DIVISION

LUCAS BUILDING 515 281-5285
JOANN G. BROWN
IOWA CODE EDITOR

January 18, 1989

MEMORANDUM

TO: CO-CHAIRPERSONS AND MEMBERS OF THE MODERNIZATION OF IOWA
PLATTING STATUTES STUDY COMMITTEE

FROM: C.J. May, III, Legal Counsel

RE: Proposed Bill Draft for Appendix to Final Report

Please find attached as part of the appendix to the final report of the Modernization of Iowa Plating Statutes Study Committee, a proposed bill draft that was developed by interested parties. The authors of the proposed bill draft revising Code Chapters 355 and 409 have amended the original proposals. Underlining indicates new material added to the original proposals; strike-through type indicates deleted material. The underlinings and strike-throughs are of earlier proposed language and are not amendments to current law.

SENATE/HOUSE FILE _____
(Submitted to the Modernization
of Iowa Platting Statutes Study
Committee by the Iowa State
Association of Counties, the
Society of Land Surveyors of
Iowa, and other interested
persons.)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the survey of land including the practice of
2 land surveying and the preparation, recording, and vacation of
3 plats, and subjecting violators to civil penalties.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Sec. 1. NEW SECTION. 114A.1 DEFINITIONS.

2 As used in this chapter unless the context otherwise
3 requires:

4 1. "Corner" means a point at which two ~~of~~ or more lines meet.

5 2. "Division" means dividing a tract or parcel of land into
6 two parcels of land by conveyance or for tax purposes.

7 The conveyance of an easement, other than a public highway
8 easement, shall not be considered a division for the purpose of
9 this chapter.

10 3. "Government lot" means a tract, ~~which-may-be-numbered,~~
11 ~~within a section, of-land which does-not-conform-to-an-aliquot~~
12 ~~part,~~ is normally described by a lot number as shown
13 represented and identified on the township plat of the United
14 States public land survey system.

15 4. "Land surveying" means surveying of land pursuant to
16 chapter 114.

17 5. "Lot" means a tract of land, generally a subdivision of
18 a city or town block, represented and identified by as a lot
19 on a recorded plat.

20 6. "Meander line" means a traverse ~~of~~ approximately along
21 the margin of a body of water. A meander line provides data
22 for computing areas and approximately locates the margin of
23 the body of water. and A meander line does not ordinarily
24 determine or fix boundaries.

25 7. "Monument" means a physical structure which marks the
26 location of a corner or other survey point.

27 8. "Offset line" means a supplementary traverse close to
28 and approximately parallel with an irregular boundary line.
29 An offset line provides data for computing areas and locates
30 salient points on the irregular boundary line by measured
31 distances referenced to the offset line.

32 9. "Plat of survey" means a graphical representation of a
33 survey of one or more parcels of land, ~~prepared-by-a-registered~~
34 ~~land-surveyor~~ including a complete and accurate description of
35 each parcel within the plat, prepared by a registered land

1 surveyor.

2 10. "Subdivision" means ~~a-dividing-of~~ a tract of land
3 divided into three or more ~~parceels-of-land~~ lots.

4 11. "Subdivision plat" means a graphical representation of
5 the subdivision of land, prepared by a registered land surveyor,
6 having a number or letter designation for each lot within the
7 plat and a succinct name or title that is unique for the
8 county where the land is located.

9 12. "Surveyor" means a registered land surveyor who engages
10 in the practice of land surveying pursuant to chapter 114.

11 Sec. 2. NEW SECTION. 114A.2 APPLICABILITY.

12 This chapter applies to all agencies of the United States
13 government, this state, or a political subdivision of this
14 state and to all persons engaged in the practice of land
15 surveying.

16 Sec. 3. NEW SECTION. 114A.3 RULES.

17 Pursuant to chapter 114, the engineering and land surveying
18 examining board may make rules consistent with the rules
19 prescribed by the Acts of Congress and the Instructions of the
20 United States Secretary of the Interior.

21 Sec. 4. NEW SECTION. 114A.4 BOUNDARY LOCATION.

22 The surveyor shall acquire data necessary to retrace record
23 title boundaries, center lines, and other boundary line
24 locations in accordance with the legal descriptions including
25 applicable provisions of chapter 650. The surveyor shall
26 analyze the data and make a careful determination of the
27 position of the boundaries of the parcel or tract of land
28 being surveyed. The surveyor shall make a field survey,
29 locating and connecting monuments necessary for location of
30 the parcel or tract and coordinate the facts of the survey
31 with the analysis and legal description. The surveyor shall
32 place monuments marking the corners of the parcel or tract
33 unless monuments already exist ~~as~~ at the corners.

34 Sec. 5. NEW SECTION. 114A.5 MEASUREMENTS.

35 1. Measurements shall be made with instruments and methods

1 capable of attaining the required accuracy for the particular
2 problem involved.

3 2. Measurements as placed on plats shall be in conformance
4 with the capabilities of the instruments used.

5 3. In a closed traverse the sum of the measured angles
6 shall agree with the theoretical sum by a difference not
7 greater than thirty seconds times the square root of the
8 number of angles.

9 4. Distances shall be shown in decimal feet in accordance
10 with the definition of the international foot. Distance
11 measurements shall refer to the horizontal plane.

12 Sec. 6. NEW SECTION. 114A.6 MONUMENTATION.

13 1. The surveyor shall confirm the prior establishment of
14 control monuments at each controlling corner on the boundaries
15 of the parcel or tract of land being surveyed. If no control
16 monuments exist, the surveyor shall place the monuments.
17 Control monuments shall be constructed of reasonably permanent
18 material solidly embedded in the ground and capable of being
19 detected by commonly used magnetic or electronic equipment.
20 The surveyor shall affix a cap of reasonably inert material
21 bearing an embossed or stencil cut marking of the Iowa
22 registration number of the surveyor to the top of each
23 monument which the surveyor places.

24 2. Control monuments shall be placed at ~~all~~-of the
25 following locations:

26 a. ~~At-each~~ Each corner and angle point of each lot, block
27 or parcel of land surveyed.

28 b. ~~A-each~~ Each point of intersection of the outer boundary
29 of the survey with an existing or created right-of-way line of
30 a street, railroad or other way.

31 c. ~~At-each~~ Each point of curve, tangency, reversed curve,
32 or compounded curve on each right-of-way line established.

33 3. If the placement of a monument required by this chapter
34 at the prescribed location is impractical, a reference
35 monument shall be established near the prescribed location.

1 If a point requiring monumentation has been previously
2 monumented, the existence of the monument shall be confirmed
3 by the surveyor.

4 4. Only a minimum number of survey control monuments are
5 required to be placed before the recording of a subdivision if
6 provided the surveyor includes in the surveyor's statement a
7 declaration that ~~the~~ additional monuments shall be placed
8 before a date specified in the statement or within one year
9 from the date the subdivision is recorded, whichever ~~date~~ is
10 earlier.

11 Sec. 7. NEW SECTION. 114.A 7 PLATS OF SURVEY.

12 A plat of survey shall be made, showing information
13 developed by the survey, for each land survey performed for
14 the purpose of correcting boundaries, correcting descriptions
15 of surveyed land, or for the division of land. Each plat of
16 survey shall conform to the following provisions:

17 1. The original plat drawing shall remain the property of
18 the surveyor.

19 2. The size of each plat sheet shall not be less than
20 eight and one-half inches by eleven inches.

21 3. The scale of the plat drawing shall be clearly stated
22 and graphically illustrated by a bar scale on every plat
23 sheet.

24 4. An arrow indicating the northern direction shall be
25 shown on each plat sheet.

26 5. The plat shall show that the survey is tied to a
27 physically monumented land line which is identified by two
28 United States public land survey system corners, or by two
29 physically monumented corners of a recorded subdivision.

30 6. The plat shall show the lengths and bearings of the
31 boundaries of the parcels surveyed. The course of each
32 boundary line shown on the plat may be indicated by a direct
33 bearing reference or by an angle between the boundary line and
34 an intersecting line having a shown bearing, except when the
35 boundary line has an irregular or constantly changing course,

1 as along a body of water, or when a description of the
2 boundary line is better achieved by measurements shown at
3 points or intervals along a meander line or an offset line
4 having a shown course. The bearings shall be referenced to a
5 United States public land survey system land line, or recorded
6 subdivision line. If the boundary lines show bearings, lengths,
7 or locations which vary from those recorded in deeds, abutting
8 plats, or other instruments of record, the following note
9 shall be placed along the lines, "recorded as (show recorded
10 bearing, length, or location)". Bearings and angles shown
12 shall be given to at least the nearest minute of arc.

13 7. The plat shall show and identify all monuments
14 necessary for the location of the parcel and shall indicate
15 whether the monuments were found or placed.

16 8. If United States public land survey system corners
17 control the land description, the corners shall be clearly
18 identified on the plat including a description of the
19 monumentation and shall indicate whether the monuments were
20 found or placed.

21 9. Control monuments shall be adequately described and
22 clearly identified on the plat and noted as found or placed.
23 If additional monuments are to be placed subsequent to the
24 recording of a subdivision as provided in section 114A.6, the
25 location of the additional monuments shall be shown on the
26 plat.

27 10. Distance shall be shown in decimal feet ~~or meters~~ in
28 accordance with the definition of the international foot ~~or~~
29 meter. Distance measurements shall refer to the horizontal
30 plane.

31 11. Curve data shall be stated in terms of radius, central
32 angle, and length of curve, and as otherwise specified by
33 local ordinance. In all cases, the curve data must be shown
33 for the line affected.

34 12. The unadjusted error of closure shall not be greater
35 than one in five thousand for an individual parcel.

1 13. If any part of the surveyed land is bounded by an
2 irregular line, that part shall be enclosed by a meander line
3 or an offset line showing complete data with distances along
4 all lines extending beyond the enclosure to the irregular
5 boundary, and shown with as much certainty as can be determined
6 or as "more or less", ~~of~~ if variable. In all cases, the true
7 boundary shall be clearly indicated on the plat.

8 14. The plat shall be captioned to show the date of the
9 survey, and shall be accompanied by a description of the
10 parcel.

11 15. The plat shall contain a statement by a surveyor that
12 the work was ~~performed~~ done and the plat was prepared by the
13 surveyor or under the surveyor's direct personal supervision,
14 shall be signed and dated by the surveyor, and shall bear the
15 surveyor's Iowa registration number and legible seal.

16 Sec. 8. NEW SECTION. 114A.8 PLATS FOR SUBDIVISIONS.

17 ~~A-plat-of-a-subdivision~~ Subdivision plats offered-for
18 ~~record~~ shall conform to ~~all-of~~ the following provisions
19 where applicable:

20 1. The original plat drawing shall remain the property of
21 the surveyor.

22 2. The size of each plat sheet shall not be less than
23 eight and one-half inches by eleven inches.

24 3. If more than one sheet is used, each sheet shall
25 display both the number of the sheet and the total number of
26 sheets included in the plat, and clearly labeled match lines
27 indicating where the other sheets adjoin. An index
28 shall be provided to show the relationship between the sheets.

29 4. The scale of the plat drawing shall be clearly stated
30 and graphically illustrated by a bar scale on every plat
31 sheet.

32 5. Each subdivision plat shall be designated, by name or
33 as otherwise prescribed, in bold letters inside the margin at
34 the top of each plat sheet.

35 6. An arrow indicating the northern direction shall be

1 shown on each plat sheet.

2 7. The plat shall show that the subdivision is tied to a
3 physically monumented land line which is identified by two
4 United States public land survey systems corners, or by two
5 physically monumented corners of a recorded subdivision.

6 8. The plat shall show the lengths and bearings of the
7 boundaries of the ~~parcels~~ tracts surveyed. The course of each
8 boundary line shown on the plat may be indicated by a direct
9 bearing reference or by an angle between the boundary line
10 and an intersecting line having a shown bearing, except when
11 boundary line has an irregular or constantly changing course,
12 as along a body of water, or when a description of the
13 boundary line is better achieved by measurements shown at
14 points or intervals along a meander line or an offset line
15 having a shown course. The bearing shall be referenced to a
16 United States public land survey system land line, or recorded
17 subdivision line. If the boundary lines show bearings, lengths,
18 or locations which vary from those recorded in deeds, abutting
19 plats, or other instruments of record, the following note
20 shall be placed along the lines, "recorded as (show recorded
21 bearing, length, or location)". Bearings and angles shown
22 shall be given to at least the nearest minute of arc.

23 9. The plat shall show and identify all monuments
24 necessary for the location of the tracts and shall indicate
25 whether the monuments were found or placed.

26 10. If United States public land survey system corners
27 control the land description, the corners shall be clearly
28 identified on the plat including a description of the
29 monumentation and shall indicate whether the monuments were
30 found or placed.

31 11. Control monuments shall be adequately described and
32 clearly identified on the plat and noted as found or placed.
33 ~~if~~ If additional monuments are to be placed subsequent to the
34 recording of a subdivision as provided in section 114A.6, the
35 location of the additional monuments shall be shown on the plat.

1 12. Survey data shall be shown to positively describe the
2 bounds of every lot, block, street, easement, or other areas
3 shown on the plat, and the boundaries of the surveyed lands.

4 13. Distances shall be shown in feet to the nearest one-
5 hundredth of a foot in accordance with the definition of the
6 international foot. ~~Measurements~~ Distance measurements shall
7 refer to the horizontal plane.

8 14. Curve data shall be stated in terms of radius, central
9 angle, and length of curve, ~~and-unless~~ Unless otherwise
10 specified by local ordinance, curve data for streets of uniform
11 width ~~may need only~~ be shown ~~only~~ with reference to the center
12 line, and lots fronting on the such curves ~~may need only~~ show
13 ~~only~~ the chord bearing and distance of the part of the curve
14 ~~as-is~~ included in ~~their~~ the lot boundary. ~~In-all-other-cases~~
15 Otherwise, the curve data ~~must~~ shall be shown for the line
16 affected.

17 15. The unadjusted error of closure ~~for-subdivision~~
18 ~~boundaries~~ shall not be greater than one in ten thousand for
19 subdivision boundaries and ~~for-an-individual-lot~~ shall not be
20 greater than one in five thousand for an individual lot.

21 16. If ~~any~~ part of the surveyed land is bounded by an
22 irregular line, that part shall be enclosed by a meander line
23 or an offset line showing complete data with distances along
24 all lines extending beyond the enclosure to the irregular
25 boundary, and shown with as much certainty as can be
26 determined or as "more or less", if variable. In all cases,
27 the true boundary shall be clearly indicated on the plat.

28 17. Interior excepted parcels, shall be clearly indicated
29 and labeled, "not a part of this survey (or subdivision)".

30 18. Adjoining properties shall be identified, and if the
31 adjoining properties are a part of a recorded subdivision,
32 the name of that subdivision shall be shown. If the survey is
33 a subdivision of a ~~part-of-the-whole~~ portion of a previously
34 recorded subdivision plat, sufficient ties shall be shown to
35 controlling lines appearing on ~~the-earlier~~ such plat to permit

1 a comparison to be made.

2 19. The purpose of any easement shown on the plat shall be
3 clearly stated.

4 ~~20. A strip of land shall not be reserved by the~~
5 ~~subdivider unless the land is of sufficient size and shape to~~
6 ~~be of practical use or service as determined by the governing~~
7 ~~body.~~

8 20. The purpose of areas dedicated to the public shall be
9 clearly indicated on the plat.

10 21. The plat shall be accompanied by a description of the
11 land included in the subdivision and shall contain a statement
12 by the surveyor that the work was ~~performed~~ done and the plat
13 was prepared by the surveyor or under the surveyor's direct
14 personal supervision and shall be signed and dated by the
15 surveyor and bear the surveyor's Iowa registration number
16 and legible seal.

17 Sec. 9. NEW SECTION. 114A.9 DESCRIPTIONS.

18 A description defining land boundaries written for
19 conveyance or other purposes shall be complete, providing
20 definite and unequivocal identification of lines or
21 boundaries. The description shall contain dimensions
22 sufficient to enable the description to be platted and
23 retraced. The description shall commence at or relate to a
24 a physically monumented corner and boundary line of record.

25 a. If the land is located in a recorded subdivision, the
26 description shall contain the number or other description of
27 the lot, block or other part of the subdivision, and shall
28 describe the land by reference to a known corner of the lot,
29 block or other part.

30 b. If the land is not located in a recorded subdivision,
31 the description shall identify the section, township, range
32 and county, and shall describe the land by reference to
33 government lot, by quarter-quarter section, by quarter section,
34 or by metes and bounds commencing with a corner marked and
35 established in the United States public land survey system.

1 Sec. 10. NEW SECTION. 114A.10 RECORD.

2 1. The surveyor shall record a plat and description
3 with the county recorder no later than thirty days after
4 signature on the plat by the surveyor if the survey was made
5 for ~~any~~ one of the following purposes:

6 a. To correct boundaries and descriptions of land.

7 b. For the division of land.

8 2. The plat and description shall show distinctly what
9 piece of land is surveyed, the surveyor, and the date of the
10 survey.

11 3. The thirty-day requirement shall not apply to
12 subdivision plats.

13 Sec. 11. NEW SECTION. 114A.11 UNITED STATES PUBLIC LAND
14 SURVEY CORNER CERTIFICATE.

15 1. A United States public land survey corner certificate
16 shall be prepared as part of any land surveying which includes
17 the use of a United States public land survey system corner,
18 having the status of a corner of a quarter-quarter section or
19 larger aliquot part of a section, if one or more of the
20 following conditions exist:

21 a. There is no certificate for the corner on file with the
22 recorder of the county in which the corner is located.

23 b. The surveyor in responsible charge of the land
24 surveying accepts a corner position which differs from that
25 shown ~~on~~ in the public records of the county in which the
26 corner is located.

27 c. The corner monument is replaced or modified in any way.

28 d. The reference ties referred to in an existing public
29 record are not correct.

30 2. The surveyor shall record the required certificate with
31 the recorder, ~~with~~ and forward a copy to the county engineer,
32 of the county in which the corner is located within thirty days
33 after completion of the surveying. The certificate shall
34 comply with the following requirements:

35 a. The size of the sheet or sheets making up the

1 certificate shall not be less than eight and one-half inches
2 by eleven inches.

3 b. The identity of the corner, with reference to the
4 United States public land survey system, shall be clearly
5 indicated.

6 c. The certificate shall contain a narrative explaining
7 the reason for preparing the certificate, the evidence and
8 detailed procedures used in establishing the corner position,
9 and the monumentation found or placed perpetuating the corner
10 position including reference monumentation.

11 d. The certificate shall contain a plan-view site drawing
12 depicting the relevant monuments, physical surroundings, and
13 reference ties in sufficient detail to enable recovery of the
14 corner.

15 e. The certificate shall contain at least three reference
16 ties, measured to the nearest one-hundredth of a foot from the
17 corner to durable physical objects near the corner, which are
18 located so that the intersection of any two of the ties will
19 yield a strong corner position recovery.

20 f. The certificate shall contain a statement by a the
21 surveyor that the work was ~~performed~~ done and the certificate
22 was prepared by the surveyor or under the surveyor's direct
23 personal supervision and shall be signed and dated by the
24 surveyor and bear the surveyor's Iowa registration number and
25 seal.

26 Sec. 12. NEW SECTION. 114A.12 INDEXING OF SURVEY
27 DOCUMENTS BY RECORDER.

28 The recorder shall index survey documents and United States
29 public land corner certificates by township, range, and
30 section number. If the survey is in a recorded subdivision,
31 the recorder shall also index the document alphabetically by
32 subdivision name.

33 Sec. 13. NEW SECTION. 114A.13 SURVEYS AUTHORIZED BY THE
34 UNITED STATES GOVERNMENT.

35 1. A person employed in the execution of a survey

1 authorized by the United States government may enter upon
2 lands within this state for the purpose of exploring,
3 triangulating, leveling, surveying, and doing any other work
4 necessary to carry out the objects of laws relative to
5 surveys, and may establish permanent station marks, and erect
6 the necessary signals and temporary observatories, doing no
7 unnecessary injury thereby.

8 2. If the parties interested cannot agree upon the amount
9 to be paid for damages caused by entry upon lands pursuant to
10 subsection 1, either of them may petition the district court in
11 the county in which the land is situated and the district court
12 shall appoint a time for a hearing. The district court shall
13 order at least twenty days' notice to be given to all
14 interested parties, and, with or without a view of the premises
15 as the court may determine, hear the parties and their witnesses
16 and assess damages.

17 3. The person entering upon land, pursuant to subsection 1,
18 may tender to the injured party damages caused ~~pursuant to~~
19 ~~subsection 1~~ thereby, and if, in case of petition or complaint
20 to the district court, the damages finally assessed do not exceed
21 the amount tendered, the person entering shall recover costs. ~~In~~
22 ~~other cases~~ Otherwise, the prevailing party shall recover costs.

23 4. The costs to be allowed in cases taken pursuant to this
24 section shall be the same as allowed according to the rules of
25 the court and provisions of law relating to costs.

