

# NEW CONSTRUCTION AND MECHANIC'S LIEN MANUAL

# IOWA TITLE GUARANTY NEW CONSTRUCTION AND MECHANIC'S LIEN COVERAGE

## MNLR SEARCH AFFIDAVIT AND 3-4 UNIT DWELLING OR OWNER-BUILDER NEW CONSTRUCTION RECEIPT OF FINAL LIEN WAIVERS CONFIRMATION

Iowa Title Guaranty frequently receives inquiries regarding lien waiver requirements to obtain mechanic's lien coverage for residential new construction. It is important to note that while ITG provides residential coverage for 1-4 unit dwellings, 3-4 unit dwellings do not fall within the definition of "residential construction" pursuant to Iowa Code Section 572.1 and are therefore exempt from certain preliminary notice posting requirements. Owner-builder construction is similarly exempt from certain preliminary notice posting requirements. Therefore, participants must take additional precautions when issuing residential coverage for 3-4 unit dwellings or owner-builder construction.

### 1-2 Unit Dwellings or Non-Owner-Builder Construction.

If the property is a 1-2 family dwelling that was not constructed by an owner-builder, ITG simply requires a final search of the Mechanic's Notice and Lien Registry ("MNLR") through the filing date and time of the vesting deed and/or guaranteed mortgage in accordance with ITG MNLR Search Guidelines to confirm all postings have been satisfactorily resolved as follows:

- i.) **Mechanic's lien:** (a) obtain final lien waivers from all contractors, subcontractors, materialmen or suppliers that have posted to the MNLR; and (b) post satisfaction of lien to the MNLR.
- ii.) **Commencement of Work:** (a) obtain final lien waivers from all contractors, subcontractors, materialmen or suppliers that have posted to the MNLR; and (b) post withdrawal to the MNLR.
- iii.) **Preliminary Notice:** (a) obtain final lien waivers from all contractors, subcontractors, materialmen or suppliers that have posted to the MNLR; and (b) post withdrawal to the MNLR.

Evidence of a final MNLR search can be provided in many ways, including, but not limited to:

1. **Final Search Product.** Final search product prepared by a participating abstractor updated through the date of the vesting deed filing (owner coverage) and/or guaranteed mortgage filing (lender coverage) reflecting that the MNLR was searched for Mechanic's Liens, Commencement of Work and Preliminary Notice postings and either none were found or any postings revealed have been satisfactorily resolved.
2. **Final Title Opinion.** Affirmative language in the final title opinion that the MNLR was searched for Mechanic's Liens, Commencement of Work and Preliminary Notice postings through the filing date and time of the vesting deed and/or guaranteed mortgage and either none were found or any postings revealed have been satisfactorily resolved.
3. **Final Search Documentation.** Search documentation evidencing that the MNLR was searched for Mechanic's Liens, Commencement of Work and Preliminary Notice postings through the filing date and time of the vesting deed and/or guaranteed mortgage and either none were found or any postings revealed have been satisfactorily resolved. Search documentation may be in the form of MNLR search screen prints with visible search parameters for the fields described in the ITG MNLR Search Guidelines.

OR

4. **NEW: MNLR Search Affidavit.** MNLR Search Affidavit signed by the examining attorney, closer, or field issuer evidencing that the affiant performed the appropriate final MNLR searches through the filing date and time of the vesting deed and/or guaranteed mortgage and either none were found or any postings revealed have been satisfactorily resolved. This is a new affidavit prepared by ITG in response to participant requests for an easier means to evidence compliance with ITG's MNLR search requirements.

### 3-4 Unit Dwellings or Owner-Builder Construction.

If the property is a 3-4 unit dwelling or owner-builder construction, ITG requires a search of the MNLR and clearance of all postings as provided above. **However, please be advised that this process alone is insufficient for 3-4 unit dwellings or owner-builder construction because 3-4 unit dwellings and owner-builder construction are exempt from certain preliminary notice postings.** If exempt, the contractor(s) are not required to post a commencement of work or preliminary notice, making it impossible to determine if labor, equipment, or materials have been furnished by simply performing a search of the MNLR. The exemption does not prohibit the contractor(s) from later filing a mechanic's lien that may take priority over the new owner's interest or the recently filed guaranteed mortgage.

Therefore, the only way to confirm that there will be no later filed liens is to either:

1. Obtain final lien waivers from the general contractor and all subcontractors that have furnished labor, materials or equipment on the property in the last 90 days; OR
2. Confirm with the general contractor, owner-builder, and subcontractors that the date on which the last of the material was furnished or the last of the labor was performed was over 90 days ago.

Accordingly, ITG has developed a new affidavit entitled "**3-4 Unit Dwelling or Owner-Builder Construction Receipt of Final Lien Waivers Confirmation**" to be completed and signed by either the examining attorney, closer or field issuer on all new construction transactions involving 3–4-unit dwellings or owner-builder construction in which ITG residential coverage is contemplated.

Both the "MNLR Search Affidavit" and the "3-4 Unit Dwelling or Owner-Builder Construction Receipt of Final Lien Waivers Confirmation" can be found in the Residential Forms section of the [ITG Resources](#) page.

Please contact an ITG underwriter with any questions.