

Kentucky Bar Association
Unauthorized Practice of Law Opinion KBA U-59
Issued: September 1999

Question: May a lay person prepare a mechanics lien statement for filing with a county clerk on behalf of another person without engaging in the unauthorized practice of law?

Answer: No.

OPINION

It is well settled that drafting mortgages by lay individuals is the unauthorized practice of law. Federal Intermediate Credit Bank of Louisville v. Kentucky Bar Association, 540 S.W.2d, 14 (Ky., 1976); See, discussion in KBA U-43.

Here the question is whether preparation of another statutorily created method of encumbering real property, by way of a mechanics lien statement, should be treated any differently. We are not persuaded that it should be treated differently.

Preparation of the lien statement for filing with a county clerk involves the rendering of legal advice insofar as these acts must be done strictly in accordance with proper statutory interpretation in order to be valid. Only licensed attorneys may render legal advice to third parties. SCR 3.020. This requirement protects the public, and permits regulation and oversight by the Supreme Court of Kentucky which has exclusive power to make rules governing the practice of law. See, Turner v. Kentucky Bar Association, Ky., 980 S.W.2d 560 (1998).

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."