26 Sec. 14. NEW SECTION. 114A.14 FEDERAL SURVEYS --
27 DEFACEMENT.

28 If a person willfully defaces, injures, or removes a signal,
29 monument, building, or other property of the United States
30 national geodetic survey, or the United States geological survey,
31 constructed or used under ~~ex-by-virtue-of~~ the federal law, the
32 person is subject to a civil penalty not exceeding fifty dollars
33 for each offense, and is liable for damages sustained by the United
34 States in consequence of the defacing, injury, or removal, to be
35 recovered in a civil action in any court of competent jurisdiction.

1 SEC. 15. NEW SECTION. 409A.1 DEFINITIONS.

2 As used by this chapter, unless the context clearly
3 indicates otherwise:

4 1. "Acquisition plat" means the graphical representation
5 of the division of land or rights in land, created as the
6 result of a conveyance or condemnation for right of way
7 purposes by an agency of the government or other persons
8 having the power of eminent domain.

9 2. "Aliquot part" means a fractional part of a section
10 within the United States public land survey system. Only the
11 fractional parts one-half, one-quarter, one-half of one-
12 quarter, or one-quarter of one-quarter shall be considered an
13 aliquot part of a section. ~~A forty-acre aliquot part means~~
14 ~~one-quarter-of-one-quarter-of-a-section.~~

15 3. "Auditor's plat" means a subdivision plat required by
16 either the auditor or the assessor, prepared by a surveyor
17 under the direction of the auditor.

18 4. "Conveyance" means an instrument filed with a recorder
19 as evidence of the transfer of title to land, including any
20 form of deed or contract.

21 5. "Division" means dividing a tract or parcel of land
22 into two parcels of land by conveyance or for tax purposes.
23 The conveyance of an easement, other than a public highway
24 easement, shall not be considered a division for the purpose
25 of this chapter.

26 6. "Forty-acre aliquot part" means one-quarter of
27 one-quarter of a section.

28 7. "Governing body" means a city council or the board of
29 supervisors, within whose jurisdiction the land is located,
30 which has adopted ordinances regulating the division of land.

31 8. "Government lot" means a tract, ~~which may be numbered,~~
32 ~~within a section, of land which does not conform to an aliquot~~
33 ~~part, is normally described by a lot number as shown~~
34 represented and identified on the township plat of the United
35 States public land survey system.

- 1 9. "Lot" means a tract represented and identified by
2 number or letter designation on an official plat.
- 3 10. "Metes and bounds description" means a description of
4 land that uses distances and angles, uses distances and
5 bearings, or describes the boundaries of the parcel by
6 reference to physical features of the land.
- 7 11. "Official plat" means either an auditor's plat or a
8 subdivision plat that meets the requirements of this chapter
9 and has been filed for record in the offices of the recorder,
10 auditor, and assessor.
- 11 12. "Parcel" means a part of a tract of land.
- 12 13. "Permanent real estate index number" means a unique
13 number or combination of numbers assigned to a parcel of land
14 pursuant to section 441.29.
- 15 14. "Plat of Survey" means the graphical representation of
16 a survey of one or more parcels of land ~~prepared-by-a~~
17 ~~registered-land-surveyor~~, including a complete and accurate
18 description of each parcel within the plat, prepared by a
19 registered land surveyor.
- 20 15. "Proprietor" means a person who has ~~an-ownership~~ a
21 recorded interest in land, including a person selling or buying
22 land pursuant to a contract, but excluding persons holding a
23 mortgage, easement, or lien interest.
- 24 16. "Subdivision" means ~~dividing~~ a tract of land divided
25 into three or more ~~parcels-of-land~~ lots.
- 26 17. "Subdivision plat" means the graphical representation
27 of the subdivision of land, prepared by a registered land
28 surveyor, having a number or letter designation for each lot
29 within the plat and a succinct name or title that is unique
30 for the county where the land is located.
- 31 18. "Surveyor" means a registered land surveyor who
32 engages in the practice of land surveying pursuant to chapter
33 114.
- 34 19. "Tract" means an aliquot part of a section, a lot
35 within an official plat, or a government lot.

1 Sec. 16. NEW SECTION. 409A.2 COVENANT OF WARRANTY.

2 The duty to file for record a plat as provided in sections
3 409A.3 and 409A.5 attaches as a covenant of warranty in all
4 conveyances by a grantor who divides land against all
5 assessments, costs, and damages paid, lost, or incurred by a
6 grantee or person claiming under a grantee, in consequence of
7 the omission on the part of the grantor to file the plat. A
8 conveyance of land is deemed to be a warranty that the
9 description contained in the conveyance is sufficiently
10 certain and accurate for the purposes of assessment, taxation,
11 and entry on the transfer books and plat books required to be
12 kept by the auditor. The description contained in a
13 conveyance shall be sufficiently certain and accurate for
14 assessment and taxation purposes if it provides sufficient
15 information to allow all the boundaries to be accurately
16 determined and does not overlap with or create ~~gaps~~ a gap
17 between adjoining ~~lands~~ land descriptions.

18 A recorded conveyance in violation of this chapter shall ~~may~~
19 be entered on the transfer books of the auditor's office. ~~if~~
20 ~~possible, or returned to the recorder with the statement~~
21 ~~Unable to enter upon transfer books or for taxation this ---~~
22 ~~day of ----- My fee \$ ----- collected by~~
23 ~~the recorder, signed by the auditor.~~ The auditor shall
24 notify the grantor and the grantee that the conveyance is in
25 violation of this chapter and demand compliance as provided
26 for in section 409A.12.

27 Sec. 17. NEW SECTION. 409A.3 DIVISIONS REQUIRING A PLAT
28 OF SURVEY OR ACQUISITION PLAT.

29 1. The grantor of land ~~that is~~ which has been divided using
30 a metes and bounds description shall have a plat of survey made
31 of the division, except as provided for in subsection 3. The
32 grantor or the surveyor shall contact the county auditor who,
33 for the purpose of assessment and taxation, shall review the
34 division to determine whether the survey shall include only the
35 parcel being conveyed or both the parcel being conveyed and the

1 remaining parcel. The plat of survey shall be prepared in
2 ~~accordance~~ compliance with chapter 114A and shall be recorded.
3 The plat shall be clearly marked by the surveyor as a plat of
4 survey and shall include the following information for each
5 parcel included in the survey:

- 6 a. A parcel letter designation approved by the auditor.
- 7 b. The names of the proprietors.
- 8 c. An accurate description of each parcel.
- 9 d. The total acreage of each parcel.
- 10 e. The acreage of any portion lying within a public right
11 of way.

12 2. The auditor may ~~require~~ note a permanent real estate
13 index number ~~to-be-shown-for~~ upon each parcel shown on ~~the~~ a
14 recorded plat of survey ~~at-the-time-of-recording~~. The surveyor
15 shall not assign parcel letters or prepare a metes and bounds
16 descriptions for any parcel shown on a plat of survey unless
17 the parcel was surveyed by the surveyor ~~following~~ in compliance
18 with chapter 114A. Parcels within a plat of survey prepared
19 pursuant to this section are subject to ~~all~~ the regulations and
20 ordinances of the governing body.

21 3. When land or rights in land are divided for right of way
22 purposes by an agency of the government or other persons having
23 the power of eminent domain and the description of the land or
24 rights acquired is a metes and bounds description then an
25 acquisition plat shall be made and attached to the description
26 when the acquisition instrument is recorded. Acquisition
27 plats shall be clearly marked as an acquisition plat and shall
28 conform to the following:

- 29 a. Acquisition plats shall not be required to conform to
30 the provisions of chapter 114A.
- 31 b. The information shown on the plat shall be developed
32 from instruments of record together with information developed
33 by field measurements. The unadjusted error of field
34 measurements shall not be greater than one in five thousand.
- 35 c. The plat shall be signed and dated by a surveyor, bear

1 the surveyor's Iowa registration number and legible seal,
2 and shall show a north arrow and bar scale.

3 d. The original drawing shall remain the property of the
4 surveyor or his agency and shall not be less than eight and
5 one-half by eleven inches in size.

6 e. If the right of way on an acquisition plat is a portion
7 of lots within an official plat, reference shall be made to
8 both the lots and plat name. If the right of way acquisition
9 plat is not within an official plat, reference shall be made
10 to the government lot or quarter quarter section and to the
11 section, township, range and county.

12 f. The plat shall indicate whether the monuments shown are
13 existing monuments or monuments to be established. Monuments
14 shall be established as necessary to construct or maintain the
15 right of way project.

16 g. The acquisition plat shall identify the project for
17 which the right of way was acquired and a parcel designation
18 shall be assigned to each right of way parcel.

19 4. The acreage shown for each parcel included in a plat of
20 survey or acquisition plat shall be to the nearest one-
21 hundredth acre. If a parcel described as part of the United
22 States public land survey system and not entirely within an
23 official plat, lies within more than one forty-acre aliquot
24 part of a section, the acreage shall also be shown for each
25 portion of the parcel that lies within each forty-acre aliquot
26 part. The surveyor shall not be required to establish the
27 location of the forty-acre aliquot line by survey but is
28 required to use reasonable assumptions in determining its
29 approximate location for the purpose of this subsection.

30 5. ~~This section applies to all agencies of the federal,~~
31 ~~state, county, and local governments, except that governmental~~
32 Governmental agencies shall not be required to survey any a
33 remaining parcel when land is ~~acquired for public improvements~~
34 ~~by conveyance or through eminent domain~~ divided for right of
35 way purposes and shall not be required to contact the auditor

1 for approval of parcel ~~letters~~ designations shown on an
2 acquisition plat.

3 Sec. 18. NEW SECTION. 409A.4 DESCRIPTIONS AND
4 CONVEYANCE ACCORDING TO PLAT OF SURVEY OR ACQUISITION PLAT.

5 1. A conveyance of a parcel shown on a recorded plat of
6 survey shall describe the parcel by using the description
7 provided on the plat of survey or by reference to the plat of
8 survey, which reference shall include:

9 a. The parcel letter, designation ; and

10 b. ~~the~~ The book and page number of the recorded plat of
11 survey; and

12 c. ~~including-the-lots~~ The lot number or letter and name
13 of the official plat, if the parcel lies within an official
14 plat; and

15 d. ~~or-the~~ The section, township, and range number and
16 reference to the aliquot part of the section, in-which if the
17 parcel lies outside of an official plat.

18 2. A conveyance of a parcel shown on a recorded
19 acquisition plat shall describe the parcel by using the
20 description provided on the acquisition instrument or by
21 reference to the acquisition plat, which reference shall
22 include:

23 a. The parcel designation, and reference to the project
24 for which the right of way was acquired; and

25 b. ~~the~~ The book and page number of the recorded acquisition
26 plat ~~survey-;~~ and

27 c. ~~including-the-lots~~ The lot number or letter and name
28 of the official plat, if the parcel lies within an official
29 plat; and

30 d. ~~or-the~~ The section, township, and range number and
31 reference to the aliquot part of the section, in-which if the
32 parcel lies outside of an official plat.

33 3. A description by reference to ~~parcel-letter-and-the~~
34 ~~book-and-page-number-of~~ the recorded plat of survey, ~~including~~
35 ~~either-the-lots-of-an-official-plat-or-the-section,-township,~~

1 ~~and-ranger~~ in compliance with subsection 1, is valid for-the
2 ~~purpose-of-conveyance~~.

3 4. A description by reference to the-project-for-which-the
4 ~~right-of-way-was-acquired-the-parcel-designation-and-the~~
5 ~~book-and-page-number-of~~ the recorded acquisition plat,
6 ~~including-either-the-lots-of-an-official-plat-or-the-section,~~
7 ~~township-ranger-and-county~~ in compliance with subsection 2,
8 is valid for-the-purpose-of-conveyance.

9 5. A description by reference to a permanent real estate
10 index number is valid for the purpose of assessment and
11 taxation ~~only~~ when a county has established a permanent real
12 estate index number system pursuant to section 441.29.

13 Sec. 19. NEW SECTION. 409A.5 SUBDIVISION PLATS.

14 1. A subdivision plat shall be made when required by
15 ordinance of the governing body or when a tract of land is
16 subdivided by repeated divisions or simultaneous division into
17 three or more parcels, any of which are described by metes and
18 bounds description for which no plat of survey is recorded. A
19 subdivision plat is not required when land is divided by
20 conveyance to a governmental agency for public improvements.

21 2. A subdivision plat shall have a succinct name or title
22 that is unique, as approved by the auditor, for the county in
23 which the plat lies. The plat shall include an accurate
24 description of the land included in the subdivision and shall
25 give reference to two section corners within the United States
26 public land survey system in which the plat lies or, if the
27 plat is a subdivision of any portion of an official plat, two
28 established monuments within the official plat. Each lot
29 within the plat shall be assigned a progressive number. All
30 ~~streets~~ Streets, alleys, parks, open areas, school property,
31 other areas of public use, or areas within the plat that are
32 set aside for future development shall be assigned a progressive
33 letter and shall have the proposed use clearly designated. A
34 strip of land shall not be reserved by the subdivider unless
35 the land is of sufficient size and shape to be of practical

1 use or service as determined by the governing body.
 2 Progressive block numbers or letters may be assigned to groups
 3 of lots separated from other lots by streets or other physical
 4 features of the land. The surveyor shall not assign lot
 5 numbers or letters to a lot shown within a subdivision plat
 6 unless the lot has been surveyed by the surveyor ~~pursuant to~~
 7 in compliance with chapter 114A. The auditor may ~~require note~~
 8 a permanent real estate index number ~~to be shown for~~ upon each
 9 lot within a recorded subdivision plat ~~at the time of recording.~~
 10 Sufficient information, including dimensions and angles or
 11 bearings, shall be shown on the plat to accurately establish
 12 the boundaries of each lot, street, and easement. Easements
 13 necessary for the orderly development of the land within the
 14 plat shall be shown. ~~The~~ and the purpose of any the easement
 15 ~~shown on the plat~~ shall be clearly stated.

16 3. If a subdivision plat, described as part of the United
 17 States public land survey system and not entirely within an
 18 official plat, lies within more than one forty acre aliquot
 19 part of a section, the acreage shall be shown for the portion
 20 of the subdivision that lies within each forty acre aliquot
 21 part of the section. The area of ~~all~~ the irregular lots within
 22 the plat shall be shown and may be expressed in either acres,
 23 to the nearest one-hundredth acre, or square feet, to the
 24 nearest ten square feet. The surveyor shall not be required
 25 to establish the location of a forty-acre aliquot line by
 26 survey but is required to use reasonable assumptions in
 27 determining its approximate location for the purpose of this
 28 subsection.

29 Sec. 20. NEW SECTION. 409A.6 CONVEYANCES ACCORDING BY
 30 REFERENCE TO OFFICIAL PLAT.

31 A description of land by reference to lot number or letter
 32 designation and block, if block designations are shown on the
 33 plat, and the title or name of the official plat, is valid.
 34 ~~for the purpose of conveyance and for the purpose of~~
 35 ~~assessment and taxation.~~

1 Sec. 21. NEW SECTION. 409A.7 REVIEW AND APPROVAL BY
2 GOVERNING BODIES.

3 A proposed subdivision plat, ~~other than an auditor's plat,~~
4 lying within the jurisdiction of a governing body, which has
5 adopted ordinances regulating the division of land, shall be
6 submitted to ~~the~~ that governing body for review and approval
7 prior to recording. A city may establish jurisdiction to
8 review subdivisions outside its boundaries pursuant to the
9 provisions of section 409A.8. ~~The governing~~ Governing bodies
10 ~~shall, within a reasonable time,~~ review the plat within the
11 time and using the standards and conditions established by
12 ordinance for the review and approval of subdivision plats.
13 ~~The governing body~~ Governing bodies shall apply reasonable
14 standards and conditions for the review and approval of
15 subdivisions. The governing body shall determine whether the
16 subdivision conforms to its comprehensive plan and shall give
17 consideration to the possible burden on public improvements
18 and to a balance of interests between the proprietor, future
19 purchasers, and the public interest in the subdivision when
20 reviewing the proposed subdivision and when requiring the
21 installation of public improvements in conjunction with
22 approval of a subdivision.

23 If the subdivision plat conforms to the standards and
24 conditions established by the governing body by ordinance and
25 to this chapter and chapter 114A, the governing body, by
26 resolution, shall approve the plat and certify the resolution
27 which shall be recorded with the plat. The recorder shall
28 refuse to accept a subdivision plat presented for recording
29 without a resolution from each applicable governing body
30 approving the subdivision plat or waiving the right to review.

31 Sec. 22. NEW SECTION. 409A.8 REVIEW OF SUBDIVISION PLATS
32 WITHIN TWO MILES OF A CITY.

33 1. A city, ~~having~~ which has adopted ordinances
34 regulating the division of land, ~~that~~ desires to review
35 subdivisions outside the city's boundaries, then the city

1 shall ~~describe~~ establish, by ordinance specifically referring
2 to the authority of this section, the area subject to the
3 city's review and approval. The area ~~subject-to-the-city's~~
4 of review may be identified by individual tracts, by describing
5 the boundaries of the area, or by including all land within a
6 certain distance of the city's boundaries. ~~The-area-subject~~
7 ~~to-the-city's-review~~ which shall not ~~exceed~~ extend more than
8 two miles distance from the city's boundaries. The ordinance
9 establishing the area of review or ~~changing~~ modifying the area
10 of review by a city, shall be recorded in the office of the
11 recorder and filed with the county auditor.

12 2. If a subdivision lies in a county which has adopted
13 ordinances regulating the division of land also lies within
14 the area of review established by a city pursuant to this
15 section, then the subdivision shall be submitted to both the
16 city and county for approval. The standards and conditions
17 applied by a city for review and approval of the subdivision
18 shall be ~~consistent-with~~ the same standards and conditions used
19 for review and approval of subdivisions within the city limits
20 or shall be the standards and conditions for review and
21 approval established by agreement of the city and county
22 pursuant to chapter 28E. Either the city or county may, by
23 resolution, waive its right to review the subdivision or waive
24 the requirements of any of its standards or conditions for
25 approval of subdivisions, and certify the resolution which
26 shall be recorded with the plat.

27 3. If cities establish overlapping areas of review outside
28 their boundaries, then the cities shall establish by agreement
29 pursuant to chapter 28E reasonable standards and conditions
30 for review of subdivisions within the overlapping area. If no
31 agreement is recorded pursuant to chapter 28E then ~~neither~~ the
32 city which is closest to the boundary of the subdivision shall
33 have review of the subdivision.

34 Sec. 23. NEW SECTION. 409A.9 APPEAL OF REVIEW OR
35 DISAPPROVAL.

1 ~~If, upon~~ When application is made to a governing body for
2 approval of a subdivision plat, ~~an~~ the applicant or a second
3 governing body, which also has jurisdiction for review, is
4 may be aggrieved by:

5 1. ~~the~~ The requirements ~~of~~ imposed by a governing body
6 as a condition of approval; or

7 2. ~~by the length of time taken by a~~ The governing body
8 exceeding the time for review established by ordinance; or

9 3. ~~by~~ The denial of the application.

10 ~~the~~ The applicant or the aggrieved governing body ~~may appeal~~
11 ~~to the district court within twenty days after filing,~~ shall
12 file written notice of intent to appeal with the opposing
13 governing body, written notice of intent to appeal not later
14 than 30 days after the date of the denial of the application
15 or the date of the receipt by the applicant of the aggrieved
16 requirements for approval of the subdivision. The applicant
17 or the aggrieved governing body may appeal to the district
18 court twenty days after the date of the notice of intent to
19 appeal. The appeal shall be tried de novo as an equitable
20 proceeding and accorded a preference in assignment so as to
21 assure its prompt disposition.

22 Sec. 24. NEW SECTION. 409A.10 ATTACHMENTS TO SUBDIVISION
23 PLATS.

24 A subdivision plat, other than an auditor's plat, that is
25 presented to the recorder for recording shall conform to
26 section 409A.5 and shall not be accepted for recording unless
27 accompanied by the following documents:

28 1. A statement by ~~all~~ the proprietors and their spouses, if
29 any, that the plat is prepared with their free consent and in
30 accordance with their desire, signed and acknowledged before
31 an officer authorized to take the acknowledgment of deeds.
32 The statement by the proprietors may also include a dedication
33 to the public of all lands within the plat that are designated
34 for streets, alleys, parks, open areas, school property, or
35 other public use, ~~but only~~ if the dedication is approved

1 by the governing body.

2 2. A statement from ~~all~~ the mortgage holders or lienholders,
3 if any, that the plat is prepared with their free consent and
4 in accordance with their desire, signed and acknowledged
5 before an officer authorized to take the acknowledgment of
6 deeds. An affidavit and bond as provided for in section
7 409A.11, may be recorded in lieu of the consent of the
8 mortgage or lienholder. When a mortgage or lienholder
9 consents to the subdivision, a release of mortgage or lien
10 shall be recorded for any areas conveyed to the governing body
11 or dedicated to the public.

