

# Commission to Recommend Methods for Preventing Deed Fraud in the State

## Meeting Agenda

Wednesday, December 3, 2025

10:00a.m. – 4:00 p.m. (approx.)

Maine State House, Room 438 (JUD) and via Zoom

Streaming: <https://legislature.maine.gov/Audio/#438>

1. **Welcome and Introductions**
  - Senator Henry Ingwersen, Senate Chair
  - Representative Adam Lee, House Chair
2. **Responses to Commission Requests for Information**
  - Office of Policy & Legal Analysis Staff
3. **Review, Discuss and Vote on Deed Fraud Prevention Proposed Findings**
  - Office of Policy & Legal Analysis Staff
  - Commission members
4. **Review, Discuss and Vote Deed Fraud Prevention Proposed Recommendations**
  - Office of Policy & Legal Analysis Staff
  - Commission members
5. **Review Draft Report: Background**
  - Office of Policy & Legal Analysis Staff
  - Commission members
6. **Next Steps – Review of Draft Report** (via email)

*\*\* The Commission will take a lunch break at an appropriate time during the meeting\*\**

**Commission to Recommend Methods for Preventing Deed Fraud in the State**  
**Information Requested for December 3, 2025 Meeting**

**1. Are property owners required to update their addresses for property tax purposes?**

OPLA staff was unable to find any state law that required property owners to update their addresses for property tax purposes though it may be possible that municipal ordinances exist requiring property owners update their addresses.

**2. If deed fraud is caught and a transaction is unwound, are real estate transfer taxes returned?**

OPLA staff could not find any specific state law regarding this situation, but the Maine Revenue Services (MRS) informed OPLA staff that it is possible for an individual to request a refund on the transfer tax return.

**3. Does any other state require that a property seller provide a refundable deposit?**

OPLA staff was unable to find any state law imposing a seller-deposit requirement.

Hannah McMullen's response:

I heard back from several realtor association attorneys and none of them are familiar with any state laws that require a deposit for listings. A couple of interesting suggestions I heard:

1. Montana and Rhode Island both noted that their associations have optional language for their realtor members to have a retainer fee for listings. In Maine, our association has similar optional language for our buyer agreements and it is up to agency policy if they choose to charge a fee. While I don't think mandating a retainer in state law is ideal, our association could consider this concept on the listing side as another tool we can offer our realtor members.
2. Another association attorney noted that the biggest issue with deed fraud they see is the fraudulent notary info. Again, no state law implemented, but they recommend best practice of using a vetted notary for out of state signatures instead of allowing the buyer or seller choose their own.
3. South Carolina shared a Fraud Alert and Prevention Techniques that their state regulatory commission send out this year (see attached).
- [4. California real estate law makes it extremely difficult to collect compensation in advance of it being earned. Advance fee agreements must be preapproved by the Department of Real Estate. (Title 10 California Code of Regulations 2970). Failure to abide by the Regulation is not only a regulatory violation it is also a crime (Embezzlement. California Penal Code 506 and 506a. Business and Professions Code 10146.). Advance fees when permitted by the DRE must be held in a broker trust account. (Business and Professions Code 10146.)]

Janet Towle's response:

There are no states which require a seller to provide a refundable "deposit" in order to secure the services of a real estate agent. In the past there were a few offices in Maine that instituted a deposit from potential *buyer* clients (not *seller* clients) prior to signing a representation agreement, but it had nothing to do with mitigating fraud. It was to ensure the client understood the importance of the buyer obligations and attempted to help avoid breaching the buyer agreement. In the end, the practice of collecting upfront deposits proved to be very cumbersome, ineffective, plus the refundability aspect (despite deposits being non-refundable) caused a lot of anxiety among all parties, and was abandoned by almost all agencies.

Enacting this type of rule would similarly cause the same issues, without truly solving the problem at hand. The upfront collection of these monies would affect thousands upon thousands of seller clients

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(amounting to over \$1M+/- based on current MLS listing numbers) and would unlikely thwart the fraud, since this type of rule would affect only fraudsters who attempt to work with a real estate agent. Based on what we know, this appears to be a very small number and growing smaller due to ongoing awareness through continuing education among licensed agents.

