State Bar of Georgia

UPL Advisory Opinion No. 2003-2

Issued by the Standing Committee on the Unlicensed Practice of Law on April 22, 2003. Approved by the Supreme Court of Georgia on November 10, 2003. **In re UPL Advisory Opinion 2003-2, 277 Ga. 472 (2003).**

QUESTION PRESENTED

Is the preparation and execution of a deed of conveyance (including, but not limited to, a warranty deed, limited warranty deed, quitclaim deed, security deed, and deed to secure debt) considered the unlicensed practice of law if someone other than a duly licensed Georgia attorney prepares or facilitates the execution of said deed(s) for the benefit of the seller, borrower and lender?

SUMMARY ANSWER

Yes. Under Georgia law, the preparation of a document that serves to secure a legal right is considered the practice of law. The execution of a deed of conveyance, because it is an integral part of the real estate closing process, is also the practice of law. As a general rule it would, therefore, be the unlicensed practice of law for a nonlawyer to prepare or facilitate the execution of such deeds.

OPINION

In answering the above question, the Committee looks to the law as set out "by statute, court rule, and case law of the State of Georgia."Bar Rule 14-2.1(a). "Conveyancing,""[t]he preparation of legal instruments of all kinds whereby a legal right is secured,""[t]he rendering of opinions as to the validity or invalidity of titles to real or personal property,"" [t]he giving of any legal advice "and "[a]ny action taken for others in any matter connected with the law "is considered the practice of law in Georgia. O.C.G.A. §15-19-50. Moreover, it is illegal for a nonlawyer "[t]o render or furnish legal services or advice."O.C.G.A. §15-19-51.

There are certain exceptions to these statutory provisions. For example, "no bank shall be prohibited from giving any advice to its customers in matters incidental to banks or banking...."O.C.G.A. §15-19-52. A title insurance company "may prepare such papers as it thinks proper or necessary in connection with a title which it proposes to insure, in order, in its opinion, for it to be willing to insure the title, where no charge is made by it for the

papers."Id . Nonlawyers may examine records of title to real property, prepare abstracts of title, and issue related insurance. O.C.G.A. §15-19-53. O.C.G.A. §15-19-54 allows nonlawyers to provide attorneys with paralegal and clerical services, so long as "at all times the attorney receiving the information or services shall maintain full professional and direct responsibility to his clients for the information and services received."

In addition to the acts of the Georgia legislature, the Supreme Court of Georgia has made it clear that the preparation of deeds constitutes the practice of law, and is to be undertaken on behalf of another only by a duly qualified and licensed Georgia attorney. For example, the Court has issued the Rules Governing Admission to the Practice of Law in Georgia. Under Part E of those rules, an individual can be licensed as a "foreign law consultant,"and thereby be authorized to "render legal services and give professional legal advice on, and only on, the law of the foreign country in which the foreign law consultant is admitted to practice...."Since such an individual has not been regularly admitted to the State Bar of Georgia, the Court prohibits foreign law consultants from providing any other legal services to the public. For purposes of this discussion, it is noteworthy that Part E, §2(b) states that a foreign law consultant may not "prepare any deed, mortgage, assignment, discharge, lease, trust instrument, or any other instrument affecting title to real estate located in the United States of America."

The Committee concludes that, with the limited exception of those activities expressly permitted by the Georgia legislature or courts, the preparation of deeds of conveyance on behalf of another within the state of Georgia by anyone other than a duly licensed attorney constitutes the unlicensed practice of law.

The Committee turns its attention to the execution of deeds of conveyance. Pro se handling of one's own legal affairs is, of course, entirely permissible, and there is nothing in Georgia law to "prevent any corporation, voluntary association, or individual from doing any act or acts set out in Code Section 15-19-50 to which the persons are a party...."O.C.G.A. §15-19-52. The Committee instead focuses on "notary closers,""signing agents,"and others who are not a party to the real estate closing, but nonetheless inject themselves into the closing process and conduct, for example, a "witness only closing."A "witness only closing "is one in which an individual presides over the execution of deeds of conveyance and other closing documents, but purports to do so merely as a witness and notary, not as someone who is practicing law.

The Supreme Court of Georgia periodically issues advisory opinions relating to attorney conduct. Under Court rule, such opinions have "the same precedential authority given to the

regularly published judicial opinions of the Court."Bar Rule 4-403(e). It would be proper, then, for the Committee to turn to any relevant advisory opinions for guidance.