12 3. An opinion by an attorney at law who has ~~reviewed~~ examined
13 the abstract of title of the land being platted. The opinion
14 shall state the names of ~~all~~ the proprietors, and holders of
15 mortgages, liens or other encumbrances on the land being platted
16 and shall note ~~all~~ the encumbrances, along with any bonds
17 securing the encumbrances. Utility easements shall not be
18 construed to be encumbrances for the purpose of this section.

19 4. A certified resolution by each governing body as
20 required by section 409A.7 either approving the subdivision or
21 waiving the right to review.

22 5. A ~~statement-signed-by~~ certificate of the treasurer that
23 the land is free from taxes and special assessments or that
24 the land is free from taxes and that ~~any~~ the special
25 assessments ~~to~~ are secured by bond ~~as-provided-for~~ in
26 compliance with section 409A.11.

27 A subdivision plat which includes no land set apart for
28 streets, alleys, parks, open areas, school property or public
29 use other than utility easements, shall be accompanied by the
30 documents listed in subsections 1, 2, 3 and 4 and a ~~statement~~
31 ~~signed-by~~ certificate of the treasurer that the land is free
32 from taxes other than special assessments.

33 Sec. 25. NEW SECTION. 409A.11 BONDS TO SECURE LIENS.

34 A bond in double the amount of the lien shall be secured
35 and recorded if a lien exists on the land included in a

1 subdivision plat and the required consent of the lienholder is
2 not attached for one of the following reasons:

3 1. The lien holder cannot be found, in which case an
4 affidavit by the proprietor stating that the lien holder could
5 not be found shall be recorded with the bond.

6 2. The lienholder will not accept payment or cannot,
7 because of the nature of the lien, accept payment in full of
8 the lien, in which case an affidavit by the lienholder stating
9 that payment of the lien was offered but refused shall be
10 recorded with the bond.

11 The bond shall run to the county and be for the benefit of
12 purchasers of lots within the plat and shall be conditioned
13 for the payment and cancellation of the debt as soon as
14 practicable and to hold harmless purchasers or their assigns
15 and the governing body from the lien.

16 Sec. 26. NEW SECTION. 409A.12 AUDITOR'S PLATS AND PLATS
17 OF SURVEY.

18 If a tract is divided or subdivided in violation of
19 sections 409A.3 or 409A.5 or the descriptions of one or more
20 parcels within a tract are not sufficiently certain and
21 accurate for the purpose of assessment and taxation under the
22 guidelines of section 409A.2, the auditor shall notify the
23 proprietors of ~~all~~ the parcels within the tract for which no
24 plat has been recorded as required by this chapter, and demand
25 that a plat of survey or a subdivision plat be recorded as
26 required by this chapter. Notice shall be ~~given~~ served by
27 mail and a certified copy of the notice shall be recorded.
28 The auditor shall ~~also~~ mail a copy of the notice to the
29 applicable governing bodies. If the proprietors fail, within
30 thirty days of the notice, to comply with the notice or file
31 with the auditor a statement of intent to comply, the auditor
32 shall contract with a surveyor to have a survey made of the
33 property and have a plat of survey or an auditor's plat
34 recorded as necessary to comply with this chapter. Upon
35 receipt of a statement of intent to comply, the auditor may

1 extend the time period for compliance.

2 Sec. 27. NEW SECTION. 409A.13 APPEAL OF NOTICE.

3 A proprietor aggrieved by a notice to plat by the auditor
4 may appeal to the district court within twenty days after ~~the~~
5 service of notice is given. Upon appeal, the auditor shall
6 take no further action pending a decision of the district
7 court. The appeal shall be tried de novo as an equitable
8 proceeding and accorded a preference in assignment so as to
9 assure its prompt disposition.

10 Sec. 28. NEW SECTION. 409A.14 REVIEW OF AUDITOR'S PLATS.

11 A proposed auditor's plat shall be filed with ~~each~~ the
12 applicable governing body which shall review the plat within a
13 reasonable the time specified by ordinance, and if it conforms
14 to chapter 114A, the governing body shall by resolution approve
15 the plat and certify the resolution to be recorded with the
16 plat. The governing body may state in the resolution whether
17 the lots within the auditor's plat meet the standards and
18 conditions established by ordinance for subdivision lots. The
19 lots within a recorded auditor's plat and parcels within a
20 recorded plat of survey prepared under section 409A.12 are
21 individually subject to ~~all~~ local regulations and ordinances.
22 Approval of an auditor's plat ~~does~~ shall not impose any
23 liability on a governing body to install or maintain public
24 improvements or utilities within the plat. Approval of an
25 auditor's plat by a governing body ~~does~~ shall not constitute
26 a waiver of ~~any~~ ordinances requiring a subdivision plat.

27 Sec. 29. NEW SECTION. 409A.15 ATTACHMENTS TO AUDITOR'S
28 PLATS AND PLATS OF SURVEY.

29 1. A plat of survey prepared pursuant to section 409A.12
30 shall be accompanied by a ~~certified-statement-by~~ certificate
31 of the auditor that the plat of survey was prepared at the
32 direction of the auditor because the proprietors failed to
33 file a plat.

34 2. An auditor's plat shall conform to section 409A.5, but
35 is exempt from section 409A.10. An auditor's plat presented

1 to the recorder for recording shall be accompanied by the
2 following documents:

3 a. A ~~certified-statement-by~~ certificate of the auditor
4 that the auditor's plat was prepared at the direction of the
5 auditor because the proprietors failed to file a plat, that
6 the plat was prepared for assessment and taxation purposes,
7 and that the recording of the plat does not constitute a
8 dedication or impose any liability upon the state or any
9 governmental agency.

10 b. A certified resolution by ~~any-affected~~ the governing
11 body, approving the plat or waiving the right to review.

12 c. A list for each lot within the plat of the proprietor's
13 names, the area, expressed in acreage or square feet, the book
14 and page number of the recorded conveyance to the proprietors
15 and the permanent real estate index number, where established.

16 d. A ~~certified-statement-by~~ certificate of the auditor
17 that no search was made at the time of the recording of the
18 plat to determine the existence of any liens, mortgages,
19 delinquent taxes, or special assessments, that no search was
20 made, other than the records of the auditor's office, to
21 establish title to the property within the plat, and that the
22 lots within the plat are subject individually to ~~all~~ the
23 regulations and ordinances of the applicable governing body.

24 Sec. 30. NEW SECTION. 409A.16 COSTS AND COLLECTION OF
25 COSTS.

26 The surveyor shall present to the auditor a statement of
27 the total cost of the surveying, platting, and recording of a
28 plat prepared pursuant to section 409A.12. The surveyor shall
29 also present a statement of the part of the total cost to be
30 assessed to each parcel included in the plat based on the time
31 involved in establishing the boundaries of each parcel. The
32 auditor shall certify to the treasurer an assessment for the
33 platting costs against the ~~land~~ lots within the plat which
34 shall be collected in the same manner as general taxes, except
35 that the board of supervisors, by resolution, may establish

1 not more than ten equal annual installments and provide for
2 interest on ~~all~~ unpaid installments at a rate not to exceed
3 that permitted by chapter 74A.

4 Sec. 31. NEW SECTION. 409A.17 RECORDING OF PLATS.

5 A plat of survey prepared pursuant to this chapter and a
6 subdivision plat, with ~~the-required~~ attachments, shall be
7 recorded in the office of the county recorder, and an exact
8 copy of the plat shall be filed in the offices of the county
9 auditor and assessor. A replat of any part of an official
10 plat pursuant to section 409A.24, or a recorded subdivision
11 plat of any part of an existing official plat shall supersede
12 that part of the original official plat, including ~~all~~ unused
13 public utility easements.

14 The recorder shall examine each plat of survey and
15 subdivision plat to determine whether the plat is clearly
16 legible and whether the approval by the applicable governing
17 body and the other attachments required by this chapter are
18 presented with the plat. The recorder shall also keep a
19 reproducible copy of the plat from which legible copies can be
20 made. The recorder may specify the material and the size of
21 the plat, not less than eight and one-half inches by eleven
22 inches, that will be accepted for recording in order to comply
23 with this section. The recorder shall not ~~accept-for~~
24 ~~recording record~~ a subdivision plat that violates this chapter.

25 Sec. 32. NEW SECTION. 409A.18 DEDICATION OF LAND.

26 An official plat which conforms to this chapter and has
27 attached to the plat a dedication by the proprietors to the
28 public and approval of the dedication by the governing body is
29 equivalent to a deed in fee simple from the proprietors to the
30 public of any land within the plat that is dedicated for
31 street, alley, walkway, park, open area, school property, or
32 other public use. An approved dedication of land for street
33 purposes by the proprietors establishes an easement for public
34 access whether or not a deed has been recorded or the
35 improvement of the street is complete except when the

1 resolution approving the plat specifically sets aside portions
2 of the dedicated land as not being open for public access at
3 the time of recording for public safety reasons. The
4 recording of a subdivision plat shall dedicate to the public
5 and public utility, sewer, drainage, access, walkway, or other
6 public easement shown on the plat.

7 The recording of an auditor's plat ~~does~~ shall not serve to
8 dedicate any streets, alleys, parks, open areas, school
9 property, public improvements, or utilities. The failure to
10 show the existence of an easement or any public interest on
11 the auditor's plat ~~does~~ shall not remove or otherwise affect
12 the interest.

13 Sec. 33. NEW SECTION. 409A.19 ACTION TO ANNUL PLATS.

14 If a plat is filed and recorded in violation of this
15 chapter, a governing body or a proprietor aggrieved by the
16 violation, after filing written notice with the proprietors
17 who joined in the acknowledgement of the plat or their
18 successors in interest, may institute a suit in equity in the
19 district court. The court may order the plat annulled except
20 as provided in section 409A.20.

21 Sec. 34. NEW SECTION. 409A.20 LIMITATION OF ACTIONS ON
22 OFFICIAL PLATS.

23 No action shall be maintained, at law or in equity, in any
24 court, against a proprietor, based upon an omission of data
25 shown on an official plat or upon an omission, error, or
26 inconsistency in any of the documents required by this chapter
27 unless the action is commenced within ten years after the date
28 of recording of the official plat. Limitation of actions
29 based on claims other than those provided for in this section
30 shall be consistent with chapter 614.

31 Sec. 35. NEW SECTION. 409A.21 VACATION OF OFFICIAL
32 PLATS.

33 The proprietors of lots within an official plat who wish to
34 vacate any portion of the official plat shall file a petition
35 for vacation with the governing body which shall fix the time

1 and place for a public hearing on the petition ~~to-vacate~~.
2 Written notice of the proposed vacation shall ~~follow-the~~ be
3 served in the manner of original notices as provided in Iowa
4 rules of civil procedure and be ~~given-to~~ served upon proprietors
5 and mortgagees within the official plat that are within 300 feet
6 of the area to be vacated. If ~~any~~ a portion of the official
7 plat adjoins a river or State-owned lake, the Iowa Department
8 of Natural Resources shall be ~~given~~ served written notice of
9 the proposed vacation. Notice of the proposed vacation shall
10 be published twice, with ten days between ~~publication~~
11 publications stating the date, time and place of the hearing.
12 The official plat or portion of the official plat shall be
13 vacated upon recording the following documents:
14 1. An instrument signed, executed, and acknowledged by all
15 the proprietors and mortgagees within the area of the official
16 plat to be vacated, declaring the plat to be vacated. The
17 instrument shall state the existing lot description for each
18 proprietor along with an accurate description to be used to
19 describe the land after the lots are vacated.
20 2. A resolution by the governing body approving the
21 vacation and providing for the conveyance of those areas
22 included in the vacation which were previously set aside or
23 dedicated for public use.
24 3. A ~~certified-statement-by~~ certificate of the auditor
25 that the vacated part of the plat can be adequately described
26 for assessment and taxation purposes without reference to the
27 vacated lots.
28 No part of this section authorizes the closing or
29 obstructing of public highways.
30 The vacation of ~~any~~ a portion of an official plat shall not
31 remove or otherwise affect ~~any~~ a recorded restrictive covenant,
32 protective covenant, building restriction or use restriction.
33 Recorded restrictions on the use of property within an
34 official plat ~~may-only~~ shall be modified or revoked by
35 recording a consent to the modification or removal, signed and

1 acknowledged by ~~all~~ the proprietors and mortgagees within the
2 official plat.

3 Sec. 36. NEW SECTION. 409A.22 VACATION OF STREETS OR
4 OTHER PUBLIC LANDS.

5 A city or a county may vacate ~~any~~ part of an official plat
6 that had been conveyed to the city or county or dedicated to
7 the public which is deemed by the governing body to be of no
8 benefit to the public.

9 The city or county shall vacate by resolution following a
10 public hearing or by ordinance and the vacating instrument
11 shall be recorded. The city or county may convey the vacated
12 property by deed or may convey the property to adjoining
13 proprietors through the vacation instrument. ~~The~~ If the
14 vacating instrument is used to convey property then the
15 instrument shall include a list of adjoining proprietors to
16 whom the vacated property is being conveyed along with the
17 corresponding description of each parcel being conveyed. A
18 recorded vacation instrument which conforms to this section is
19 equivalent to a deed of conveyance and the instrument shall be
20 filed and indexed as a conveyance by the recorder and auditor.

21 A vacation instrument recorded pursuant to this section
22 ~~does~~ shall not operate to annul any part of an official plat
23 except as provided for in section 409A.21.

24 Sec. 37. NEW SECTION. 409A.23 ERRORS ON OFFICIAL RECORDED
25 PLATS OR-PLATS-OF-SURVEY.

26 If an error or omission in the data shown on a recorded
27 plat is detected by subsequent examinations or revealed by
28 retracing the lines shown on the plat, the original surveyor
29 or two surveyors confirming the error through independent
30 surveys shall record an affidavit confirming that the error or
31 omission was made. The affidavit shall describe the nature
32 and extent of the error or omission and also describe the
33 corrections or additions to be made to the plat and note the
34 book and page number of the ~~official~~ recorded plat ~~or-plat-of~~
35 ~~survey.~~ The recorder shall write across that part of the plat

1 so corrected the word "corrected", and note the book and page
2 number of the recorded affidavit. A copy of the recorded
3 affidavit shall be filed with the auditor and assessor. The
4 affidavit has no effect on the validity of the plat, or on the
5 remaining original data shown on the plat, but the affidavit
6 is admissible as evidence in a court and shall be given the
7 same weight as testimony offered voluntarily by an expert
8 witness.

9 Sec. 38. NEW SECTION. 409A.24 SURVEY AND REPLAT OF
10 OFFICIAL PLATS.

11 A survey of an official plat shall conform as nearly as
12 possible to the original lot lines shown on the official plat.
13 The surveyor may summon witnesses, administer oaths, and
14 prepare affidavits and boundary line agreements as necessary
15 in order to establish the location of property lines or lot
16 lines. If a substantial error is discovered in an official
17 plat or if it is found to be materially defective, a
18 proprietor may petition the district court asking for a replat
19 of any part of the official plat. Notice of the proposed
20 replat shall be served, in the manner of original notice as
21 provided in Iowa rules of civil procedure, to the proprietors
22 of record within the area to be replatted. The court has
23 jurisdiction of the matter upon proof of publication of notice
24 of the petition once each week for ~~at-least~~ two weeks in a
25 newspaper of general circulation within the area of the replat.

26 A replat of an official plat ordered by the district court:
27 1. Shall be prepared by a surveyor pursuant to chapter 114A; and
28 2. Shall be exempt from the provisions of section 409A.10; and
29 3. Shall have attached to the plat a statement by the surveyor
30 that the replat is prepared at the direction of the district
31 court. The costs of the replat shall be presented to the
32 auditor and assessed against the property included in the
33 replat as provided for in section 409A.16.

34 Sec. 39. NEW SECTION. 409A.25 CORRECTIONS OR CHANGES TO
35 PLATS.

1 A vacation, correction, or replatting as provided for in
2 this chapter, shall be recorded and an exact copy shall be
3 filed with the auditor and assessor. If a governing body
4 changes the addresses or street names shown on an official
5 plat, notice of the change shall note the name or other
6 designation of each official plat affected and shall be filed
7 with the recorder, auditor, and assessor. The recorder shall
8 note the vacation, correction, or replatting on the margin of
9 the official plat or upon an attachment to the official plat
10 for that purpose. The auditor shall make the proper changes
11 on the plats required to be kept by the auditor.

12 Sec. 40. Section 117A.1, subsection 1, Code 1987, is
13 amended to read as follows:

14 1. "Subdivided land" means improved or unimproved land
15 divided or proposed to be divided for the purpose of sale or
16 lease into five or more lots or parcels or additions ~~thereto~~,
17 or parts ~~thereof~~ of lots or parcels; however, subdivided land
18 does not ~~apply-to~~ include a subdivision subject to section
19 306.21 or chapter 409 409A nor ~~to~~ the leasing of apartments,
20 offices, stores, or similar space within an apartment
21 building, industrial building, or commercial building unless
22 an undivided interest in the land is granted as a condition
23 precedent to occupying space in the structure. Subdivided
24 land does not include subdivisions of land located within the
25 state of Iowa or time-share intervals as defined in section
26 557A.2.

27 Sec. 41. Section 306.21, Code 1987, is amended to read as
28 follows:

29 306.21 PLANS, PLATS AND FIELD NOTES FILED.

30 All road plans, plats and field notes and true and accurate
31 diagrams of water, sewage and electric power lines for rural
32 subdivisions shall be filed with and ~~recorded-by-the-county~~
33 ~~auditor-and~~ approved by the board of supervisors and the
34 county engineer before the subdivision is laid out and
35 platted, and if any proposed rural subdivision is within one

1 mile of the corporate limits of any city such road plans shall also be approved by the city engineer or council of the adjoining municipality. Such plans shall be clearly designated as "completed", "partially completed", or "proposed" with a statement of the portion completed and the expected date of full completion. In the event such road plans are not approved as herein provided such roads shall not become the part of any road system as defined in this chapter.

9 Sec. 42. Section 306.42, subsection 5, Code Supplement 10 1987, is amended to read as follows:

11 5. Notwithstanding ~~requirements of~~ chapter 114 and 12 sections 306.22, 364.7, ~~409+12~~ 409A.12, ~~409+14~~ 409A.14 and 13 471.20, legal descriptions, plats, maps, or engineering 14 drawings used to describe transfers of right of way shall, 15 where available, be descriptions, plats, maps, or engineering 16 drawings of record and shall be incorporated by reference to 17 ~~such the~~ title instrument or proceedings. ~~Where~~ If a part but 18 not all of the land acquired by a single conveyance or 19 condemnation is being transferred, the description of that 20 part to be transferred shall be abstracted from the present 21 legal description, plat, map, or engineering drawing of 22 record.

23 Sec. 43. Section 331.321, subsection 3, Code Supplement 24 1987, is amended to read as follows:

25 3. If the board proposes to appoint a county surveyor, it 26 shall appoint a person qualified in accordance with ~~section~~ 27 ~~355+4~~ chapter 114 and provide the surveyor with a suitable 28 book in which to record field notes and plats.

29 Sec. 44. Section 331.511, subsections 1 through 4, Code 30 1987, are amended to read as follows:

31 1. record each plat as provided in sections ~~409+12~~ 409A.12 32 to ~~409+16~~ 409A.17.

33 2. Record changes in names of platted streets as provided 34 in section ~~409+17~~ 409A.25.

35 3. Record notations of errors or omissions on recorded

1 plats as provided in section 409+32 409A.23.

2 4. Record resurveyed plats as provided in section 409+43
3 409A.24.

4 Sec. 45. Section 331.602, subsection 19, Code Supplement
5 1987, is amended to read as follows:

6 19. Carry out duties relating to the platting of land as
7 provided in chapter 409 409A ~~and sections 441.65 to 441.71.~~

8 Sec. 46. NEW SECTION. 441.72 ASSESSMENT OF PLATTED LOTS.

9 When a subdivision plat is recorded pursuant to chapter
10 409A, the individual lots within the subdivision plat shall
11 not be assessed in excess of the total assessment of the land
12 as acreage or unimproved property for three years after the
13 recording of the plat or until the lot is actually improved
14 with permanent construction, whichever occurs first. When an
15 individual lot has been improved with permanent construction,
16 the lot shall be assessed for taxation purposes as provided in
17 chapter 428 and this chapter. This section does not apply to
18 special assessment levies.

19 Sec. 47. NEW SECTION. 558.19A STATEMENT OF DIVISION AND
20 NOTING PERMANENT REAL ESTATE INDEX NUMBER.

21 ~~Each~~ Deeds, contracts, or other conveyances presented for
22 recording as evidence of transfer of title to land, shall have
23 on the face of the conveyance a statement signed by ~~the~~ at least
24 one grantor or ~~his~~ the grantor's agent stating that (1) the
25 conveyance is not a division of an existing tract or parcel of
26 land, or (2) the conveyance is a division of an existing tract
27 or parcel of land. If the conveyance is a division then the
28 grantor or agent shall also state that the requirements of
29 chapter 409A have been met, noting the book and page number of
30 the official plat or plat of survey recorded in compliance with
31 chapter 409A. The recorder shall not record a conveyance which
32 does not have a statement of division on the face of the
33 document. Making a false statement of division may be prosecuted
34 as a county infraction under the provisions of section 331.307.