### 4. What types of acknowledgement defects can be overlooked under Maine law?

#### Title 33: PROPERTY

#### Chapter 7: CONVEYANCE OF REAL ESTATE

#### SUBCHAPTER 4: VALIDATION OF DEFECTS

##### §351. Acknowledgments after commission expired

When a person authorized to take acknowledgments takes and certifies one in good faith after the expiration of his commission, not being aware of it, such acknowledgment is as valid as if done before such expiration.

##### §352. Defective acknowledgments

A record of a deed or other instrument, including a power of attorney, made for the conveyance of real property, or of any interest in real property, and recorded for at least 2 years in the registry of deeds of the county or district in which the real property is located is valid and enforceable even if: [PL 2017, c. 196, §1 (AMD).]

**1. Acknowledgment.** The acknowledgment was incomplete or defective in any respect, no acknowledgment appears in the record of the deed, other instrument or power of attorney or no acknowledgment was taken; or

¶A. – ¶O. [PL 2017, c. 196, §1 (RP).]

**2. Records relating to title to real property.** The records in relating to the title to real property fail to disclose the date when received for record or the records have not been signed by the register of deeds or other duly authorized recording officer for the county or district. [PL 2017, c. 196, §1 (AMD).]

##### SECTION HISTORY

PL 1971, c. 469, §1 (AMD). PL 1981, c. 181, §1 (AMD). PL 1995, c. 304, §1 (RPR). PL 2001, c. 275, §B1 (AMD). PL 2015, c. 157, §1 (AMD). PL 2017, c. 196, §1 (AMD).

##### §353. Miscellaneous defects (REPEALED)

##### SECTION HISTORY

PL 1965, c. 120 (AMD). PL 1967, c. 158 (AMD). PL 1967, c. 544, §83 (AMD). PL 1971, c. 469, §§2-4 (AMD). PL 1973, c. 266 (AMD). PL 1981, c. 181, §2 (RP).

##### §353-A. Miscellaneous defects

**1. Omission of consideration; failure to seal.** A deed or other instrument, including a power of attorney, whenever made for the conveyance of real property, or any interest in real property, in this State and otherwise valid, except that the deed or instrument does not state any consideration for the real property or was not sealed by the grantors, is valid. [PL 2017, c. 196, §2 (AMD).]

**2. Discharge or assignment of mortgage.** A duly recorded satisfaction piece or instrument made and recorded for at least 2 years in the registry of deeds of the county or district in which the real property is located with the intent to cancel and discharge or assign a mortgage of real estate, fully identifying the mortgage intended to be canceled and discharged or assigned, but not drawn in accordance with statutory requirements is considered valid. [PL 2017, c. 196, §2 (AMD).]

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**3. Corporations and other entities organized or attempted to be organized; validation of deeds and other instruments.** A corporation or other legal entity organized or attempted to be organized under the laws of this State for more than 20 years and not yet declared to be invalid is for all intents and purposes a lawful corporation or other legal entity as applicable. The deeds or other instruments of the corporation or other legal entity, given in its corporate or other legal entity name, that affect or convey real estate or any interest in real estate and that have been recorded for at least 2 years in the registry of deeds in the county where the real estate is located may not be held invalid by reason of:

- A. The lack of authority for or informality in their execution or delivery if executed or delivered in good faith by the acting officers or other authorized officials or members of the corporation or other legal entity as applicable; [PL 2017, c. 196, §2 (AMD).]
- B. The failure to disclose the corporation's or other legal entity's authority for the conveyance of real estate; [PL 2017, c. 196, §2 (AMD).]
- C. The failure to bear the seal of the corporation or other legal entity; [PL 2017, c. 196, §2 (AMD).]
- D. A person executing or acknowledging a deed or instrument in that person's individual capacity; [PL 1995, c. 304, §2 (NEW).]
- E. The failure to disclose the official capacity of the person executing the deed or instrument; or [PL 1995, c. 304, §2 (NEW).]
- F. The failure of the duly authorized officer to sign the deed or instrument. [PL 2017, c. 196, §2 (AMD).]

**4. Omission of authorization for conveyance of real estate.** A deed or other instrument for the conveyance of real property, or any interest in the real property executed by a person or persons purporting to act as the agent or attorney of the grantors or their spouses, that has been recorded for at least 20 years in the registry of deeds of the county or district in which the real property is located is valid even if no power of attorney authorizing and empowering an agent or attorney to make the conveyance or execute and deliver the deed or instrument appears of record, but the real property has in the meantime been occupied, claimed or treated by the grantees or their heirs, successors or assigns as their own property. [PL 2017, c. 196, §2 (AMD).]

