

Iowa Administrative Code 265—9.7(1)“d”(5)

Criteria for title plant waiver. Pursuant to Iowa Code section 16.91(5)“a”(2) if the board finds the following: 1. The title plant requirement imposes a hardship to the applicant; and 2. The waiver is: Clearly in the public interest; or Absolutely necessary to ensure availability of certificates throughout the state. 3. For purposes of paragraph 9.7(1)“d,” “hardship means deprivation, suffering, adversity, or long-term adverse financial impact in complying with the title plant requirement that is more than minimal when considering all the circumstances. 4. For purposes of paragraph 9.7(1) “d,” “public interest” means that which is beneficial to the public as a whole, including but not limited to increasing competition among abstractors, encouraging the use of certificates throughout the state, making certificates more competitive than out-of-state title insurance, increasing the division’s market share, improving the quality of land titles, and protecting consumers.

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The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the division board upon consideration of all relevant factors. Relevant factors to be considered include, but are not limited to, the division director’s proposed written ruling, the facts and circumstances set out in the application, any history of professional disciplinary action against the applicant, adverse claims made against the applicant, prior waiver withdrawal actions against the participating attorney or participating abstractor, public comments, the professional knowledge and expertise of the board members and division staff, and any other resources available to the entire division board. The division board shall give considerable weight to an applicant’s experience abstracting under the supervision of a participating abstractor or participating attorney with whom the application has had a close working relationship or with whom the applicant is a partner or associate. The division board shall also give considerable weight to a recommendation from a participating abstractor or participating attorney who supervised the applicant’s abstracting for a period of two years or more and who attests in writing or in person before the division board regarding the applicant’s ability to abstract. Consideration should be afforded to rulings on prior waiver requests, but the division board shall not be bound by such rulings. The division board may limit a waiver as to county, or transaction type, or both.