35 When a permanent real estate index number system has been

1 established by a county, pursuant to section 441.29, the
2 auditor may note the permanent real estate index number ~~shall~~
3 ~~be noted on the face of~~ every conveyance ~~prior to recording~~
4 ~~the document.~~

5 Sec. 47. Section 592.7, Code 1987, is amended to read as
6 follows:

7 592.7 CHANGING NAMES OF STREETS.

8 Whereas, certain cities or towns throughout the state of
9 Iowa have passed ordinances changing the name or names of
10 certain streets in ~~said~~ the cities;

11 Now, therefore, it is provided that the acts of ~~said~~ the
12 city ~~and town~~ councils of ~~such~~ the cities ~~and towns~~ in
13 enacting ~~said~~ the ordinances changing the names of ~~said~~
14 certain streets are hereby declared valid. ~~The proper method~~
15 ~~for recording a change of street name is found in section~~
16 ~~409.17.~~

17 Sec. 48. Section 602.8102, subsection 57, Code Supplement
18 1987, is amended to read as follows:

19 57. Carry out duties relating to the platting of land as
20 provided in ~~sections 409.9, 409.11, and 409.22~~ chapter 409A.

21 Sec. 49. Section 714.16, subsection 2, paragraph d, Code
22 Supplement 1987, is amended to read as follows:

23 d. (1) No person shall offer or advertise within this
24 state for sale or lease, any subdivided lands without first
25 filing with the real estate commission, true and accurate
26 copies of all road plans, plats, field notes, and diagrams of
27 water, sewage, and electric power lines as they exist at the
28 time of ~~such~~ the filing, ~~provided such however, this~~ filing
29 ~~shall~~ is not be required for a subdivision subject to section
30 306.21 or chapter 409 409A. ~~Each such~~ A filing shall be
31 accompanied by a fee of fifty dollars for each subdivision
32 included, payable to the real estate commission.

33 (2) False or misleading statements filed pursuant to
34 subparagraph 1 of paragraph "d" of this subsection or section
35 306.21 of chapter 409 409A, and advertising, offers to sell,

1 or contracts not in substantial conformity with the filings
2 made pursuant to section 306.21 or chapter 409 409A are
3 unlawful.

4 Sec. 50. REPEAL. Chapters 355 and 409, Code 1989, are
5 repealed. Sections 441.65 through 441.71, Code 1989, are
6 repealed.

7 EXPLANATION

8 This bill creates two new chapters relating to land
9 surveying and platting. Chapter 114A establishes uniform
10 standards and guidelines for the practice of land surveying in
11 Iowa. The bill also establishes standards and procedures for
12 preparing, recording and indexing United States public land
13 survey corner certificates, providing access to public land
14 corner location information.

15 Chapter 409A establishes requirements and procedures for
16 plats of survey, acquisition plats, subdivision plats and
17 auditor's plats. It requires that a governing body apply
18 reasonable standards for the review and approval of subdivision
19 plats and give consideration to the comprehensive plan, to the
20 possible burden on public improvements, and to a balance of
21 interests between the developer, future purchasers and the
22 public interest.

23 Section 558.19A establishes a requirement that a grantor or
24 agent must state on a conveyance whether the conveyance is
25 dividing property. The section also establishes an enforcement
26 mechanism for platting requirements by providing that the
27 recorder shall not record a conveyance which does not have a
28 statement of division.

29 Chapters 355, land surveys, and 409, plats, are repealed.
30 Sections 441.65 through 441.71, relating to platting for
31 assessment and taxation purposes, are also repealed.

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Iowa Land Title Association



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Des Moines, Iowa

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Des Moines, Iowa

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Secretary of the Title Association
Des Moines County Abstract Co., Inc.
Des Moines, Iowa
Iowa Title & Realty Co.
Council Bluffs, Iowa

December 19, 1988.

Ladies and Gentlemen:

My name is Jay Stewart and I am the President of the American Abstract Company here in Des Moines, and have been actively engaged in the profession of abstracting for over 32 years. I have the privilege of appearing before you today as a representative of the almost 130 member Iowa Land Title Association, as its spokesperson, and as its President-Elect. We very much appreciate the opportunity to appear before this group, and especially appreciate being included in, and involved in, the "thought-process" concerning this legislation.

Our Association is basically in support of this bill as it has been revised by revision dated November 18, 1988, and we continue to urge that any language in this proposed bill requiring the use of a P.I.N. (Parcel Identification Number) system, be stricken. This Association supports, and actively promotes, the current method of indexing and recording of real estate transfers as it has existed for over 130 years.

Mr. Madsen, of the Iowa Bar Association supports; and it is our understanding that Governor Brandstad has received communications from Professor Bayse of Hastings College, State Law University of California, and from Arthur Gaudio, Associate Dean of Academic Affairs and Professor at Law, Wake Forest School of Law; urging the State of Iowa to adopt a P.I.N. system of conveyancing. They contend that the use of such a system will simplify the system of land description, and would (quote) "assist abstracters in the development of efficient tract indexes, and, inasmuch as each parcel would have a unique number, the system could easily be computerized to make private and public searches of land much faster and less expensive." (End of quote.)

The Iowa Land Title Association opposes such a P.I.N. system for the reason that the system that exists today in the State of Iowa, is one of the best, if not the very best, in the nation. Iowa's system of evidencing real estate titles is not plagued with many of the problems other states encounter. Abstracters in the State of Iowa have already developed fast and efficient methods of searching the real estate records by use of Tract Indexes or Tract Books, some of which are already computerized.

In a time when the State of Iowa is hard-pressed to attract and keep businesses, it appears to us that the removal of this function from the private sector, and placing it in the public sector, would be an expensive, self-defeating exercise in futility. The members of this Association generate payrolls and taxes which currently remain within the State. It is our opinion that if this system were adopted, not only would it be a tremendous drain on the tax-payer's money, but that it would open this function to every "fly-by-night outfit" in the country, and these taxes, and these payrolls, would no longer be kept in Iowa.

It would appear to us that a State (specifically the State of California) which experiences documented losses in the millions of dollars by Title Insurance Companies operating there, is ill-advised to be counseling the State of Iowa, which has one of the best loss-ratio histories in the nation, on how to operate our real estate system.

Mr. Madsen's contention that (I quote) "the P.I.N. concept would have no impact on the grantor-grantee index system or the rules of constructive notice" (end of quote) is in complete contradiction to his statement that an instrument recorded or indexed without a P.I.N. would be considered void and not constitute constructive notice.

Again, we would like to express our thanks for the opportunity to be heard in this matter, and appreciate your time and attention.

Date: December 19, 1988
To: Platting Modernization Study Committee
Re: Proposed Chapter 409A



INTRODUCTORY REMARKS

Thank you for giving me the opportunity to share thoughts concerning the proposed revision to the State Subdivision Code Chapter 409.

My name is Douglas Boothroy, Director of the Department of Housing & Inspection Services for the City of Iowa City. I also serve as President-elect of the Iowa Chapter of the American Planning Association. I am appearing before you today at the request of Roger Nowadsky, Deputy Director and counsel for the League of Municipalities, who is unable to attend this meeting. As a city administrator I am highly involved in the regulation of subdivisions in the Iowa City/Johnson County area. My responsibilities as a City administrator and executive officer for the American Planning Association as well as my concerns about effective subdivision regulation lead me to speak before you today. My comments relate to proposed 409A drafted 11/18/88.

Before addressing the proposed legislation, I wish to acknowledge and commend all parties involved in this process of drafting. Amending 409 is a complex task and your efforts and willingness to consider input are appreciated.

OVERVIEW:

In general, the proposed legislation is an improvement over the present statute. Positive aspects of it include:

1. Revision of 409 to be primarily a mapping act by removing the standards of land surveying and placing them in Chapter 114.
2. Emphasis on home rule by allowing local governing bodies greater flexibility in developing local regulations tailored to their own particular conditions and concerns.
3. Requiring a grantor of land to certify on the face of a conveyance that requirements of 409A have been met.

PROPOSED CHANGES

While these changes improve 409, several concerns remain. City support or opposition to this bill will hinge on the satisfactory disposition of several issues. The remainder of this testimony will identify factors which need to be addressed and will offer suggestions for revision which would meet the identified need.

LEGISLATIVE GUIDANCE

409A must provide clear legislative guidance to the judicial system and local governing bodies concerning the regulation and control of subdivisions.

Rationale

Proposed 409A does not include clear statutory guidance. While some broad parameters can be found within the text (e.g. page 20, lines 10 through 19), these are general standards and open to many interpretations. The lack of clear statutory guidance leaves local governing bodies "in limbo" and asking questions such as "Can go beyond the statute when developing or designing subdivision regulations?" Because there is little statutory guidance, many communities will be forced to pioneer subdivision standards through trial and error experiments which may be inadequate or confusing and which may ultimately need to be resolved in the courts. In the absence of statutory guidance, courts will be forced to decide whether the subdivision standards are legitimate exercises of police power. Judicial review of the less superior ordinances could jeopardize the future of even the laudable ones.

Suggestions for Revision

Courts should have clear legislative guidance when they review subdivision regulations. This guidance will reduce the possibility of unnecessary litigation. Therefore, it is strongly recommended that the Committee consider developing an intent section for the proposed 409A. This new section should be placed at the beginning of 409A and could include such language as:

The goals of 409A are:

- a. To encourage orderly community development consistent with the Comprehensive Plan or other specific community plans and provide for the regulation and control of the design and improvement of subdivisions with proper consideration of its relationship to adjoining areas.
- b. To ensure that areas within the subdivision that are dedicated for public purposes will be properly improved so they will not be a burden on the community.
- c. To protect the public and individual transferees from fraud and exploitation.
- d. To encourage subdivision design and improvements that will enhance, rather than damage the environment.

STATEWIDE GOALS

409A should include state-wide goals which concern the quality of life in the State of Iowa.

Rationale

The redraft of 409 provides an excellent opportunity for the legislature to restate and codify state-wide goals which address the quality of life in Iowa. As presently drafted, 409 would allow each community, through an ad-hoc manner of subdivision regulation, to make decisions which impact the quality of life locally, regionally, and throughout the state. An example of this is the issue of groundwater degradation. This is an opportune time for the state to consider the responsibilities of local governing bodies in addressing state-wide concerns.

Suggestions for Revision

Issues which affect the state as a whole (e.g. groundwater degradation) could be included in 409A in one of two ways: These issues could be included as additional standards in the intent section; or, if stronger measures are deemed necessary, local governing bodies could be required to document compliance with standards at the time of subdivision approval.

ADMINISTRATIVE REVIEW

Local governing bodies should be allowed the option of delegating certain types of subdivision review to be done administratively, rather than only by resolution of the governing body.

Rationale

The proposed draft on page 20, lines 20 through 27, states that final plat approval is by resolution of the governing body. This can be a lengthy and expensive process, and may not be justified for a minor plat which involves simple compliance certification.

Suggested Revision

Local governing bodies should be provided the option to delegate, by ordinance, final approval of minor subdivision plats to an administrator. The designated administrator would certify to the County recorder that the minor plat was in full compliance with Chapter 409. This process would save time and expense by not requiring the developer to go before the governing body for final approval.

PLATTING JURISDICTION

Cities should be provided a mechanism through which overlapping jurisdictional disputes (i.e. in unincorporated areas within two miles of a city) can be resolved without loss of all review authority.

Rationale

The proposed revision requires cities to resolve overlapping jurisdictional issues pursuant to Chapter 28E; this language should be maintained. However, the present draft language found on page 21, subparagraph 3 sets up a potential condition of stalemate in situations where one municipality refuses to enter into negotiation or cooperate with another. The result could be a loss of all authority to review subdivisions in an

area of immediate interest. In order to avoid such a situation, cities must be provided a mechanism through which some review authority is maintained.

Suggested Revision

409A.8(3) Cities may establish by agreement, pursuant to Chapter 28E, reasonable standards and conditions for review of subdivisions in areas which the cities have an interest in controlling. If no agreement is recorded pursuant to Chapter 28E, then a line equidistant between the cities shall establish the line of jurisdiction.

LOCAL AUTHORITY OVER THE DIVISION OF LAND (a.k.a. ONE LOT SUBDIVISION)

Local governing bodies should continue to have the right to require a subdivision plat for a single division of land.

Rationale

Many local governing bodies presently require submittal of subdivision plats for a single division of land (one lot split). This authority has been upheld as legitimate exercise of police power by the courts. It appears that the proposed 409A, on page 18, subparagraph 1, removes the authority to regulate the division of land of less than three parcels. If this was the intent of the proposed statute, the committee should reconsider the rationale for removing local authority over a single division of land. If this was not the intent of the proposed draft, the following suggest revision should be considered to clarify the issue.

Suggested Revision

Change the definition of "subdivision" on page 14, lines 9 and 10 to read:

409A.1(15). "Subdivision means dividing a tract of land into two or more parcels of land."

TIME LIMIT FOR REVIEW

Statutory guidance is needed concerning the length of time to be taken by a governing body in reviewing a subdivision plat.

Rationale:

The standard for subdivision review proposed under 409A, page 20, lines 7 and 8 is "reasonable time". This standard is open to wide interpretation and most likely will result in time delays and unnecessary litigation. Courts should not be asked to decide what is reasonable, and communities should not be asked to bear the cost of this unnecessary litigation.

Suggested Revision

Statutory guidance should continue to be given. The 60 day time limit provided in existing 409.15 should be included.

TIME LIMIT FOR APPEAL

A time limitation for appealing decisions regarding subdivision approval should be established.

Rationale

The appeal section of 409.9 found on page 22, line 2, refers to a written notice of intent to appeal. As drafted, there is not a time limit established for filing written notice; it would be possible for an applicant or governing body to appeal a subdivision decision after an unlimited and possibly extended period of time.

Suggested Revision

On page 22, line 2, insert a statement which says: "The aggrieved party may file written notice of intent to appeal no later than 30 days from the decision of the local governing body."

WILLFUL VIOLATION

The willful violation of Chapter 409A should carry a penalty of sufficient magnitude to discourage violations.

Rationale

When penalties for violations are too low, there is little incentive to obey the law. In the case of subdivision development, if a developer opts to take a risk and break the law, it is possible for a violation to go undetected until a time when it is no longer possible to "undo" the violation (e.g. redesign the subdivision or obtain necessary easements). When this occurs the consequences for the community will be greater than the consequences for the violator. Therefore, every effort must be made to discourage willful violation of Chapter 409A.

As drafted, the penalty for willful violation is a county infraction under the provisions of Section 331.307. The penalty of \$100 for a first violation (which the court may order abated) will not be a deterrent to violators.

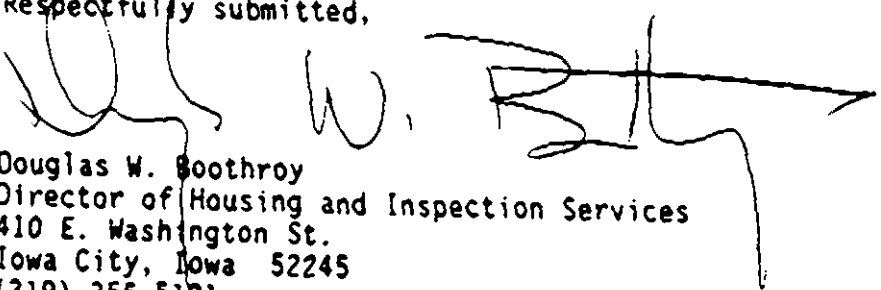
Suggested Revision

The penalty for willful violation should be significantly increased. This can be done in one of two ways: increase the amount of the fine under the county infraction process; or, make violation of 409A an aggravated misdemeanor under Chapters 701.8 and 903.1. If found guilty of an aggravated misdemeanor, the defendant could be fined up to \$5,000 and sentenced up to two years in jail.

CONCLUSION

In conclusion, the proposed draft of 409A is an improvement over the present 409. However, it will be necessary for the Committee to address the issues identified in this testimony in order to create a workable document cities can endorse and enforce. Again, thank you for this opportunity to provide comments about this most important piece of Iowa legislation.

Respectfully submitted,



Douglas W. Boothroy
Director of Housing and Inspection Services
410 E. Washington St.
Iowa City, Iowa 52245
(319) 356-5121

MARKS & MADSEN

ATTORNEYS AT LAW

700 FOURTH STREET, SUITE 303

P.O. BOX 3226

SIOUX CITY, IOWA 51102-3226

BERNARD B. MARKS
GEORGE F. MADSEN
CALVIN E. MOSS

December 2, 1988

712-258-1200

Mr. Mark W. Johnson
Legal Counsel
Legislative Service Bureau
State Capitol Building
Des Moines, IA 50319

RE: Iowa State Bar Association
Platting Committee Recommendations
RE Platting Statutes Revision
and Related Matters

Dear Mr. Johnson:

Enclosed are copies of letters sent by Professor Gaudio to the Governor and the Attorney General recommending adoption of the Committee's recommendations.

Professor Gaudio was a member of the Iowa State Bar Association Title Standards Committee for years and taught real property law at the Drake Law School. His recommendations merit careful consideration.

Very truly yours,


George F. Madsen, Chairman

GFM:hs
Enclosures

XC: Committee Members w/enclosures
Mr. LeRoy H. Redfern w/enclosures
Senator Don Doyle w/enclosures
Mr. James Carney w/enclosures
Mr. Carl V. Nielsen w/enclosures

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WAKE FOREST

SCHOOL OF LAW

FOR THE REYNOLDS STATION
WENTON SALER, NORTH CAROLINA 27708
REYNOLDS

November 28, 1988

Thomas J. Miller
Attorney General, State of Iowa
State Capitol
Des Moines, IA 50319

Dear Attorney General Miller:

I have recently become aware of a proposal by the Iowa State Bar Association Platting Committee regarding the revision of various Iowa platting statutes. As a former citizen of the State of Iowa and a law professor at Drake University Law School from 1972 to 1986 I would like to recommend that proposal to you.

It has a number of significant qualities which recommend it very strongly for adoption by the legislature. First of all, it will bring uniformity to platting practices throughout the state. Under the current system the platting practices are a hodgepodge of varying procedures. The new proposals will eliminate this problem and bring conformity and understandability to the system.

Secondly, the use of parcel identification numbers or "pins" will simplify the system of land description and put Iowa in line with much recent thinking on this matter. Over the last fifteen years legal literature suggests that such a system is not only possible but should be favored. It would simplify the land conveyancing system, the real estate taxation system and the land use regulatory system. In a certain sense the parcel identification number system is not a real departure from current law; it is merely an improvement. Iowa already uses a number system for lots in a subdivision and units in a condominium development. The parcel identification number system would make the numbering system uniform for all land within the state and simpler than the current scheme. It would assist abstracters in the development of efficient tract indexes, and, inasmuch as each parcel would have a unique number, the system could easily be computerized to make private and public searches of land much faster and less expensive.

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Thomas J. Miller
November 28, 1988

I thank you for the opportunity to give you my comments

Very truly yours,

Arthur R. Gaudio

Arthur R. Gaudio
Associate Dean
Academic Affairs, and
Professor of Law

(1)

WAKE FOREST

SCHOOL OF LAW

BOX 700 BETHLEHEM STATION
WINSTON-SALEM, NORTH CAROLINA 27102-7000
(704) 735-4400

November 28, 1988

Terry E. Branstad
Governor, State of Iowa
State Capitol
Des Moines, IA 50319

Dear Governor Branstad:

I have recently become aware of a proposal by the Iowa State Bar Association Platting Committee regarding the revision of various Iowa platting statutes. As a former citizen of the State of Iowa and a law professor at Drake University Law School from 1972 to 1986 I would like to recommend that proposal to you.

It has a number of significant qualities which recommend it very strongly for adoption by the legislature and for your signature. First of all, it will bring uniformity to platting practices throughout the state. Under the current system the platting practices are a hodgepodge of varying procedures. The new proposals will eliminate this problem and bring conformity and understandability to the system.

Secondly, the use of parcel identification numbers or "pins" will simplify the system of land description and put Iowa in line with much recent thinking on this matter. Over the last fifteen years legal literature suggests that such a system is not only possible but should be favored. It would simplify the land conveyancing system, the real estate taxation system and the land use regulatory system. In a certain sense the parcel identification number system is not a real departure from current law; it is merely an improvement. Iowa already uses a number system for lots in a subdivision and units in a condominium development. The parcel identification number system would make the numbering system uniform for all land within the state and simpler than the current scheme. It would assist abstracters in the development of efficient tract indexes, and, inasmuch as each parcel would have a unique number, the system could easily be computerized to make private and public searches of land much faster and less expensive.

Page 2

Governor Branstad
November 28, 1988

I thank you for the opportunity to give you my comments.