**5. Discharge of mortgage.** An instrument that has been recorded or written on the record in the registry of deeds of the county or district in which the real property is located for at least 20 years that is signed or executed by a person or persons purporting to act as the agent or attorney of a mortgagee of real estate and purporting to discharge the mortgage is valid even if no power of attorney authorizing an agent or attorney appears of record. [PL 2017, c. 196, §2 (AMD).]

**6. Failure to secure bond or comply with licensing.** In all cases in which an executor, administrator, personal representative, guardian, conservator, trustee, master, receiver or similar officer has been authorized or ordered by a court of probate or other court to distribute, sell or exchange real estate and has distributed, sold or exchanged the real estate, or any interest in the real estate, in accordance with the authority, without first having filed a bond covering the faithful administration and distribution of the estate when a bond was required by law or has failed to comply with any other prerequisite for the issuance of the license authorizing the distribution, sale or exchange and has given a deed to the distributee or purchaser of the real estate or to the person with whom an exchange was authorized or ordered or when the executor, administrator, personal representative, guardian, conservator, trustee, master, receiver or other officer appointed has acted in that capacity under a decree of any court appointing that person to the office, but the decree of appointment erroneously or inadvertently excused the person from giving bond in that capacity when a bond was required by law and was not in fact given, the deeds and acts previously done are valid. [PL 2017, c. 196, §2 (AMD).]

**7. Foreclosure by publication.** In all cases of foreclosure of real estate mortgages by publication, a certificate of the publication of foreclosure made by the mortgagee or by an officer, member, partner or other authorized representative of the mortgagee, if the mortgagee is a corporation or other legal entity, or made by

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an officer or employee of the newspaper that published the notice recorded in the registry of deeds of the county or district in which the real property is located is prima facie evidence of the publication of foreclosure to the same extent as if the certificate had in fact been made by the register of deeds and recorded; certificates made by the mortgagee or by an officer, member, partner or other authorized representative of the mortgagee, if the mortgagee is a corporation or other legal entity, or made by an officer or employee of the newspaper that published the notice recorded in the registry of deeds of the county or district in which the real property is located have the same force and effect as if made by the register of deeds and are valid. [PL 2017, c. 196, §2 (AMD).]

**8. Foreclosure by civil action.** All foreclosures commenced on or after October 1, 1975 of real estate mortgages executed on or prior to October 1, 1975 using the method of foreclosure set forth in Title 14, sections 6321 to 6324 for which the period of redemption allowed was not less than one year and that would be valid but for the date of execution of the mortgage are valid and effective according to their terms. [PL 1995, c. 304, §2 (NEW).]

**9. Abstracts of divorce decrees.** An abstract of a divorce decree recorded in any registry of deeds on or after August 20, 1955 and otherwise valid that failed to state the residence of any party to the divorce action is valid and has the force and effect of a quitclaim deed releasing all interest in the real estate described in the decree or abstract. [PL 2017, c. 196, §2 (AMD).]

#### SECTION HISTORY

PL 1981, c. 181, §3 (NEW). PL 1981, c. 698, §165 (AMD). PL 1987, c. 15, §2 (AMD). PL 1995, c. 304, §2 (RPR). PL 1997, c. 62, §1 (AMD). PL 2001, c. 275, §B2 (AMD). PL 2015, c. 157, §2 (AMD). PL 2017, c. 196, §2 (AMD).



South Carolina  
Department of Labor, Licensing and Regulation



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Henry D. McMaster  
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May 8, 2025

**Fraud Awareness & Prevention Techniques**

In December 2022, the South Carolina Real Estate Commission issued an alert regarding fraudulent sales and mortgages, most commonly associated with vacant lots. You can find a copy of that alert [here](#). Fraud continues to occur within the real estate industry, placing members of the public and real estate licensees at risk. This article provides examples of warning signs that may indicate some sort of fraud may be occurring in a real estate transaction and some suggested techniques/resources to utilize when attempting to combat fraud.