In Formal Advisory Opinion 86-5, the Supreme Court of Georgia interpreted the word "conveyancing "as set out in O.C.G.A. §15-19-50, and considered what the term meant in relation to the closing of a real estate transaction. The Court viewed a real estate closing "as the entire series of events through which title to the land is conveyed from one party to another party...."That being the case, the Court concluded "it would be ethically improper for a lawyer to aid nonlawyers to 'close' real estate transactions,"or for a lawyer to "delegate to a nonlawyer the responsibility to 'close' the real estate transaction without the participation of an attorney."

In Formal Advisory Opinion 00-3, the Court restated its view that the real estate closing is a continuous, interconnected series of events. The Court made it clear that, in order for an attorney to avoid possible disciplinary sanctions for aiding a nonlawyer in the unauthorized practice of law, "[t]he lawyer must be in control of the closing process from beginning to end. The supervision of the paralegal must be direct and constant."The Court held that "[e]ven though the paralegal may state that they are not a lawyer and is not there for the purpose of giving legal advice, circumstances may arise where one involved in this process as a purchaser, seller or lender would look to the paralegal for advice and/or explanations normally provided by a lawyer. This is not permissible."A lawyer who aids a nonlawyer in the unauthorized practice of law can be disbarred. Georgia Rule of Professional Conduct 5.5.

The Committee finds that those who conduct witness only closings or otherwise facilitate the execution of deeds of conveyance on behalf of others are engaged in the practice of law. As noted above, "conveyancing "is deemed to be the practice of law, and the very purpose of a deed is to effectuate a conveyance of real property. In reviewing the foregoing opinions of the Supreme Court of Georgia, the Committee concludes that the execution of a deed of conveyance is so intimately interwoven with the other elements of the closing process so as to be inseparable from the closing as a whole. It is one of "the entire series of events through which title to the land is conveyed from one party to another party."To view the execution of a deed of conveyance as something separate and distinct from the other phases of the closing process--and thus as something other than the practice of law--would not only be forced and artificial, it would run counter to the opinions of the Court. Such an interpretation would mean that a nonlawyer could lawfully preside over the execution of deeds of conveyance, yet an attorney who allowed an unsupervised paralegal to engage in precisely the same activity could be disbarred. An interpretation of Court opinions that

leads to such an incongruous result cannot be proper. Rather, the view consistent with those opinions is that one who facilitates the execution of deeds of conveyance is practicing law.

Accordingly, the Committee concludes that, subject to any relevant exceptions set out by the Georgia legislature or courts, one who facilitates the execution of a deed of conveyance on behalf of another within the state of Georgia is engaged in the practice of law. One does not become licensed to practice law simply by procuring a notary seal. A Georgia lawyer who conducts a witness only closing does not, of course, engage in the unlicensed practice of law. There may well exist, however, professional liability or disciplinary concerns that fall outside the scope of this opinion.

Refinance closings, second mortgages, home equity loans, construction loans and other secured real estate loan transactions may differ in certain particulars from purchase transactions. Nevertheless, the centerpiece of these transactions is the conveyance of real property. Such transactions are, therefore, subject to the same analysis as set out above.

Please note that this is a conversation ~~help~~ with ChatGPT to help dive deeper into the ruling from the Georgia Supreme Court in 2003 *found here UPL Advisory Opinion No. 2003-2*.

Be advised that this is not law but is shared as a digestible breakdown of what was decided upon nearly 25 years ago… Remember that I (LaDarrell Worf), am not giving you legal advice but presenting the information so that you can make the best informed decision for you.

I, nor any other trainer, notary associate, or even an attorney are NOT who commissioned you as a NOTARY PUBLIC.

That power solely comes from your county's Clerk of Superior Court.
They issued it and they have the power to revoke it.
No one else.

Operating as a notary public in the state of GEORGIA falls under GEORGIA NOTARY LAW, not the laws of any other state.

This opinion is not mainly about notarizing. It is about whether a nonlawyer is crossing into "closing" or "conveyancing." And the opinion takes a very broad view of that in Georgia. It says that for **deeds of conveyance** and transactions where real property is being conveyed or encumbered, a nonlawyer who **prepares** the deed or **facilitates the execution** of the deed for others is engaging in the practice of law.

The strongest language in the opinion is this idea:

- preparing deeds for another person = practice of law, and generally only a licensed Georgia attorney can do that in Georgia;
- a "witness-only closing" by a nonlawyer is still treated as part of the closing process;
- the Court saw a real estate closing as the **entire series of events** through which title is conveyed, not a bunch of separate little tasks. So a nonlawyer cannot avoid UPL just by saying, "I'm only the witness" or "I'm only the notary."

That is the part that matters most for a Georgia notary signing agent.

What I think the opinion is really saying

Georgia is basically saying:

If the assignment is part of a real estate closing involving deeds of conveyance or other title-affecting documents, and you are doing more than a true neutral notarial act, you are in dangerous territory.