Very truly yours,

Arthur R. Gaudio

Arthur R. Gaudio
Associate Dean, Academic
Affairs, and Professor of Law

MARKS & MADSEN
ATTORNEYS AT LAW
700 FOURTH STREET, SUITE 303
P.O. BOX 1226
SIOUX CITY, IOWA 51102-3226

BERNARD & MARKS
GEORGE & MADSEN
CALVIN E. MOSS

September 26, 1988

712-258-1200

Mr. Mark W. Johnson
Legal Counsel
Legislative Service Bureau
State Capitol Building
Des Moines, IA 50319

RE: Iowa State Bar Association
Platting Committee Recommendations
Re Platting Statutes Revision
and Related Matters

Dear Mr. Johnson:

Enclosed are the recommendations of the Committee and a copy of Basye, Clearing Land Titles, 60-71, (2-6 pocket part) (2d Ed. 1970). The Committee members are: David W. Kubicek, Stephen Petosa, Jack W. Peters, Steven W. Hendricks, Michael H. Smith, Philip A. Leff, Chris Heogh (representing abstracters), and myself.

The recommendations in some instances do not constitute the unanimous view of the Committee, but all are the majority view of the Committee. In particular, Mr. Heogh has objected to a parcel identification number system which is more than "...in-house procedure for the courthouse."

The recommendations attempt to clearly distinguish between identifying land (platting it) for purposes of conveyancing, and limitations on its use. Stated another way, under the recommendations, the process of platting land is kept separate and apart from the process of how the land is to be used, e.g., installation of streets, sidewalks, building construction, etc. However, for purposes of conveying or mortgaging the real estate, the owner could freely do so. This concept departs from the present practice of imposing a multitude of requirements (mandated by cities and counties) to be satisfied before a plat could be filed. These mandates vary greatly from city to city, are not uniform, and are an unfair burden on the public by adding to the cost of transferring interests in real estate. Under the recommendations the Department of Economic Development would promulgate rules for real estate development (which would include platting) uniformly applicable throughout the state.

As pointed out in the Basye materials, modernization of the

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Mr. Mark W. Johnson
September 26, 1988
Page 2

current system of describing land and conveying it is long overdue. Our present system is based primarily on that devised in colonial America circa 1627-1664. See IV Casner, American Law of Property, 527-531. The Committee is of the view that the reforms contained in its recommendations are a first step to bring Iowa's land transfer system into the twenty-first century. The recommendations, we believe, use the present recording system as a base to implement a modern parcel identification number system (P.I.N.) based on an economical, simplified system of land identification (platting).

The public is entitled to a long over-due reform of the present system. As attorneys our recommendations constitute what we perceive to be in the best interests of the public in general, not any one group be they lawyers, abstracters, recorders, auditors, city planners, etc.

Though beyond the scope of the Committee's responsibility, it should be noted that a PIN system would have greater value if all county recorders used the same computers and software which could be accessed by state agencies and local governmental agencies.

Please feel free to call on us if additional information is required.

Thank you.

Very truly yours,



George F. Madsen, Chairman

GFM:hs
Enclosures

XC: Committee Members, w/ enclosures (revised recommendations)
Mr. LeRoy H. Redfern, w/ enclosures " " " " "
Senator Don Doyle, w/enclosures
Mr. James Carney, w/enclosures
Mr. Carl Nielson, w/enclosures

Iowa State Bar Association Platting Committee Recommendations
re
Platting Statutes Revision
And Related Matters

Preface: In these recommendations the term "survey plat" is defined as a plat of a tract or tracts of real estate, containing a metes and bounds legal description, prepared by a registered land surveyor. A survey plat would contain a plat of the entire tract from which the tract described was formerly a part as reflected in the last instrument of record encompassing the tract. A survey plat would be required to show all public ways adjacent and if none, the survey plat must so state. Recording a survey or official plat would not entitle the owner of the real estate to use the real estate in any manner inconsistent with applicable zoning or housing codes.

In these recommendations the term "official plat" is defined as a survey plat which has:

- a. Been approved by the county board of supervisors or city council of the city wherein the real estate is located;
- b. Dedication of public ways; and,
- c. Contains an opinion of an attorney reciting marketable title is in the owner filing the official plat.

An official plat would be required whenever the plat contained three or more parcels excluding any area remaining in the tract from which the official plat was taken.

- I.A. There should be state-wide uniformity, by statutory definition, as to when a survey plat must be recorded before an instrument affecting interests in real property may be recorded.
- B. The concept of "auditor's plats" is not workable. Instruments recorded after the effective date of the statute using auditor plat descriptions in existence on the effective date of the statute would be grandfathered, but no further auditor's plats would be permitted. See 49.
- C. Because of the potential delays if all metes and bounds tracts were required to be described by a survey plat on the effective date of the statute, the survey plat requirement should be effective in installments:
 - a. Tracts of 5 acres or less would be subject to platting on enactment.
 - b. Tracts of 10 acres or less would be subject to platting five years after enactment.
 - c. Tracts of 20 acres or less would be subject to platting ten years after enactment.
 - d. Tracts described solely in reference to government surveys containing more than 20 acres would not be subject to platting requirements.
 - e. If any question was raised by the recorder as to the size of a tract, the person presenting the instrument for recording would be required to obtain a surveyor's certificate as to the size of the tract.

No metes and bounds legal descriptions would be accepted for recording inconsistent with this staged implementation.

2. A revised platting statute should preclude cities and counties from enacting more stringent platting standards than those set out in the Code.
3. An owner seeking approval of an official plat would be required to file the proposed plat with the City Clerk if the land is located within city limits and with the Clerk of the County Board of Supervisors if outside the limits of any city. Council or Board would have sixty days to approve or disapprove the plat. If not approved within sixty days, the owner would be authorized to petition in equity to the District Court for approval.
4. Cities should have no extraterritorial jurisdiction over platting in any county which has county zoning, unless an annexation proceeding was pending before the plat was approved by the Board of Supervisors. If a county did not have county zoning, cities would be granted extraterritorial jurisdiction over platting. Dual jurisdiction of two cities should be avoided.
5. A revised platting statute should provide that filing with the County Recorder of an official plat constitutes a dedication of all public ways when the plat is approved by the City Council, Board of Supervisors, or by appeal to the District Court. A City or County should be able to approve an official plat, but refuse to accept any responsibility for construction, operation, or maintenance of designated public ways.
6. The content, form, and size of official plats should be uniform throughout the state.
7. The present and proposed statutes governing vacation of plats, re-survey of plats, and "correction" of plats are deficient. A revised platting statute should provide as to vacation of official plats:
 - a. Vacation of a plat would be defined as any change in the location or use of public way, or land dedicated to public use; or, alteration of prior lot lines in connection with an attempt to void any restrictive covenants or use restrictions.
 - b. A petition for vacation would be filed with the governmental body which would have jurisdiction to approve the plat at the time vacation was sought, and with the Director of the Iowa Department of Natural Resources if the parcel to be vacated is riparian to any water area or riparian to any lake, river, or water area in which the State of Iowa has an interest in the bed or use of the water surface. The governmental body would fix the time and place of hearing on the petition to vacate.
 - c. All owners and mortgagees of real property within 300 feet of the perimeters of the parcel to be vacated would be given written mail notice of the proposed vacation and afforded an opportunity to be heard. All owners and mortgagees of lots in the original plat would be given the same notice.
 - d. Notice of the proposed vacation would be published twice, with ten days between publication, which notice would be addressed to the public and the named owners and mortgagees and state the time and place of hearing.
 - e. As to all plats filed after the effective date of the statute, vacation would void any restrictive covenants or use restrictions on the real estate vacated provided the notice of vacation clearly sets out the provisions to be voided. Covenants could not be voided if more than 25% of

the owners and mortgagees entitled to notice file objections to the vacation. No easement rights would be affected by a vacation.

f. Any party aggrieved by approval or disapproval of a petition for vacation could appeal to District Court within 20 days.

g. Any vacation, order, resolution, or ordinance involving the location or use of a public way or land dedicated to public use shall specifically find that the interest of the public is not harmed and may contain such limitations or qualifications to assure the public's interests are protected.

h. Vacation petition, proof of service of notice of proceedings and order, ordinance or resolution approving vacation issued by a governmental body would be filed with recorder with a survey plat showing vacated official plat superimposed on new survey plat.

8. The recorder should make the determination as to whether an instrument presented for filing satisfies the statutory standard of a survey plat or official plat, after consultation with the County Engineer. If filing is refused, judicial review in equity would be provided to avoid arbitrary or unreasonable decisions, but the Recorder would not be liable for any damages unless the owner proved the Recorder acted in bad faith by clear and convincing evidence.
9. All legal descriptions of record on the effective date of the statute would be "grandfathered" as to that specific description. Any future division of a grandfathered tract or alteration of a grandfathered description would require a survey plat. Any instrument relying on grandfather rights would be required to recite the complete recording information as to the previously recorded instrument relied upon.
10. A revised platting statute should provide that the State Department of Economic Development (former office of Planning and Programming) is to promulgate general rules of state-wide application as to real estate development regulations. Cities and Counties would regulate those areas of real estate development not pre-empted by the statute and state-wide rules.
11. An official plat should be protected by Iowa Code §592.3 if of record ten years. Iowa Code §592.3 should be deleted and a new section drafted for a revised Ch. 409.
12. A revised platting statute should include mandatory provisions for use of a Parcel Identification Number (PIN) System.

A. The PIN concept would have no impact on the grantor-grantee index system or the rules of constructive notice.

B. As survey plats and official plats were filed, each parcel would be assigned a PIN, to thereafter be used. On the effective date of the statute, a parcel of record described in a Chapter 409 plat, auditor's plat, or Iowa Code §306.21 plat would be grandfathered and assigned a PIN when an instrument conveying it was first presented for recording.

C. PIN would be required on all recorded instruments affecting land described in survey or official plats after the effective date of the act. Note - This would require perhaps a delayed six-month effective date to afford counties an opportunity to put a PIN system in place.

D. If an instrument is recorded or indexed without a PIN it would be considered void and not constitute constructive notice. The party filing the document would be advised by mail by the Recorder of the defective filing.

E. Once a PIN is assigned to a tract, all instruments affecting the tract would have to contain the PIN to constitute constructive notice.

F. If a tract assigned a PIN were divided, a new PIN would be assigned to each of the new tracts.

G. Eventually a search in the recorder's office as to a particular PIN would disclose a list of all documents of record constituting constructive notice as to the tract described under the PIN.

H. A PIN system could be maintained manually (as in states which have tract indexes) but the cost savings to the public would be increased by a computerized system.

I. Judicial review would be required to assure refusal to assign a PIN was not arbitrary.

§ 5

INTRODUCTION

Ch. I

§ 5. References to Present Conveyancing System

1. No Title Standard 4 (45 years) superseding former Standard 21

§ 6. Improving Conveyances by Changing Substantive Law

12. *Willeman, Improving California's Quiet Title Law*, 21 *Marquette L.J.* 836 (1970)
22. *Summers, Effect of Short Form Memorandum Recording of Documents*

Affecting Real Property 41 *Rocky Mtn. Mineral Law Inst.* 61 (1960)

§ 7. Real Estate Title Standards

14. *Wyoming Title Standards* adopted 1973 and published in 10 *Land and Water Law Rev.* 313 (1973) in *Wyoming Bar Proceedings*, 10 *Land and Water L.Rev.* 309 (1981)
17. *No Title Standard 4 (45 years)* superseding former Standard 21
22. *44 Title Standard Rule 6-1*, [Superseding former 34 Title Standard 5]
23. *34 Title Standard Rule 2 (40 years)* and effect shall be the effect of the law relating thereto, be given to all statutes of limitation and curative actions, both state and federal. [Superseding former 34 Title Standard 21]
25. *No Title Standard 2b (superseding former 34 Title Standard 21)*
26. *No Title Standard 2b (superseding former 34 Title Standard 21)*
27. *No Title Standard 2b (superseding former 34 Title Standard 21)*

§ 9. Modernisation and Automation of Land Title Records

Page 70.

Movement Toward Uniform Land Parcel Identifier

One of the most important methods available in the automation of our land records is the adoption and universal use of a uniform land parcel identifier. Our need for land records adequate for existing demand upon them is no longer confined to the function of conveyancing. Taxing authorities, land planners, land use controllers and other governmental agencies concerned with various phases of public health and safety also rely to varying degrees on our systems of land records. Because of the increasing

Ch. I SIMPLIFICATION OF TITLE PROCEDURE § 9

demanded on the part of the public as well as governmental agencies for information concerning land and land use within particular jurisdictions, the cost of the present system of maintaining several link (pending and inadequate collections of data concerning real property is rapidly becoming prohibitive. To completely abandon present land records systems and start anew is impractical if not impossible. Rather, what is needed is revision and improvement of land records and records systems in a manner both compatible with our present recording structure, and, at the same time, acceptable to the various states, the public agencies, the title industry, the bar and, most importantly, the public.

There are several possible types of parcel identifiers. Tax assessors have customarily assigned an arbitrary code number to parcels of land within their jurisdictions. These tax identifier numbers, appearing on assessor's maps, have proven to be convenient references for identification of all separate parcels of property for purposes of taxation. Identifiers based on the use of street addresses have also been suggested. Use of this type of identifier, however, is subject to certain objections. In many instances, parcels of land, especially vacant land, have no street address. In addition, two or more "parcels" may be located at the same address, either horizontally or vertically. A third possible type of identifier is based upon a number geared to a lot and block designation in an established plotted subdivision. The use of the State Plane Coordinate System has also been suggested as a foundation for development of a system of parcel identifiers, despite the existence of doubts as to both its technical feasibility and its public acceptability. Other coordinate systems such as the Universal Transverse Mercator System and the Modified Transverse Mercator System have similarly been proposed as the basis of a parcel identifier scheme.

While objections may be leveled at each of these possible systems, a parcel identifier which would combine elements of two or more such methods could very well prove technically feasible and popularly acceptable. Assuming that some acceptable form of parcel identifier can be adopted, an examination of the legal and procedural problems related to the implementation and use of a parcel identifier is then in order.

Several advantages flowing from the adoption and use of a land identifier for each parcel of land are readily apparent.

Since a simple code number would be used to refer to and identify a tract of land at any location, any altitude above or depth below the surface of any shape and with any area, and

bounds description—the use of that code number or identifier would avoid the need for including lengthy descriptions in each instrument of conveyance. The short identifying code number would itself be a substitute for the more lengthy description. This alone would help to eliminate the likelihood of error which so often occurs in transcribing long and complicated descriptions.

Under our present system of title appraisal, every deed must be carefully compared and checked with its predecessor as to date, party and description. Any individual having any experience in performing this task knows too well the very considerable and unrewarding burden of comparing each successive description in a lengthy chain of title. The process of comparing long notes and bounds descriptions can be time-consuming and may cause questions of marketability and validity of transfer whenever any variation, however minute, occurs in successive descriptions of land. The use of an assigned parcel identifier or code number would avoid the repetitious examination of these countless lengthy descriptions; simple comparison of code numbers would suffice.

Our public records contain the basic information necessary to the purchase and sale of land. The efficient use of these records depends upon their accessibility. Under the present system, the only ready means of access is contained in an index which provides a history of land ownership by reference to all the particular instruments affecting the title. The original alphabetical or grantor-grantee index has been out of date for decades; yet we continue to struggle along with it. It was intended for a temporary fix in which most people transferred their land once or twice in a lifetime. Apparently no one thought about a better kind of index. With the advent of the Government Survey, a few states adopted tract indices. However, this adoption is largely confined to a few western and some midwestern states where real estate transactions are much less frequent than they are in the metropolitan areas. Private abstractors and title companies, realizing that they could not function except on the basis of such tract indices, have laboriously prepared, at great expense to themselves, separate private title plants on the basis of individual or small units of land. With such a private index, every instrument in the history of a title to any particular parcel of land can be identified in a short time. This is a very considerable time and money saving compared with the older methods of researching and searching.

It is but one step further to carry the idea of a tract index to the point of recording and storing all information concerning each particular tract of land in a given community in one single place against the parcel identifier. Not only should all information

concerning every parcel be stored in a single office, but all information pertaining to each particular tract should be stored in one index so that persons who need information concerning a particular parcel can gain access to all such information easily and promptly, with the assurance that it is complete and accurate. In this manner our recording system will thus become a Unified Land Information and Recording System. Failure to establish such a unified information system in the near future will result in the continued increase in related land transaction costs. Neither records the title industry, the conserving bar nor the public wish to see such costs increase to the point of no use.

11. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 5 (1954-55).

Peterson and Alexander, *Land Title Records Modernization: An Update on the HLLPA*, Section 13, March 16, 1964, University of Wisconsin Law School, 1964-1965.

12. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

Peterson and Alexander, *Land Title Records Modernization: An Update on the HLLPA*, Section 14, March 16, 1964, University of Wisconsin Law School, 1964-1965.

13. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

14. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

15. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

16. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

17. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

18. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

19. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

20. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

21. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

22. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

23. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

24. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

25. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

26. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

27. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

28. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

29. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

30. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

31. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

32. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

33. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

34. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

35. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

36. *Charleston and Hunter, A Unified Automated Land Title System for Wisconsin*, 41 Wash. Bull. 6 (1954-55).

This statute allows courts to adopt less strict identifier numbers for deeds and other legal instruments. Although such exceptions, no instrument can be accepted for recording without identifier numbers affixed to the top thereof. This requirement does not affect the validity of any instrument that is duly recorded. (HRS 1982, c. 40)

17. Cook, Land Use Patterns A Modern Conceptual System of Land Records. 20 U.C.L.A. 364, 100 (1980); E. Meade & R. Meade, A Data Processing System for State and Local Governments 103, 110 (1963); Thompson, Some Thoughts on the Importance of Land Title Records, 23 The Canadian Surveyor 23 (1968).

18. However, it has been suggested that current address be assigned to all persons within a metropolitan area to provide a means of determining the feasible grounds to indicate the location of a powder plant or plant. See American Bar Association Committee on Improvement of Land Records, Improvement of Land Title Records, 19th Annual Conference on Land Title Records, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634

The Modified Transverse Mercator system (NAD83) tends to correct the problems inherent in the UTM System by dividing the hemisphere line on a three degree basis. While this would improve the accuracy of boundaries on a national scale, it would not solve the same old country boundary and in some cases, it is better than the UTM system compared with the State Plane Coordinate System. Since our uniform coordinate system would have to take on a standard, it would have to take on the

count of and be within the perimeter of boundaries, it would mean that the State Plane coordinate system can be converted to latitude and longitude coordinates offers the best type of information. See CANNON & STEWART, Land Use Information No. 11963, Coast, supra note 17, at 404-05.

20. See Magnum Automation of Band Title Systems, 2: AM U.L. Rev. 365 3:7 (1972)

21 Highways supra note 20 at 117.
22 Blacklaw, Indiana vs. Title Records, 17 Law & Banking 26 (1972); Cross The Record "Chain of Title: The Hypothesis," 55 Calum. L. Rev. 161 (1969); Sumner & Taylor Impresario of Conveyancing or Legislation 33-46 (1960).

22 Wuestelich Public Case of
Land Records 22 Am U.L.R. 313
(1972); Burke Government Inter-
view in the Conventing Process 22
Am U.L.R. 275 (1972); Baize A.L.
Western Land Parcel Identifiers - In Print
Interview At Our Land Records 22 Am U.
L.R. 251 (1972); Leary and Blake
Twentieth Century West Texas Base
Township and Eighteenth Century Base
22 Am U.L.R. 275 (1972); Myers
22 Am U.L.R. 289 (1972); Jensen
Competition of Land Records 36
The Title Industry 22 Am U.L.R. 349
(1972); Dunbar Land Parcel Identifi-
cation and the Uniform Land Transactions
Act 43 U.C.L.R. 669 (1974); Carlin,
Competition of Land Records in the
Maritime Province of Canada 43
U.C.L.R. 665 (1974); Bradford Com-
petitions of Land Title Records 43
U.C.L.R. 511 (1974); Cook Land
Title Systems The Next Step 43
U.C.L.R. 507 (1974); Modernization
of Local Record Keeping of Land Title
Information 43 Westrup, Peab and
Johnson 43 U.C.L.R.

Land Information Systems for the Twenty-first Century. In *Real Property, Probate and Trust Journal* 59 (1990), Patterson and Alexander. Land Title Records Interim Report. An Update on the RPLS, Section 13. Research to Real Property Probate and Trust Journal 62 (1992).