*\*Many of the below warning signs may occur for valid reasons. It is still important for licensees to take a deeper look to ensure fraud is not taking place. Real Estate licensees are reminded that they have a duty (S.C. Code §§40-57-710 and 40-57-350) to take reasonable precautions to protect members of the public and their clients from fraud.*

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**Example 1:** *The buyer/seller states that they are traveling (sometimes abroad), claims they cannot meet in person, and has to do everything by email.*

What can you do? Click [Here](#)

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**Example 2:** *The seller has a family emergency, needs a quick cash sale, and will accept substantially less than full price if they can close in a very short time.*

What can you do? Click [Here](#)

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**Example 3:** *The seller does not require a Due Diligence fee and/or low or not Earnest Money combined with a quick closing (in order to obtain quick proceeds before scam is discovered).*

What can you do? Click [Here](#)

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**Example 4:** *The buyer/seller gets very angry at the real estate licensee as the transaction gets closer to closing and applies pressure on the licensee to make sure the deal goes through. Sometimes they offer an incentive such as commission bonuses or promising other opportunities to buy or sell. Or the buyer/seller makes constant excuses, is not able to perform the terms of the contract, or is not returning paperwork.*

What can you do? Click [Here](#)

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**Example 5:** *The email address or phone numbers are from another country*

What can you do? Click [Here](#)



**Example 1: The buyer/seller states that they are traveling (sometimes abroad), claims they cannot meet in person, and has to do everything by email.**

**Suggestions:**

1. Request that the buyer/seller send you a copy of a photo ID, such as a state issued ID card or driver’s license, [military ID](#), or passport.

When reviewing:

- a. Be careful to look for photo IDs that appear to come from places different than where the buyer/seller states they live.
- b. Photo IDs, should be legible and visible, particularly for any transaction that is being handled remotely if provided with a state issued ID card or driver’s license.
- c. You can request a copy of the person’s driving record from the Department of Motor Vehicles (DMV) to compare the information printed on the state issued ID card or driver’s license with what has been presented to you.<sup>1</sup>

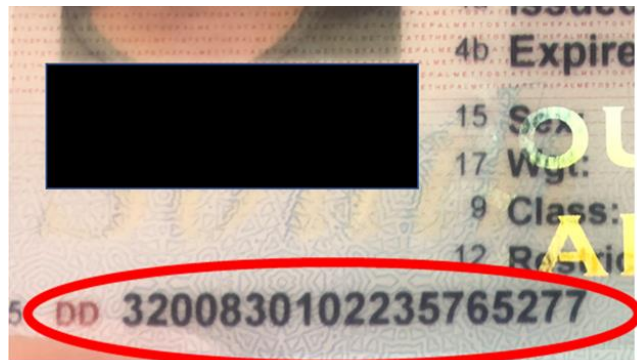
- d. Check that state issued ID card or driver’s license information through the use of the [Driver’s License Data Verification service](#) (DLDV), which is available through the American Association of Motor Vehicle Administrators (AAMVA). DLDV will allow a user to complete the fields below and get a “True/False” indicator for each field based on the data contained in that State DMV’s database for that credential.

Document Number	State Code
First Name	Middle Name
Last Name	Name Suffix
Street	City
State	Zip Code
Issue Date	Expiration Date
Eye Color	Height
Weight	Gender

Currently, 44 United States jurisdictions fully participate in DLDV and AAMVA maintains a map showing participation States and details on their webpage. Additional information about DLDV can be found [here](#).

- e. For South Carolina ID cards and driver’s licenses, you can compare a person’s document identifier number (ACN/DDN) on their physical ID card or driver’s license with the ACN/DDN listed on their Official 3-Year or 10-year Driving Record. Licensees can obtain Driver Records directly from the [SCDMV](#) by mailing in SCDMV form MV-70 (with payment as required by SCDMV) or by visiting any SCDMV Branch Office location. Alternatively, this can be done by creating a Member Services account through [Tyler Tech](#) (not required).

\*Example of ACN/DDN and its placement on a SC driver’s license or ID card:



<sup>1</sup> See 18 USC § 2721(b)(3), which is an exception to the Driver Privacy Protection Act (DPPA) that allows, in the normal course of business, a legitimate business or its agents, employees, or contractors to verify the accuracy of personal information submitted by the individual to the business.

