

Committee Opinion
February 5, 1988

UPL Opinion No. 109.

Preparation of Deeds of Trust by Lending Institutions.

You have raised three questions for the Committee's consideration.

(1) Can an employee of a mortgage corporation prepare a deed of trust and charge a fee payable to the corporation, so long as the date and legal description is omitted and later inserted by the closing attorney?

(2) Can an employee of a mortgage corporation, which routinely sells and transfers loans on a regular basis, with knowledge in advance that such loan will be sold or transferred, prepare a deed of trust, note and other legal documents?

(3) If the answer to the inquiry (2) is in the affirmative, can the mortgage corporation impose a fee for such preparation?

The committee's opinions are based upon a determination that X is a wholly owned subsidiary of Y which originates and processes residential mortgage loans for its parent corporation but which is not itself a lender.

As to your first inquiry, the Committee believes that UPC 6-4 clearly includes the selection of and filling in the blanks on form deeds of trust notes within the meaning of the phrase "preparation of legal instruments" contained in UPR 6-104. Therefore, we conclude that in today's commercial setting, a lending institution such as *** acting through the employees of its own mortgage processing corporation, may prepare deeds of trust securing its loans pursuant to UPR 6-103(A)(4), but the charging of a fee for such loan document preparation is clearly prohibited as the unauthorized practice of law by the same rule.

In response to your second and third inquiries, it is the Committee's opinion that *** (again acting through employees of its own mortgage processing corporation) is, at that time before loan closing and note assignment when deeds of trust are selected and prepared, clearly a "lending institution" entitled to select and prepare deeds of trust securing its own loans under UPR 6-104(A)(4); but, under the provisions of the same rule, *** and its subsidiary are prohibited from charging a loan document preparation fee for the deed of trust.