PART I
MARKETABLE TITLE AND STATUTES
RELATING TO EVIDENCE THEREOF

CHAPTER 2

ESTABLISHMENT OF MARKETABLE TITLE

WELSLAW Electronic Research

See **WILLIAMS Electronic Research Guide** immediately preceding the
Summary or Contents of this packet part

§ 12. Admissibility of Evidence—Ancient Documents as Self-Proving

3. *Ann. Code 1975, § 34-42* (superseded) provides that a student who is recommended for suspension shall be given a 30-day period in which to prepare a written statement in support of his or her position. The statement shall be filed with the hearing officer no later than 10 days after the suspension hearing. *See* 1975-1, 1st Sess., 1975-1, 2d Sess., 1975-1, 3d Sess., 1975-1, 4th Sess., 1975-1, 5th Sess., 1975-1, 6th Sess., 1975-1, 7th Sess., 1975-1, 8th Sess., 1975-1, 9th Sess., 1975-1, 10th Sess., 1975-1, 11th Sess., 1975-1, 12th Sess., 1975-1, 13th Sess., 1975-1, 14th Sess., 1975-1, 15th Sess., 1975-1, 16th Sess., 1975-1, 17th Sess., 1975-1, 18th Sess., 1975-1, 19th Sess., 1975-1, 20th Sess., 1975-1, 21st Sess., 1975-1, 22nd Sess., 1975-1, 23rd Sess., 1975-1, 24th Sess., 1975-1, 25th Sess., 1975-1, 26th Sess., 1975-1, 27th Sess., 1975-1, 28th Sess., 1975-1, 29th Sess., 1975-1, 30th Sess., 1975-1, 31st Sess., 1975-1, 32nd Sess., 1975-1, 33rd Sess., 1975-1, 34th Sess., 1975-1, 35th Sess., 1975-1, 36th Sess., 1975-1, 37th Sess., 1975-1, 38th Sess., 1975-1, 39th Sess., 1975-1, 40th Sess., 1975-1, 41st Sess., 1975-1, 42nd Sess., 1975-1, 43rd Sess., 1975-1, 44th Sess., 1975-1, 45th Sess., 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§ 13. Recovered Beds from Face Evidence of Their Extension and Delivery

Some 20 Rhode Islanders adopted a statute in 1867 providing for a "separate and independent judicial system," a system which has been duly organized and acknowledged.

In this way prospective purchasers could observe all claims and interests, whether present or future, possessory or nonpossessory, by examining the record of interests or claims recorded within the statutory period.

Curative Statutes

Another kind of legislation which can be used most effectively for clearing land titles of defects and rendering them marketable is curative legislation. A curative statute may be described briefly as a form of retrospective legislation which reaches back into the past to operate upon past events, acts or transactions in order to correct errors and irregularities and so render valid and effective those attempted acts which would otherwise be ineffective for the purpose intended.⁵ As applied to conveyances such statutes supply one or more ingredients of a legal act which the parties intended to perform but which they failed to accomplish completely or which they executed imperfectly.

In some states a great mass of curative statutes has been adopted, and many such statutes are adopted at each legislative session to cure or validate deeds and other instruments not previously included. In other states curative legislation is almost nonexistent. This resort to legislation to cure past transactions in which parties have done enough to disclose their real intentions but have done it imperfectly has much to recommend it as a means of promoting stability in land titles. The accomplishments of curative statutes in the past are many, and their possibilities for the future are considerable.

Statutes Defining and Declaring Marketability

Time cures certain errors in conveying by means of statutes of limitations. The healing effect of curative legislation removes other defects of conveying. But operation of these kinds of legislation neither defines nor declares what constitutes a marketable title. The usual definition of a marketable title is one which is free from all reasonable doubt.⁶ This negative approach is not now satisfactory, for it is a rare title concerning which an examiner cannot entertain some doubt with respect to some transaction in its history. As long as marketability is made to depend upon the entire history of a title, we shall never achieve simplicity. We must cut loose from the ancient past, extinguish all claims and interests which grow out of or are dependent on ancient transactions, and make marketability a product of the recent past. A sound workable definition of marketability is one which states positively what constitutes that characteristic,

5. See discussion in Chapter 10, in: 4. Patton, Land Titles § 16 (2d ed. 1927).

rather than one that merely says what matters shall not constitute an impediment to it.

The Marketable Title Acts now effective in more than a dozen states are models of this type of legislation.⁷ They in effect declare that one who has an unbroken chain of title of record to any interest in land for a specified period of time shall at the end of such period be deemed to have a marketable record title to such interest, subject only to such claims and defects of title as are not extinguished or barred by other provisions of the statute or are contained in the chain of record title during such period. All outstanding interests having an origin prior to that period specified are, with limited exception, extinguished by the statute unless an appropriate notice thereof is recorded, and a good record title for the full period is declared to constitute a marketable one. No standard more simple or more easy to apply can be imagined. Such legislation is a long step toward bringing about an efficient and effective system of conveying, and its widening adoption seems assured.

§ 9. Modernization and Automation of Land Title Records

A third method for increasing the efficiency of conveying concerns our land records, their accurate transcription in recording, their orderly arrangement, and their accessibility for purposes of providing information quickly as to individual pieces of property. None of these matters posed serious problems in early America. So long as transfers of land remained few, so long as the history of a title was confined to a short expanse of time, the objectives of the American recording system were realized without undue hardship, even with use of alphabetical indices. But our forefathers had no clear vision of what land transfers would be like in Chicago, Los Angeles or Philadelphia in the last half of the twentieth century. They could not foresee deeds, mortgages and other instruments being presented at recorders' offices at the rate of several per minute of each working day. Title transfers in early days took place without any special problem in gaining access to required copies of instruments of record. The importance, indeed the necessity, of an index was not realized until a later date, and even now we are only beginning to open our eyes to the urgent need for installing a form of index that has an efficiency commensurate with the current demands for accessibility of records.

The maintenance of accurate, accessible records is at the heart of any modern title operation. Whether a title is searched and

7. For a discussion and citation of these statutes see Chapters 9 and 10, *infra*.

appraised by a lawyer who examines the public records, by an abstractor who prepares copies of the record for an examiner, or by a title insurance company, the need is identical. But the quantity of public land records is increasing each year by geometrical progression, and with this increase the problem of accessibility becomes increasingly acute. A title company executive recently declared that "we must automate title record storage and retrieval or eventually be like the British Army at Dunkirk, 'still willing to fight, with no room left to stand.'"

Our land title records are among our most valuable possessions. They are essential to our security in owning our homes and our businesses, and they make possible the transfer of land assets freely from one person to another. The records are not to be regarded merely as publicly stored transcriptions of deeds and other instruments affecting real property. The recording system is not an inert storage facility but a facility that has definite functions to perform. In order to perform efficiently, however, the system must be subject to periodic scrutiny and modification to meet changing circumstances. At the present time we pay a heavy price in continuing to endure our inadequate record system, and we must act to provide simplicity appropriate to need.

Specifically, if we are to attain simplicity in our land title records to have them do the job required in this day and age, four basic standards of performance are necessary. They are not novel, because they are already in limited operation in various public or private institutions concerned with titles. These standards are: Entire accuracy in transcription of instruments on the public records; maximum orderly arrangement or storage of these records; adoption of uniform and highly simplified methods for the designation and description of individual parcels of land; and the installation of land data banks to provide near instantaneous access to all title records.

To relate these propositions in another form, we need automation for input, for processing and for output of our title records; and we need simple methods for identifying and describing individual tracts of land. These improvements can be put into operation with benefits to the recorder, the abstractor, the title searcher, the lawyer, the title insurer, the property owner and the public. Let us consider them one at a time.

Accurate Transcriptions and Storage of the Public Records

In earlier times instruments were copied on the public records by penmen who used quill and ink bottle. Some of them were proud of their work. Others took less pride and little

care in their work. The risks and losses by reason of errors in transcription are legion! As the quill gave way to the type writer, transcription became somewhat more rapid and readable but not completely immune to chances of error. After World War II photostatic processes were widely adopted to save time and avoid errors of transcription inherent in the older methods. The photostatic process did not solve the space problem of storing an increasing quantity of public records or reduce their susceptibility to loss or destruction by the elements, malicious mischief or vandalism. More recently microfilming has been installed in certain public offices, and this has aided the storage problem because the average document is thereby subjected to a reduction in diameter of 20 to 1 corresponding in an area or space reduction of 400 to 1. One roll of microfilm can contain 2,000 documentary images or the equivalent of two or three record books of the usual type. Furthermore, extra copies are readily made for storage in humidity-proof and fire-proof facilities as insurance against loss or destruction. One objection to microfilm records arises from their limitations in providing viewing facilities. Another disadvantage is the increased processing time presently required for reproduction on the public records. Ultimately video type will probably replace both the photo static and the microfilm processes for our public records.

Photostatic and microfilm recording have insured accuracy of transcription. They are a vast improvement over the old hand copied records, both in the time saved and in the accuracy achieved. Whether they will remain the last word in this process is a matter to be resolved in the light of future experience.

Orderly Arrangement of Public Records

Ready accessibility to the public land records is essential to the basic objective of our recording system. The ready means of access is an index providing reference to the particular instruments which contain the history of land ownership and support the validity of particular titles. Before surveys were made of land the alphabetical, or grantor grantee, system was adopted. Only infrequently accompanied by a tract index, this system is still in use in every state, ill adapted as it now is to meet the needs it was originally intended to serve.

Some mechanical improvements have been made during recent years in these alphabetical indices. Machines have been installed in some public offices to reorganize indices daily, weekly, monthly, quarterly and annually and to place names of all grantors and grantees in complete alphabetical order as in a telephone

1. Surveys and Titles, Improvement of Conveyances by Legislation 54-55 (1904)

2. See Note, Computer Storage of Public Records, 67 Iowa L. Title Records Officers Solution to 110-112-113.

with careful note taken of dates, parties and description. Everyone who has had even moderate experience in appraising titles knows too well the very considerable but unrewarding burden of checking each successive description in a lengthy chain of title. Verification of every meter and bounds description can be very time consuming, and questions arise whenever any variation occurs in successive descriptions of particular land. As a result of division and sub-division of land into smaller units for individual sale and use the vast majority of existing tracts now have identities which are or could be made susceptible to description by some abbreviated means that would obviate resorting to lengthy meters and bounds descriptions in every case. The use of a lot and block number, a street address with refinements, or preferably an assigned code number or parcel designator, would not only avoid the repetitious examination of countless lengthy descriptions but would also tend to prevent errors in their transcription, both in the instruments of conveyance and on the public records. The saving in time and the prevention of errors would bring economies that are not easily overstated.

There must be a legal requirement in order to make the use of assigned parcel designators mandatory. Coverage should also include all land subject to taxation on assessors' rolls and all land subject to regulation by planning and zoning agencies. The parcel identifier would readily serve as the assessment number. Where a land transaction divides a parcel of land that is encompassed by a given identifier, new identifiers would need to be assigned. A reverse procedure would apply for combinations or mergers of parcels of land. The transition to use of land parcel designators would involve adjustments, but any minor difficulties during the period would be negligible in view of the permanent and major benefit achieved. General adoption of such a designator method is desirable because of the greater efficiency it brings, and the urgent and growing need to have the method in use makes adoption increasingly unavoidable.

At the last count some 28 states had authorized the use of a State Plane Coordinate System for making accurate surveys and describing specific parcels of land.¹ Ground monuments have been located in every state so that this system of land survey and land description could be inaugurated very easily. Its use would provide more ease and greater accuracy in land descriptions where references to officially established monuments are necessary. It has been recommended and approved by the American Society of Civil Engineers, by the Council of State Governments and by the American Bar Association. In a number of

1. Report of Committee on Improvement of Land Title Records, 3 Real Prop., Probate and Trust Jour. 61 (1924); 33 A. Pract. & Tr. 56 at 61 (1924).

2. Report of Committee on Improvement of Land Title Records, 3 Real Prop., Probate and Trust Jour. 61 (1924); 33 A. Pract. & Tr. 56 at 61 (1924).

places these ground marks are being placed at intervals of every two miles or less. The use of these markers makes it possible to determine at low cost and with great precision the coordinates for each corner of every parcel of land within the areas where they are installed.

In putting such a system into effect generally we should need uniform standards for land surveying and mapping and a nationally recognized standard or method for designating small tracts of land. Whether we need Federal legislation to do this is another question. Certainly recognition of the problem and full cooperation by states, counties and lesser governmental units are indispensable to ultimate success.

Survey markers are already established for land in many places, especially in cities, and the markers increase in number as new subdivisions are developed, thus enabling ready determination for the coordinates of corners on each included parcel of land. For all such parcels of accurately located land it would be a simple matter to assign a code number or other code designation and require the use of that designation to represent the property description in each conveyance of ownership. This would dispense with useless repetition of descriptive measurements in deed after deed and would practically eliminate the occurrence of error.

Some resurveying might be required to establish abbreviated designations for parcels composing previously subdivided land. The cost would not be excessive if surveying of many contiguous parcels were conducted at one time as a single project. More recently photogrammetry, or aerial photography, has been used for making surveys.² By this method it is now possible to determine the coordinates of corners of any tract of land with a high degree of accuracy. Moreover, it can be done quickly and at a very modest expense. This method does not require determination of exact boundaries between adjoining tracts. Each parcel can be described by reference to some point clearly inside the tract. The incidence of boundary disputes requiring judicial settlement should be minimal.

Installation of Land Data Banks

The typewriter and the bookkeeping machine have served us well for many years and are likely to continue to do so for a long time to come. But already they have been supplemented by punch card machines, electronic computers and other data processing equipment. These devices are of many kinds and must

3. ABA Proc. Sec. of Real Prop., Probate and Trust Jour. 61 (1924); 33 A. Pract. & Tr. 56 at 61 (1924).

be designed to meet the specific needs of the organizations they are called upon to serve. Many businesses, such as life insurance companies, have used data processing equipment for several decades. No business, however, compares in size with our collective national governmental agencies. In the process of their rapid expansion these agencies have installed various types of data processing equipment to carry out their particular functions with maximum efficiency.

As to our primary concern here, namely data pertaining to real property, this data is of vital concern to many other than those directly involved with land transactions. A number of public agencies within a state have considerable need to use various data pertaining to real property.¹⁶ The recorder, of course, has custody of the basic records of legal title, and his acceptance of instruments must be in accordance with the rules governing his office. The assessor, the auditor and the tax collector must keep informed as to ownership and changes in ownership, the addresses of owners and the character and values of improvements on property. Much information essential to public agencies, though not essential for the transfer of ownership, could easily be made a part of our land title records, and several states now require some of this additional information to be included on instruments of transfer. Certain data enters into the regulation of land use and development and is of concern to planning and zoning commissions, to urban renewal agencies, and to structural regulation boards. The protection of property within the special province of police, fire and flood control agencies. Other information is of interest to public health, school and voting authorities. The need for special kinds of property information increases as public functions are expanded.

Types of computers or systems now available can be specifically designed or modified for performance to store all such information that concerns individual parcels of land. Such a system on a modest scale is already in use in a few cities, and similar installations elsewhere are being planned. Placing such a system of land data banks into operation generally and with simplified functioning will require testing and experience, but it is clear that our public land records can be brought to provide a great variety of information relating to ownership, location, improvements, use (both actual and permissible), liens and encumbrances, tax assessments and tax liens, use restrictions, easements, occupancy, parking facilities and a host of other matters in the realm of property.

10. For a short treatment and outline of the possibilities in the use of computers in storing and providing access to information concerning such property see *Workshop* and *Class A Data Processing System for State and Local Government* 2 and 4 and Appendix A (1962).

When it finally develops that all of this data, wherever the volume does become systematically stored with centralized collection so that any desired data for any period of time can be speedily produced for inspection, the benefits to private enterprise, to buyers and sellers of land, to all those who must consult the records in order to calculating the status of ownership, can hardly be overstated, and the benefits will extend simultaneously to our public agencies, from tax assessors and collectors, to zoning boards and agencies of land use control.

As far as title records are concerned the use of automated equipment is certainly not visionary. A punch card system containing full information as to all recorded instruments affecting real property has been in use by one large title company in Los Angeles for several years. Each day as instruments are recorded the relevant data is placed on punched cards, showing dates, parties, description and other data, which can be retrieved in a matter of seconds when a title search is requested for any particular parcel of land. A later extension of the punch card system is the recording of similar data on magnetic tape. This information can be stored in small space and retrieved almost instantaneously. Various other mechanical and electronic devices are currently being used by title companies in different sections of the country today. Their adoption and use is becoming a matter of increasing necessity and has even spread to a few public recorders' offices in Massachusetts, New York and Illinois.

Computer equipment has now been developed which can be programmed to receive and store all manner of data concerning land and titles to land. Computers are now able to receive and merge different interparty indices with separate indices of judgement and tax liens. They can also transmit full microfilm instruments affecting a given tract of land instead of references to those instruments taken from an index. This can be done with the use of aperture cards which can be key punched and then merged according to their geographical locations. Jacks

10. **Proceedings of the Twelfth Conference on A Computerized Indexed Law Data System (CUL-DATA)** at University of Carolina College of Law (1972). Note: Complete Source of Auth. Records of Papers Submitted to Symposium, Volume 45, Issue 1 (1972), 25-27. (Belle Compustation and Office Development Affiliates, Inc. 1-1972, 2-1973, 3-1974, 4-1975, and 5-1976, of the 1972-1973, 1973-1974, 1974-1975, 1975-1976, 1976-1977, 1977-1978, 1978-1979, 1979-1980, 1980-1981, 1981-1982, 1982-1983, 1983-1984, 1984-1985, 1985-1986, 1986-1987, 1987-1988, 1988-1989, 1989-1990, 1990-1991, 1991-1992, 1992-1993, 1993-1994, 1994-1995, 1995-1996, 1996-1997, 1997-1998, 1998-1999, 1999-2000, 2000-2001, 2001-2002, 2002-2003, 2003-2004, 2004-2005, 2005-2006, 2006-2007, 2007-2008, 2008-2009, 2009-2010, 2010-2011, 2011-2012, 2012-2013, 2013-2014, 2014-2015, 2015-2016, 2016-2017, 2017-2018, 2018-2019, 2019-2020, 2020-2021, 2021-2022, 2022-2023, 2023-2024, 2024-2025, 2025-2026, 2026-2027, 2027-2028, 2028-2029, 2029-2030, 2030-2031, 2031-2032, 2032-2033, 2033-2034, 2034-2035, 2035-2036, 2036-2037, 2037-2038, 2038-2039, 2039-2040, 2040-2041, 2041-2042, 2042-2043, 2043-2044, 2044-2045, 2045-2046, 2046-2047, 2047-2048, 2048-2049, 2049-2050, 2050-2051, 2051-2052, 2052-2053, 2053-2054, 2054-2055, 2055-2056, 2056-2057, 2057-2058, 2058-2059, 2059-2060, 2060-2061, 2061-2062, 2062-2063, 2063-2064, 2064-2065, 2065-2066, 2066-2067, 2067-2068, 2068-2069, 2069-2070, 2070-2071, 2071-2072, 2072-2073, 2073-2074, 2074-2075, 2075-2076, 2076-2077, 2077-2078, 2078-2079, 2079-2080, 2080-2081, 2081-2082, 2082-2083, 2083-2084, 2084-2085, 2085-2086, 2086-2087, 2087-2088, 2088-2089, 2089-2090, 2090-2091, 2091-2092, 2092-2093, 2093-2094, 2094-2095, 2095-2096, 2096-2097, 2097-2098, 2098-2099, 2099-2100, 2100-2101, 2101-2102, 2102-2103, 2103-2104, 2104-2105, 2105-2106, 2106-2107, 2107-2108, 2108-2109, 2109-2110, 2110-2111, 2111-2112, 2112-2113, 2113-2114, 2114-2115, 2115-2116, 2116-2117, 2117-2118, 2118-2119, 2119-2120, 2120-2121, 2121-2122, 2122-2123, 2123-2124, 2124-2125, 2125-2126, 2126-2127, 2127-2128, 2128-2129, 2129-2130, 2130-2131, 2131-2132, 2132-2133, 2133-2134, 2134-2135, 2135-2136, 2136-2137, 2137-2138, 2138-2139, 2139-2140, 2140-2141, 2141-2142, 2142-2143, 2143-2144, 2144-2145, 2145-2146, 2146-2147, 2147-2148, 2148-2149, 2149-2150, 2150-2151, 2151-2152, 2152-2153, 2153-2154, 2154-2155, 2155-2156, 2156-2157, 2157-2158, 2158-2159, 2159-2160, 2160-2161, 2161-2162, 2162-2163, 2163-2164, 2164-2165, 2165-2166, 2166-2167, 2167-2168, 2168-2169, 2169-2170, 2170-2171, 2171-2172, 2172-2173, 2173-2174, 2174-2175, 2175-2176, 2176-2177, 2177-2178, 2178-2179, 2179-2180, 2180-2181, 2181-2182, 2182-2183, 2183-2184, 2184-2185, 2185-2186, 2186-2187, 2187-2188, 2188-2189, 2189-2190, 2190-2191, 2191-2192, 2192-2193, 2193-2194, 2194-2195, 2195-2196, 2196-2197, 2197-2198, 2198-2199, 2199-2200, 2200-2201, 2201-2202, 2202-2203, 2203-2204, 2204-2205, 2205-2206, 2206-2207, 2207-2208, 2208-2209, 2209-2210, 2210-2211, 2211-2212, 2212-2213, 2213-2214, 2214-2215, 2215-2216, 2216-2217, 2217-2218, 2218-2219, 2219-2220, 2220-2221, 2221-2222, 2222-2223, 2223-2224, 2224-2225, 2225-2226, 2226-2227, 2227-2228, 2228-2229, 2229-2230, 2230-2231, 2231-2232, 2232-2233, 2233-2234, 2234-2235, 2235-2236, 2236-2237, 2237-2238, 2238-2239, 2239-2240, 2240-2241, 2241-2242, 2242-2243, 2243-2244, 2244-2245, 2245-2246, 2246-2247, 2247-2248, 2248-2249, 2249-2250, 2250-2251, 2251-2252, 2252-2253, 2253-2254, 2254-2255, 2255-2256, 2256-2257, 2257-2258, 2258-2259, 2259-2260, 2260-2261, 2261-2262, 2262-2263, 2263-2264, 2264-2265, 2265-2266, 2266-2267, 2267-2268, 2268-2269, 2269-2270, 2270-2271, 2271-2272, 2272-2273, 2273-2274, 2274-2275, 2275-2276, 2276-2277, 2277-2278, 2278-2279, 2279-2280, 2280-2281, 2281-2282, 2282-2283, 2283-2284, 2284-2285, 2285-2286, 2286-2287, 2287-2288, 2288-2289, 2289-2290, 2290-2291, 2291-2292, 2292-2293, 2293-2294, 2294-2295, 2295-2296, 2296-2297, 2297-2298, 2298-2299, 2299-2300, 2300-2301, 2301-2302, 2302-2303, 2303-2304, 2304-2305, 2305-2306, 2306-2307, 2307-2308, 2308-2309, 2309-2310, 2310-2311, 2311-2312, 2312-2313, 2313-2314, 2314-2315, 2315-2316, 2316-2317, 2317-2318, 2318-2319, 2319-2320, 2320-2321, 2321-2322, 2322-2323, 2323-2324, 2324-2325, 2325-2326, 2326-2327, 2327-2328, 2328-2329, 2329-2330, 2330-2331, 2331-2332

or microfiche presently available can hold up to 100 images of documents pertaining to a given piece of property. Once an index structure of such capability has been organized, title examiners will be able to obtain all relevant title documents to any particular parcel of land through one reference.

