Attorney-Only Closings in Georgia: Navigating e-Closings in CRE Deals

By Sean A. Gordon and Stephen B. Schrock

Georgia is one of a few states that treat real estate closings as the practice of law. The Georgia Supreme Court and State Bar have long held that only a duly licensed Georgia attorney may prepare deeds and conduct closings, and nonlawyers and lawyers not licensed to practice in Georgia who facilitate the execution of conveyance instruments or disburse proceeds risk unauthorized-practice findings. Georgia Supreme Court formal advisory opinions have reinforced the rule across real estate loans, refinances and purchase transactions and clarify that Georgia-licensed attorneys must supervise title work, document preparation, execution, and funding. In parallel, Georgia's "good funds" and settlement-agent framework further limits who can disburse proceeds, with O.C.G.A. § 44-14-13 prescribing attorney involvement and trust-account handling, and witness rules under O.C.G.A. § 44-2-15 dictating how documents are executed and recorded. For commercial buyers and lenders accustomed to title-company closings elsewhere, this legal architecture materially impacts closing checklists, staffing, and timelines in Metro Atlanta and across the state.

The shift toward eClosings does not displace attorney control; it reframes it. Georgia transactions increasingly rely on digital workflows, including remote signings, electronic recording, and hybrid packages, yet the attorney remains central to legal tasks, supervision of execution, and funds flow. Under bar guidance, nonlawyer "signing agents" cannot oversee execution of deeds or security deeds; preparation and consummation must be attorney-led. The closing lawyer remains responsible for explaining terms, curing title issues, and ensuring compliant witnessing and notarization. Lenders should pressure-test their eClosing playbooks to confirm that videoconference execution, remote notarization procedures (not currently permitted under Georgia law), and e-recording align with attorney oversight, witness requirements, and local clerk expectations and practices (not all county clerks handle recordings in the same manner). Where documents must be wet-inked to satisfy recording or title-insurance underwriting expectations, closing counsel will dictate when hybrid methods give way to traditional signings.

These constraints also carry practical advantages in a choppy CRE market. Georgia's attorney-centered model facilitates faster problem-spotting and resolution than in nonjudicial foreclosure states, where title defects, lien priority, and UCC fixture issues often derail closing timelines. Attorney control over escrowed funds and disbursements (which does not require that a Georgia-licensed lawyer must hold and disburse escrowed closing proceeds but may oversee and direct a title company's holding and disbursement) mitigates wire fraud exposure and enforces "good funds" discipline, while bar oversight standards add accountability for payoff mechanics and policy issuance. For title underwriters, this model provides a single point of responsibility for title examination and policy delivery, and for lenders or other interested parties, it can streamline issue escalation, particularly on portfolio trades with uneven diligence quality across assets.

Execution still demands careful planning. Multi-state lenders should map which documents must be attorney-prepared and executed under Georgia formalities, confirm two-witness requirements for recordable instruments, and stage notarization coverage for out-of-state signers. Transaction teams should align closing calendars with publication and recording lead times and verify county eRecording capabilities, which vary clerk by clerk. Finally, lenders and other interested parties should also document compliance roles in engagement letters and closing instructions, ensure settlement statements disclose any rebates or fee credits, and confirm the attorney agent's authority to issue title policies. Getting these details right allows Georgia deals to leverage eClosing efficiency without violating practice-of-law rules, delivering speed to funding while satisfying Georgia's attorney-only guardrails.

Considering Georgia's attorney-only closing requirements alongside evolving eClosing tools, Thompson Hine can assist in structuring compliant transactions, aligning remote execution and recording practices with state law, and planning for future deals in this market.

For More Information

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