

UNLICENSED PRACTICE OF LAW
IMPORTANT NOTICE

A. Preparing Deeds and Deeds of Trust

Preparing a deed of conveyance, deed of trust, mortgage, or contract constitutes the practice of law. Miss. Code Ann. § 73-3-55.

A Chancery Clerk was found to be engaged in the unauthorized practice of law for drafting deeds, deeds of trust, notes, bills of sale and title certificates. Darby v. Mississippi State Board of Bar Admissions, 185 So. 2d 684 (Miss. 1966).

B. Certifying Title to Real Property

Certifying to any abstract of title to real estate constitutes the practice of law. Miss. Code Ann. § 73-3-55.

A title or abstract of title guaranty company incorporated under the laws of this state can make or certify titles to real estate where it acts through some person as agent, authorized under the laws of the State of Mississippi to practice law. Miss. Code Ann. § 73-3-55.

An abstract company with paid-up capital of Fifty Thousand Dollars (\$50,000) or more can certify to abstracts of title to real estate through the president, secretary or other principal officers of such company. Miss. Code. Ann. § 73-3-55.

C. Aiding the Unauthorized Practice of Law

It is improper for a lawyer to participate in a loan closing transaction in which the mortgage lender renders legal or quasi-legal services and receives a division of "attorney's fees." Ethics Opinion Number 33, of the Mississippi Bar.

Please note that in Mississippi the “**practice of law**” includes the drafting or selection of documents, giving of advice about such documents, and using an informed or trained discretion in drafting documents to meet the needs of the person being served. Darby v. Mississippi State Bd. of Bar Admissions, 185 So.2d 684 (Miss. 1966).

Miss. Code Ann. § 73-3-55. Unlicensed law practice as an offense

It shall be unlawful for any person to engage in the practice of law in this state who has not been licensed according to law. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished in accordance with the provisions of section 97-23-43. **Any person who shall for fee or reward or promise, directly or indirectly, write or dictate any paper or instrument of writing, to be filed in any cause or proceeding pending, or to be instituted in any court in this state, or give any counsel or advice therein, or who shall write or dictate any bill of sale, deed of conveyance, deed of trust, mortgage, contract, or last will and testament, or shall make or certify to any abstract of title or real estate other than his own or in which he may own an interest, shall be held to be engaged in the practice of law.** This section shall not, however, prevent title or abstract of title guaranty companies incorporated under the laws of this state from making abstract or certifying titles to real estate where it acts through some person as agent, authorized under the laws of the State of Mississippi to practice law; nor shall this section prevent any abstract company chartered under the laws of the State of Mississippi with a paid up capital of fifty thousand dollars (\$50,000.00) or more from making or certifying to abstracts of title to real estate through the president, secretary or other principal officer of such company.

Miss. Code Ann. § 89-5-33. General index; sectional index; indexing instructions

... To be accepted for recording, an instrument shall state the name, address and telephone number of the person, entity or firm preparing it. **If prepared by an attorney, the instrument shall also include the attorney’s Mississippi bar number.** The fact that the indexing instruction or preparer information may be omitted, incorrect, incomplete or false shall not invalidate the instrument or the filing thereof for record. ...