Data banks thus far assembled in these early stages have capabilities that could facilitate various aspects of governmental planning and decision making functions by providing accurate and full information quickly concerning all property in designated areas. Land data banks on a modest scale are already in use in several large metropolitan areas and are being organized for wider and more expanded use.¹⁰ Of special interest to the title industry and profession are computers that will be able to store information and write it in final form on a title report. Several title companies are already considering private installation of this type of equipment.¹¹ The facilitation of title searches that will be possible with use of automated equipment is very great indeed, and the potentials can hardly be overestimated.

Conclusion

Automation is capable of bringing vast operating improvements to our system of land records, and the time is near when utilization of available equipment will be evident in substantial degree. The transition to computers and other devices for introducing phenomenal speed and accuracy into recording operations will involve radical change of techniques, but with the joint efforts of technicians, lawyers and the title industry the problems should be quite temporary, and the new efficiency will be a lasting reward. This new alignment of recording will play a major role in reorganizing reform.

§ 10. The Michigan Research Project for the Improvement of Conveyancing

During 1955 and 1956 the Committee on Improvement of Conveyancing and Recording Practices of the Section of Real Property, Probate and Trust Law of the American Bar Association made a preliminary survey as to performance of the conveyancing system. More precise viewing of the system's operational efficiency was sought in order to plan a further course that would conclude with proved practical means capable of eliminating major defects.

13. Wolfe, Compartmentation and Dis-
crimination: Addressing the
Property, Probate and Trust Law
and DOJ (2023).

14. *Wink et al. Annotation—*to Date,
of *Topic No. 301* at *110* December
1964.

for industries in the system. Continued reliance on the existing system was considered essential, and the main thrust of conservancy reform was seen as occurring within the broad framework of a recording system and customary practices based upon it. This preliminary survey led to the proposal that comparative and depth penetrating research on the subject of Appraisals of Marketability and Improvements of Conservancy be undertaken jointly by a committee within the Section and a leading law school with facilities adequate and available for such an enterprise. The objective visualized was the formulation of recommended procedures that could realistically achieve needed conservancy reform in any state. The Law School of the University of Michigan was found to be highly interested in engaging upon the proposed research, and it was admirably equipped for the special task of drafting model legislation to serve as a guide wherever remedial measures should be seriously considered for adoption. Further, the valuable services of Professor Lewis M. Sney, whose enduring interest in property law and whose published works in the field were well known throughout the country, would be available. Working arrangements were entered into in the Section and the University of Michigan Law School to proceed with the program.

Professor Series devoted approximately two years to conducting research and drafting model legislation, assisted by Mr. Clarence F. Taylor, who had considerable background in both title work and letters and drafting, and aided in the services and helpful criticisms of a number of persons who had specialized in title problems. Members of the Committee of the Real Property, Probate and Trust Law Section contributed suggestions and remained in close support of the project until its completion.

Three non-erthy products resulted from this program: (1) a treatise on *The Improvement of Conveyancing by Legislation*, which included more than 30 model acts, each designed to aid in bringing simplicity to the conveyancing system of any state; (2) a set of Model Title Standards; and (3) a *Handbook of More Efficient Conveyancing for the use of lawyers and leg-islatures seeking improved functioning in the conveyancing system*. Each publication was a complete unit in itself.

The first of these publications comprehended the basic stone-
line for achieving the ultimate purpose. It commences with a
thorough consideration of the main objectives of an efficient

Source and Testing. The responses were obtained from 100 students in the first semester of the University of Michigan (1962-1963). The students were given the test before the beginning of the semester and were assured that their responses would be kept confidential.

Official
 Copy of the
 Report of the
 Committee on
 the
 Judiciary
 of the
 Senate
 of the
 United States
 of America
 for the
 year
 1902



Society of Land Surveyors of Iowa

Affiliated with American Congress on Surveying and Mapping

Date: December 19, 1988
To: Members of the Modernization of Iowa Platting
Statutes Interim Study Committee
Re: A Summary of Proposed Chapter 114A
Relating to Land Surveys and Plats

The proposed legislation in Chapter 114A was drafted by the Society of Land Surveyors of Iowa, an organization of more than three hundred members. The membership of this group consists of surveyors from private practice, municipal governments, county engineer offices, the federal government, the Iowa Department of Transportation and Iowa State University.

The draft of this legislation was carefully organized over the past four years which included an examination of existing Code sections to prevent future conflicts.

Presently, Iowa Code Chapters 355 and 409 are entitled, "LAND SURVEYS" and "PLATS", respectively. The subject matter in these two chapters is interdependent. Land surveying is defined in Iowa Code Section 114.2 as the "...surveying of areas for their correct determination and description and for conveyancing, or for the establishment or re-establishment of land boundaries and the platting of lands and subdivisions thereof." Plats are the primary land surveying documents that report the results of the act of land surveying.

Chapters 355 and 409 contain several sections that have been "added to" the Code over the years. Some sections in both

chapters incorporate, by reference, the requirements found in the other chapter. This situation has resulted in inconsistencies and conflicts between the chapters. Further, the incorporation by reference has led to the omission of certain requirements. These problems have created confusion and unfairness in applying and enforcing the laws uniformly.

Proposed Chapter 114A would correct these inconsistencies and conflicts and repeal Chapters 355 and 409. The land surveying requirements in Chapter 409 are located in proposed Chapter 114A. Likewise, the important land surveying requirements in Chapter 355 are also in proposed Chapter 114A. These requirements, now combined and uniform, are coordinated with the requirements found in proposed Chapter 409A. This method recognizes and defines the two distinct types of plats important in Iowa land surveys and eliminates a primary cause of confusion in the present Code. The proposed Section 114A.7 deals with plats of survey and 114A.8 concerns plats for subdivisions. Some of the requirements in these sections are identical and could be criticized as being a duplication. However, the duplication is necessary to clearly categorize the type of plat being treated in the law. This duplication is intended to avoid the inconsistencies, conflicts, omissions and confusion caused by cross referencing from one chapter and section of the Code to another. This cross referencing is a serious problem. The basic land surveying requirements for a plat of survey and a subdivision plat are the same. The Code does not recognize this fact.

Some of the standards and requirements of Chapters 355 and 409 are out of date. Chapter 355 is especially antiquated. It deals primarily with the duties of the county surveyor. The research and

drafting of proposed Chapter 114A found no county surveyor appointed under Chapter 355. This situation has existed for many years and creates a void in the intent of Chapter 355 regarding the county surveyor's duties. Some of these duties are not consistent with present standards and are being neglected.

One of the most important duties of the county surveyor is in Code Section 355.3, entitled "Corners". Present day compliance with this ancient section has been optimistically called voluntary, there being no one officially responsible other than the "late" county surveyor. The location and perpetuation of public land corners requires constant monitoring. Iowa law needs to recognize this fact in a modern form such as represented in Section 114A.11 entitled, "UNITED STATES PUBLIC LAND SURVEY CORNER CERTIFICATE". Several other public land survey states have enacted similar legislation. They are Illinois, Michigan, Missouri, North Dakota, South Dakota, and Wisconsin. This legislation has been in place for several years in some of these states and is performing its intended function. Proposed Section 114A.11 updates Code Section 355.3 and makes present day voluntary compliance the clear responsibility of practicing land surveyors. Preserving the locations of public land corners must keep pace with the changes in Iowa land use.

To support the argument that Section 355.3 entitled, "Corners", is being neglected, the following facts are relevant:

- A. As stated, no county surveyors were found appointed under Chapter 355.
- B. Even though land surveyors are willing to perform the duties of the former county surveyor, there is no permanent record keeping system for "corner" records.

- C. According to statistics, about sixty counties in Iowa have county engineers that are not registered land surveyors.
- D. About fifteen of the above sixty counties do not have a registered land surveyor residing in that county.

The statistics cited here were compiled from information issued in 1987 by the Iowa State Board of Engineering and Land Surveying Examiners and by the Iowa Engineering Society.

Section 114A.11 proposes to record the land corner certificate with the County Recorder. This places the information into the permanent records of the county and serves notice to future surveyors. Section 114A.11 also requires filing a copy of the certificate with the County Engineer. The County Engineer is a user of this information since many of these corners are located in county road rights of way. Several county engineers have extensive records concerning land corners and have performed a valuable public service in maintaining them. It is important to stress the fact that this information is public, since the corners are called "Public Land Corners" affecting many land descriptions in a given area. The information shown on the certificate is gathered during the course of the survey, but is not ordinarily shown on plats due to the lack of requirements and space limitations.

Examples of corner certificates and laws from some of the states referred to are attached to this summary. A form used by the Iowa Department of Transportation is included in these examples. The IDOT form originated in the Office of the Cerro Gordo County Engineer several years ago. The IDOT form could be adopted to

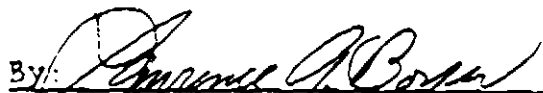
meet the requirements of proposed Section 114A.11. The forms vary in design but are similar in the function of preserving public corners.

It is the consensus of land surveyors that the effort necessary to prepare these forms is greatly offset by the benefits of having access to the information and uniform reporting. The benefits are not just to the land surveyor. The public benefits immensely when the surveyor has more information. The lack of information makes surveys more difficult and time consuming and invites boundary disputes and title location problems.

In addition to the absence of the County Surveyor, Section 355.3 is out of date for other reasons. The use of bearing trees was common in the early surveys of Iowa during settlement. This method is now impossible in much of our state due to changes in terrain and land use. The placement of stones for marking corners was discontinued about 1900. Land surveyors prefer using more permanent, recognizable, and detectable monuments.

At this time, other than Section 114A.11, proposed Chapter 114A does not impose any new requirement. Further, it does not relieve any existing requirement that land surveyors should follow. Through clarification, the proposed chapter only defines what is necessary for an adequate survey and plat. It does not say when a survey is required. That question should be determined by others.

Respectfully submitted,
SOCIETY OF LAND SURVEYORS OF IOWA

By: 
Lawrence A. Boyer, Chairman
Legislative Committee for the
Society of Land Surveyors of Iowa

Chapter 355
IAC 390-Ch.2

Chapter 409
IAC 390-Ch.2

Proposed Chapter 114A

Definitions & Applicability

Rules
Boundary Location
Measurements
Monumentation

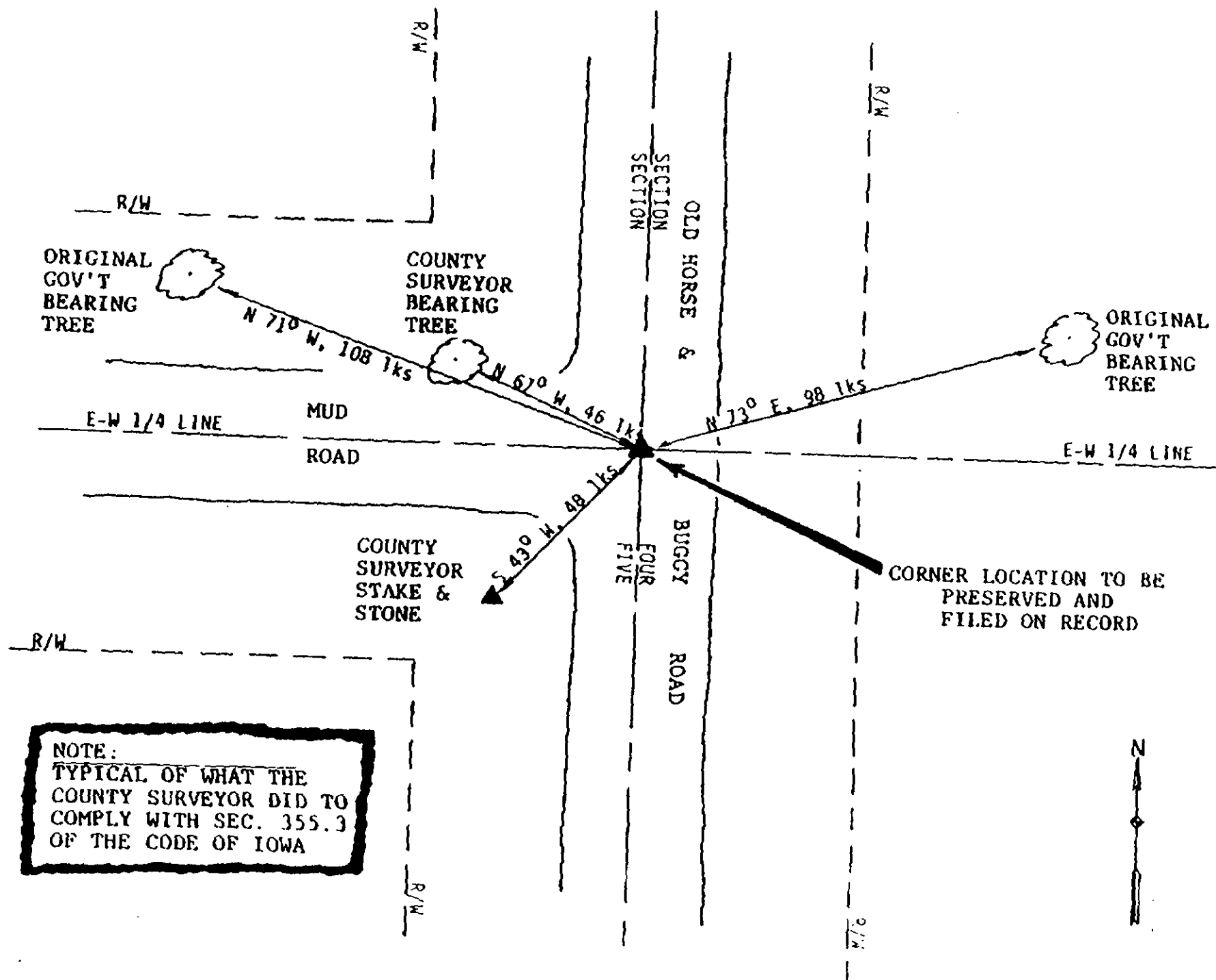
Plats of Survey

Plats for Subdivisions

Descriptions

Record
Public Land Survey Corner Certificate
Indexing of Survey Documents

The remainder of Chapter 114A pertains to surveys authorized by the federal government. The language is saved from Chapter 355, which the bill proposes to repeal.





BENTON COUNTY

Iowa Department of Transportation
LAND SURVEY MONUMENT RECORD

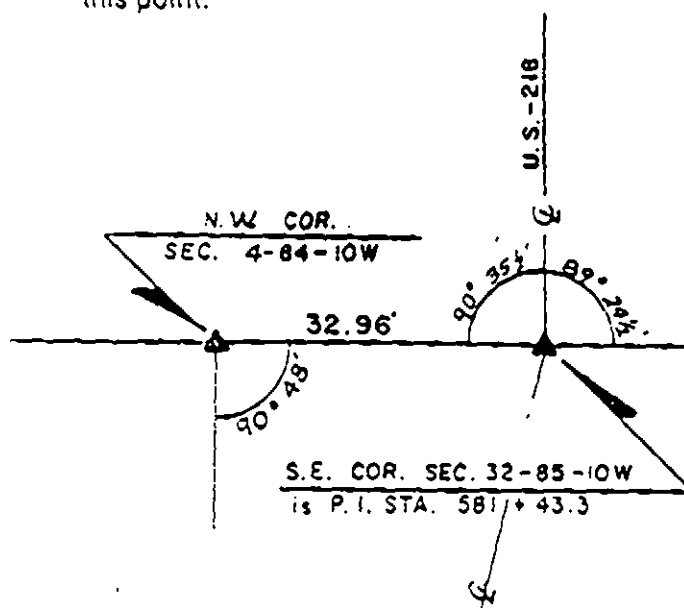
All items to be completed (Please print or type)

1. Type of Monument (Check one)

☒ Section Corner ☐ Bench Mark

☐ Quarter Corner ☐ Other _____

3. Description of monument and/or accessories established by you to perpetuate the location of this point.



Date of Field Work June 17, 1960

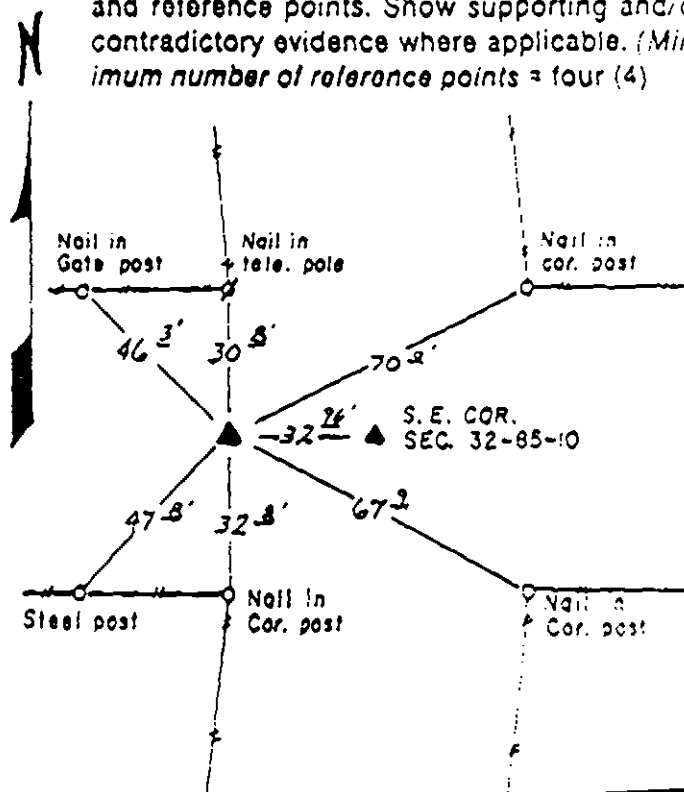
Signed _____

Sec. 4 T 84 N R 10W
N.W. Corner

2. Description of evidence found and location.

Set conc. monu. 12" deep.

4. Sketch showing relative location of monument and reference points. Show supporting and/or contradictory evidence where applicable. (Minimum number of reference points = four (4))



CHAPTER 133 — SURVEYS

11. Establishment of permanent lines and corners— Agreement of adjacent owners for survey—Recording

§ 1. That whenever the owner or owners of adjacent tracts of land shall desire to establish permanently the lines and corners thereof between them, he, she or they may enter (into) a written agreement to employ and abide by the survey of some surveyor, and after said survey is completed, a plat thereof with a description of all corners and lines plainly marked thereon, together with the written agreement of the parties, shall be recorded in the recorder's office of the county where the lands are situated; and the lines and corners of said survey so made and recorded, shall be binding upon the parties entering into said agreement, their heirs, successors and assigns, and shall never be changed.