The opinion specifically targets people who:

- preside over execution of deeds,
- facilitate execution of deeds on behalf of the parties,
- function like a closer without being a lawyer,
- or step into explanations/guidance that belong to counsel.

It also leans hard on earlier Georgia authority saying the lawyer must be in control of the closing process from beginning to end, and that even a paralegal cannot be left in a position where the borrower, seller, or lender might naturally look to that person for explanations a lawyer would normally give.

So in practical business terms:

Georgia does not like the "I'm just the notary signing agent handling the closing table" model when the documents involve conveyancing.

Your specific question: what about properties not located in Georgia?

That is where the analysis gets more nuanced.

I think there are **two different risk questions**:

1) Where is the property?

2) Where is the act taking place, and what role is the Georgia notary actually performing?

The opinion repeatedly says things like:

- preparation of deeds of conveyance **on behalf of another within the state of Georgia** by a nonlawyer is UPL; and
- one who facilitates execution of a deed of conveyance **on behalf of another within the state of Georgia** is engaged in the practice of law.

That wording matters.

My interpretation is that the opinion is focused heavily on **conduct occurring in Georgia**, not only on Georgia property. In other words, the fact that the property is in Florida, Texas, or

elsewhere does **not automatically get a Georgia-based signing agent out of danger** if the signing/facilitation activity is happening in Georgia.

Why I say that:

- the opinion is about unauthorized practice of law **in Georgia**;
- it treats facilitating deed execution as part of the legal closing process itself;
- it does not limit its concern only to Georgia real estate;
- and it even cites a rule showing that non-Georgia licensed people may not prepare instruments affecting title to U.S. real estate generally.

So my practical take is:

If a Georgia notary signing agent in Georgia is handling a signing that involves deeds or title-conveyancing documents, the out-of-state location of the property probably does not make the UPL concern disappear.

What seems lower risk vs. higher risk

Lower-risk lane

A Georgia notary is usually on firmer ground when they are doing only the classic ministerial notary function:

- verifying identity,
- witnessing signatures,
- completing the notarial certificate,
- administering an oath if needed,
- and not presenting themselves as the closer, settlement agent, or someone who can explain the documents.

Georgia notaries may perform notarial acts anywhere within Georgia. The GSCCCA says their jurisdiction is statewide, and for specific legal applications people should consult private counsel. (Georgia Clerks Authority)

Higher-risk lane

Risk goes up fast if the notary:

- “conducts the closing,”
- walks borrowers through deed, security deed, mortgage, title, or settlement terms,
- answers legal-effect questions,
- directs signing sequence as the person in charge of the closing,
- handles corrections or execution decisions,

- or is effectively serving as a substitute for attorney presence in a conveyancing transaction.

That is exactly the type of conduct this opinion is warning about.

My honest opinion on Georgia signing-agent work for out-of-state property

Here's the cleanest way I'd put it:

A Georgia notary signing agent is safest treating any deed-based or title-transfer closing in Georgia as attorney-sensitive, even if the property is outside Georgia.

I would not rely on "the property isn't in Georgia" as a comfortable shield.

Why? Because the opinion's theory is not just "Georgia land = Georgia lawyer."
It is more like: **facilitating the execution of conveyancing documents for others in Georgia is legal work.**

So if a Georgia notary is sitting at a table in Georgia with a borrower signing a deed, security deed, or other title-affecting package, and the notary is doing anything that looks like running the closing, that is the zone I would treat as high risk.

The practical line I would use in real life

If you want a conservative rule for your business, I'd use this:

In Georgia, a notary signing agent should not act as a real estate closer.
For real-property packages, especially where deeds/security deeds are involved:

- stay strictly ministerial,
- do not explain legal effect,
- do not present yourself as conducting the closing,
- do not prepare or alter conveyancing documents,
- and assume attorney oversight is needed unless qualified Georgia counsel says otherwise.

That is the safest reading of this opinion.

One important limit

I'm giving you an interpretation, not a formal legal opinion.
There is still a real unanswered nuance here:

Could a purely ministerial Georgia notary, with no legal explanations and no closer role, notarize signatures in Georgia on documents tied to out-of-state property?
Possibly, in some circumstances. But the minute the assignment looks like “facilitating execution” (signing agent or notary signing agent activities) of the closing package rather than just performing the notarial act, the Georgia opinion becomes a problem.

So the safest bottom line is:

Out-of-state property does not automatically make the assignment safe for a Georgia notary. The controlling issue is the role the notary is playing in Georgia.

If you want, I can turn this into a simple green-yellow-red framework for your business, like:
“safe notary-only tasks,”
“use caution,”
and
“decline in Georgia unless Georgia attorney involvement is clear.”