



IOWA TITLE GUARANTY
A DIVISION OF IOWA FINANCE AUTHORITY

April 17, 2020

Updated Form 900/901 Manual: Inter Vivos Trusts & Open-End Mortgages

ITG continues to update the Form 900/901 Manual to provide clarity and to improve participants' knowledge and understanding of eligibility and reporting requirements.

In response to urgent industry demands of the spring 2020 refinance boom, ITG has revised the current Form 900/901 Manual to expand eligibility criteria if a transaction falls within the limited parameters described below.

1. INTER VIVOS TRUST EXCEPTION. An exception to the requirement that all titleholders acquire title by virtue of the last full value deed exists when a transfer is made to/from an individual's and/or spouse's individual or joint inter vivos trust in which the individual and/or the individual's spouse is the settlor and the trustee of said trust, **provided** that (1) the abstractor performs personal lien searches on all new and prior titleholders (trustees/trusts and individuals) and (2) the title attorney examines the deed, trustee and purchaser affidavits, and guaranteed mortgage to confirm validity and desired lien priority.

The purpose of this change is to permit individuals or married couples who have transferred their property into an inter vivos trust for estate planning purposes to refinance the property without the need for full abstracting. This exception is limited to individuals and their spouses. All other transfers to and from trusts trigger full abstracting.

Examples of Form 900/901 Eligible Conveyances

- Sue Doe, single, to/from Sue Doe, Trustee of the Sue Doe Trust.
- Jon Doe and Jan Doe, husband and wife, to/from Jon Doe and Jan Doe, Co-Trustees of the Jon Doe and Jan Doe Trust.
- Jon Doe and Jan Doe, husband and wife, to/from Jon Doe and Jan Doe, Co-Trustees of the Doe Family Trust.
- Jon Doe, Trustee of the Jon Doe Trust to/from Jon Doe and Jan Doe, husband and wife.

Notwithstanding the foregoing, the Forms 900/901 may not be used in transactions in which the examining attorney determines the Form 900 does not provide sufficient information to render an opinion. Nor can the Forms 900/901 be used when a transfer is made (1) from an individual, and spouse, if any, to a trust in which neither individual grantor nor the individual's spouse is both the settlor and the trustee; (2) from a trustee of a trust to an individual who is not the settlor and trustee of the trust; or (3) to/from other types of trusts.

Examples of Conveyances Triggering Abstracting

- Jan Doe, single, to/from Joe Smith, Trustee of the Joe Smith Trust (conveyance to a trust of an individual who is not a spouse).

- Jon Doe and Jan Doe, husband and wife, to/from Joe Smith, Trustee of the Joe Smith Trust (conveyance to a trust of an individual who is not a spouse).

Many participants have also expressed concern related to the inability to determine if a mortgage contains a line of credit clause under the current Form 900/901 reporting standards. In response, ITG has added the following requirements.

2. OPEN-END MORTGAGES. Mortgage entries must include a recitation indicating that the mortgage secures an open-end, future advance, HELOC or other form of line of credit mortgage. When showing a release and/or satisfaction pertaining to an open-end, future advance, HELOC or other line of credit mortgage, the abstractor must abstract the substantive text of the release or satisfaction in its entirety or attach a copy of the instrument for the examining attorney's review.

Currently, many abstractors are not identifying and setting forth and alerting the examiner if the mortgage contains a future advance or line of credit clause. This creates an issue for the title examiner who relies on the abstract entry to determine his or her title objections and requirements. Without a recitation in the abstract indicating that the mortgage is an open-end mortgage, the examiner is unable to determine if (1) he/she must require a Request to Close and Release be sent to the lender, and (2) a mere satisfaction (without release language) adequately clears title. ITG has added the above open-end mortgage requirements to address this common situation.

ITG has also received various requests for clarification on existing policies. In response, ITG has added language to the Form 900/901 Manual to clarify the following existing policies:

3. ACCESS. The Forms 900/901 should not be used if the abstractor determines there is no legal access to the property or if there are other known access issues.

4. SPOUSAL EXCEPTION. An exception to the requirement that all titleholders acquire title by virtue of the last full value deed exists when a spouse is added or removed from title by virtue of a deed less than full value, provided that the abstractor performs names searches on all new and prior titleholders and the title attorney examines the deed to confirm validity.

5. PERSONAL LIEN SEARCHES. While the Forms 900/901 only require property search since the date of the last full value deed, the abstractor must still perform 10-year lien searches against all titleholders.

6. OPTIONAL 24-MONTH CHAIN OF TITLE. ITG does not require that the abstractor show the 24-month chain of title. However, most residential loans sold on the secondary market require that the title commitment include the 24-month chain. Abstractors may wish to add the 24-month chain of title as a courtesy to customers. NOTE: ITG only requires a search from the date of the last full value deed.

Updated Form 900 - 901 Manual

ITG is in the process of modernizing ITG Minimum Abstracting Standards that were last updated in 2014. ITG will be working with ILTA and an industry workgroup to develop and finalize the updated standards. ITG estimates a completion date of June 2020, at which time the Form 900/901 Manual will also be revised accordingly. To accommodate consumers, participants and industry partners during the spring 2020 refinance market, ITG decided to immediately implement the above-described policies in advance of the updated Minimum Abstract Standards.

Should you have questions, please contact our Help Desk at 515-452-0484.