12. Re-establishment of lost, etc., corners and boundaries—Service or publication of notice

§ 2. Whenever one or more proprietors of lands in this state, the corners and boundaries of whose lands are lost, destroyed, or are in dispute, or who are desirous of having said corners and boundaries permanently re-established, and who will not enter into an agreement as provided by section one of this act, it shall be lawful for said proprietor or proprietors that they shall cause a notice, in writing, to be served on the owner or owners of adjacent tract or tracts, if known, and residing in this state; or if not known or not residing in this state, by publishing in a public newspaper published in such county, and if no newspaper shall be published, then by posting up in four different public places in said county a written or printed notice to the effect that, on a return day named therein, which shall not be later than sixty days from the date of such notice, he, she or they will make application to the circuit court of the county in which said lands are situated, for the appointment of a commission of surveyors to make survey of and to permanently establish said corners and boundaries, which notice shall be posted up at least four weeks before the time appointed for said application, and one of said notices shall be in the precinct or township in which said corners and boundaries are situated. If personal service is had on the owner or owners of adjacent lands the same shall be made at least ten days prior to the day of application named in the notice and if notice is given by publication in a newspaper the same shall be published therein once each week for three successive weeks, the first publication to be at least four weeks before the day of application named in the notice.

Amended by Laws 1933, p. 1105, eff. Jan. 1, 1934.

13. Petition—Appointment of commission of surveyors—Report—Powers

§ 3. Upon the filing of proper petition and proof of the notice as aforesaid, the said court shall appoint a commission of three surveyors, entirely disinterested, to make said survey, who shall proceed to make said survey and report their proceedings to the said court, as soon as may be accompanied by a plat and notes of said survey; said commission of surveyors shall be authorized to administer an oath, and take the evidence of, and incorporate the same with their survey, of any person who may be able to identify any original government or other legally established corner or witness thereto, or government line, tree or other noted object, and all stone corners or other monuments that have been in existence over twenty years, and

recognized as original government corners by the adjoining proprietors.

Amended by Laws 1933, p. 1105, eff. Jan. 1, 1934.

14. Objections to report—Hearing—Judgment of the court—Expenses and costs

§ 4. Upon the filing of the report, any person whose interest may be affected by the survey shall be at liberty to enter his objections to the report, and the court shall hear and determine the objection, and enter an order or judgment either approving or rejecting the report, or modifying and amending the same according to the rights and interests of the parties, or may refer the same back to the commission to correct their report and survey in conformity with the judgment of the court; or the court may, for good reason, set aside the commission, and appoint a new commission, who shall proceed de novo, and survey and determine the boundaries and corners of the lands in question. The corners and boundaries established in the survey as approved in the final judgment of the courts, if not appealed according to the Supreme Court Rules, shall be held and considered as permanently and unalterably established according to the survey. The expenses and costs of the surveys and suits shall be apportioned among all the parties, according to their respective interests.

Amended by P.A. 79-1265, § 61, eff. Oct. 1, 1976.

15. § 5. Repealed by Laws 1957, p. 2162, eff. July 3, 1957.

ILLINOIS LAND SURVEYORS, REGISTRATION

16 to 33. §§ 1 to 19. (L.1937, p. 1211). Repealed by Laws 1939, p. 1197, eff. July 29, 1939.

34 to 55. Transferred.

The legislation formerly included under paragraphs 34 to 55 of this chapter has been transferred to Ch. 111, Professions and Occupations. See Tables at beginning of chapter 111.

PERPETUATION OF LAND SURVEY MONUMENTS

AN ACT to provide for the perpetuation of land survey monuments. P.A. 79-649, approved and eff. Aug. 29, 1975.

60-1. Legislative finding

§ 1. It is the finding of the General Assembly that there exists a substantial problem of loss and deterioration of land survey monuments with the attendant uncertainty created in titles and transactions of real property in the State of Illinois.

Amended by P.A. 81-1509, Art. II, § 132, eff. Sept. 26, 1980.

60-2. Purpose of Act

§ 2. It is the purpose of this Act to establish a program of monumentation and preservation and restoration of existing monuments in order to protect and preserve these important land survey monuments.

60-3. Definitions

§ 3. Definitions. The following words and phrases shall have the meaning ascribed to them in Section 3.01 through 3.06.¹

¹ Paragraphs 10-3.01 through 60-3.06 of this chapter.

CHAPTER 133 — SURVEYS

60-3.01. Examining committee

§ 3.01. "Examining Committee" means the examining committee established in Section 3 of "An Act to afford protection to the public by prescribing and regulating the practice of Land Surveying by registration and to repeal an Act therein named".¹

¹ Chapter 111, § 3201 et seq.

60-3.02. Monument record

§ 3.02. "Monument Record" means a written and illustrated document describing the physical appearance of a survey monument and its accessories.

60-3.03. Public land survey monument

§ 3.03. "Public land survey monument" means any land boundary monument or position thereof established on the ground by a cadastral survey of the United States Government and made part of United States public land records.

60-3.04. Accessory

§ 3.04. "Accessory" means any physical evidence in the vicinity of a survey monument or position thereof, the relative position of which is of public record and which is used to perpetuate the location of the monument. Accessories shall be construed to include the accessories recorded in the original survey notes, and additional reference points and dimensions furnished by subsequent land surveyors or attested to in writing by persons having personal knowledge of the original location of the monument.

Amended by P.A. 81-1509, Art. 11, § 132, eff. Sept. 26, 1980.

60-3.05. Aliquot corner

§ 3.05. "Aliquot corner" means any corner in the public land survey system created by subdividing a section of land according to the rules of procedure set forth in the "Manual of Instructions for the Survey of the Public Lands of the United States".

60-3.06. Control corner

§ 3.06. "Control Corner" means any land survey monument whose position controls the location of the boundaries of a tract or parcel of land. The control corner may or may not be included within the perimeter of said tract or parcel.

60-4. Entry book—Monument records

§ 4. An entry book shall be provided by the County Recorder or Registrar of Deeds for the recordation of a monument record by Illinois Registered Land Surveyors for public land survey corners, as defined by the Manual of Instructions for the Survey of the Public Lands of the United States and accessories to such corner which are found, set, reset or used as a control in any survey by such land surveyor.

The monument records shall be recorded with the County Recorder of Deeds or Registrar of Titles and be securely fastened into the entry book as provided for that purpose. The monument records shall be indexed by Section, Township and Range so as to be easily retrievable.

60-5. Charge for indexing and recording

§ 5. The charge for indexing and recording the monument record shall be the same as for the recording of a miscellaneous document.

60-6. Form for monument record—Time for recording

§ 6. It shall be the duty of the examining committee to prescribe the form in which such monument record shall be presented and recorded, and time limits within which the form shall be recorded.

60-7. Recording of public land survey monuments by surveyors

§ 7. It shall be the duty of any land surveyor who conducts a survey which uses as a control corner any public land survey monument, to record with the County Recorder of Deeds or Registrar of Titles in the county in which the survey was conducted, a written monument record describing such monument, or position thereof, and its accessories. Such a surveyor shall also record a monument record whenever he establishes, re-establishes, restores or rehabilitates any public land survey monument. Each monument record shall describe at least three accessories or reference points.

60-8. Prerequisites to recording of monument record

§ 8. No monument record shall be recorded unless the same is signed by an Illinois Registered Land Surveyor and impressed with his seal. In case of an agency of the United States government, the record may be signed by the Chief of the survey party making the survey, setting forth his official title.

60-9. Duty of surveyor to reconstruct corner monuments and accessories

§ 9. When a monument record is recorded pursuant to this Act, it shall be the duty of the land surveyor to reconstruct or rehabilitate the corner monument and accessories to such corner and, if practicable, affix securely to the top of such monument established after the effective date of this Act the Illinois registration number of the land surveyor responsible for the establishment of such monument or position thereof and the same shall be left by him in such physical condition that it remains as permanent a monument as is reasonably possible and so that same may be reasonably expected to be located with facility at all times in the future.

60-10. Monument record in existing record

§ 10. No monument record need be recorded when a monument record exists and the monument is found as described in the existing record.

60-11. Violations

§ 11. Any land surveyor, or any person, including the responsible official of any agency of state, county, or local government who shall willfully and knowingly violate any of the provisions of this Article shall be guilty of a Class "A" misdemeanor. It shall be the responsibility of all State's Attorneys of this State in all cases of suspected willful and knowing violation of any of the provisions of this Act to prosecute the person or persons committing such violation.

Amended by P.A. 81-1509, Art. 11, § 132, eff. Sept. 26, 1980.

12784 Form "Monument Record" 2-79

"MONUMENT RECORD"

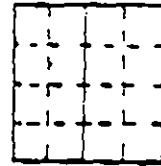
OF

LAND SURVEY MONUMENTS SITUATED IN SECTION _____, TOWNSHIP _____,
RANGE _____, OF THE _____ PRINCIPAL MERIDIAN, _____,
COUNTY, ILLINOIS.

MONUMENT DESCRIPTION AND REMARKS: _____

RECOVERY TIE DRAWING

NORTH
(NOT TO SCALE)



STATE OF _____
COUNTY OF _____ SS

I, _____, HEREBY
CERTIFY THAT THIS DOCUMENT WAS PREPARED
UNDER MY DIRECTION IN ACCORDANCE WITH
THE PUBLIC ACT 79-649 AND THE ABOVE
DATA IS GIVEN UNDER MY HAND AND SEAL
THIS _____ DAY OF _____, 19____ A.D.

ILLINOIS REGISTERED LAND SURVEYOR NO. _____

OR _____
UNITED STATES GOVERNMENT AGENCY

TITLE _____

SPACE RESERVED FOR
RECORDING OFFICER

RECORDED

ILLINOIS
SAMPLE COPY

(5) A map shall be drawn for every property survey showing information developed by the survey and including the following elements:

(a) The map shall be drawn to a convenient scale;

(b) The map shall be referenced as provided in s. 59.61, Stats.;

(c) The map shall show the exact length and bearing of the boundaries of the parcels surveyed. Where the boundary lines show bearings, lengths or locations which vary from those recorded in deeds, abutting plats, or other instruments there shall be the following note placed along such lines, "recorded as (show recorded bearing, length or location)";

(d) The map shall show and describe all monuments necessary for the location of the parcel and shall indicate whether such monuments were found or placed;

(e) The map shall identify the person for whom the survey was made, the date of the survey, and shall describe the parcel as provided in (4), above;

(f) The map shall bear the stamp or seal and signature of the land surveyor under whose direction and control the survey was made with a statement certifying that the survey is correct to the best of his knowledge and belief.

(6) MEASUREMENTS. (a) Measurements shall be made with instruments and methods capable of attaining the required accuracy for the particular problem involved.

(b) The minimum accuracy of linear measurements between points shall be 1 part in 3,000 on all property lines of boundary or interior survey.

(c) In a closed traverse the sum of the measured angles shall agree with the theoretical sum by a difference not greater than 30 seconds per angle, or the sum of the total angles shall not differ from the theoretical sum by more than 120 seconds, whichever is smaller.

(d) Any closed traverse depicted on a property survey map shall have a latitude and departure closure ratio of less than 1 in 3,000.

(e) Bearings or angles on any property survey map shall be shown to the nearest minute; distances shall be shown to the nearest 1/100th foot.

(7) MONUMENTS. The type and position of monuments to be set on any survey shall be determined by the nature of the survey, the permanency required, the nature of the terrain, the cadastral features involved, and the availability of material.

History: Cr. Register, June, 1974, No. 222, ef. 7-1-74; am. (5) (a) and (6) (f), Register, June, 1975, No. 234, ef. 7-1-75; am. (1) (b), Register, January, 1982, No. 313, ef. 2-1-82; am. (1) (b) and 7. and corr. (2), Register, August, 1982, No. 320, ef. 8-1-82.

A-E 5.02 U.S. public land survey monument record. (1) WHEN MONUMENT RECORD REQUIRED. A U.S. public land survey monument record shall be prepared as part of any land survey which includes or requires the perpetuation, restoration or reestablishment of a U.S. public land survey corner, and, either,

Register, March, 1954, No. 339

(a) There is no U.S. public land survey monument record for the corner on file in the office of the county surveyor or the register of deeds for the county in which the corner is located; or,

(b) The land surveyor who performs the survey accepts a location for the U.S. public land survey corner which differs from that shown on a U.S. public land survey monument record filed in the office of the county surveyor or register of deeds for the county in which the corner is located; or,

(c) The witness ties referenced in an existing U.S. public land survey monument record have been destroyed.

(2) FORM REQUIRED. A U.S. public land survey monument record shall be prepared on the board approved form or on a form substantially the same as the board approved form which includes all the elements required by this section. A form used for this purpose shall be entitled, "U.S. Public Land Survey Monument Record".

(3) MONUMENT RECORD REQUIREMENTS. A U.S. public land survey monument record shall show the location of the corner and shall include all of the following elements:

(a) The identity of the corner, as referenced to the U.S. public land survey system;

(b) A description of any record evidence, monument evidence, occupational evidence, testimonial evidence or any other material evidence considered by the surveyor, and whether the monument was found or placed;

(c) Reference ties to at least 4 witness monuments, or, if the location is within a municipality, then at least 2 witness monuments. Witness monuments shall be concrete, natural stone, iron, bearing trees or other equally durable material, except wood other than bearing trees;

(d) A plan view drawing depicting the relevant monuments and reference ties which is sufficient in detail to enable accurate relocation of the corner monument if the corner monument is disturbed;

(e) A description of any material discrepancy between the location of the corner as restored or reestablished and location of that corner as previously restored or reestablished;

(f) Whether the corner was restored through acceptance of an obliterated evidence location or a found perpetuated location;

(g) Whether the corner was reestablished through lost corner proportionate methods;

(h) The directions and distances to other public land survey corners which were used as evidence or used for proportioning in determining the corner location; and,

(i) The stamp and signature or seal and signature of the land surveyor under whose direction and control the corner location was determined and a statement certifying that the U.S. public land survey monument

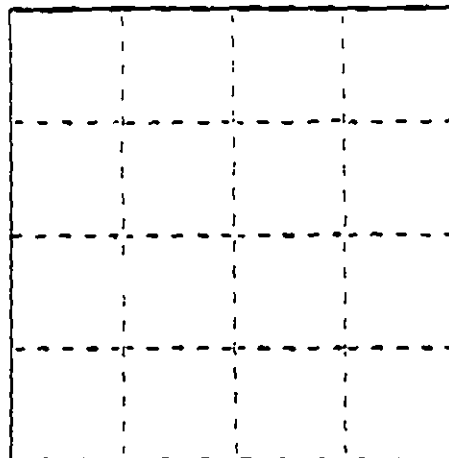
Register, March, 1954, No. 339

U. S. PUBLIC LAND SURVEY MONUMENT RECORD

INSTRUCTIONS:

This record shall show the location of the corner and shall include all of the following nine elements (a through i).

- (a) Identify the corner by reference to the U.S. public land survey system.
 ○ = Corner monument restored.



- (b) Describe any record evidence, monument evidence, occupational evidence, testimonial evidence or any other material evidence you considered, and whether the monument was found or placed.
- (c) In the plan view drawing below, provide reference ties to at least 4 witness monuments, or, if the location is within a municipality, to at least 2 witness monuments. (Witness monuments shall be made of concrete, natural stone, iron or other equally durable material.) Describe witness monuments.
- (d) Show a plan view drawing depicting the relevant monuments and reference ties which is sufficient in detail to enable accurate relocation of the corner monument if the corner monument is disturbed. Indicate north.

REPRODUCED COPY

CAMPIE COPY

WISCONSIN

(d) Describe any material discrepancy between the location of the corner as restored or reestablished and the location of that corner as previously restored or reestablished by distance and direction. Show the discrepancy on the plan view drawing under (d), above. Show the distances between the corner as previously restored or reestablished and (1) the corner as restored or reestablished, and (2) to at least 2 of the witness monuments shown on the drawing in (d), above.

(f) Was the corner restored through acceptance of (1) an obliterated evidence location, or, (2) a found perpetuated location?

(gah) Was the corner reestablished through lost corner proportionate methods? If so, show the method, including the directions and distances to other public land survey corners used as evidence or used for proportioning in determining the corner location?

Affix Land Surveyor Seal

(i) I, _____
(Type or print name) certify that the corner location shown
on this record was determined by me or under my direction and
control and that this is a true and correct copy of the original



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Affiliated with American Congress on Surveying and Mapping

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To: Members of Interim Study Committee on Platting and Surveying

From: Mary Whitman, ISAC Staff Counsel
Ray Willis, Deputy Polk County Auditor
On behalf of Platting/Surveying Ad Hoc Study Committee

Re: Response to Iowa State Bar Association Platting Committee's Recommendations

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Date: Wednesday, November 9, 1988

On Wednesday, November 2, 1988, the Platting and Surveying Ad Hoc Study Committee, a group representing the interests of county auditors, assessors, recorders, engineers, planning and zoning administrators, city officials, land surveyors, the Department of Transportation, and the Iowa Land Title Association, met to review the Bar Association's Platting Committee's recommendations regarding the revision of platting statutes. The following comments reflect the ad hoc committee's reaction to the Bar committee's recommendations:

1. Plats of entire tracts; Definition of official plats; divisions triggering subdivision plat requirement: The ad hoc committee objects to the Bar's recommendation that in every instance, a survey plat contain a plat of the entire tract from which the tract described was formerly a part. This expensive option should not be exercised in every case, but should be available for use only when necessary for taxation and assessment purposes.

Also, the group objects to the recommendation that "official plat" be defined as a survey plat which includes dedication of public ways, because dedications are not always included in official plats.

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The preface also suggests requiring an official plat whenever the plat contained three or more parcels excluding any area remaining in the tract from which the official plat was taken. The group objects to that requirement, preferring to maintain the current requirement of a subdivision plat whenever a third parcel is created, including any area remaining in the tract from which the official plat was taken. Under the Bar committee's proposal, the platting process may never be triggered. The present requirement ensures that development can be monitored and regulated by the platting process.

2. Auditor's Plats: The Bar committee noted that the "concept of 'auditor's plats' is not workable." The ad hoc committee strongly disagrees with the recommendation that no further auditor's plats be allowed. An enforcement tool such as the auditor's plat is essential to ensure that subdividing land owners comply with platting requirements.

3. Local Platting Standards: The Bar committee recommends that cities and counties be prohibited from enacting platting standards more stringent than those set out in the Iowa Code. This recommendation violates the well-established principle that counties and cities must adhere to minimum standards imposed by the state but may enact more strict requirements when necessary to respond to the needs of particular localities. The elected officials of each local government in Iowa must be free to respond to the varying development situations in their jurisdiction by imposing corresponding platting requirements.

4. Sixty day approval limit; appeal to district court: The Bar committee suggests in recommendation 3 that local governing bodies should have sixty days to approve or disapprove plats, a requirement in the current Code. The ad hoc study committee believes that such an arbitrary limit does not allow enough time for review of the plat by the local government's engineer and planning staff and for necessary corrections by the surveyor. The sixty day limit is not tied to the number of times the city council or county board of supervisors, or their planning departments may meet.

The ad hoc committee agrees with the Bar committee that there must be a way to prevent or respond to unreasonable delay on the part of a local governing body. Our revised version of H.F. 2420 requires a governing body to review a plat within a reasonable time. The bill also allows a party aggrieved by the denial of an application for approval of a subdivision plat to appeal to the district court. The ad hoc committee is in the process of adding language allowing the appeal mechanism to also be used in cases of unreasonable delay in responding to the application.

5. Vacation of Plats; Restrictive Covenants: The ad hoc committee supports many of the Bar committee's recommendations relating to vacation of plats and restrictive covenants, and is in the process of studying how to best incorporate them into its bill draft.

6. Recorder's determination of statutory compliance: It appears that by suggesting that the county recorder consult with the county engineer before determining whether an instrument presented for filing satisfies statutory requirements of a survey or official plat, the Bar committee is trying to promote efficiency and ensure that county officials will promptly recognize whether a valid plat has been presented. The ad hoc committee agrees with that objective, and suggests that it is already satisfied by its bill draft which requires the seller to state on the face of a conveyance presented for recording whether the conveyance is a division of an existing tract or parcel of land, and that the requirements of Iowa Code chapter 409 have been met.

7. State Regulatory Authority: The Bar Association's committee proposes that the State Department of Economic Development be given regulatory authority over real estate development, leaving cities and counties to regulate only those areas not preempted by state statute or administrative rule. Again, such a suggestion is opposed as it violates the constitutional principle of home rule and curtails the ability of local governments to respond to particular regulatory needs.

8. Parcel Identification Number (PIN) System: In recommendation 12, the Bar Association's committee calls for a mandatory PIN system. The ad hoc committee objects to such a mandate, believing that implementing a full-blown PIN system at this time is too cumbersome. The Code already allows for the use of a Permanent Real Estate Index Number (PREIN) system to meet some of the Bar committee's goals. The PREIN system is an intermediate step which allows county officials to index all transactions relating to one piece of land with a consistent numbering system, and potentially could eliminate the use of full legal descriptions.

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