

KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion KBA U-54
Issued: March 1998

Question 1: May a lay person search a real estate title and render an opinion as to quality and quantity of title to a non-lawyer third person without engaging in the unauthorized practice of law?

Answer: No.

Question 2: May a lay person search a real estate title and report to a non-lawyer third person the existence and contents of recorded documents without expressing an opinion as to the validity enforceability, quality or quantity of title found in those records without engaging in the unauthorized practice of law?

Answer: See Opinion.

OPINION

“[A] title examination consisting of analysis of recorded interests in land coupled with an opinion as to its legal status is a service which can be performed for others only by a licensed attorney.” Kentucky State Bar Assn. v. First Federal Savings & Loan of Covington, Ky., 342 S.W.2d 397 (1961). KBA U-21.

A lay person may review public records and report to a non-lawyer third person what was found. However, opinions regarding the quality or quantity of deficiencies, whether certain documents constitute a “lien” or “encumbrance” or statements interpreting the documents would constitute the giving of legal advice and therefore the unauthorized practice of law. SCR 3.020.

Note to Reader

This unauthorized practice opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides in part: “Both informal and formal opinions shall be advisory only.”