

Commission on the Unauthorized Practice of Law

Bill of Sale Advisory Opinion 2012-001

The Commission on the Unauthorized Practice of Law was asked to issue an advisory opinion regarding a real estate licensee/broker or title company using a pre-printed bill of sale for the sale of personal items when the personal items accompany the sale of real property. The specific questions asked of the Commission were:

In the event that the personal property is listed in the Purchase Agreement, can a real estate company provide:

- 1) A blank bill of sale created by in-house counsel for the clients to fill out?
- 2) A blank bill of sale for the real estate agents to fill out based on the purchase agreement terms? OR can a Title Company prepare either a blank bill of sale to distribute to Buyer and Seller or prepare a bill of sale based on the items listed in the purchase agreement?

Can either a real estate agent/company or title company provide a bill of sale (blank or otherwise) to a buyer/seller if (while incident to the sale of real property) the personal property agreement is separate from the purchase agreement for real estate?

Quoted from request for advisory opinion.

Neb. Ct. R. 3-1004 provides exceptions and exclusions for acts which, whether or not constitute the practice of law, are not prohibited. §3-1004 (A)(5) addresses an exclusion applicable to the questions set forth above. This section states, “In closing a real estate sale, licensed real estate brokers and title insurance companies and their licensed agents may prepare deeds, releases which do not affect judgment liens, deeds of reconveyance, title affidavits, closing statements, and related documents.”

The Commission is of the opinion that a bill of sale for personal property that accompanies and is incidental to the sale of real property is a “related document” as listed in the exception. The bill of sale for personal property, however, is subject to other limitations set forth in the rules. The bill of sale, if completed by a nonlawyer shall be on standardized forms which may contain various blanks to be filled in, the completion or selection of which does not require the knowledge, judgment or skill of one trained as a lawyer. See Neb. Ct. R. 3-1004(A)(6).

No counsel or advice shall be given by the real estate or title agent with respect to the meaning, validity, or legal effect of the document or regarding the rights and obligations of the parties to the transaction. See Neb. Ct. R. 3-1004

Rules Cited in Opinion

(5) In closing a real estate sale, licensed real estate brokers and title insurance companies and their licensed agents may prepare deeds, releases which do not affect judgment liens, deeds of reconveyance, title affidavits, closing statements, and related documents.

(6) The documents referred to in §3-1004(A)(3), (4) and (5) to be prepared by nonlawyers shall be on standardized forms which may contain various blanks to be filled in, the completion or selection of which does not require the knowledge, judgment, or skill of one trained as a lawyer.

(7) No counselor advice shall be given with respect to the meaning, validity, or legal effect of the document or regarding the rights and obligations of the parties.