\*Example a 10-year Driver Record and the ACN/DDN:

## OFFICIAL 10 YEAR DRIVER RECORD

Customer No: [REDACTED]	Driver License No: [REDACTED]
Name: [REDACTED]	
Address: [REDACTED]	
City: [REDACTED]	State: SC      Zip: [REDACTED]
County: [REDACTED]	Sex: [REDACTED]      Driver Training: N
DOB: [REDACTED]	
Status - DL: NO SUSPENSION      CDL: NO DISQUALIFICATION	

License Information							Document Identifier (ACN / DDN) 3200830102235765277
Type	Class	Function	Issued	Expires	First Issued	Rest. Endo	
DL (R)	D	Renewal	[REDACTED]	[REDACTED]	Y	N	

f. Verify the presence of particular security features known to exist for that type of photo ID. As an example, US passports issued in 2021 and later incorporate publicly known security features as set forth in the photo below:



- g. Perform a general review of the photo ID. Items to look for during a general review are:
- i. Consistency – Ensuring the information on the photo ID matches other information given to you by the buyer/seller. Examples warranting a deeper look:
    - The photo ID states that the person is 70 years old, but the person you are dealing with appears to 30 years old.
    - The font type on the photo ID is not consistent within the photo ID itself or is not aligned properly with other type or features on the photo ID.
    - If there are machine readable zones on the photo ID, the data contained in those machine readable zones is not consistent with the data printed in the other parts of the photo ID.
  - ii. Unusual signs of wear – This is more useful when looking at the physical photo ID in person, but can sometimes be a valuable tool even when looking at a photo or scan of the ID. Unusual signs of wear can indicate that the photo or other information on the ID has been changed.
2. You can confirm that the seller matches the owner of record according to the register of deeds office, the county tax office, or other official records holders for the property. Some documents on file with these offices may contain copies of the seller’s signature, which can be compared with signatures on any photo ID provided by the seller and/or on documents signed as part of the real estate listing and/or transaction.



3. You can ask the seller/buyer to attend a live video call with you (Face Time, Zoom, Teams, etc). Taking this additional step can alert licensees to additional red flags (for example, if the video appears faked) and/or can provide reassurance that the licensee is actually dealing with the person they believe they are dealing (interacting) with in the transaction. Further, taking this step helps demonstrate the licensee's due diligence in confirming identity of the person the licensee believes they are working with in the transaction. If the seller/buyer refuses to participate in the live video call with you, this is an additional red flag that should be given considerable weight.

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*Example 2: The seller has a family emergency, needs a quick cash sale, and will accept substantially less than full price if they can close in a very short time.*

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**Suggestions:**

1. To the extent possible, you can check to see if the stated family emergency appears to have occurred. For example, if the stated family emergency is the sudden or unexpected death of a family member, you could check to see if there is any public record that such a death occurred, e.g., can you locate a published obituary online.
2. Seller Agents have a duty to exercise reasonable skill and care in discharging the licensee's duties, which includes advising the seller if their proposed sale price is abnormally low. S.C. Code §40-57-350(C)(1)(c).

When providing that advice, the Seller Agent should listen closely to the explanation given by the Seller to determine if there are any red flags, such as: for wanting a cash only sale, being willing to accept substantially less than full price, and/or desiring/requiring a closing in a short period of time. A deeper look to confirm property ownership by the Seller is warranted and the licensee should consider taking some of the photo ID confirmation steps outlined above.

3. Seller Agents can check the listing history of a property and contact prior listing agents/firms to see if there were indications of fraud or materials facts that may need to be disclosed. Indicators that a call like this may be needed are: being on the market for a short period of time, having a sudden withdraw, or listing prices being substantially different.
4. This stated reason for a quick sale may also indicate underlying problems with the property (unpaid liens, title problems, or structural issues). For this reason, it is especially critical to ensure a thorough title search and property inspection are completed.

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*Example 3: The seller does not require a Due Diligence fee and/or low or not Earnest Money combined with a quick closing (in order to obtain quick proceeds before scam is discovered).*

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**Suggestions:**

1. While seller agents should have already verified the identity of their seller, as discussed above, buyer agents can request proof of seller identification from the seller agent and then verify the seller's identification through the methods set forth above, as well as verifying the seller is the property owner via public records. If seller agents receive a request for verification of the identity of their seller, they should obtain written permission from their seller to share that verification

documentation prior to sending it to the buyer agent.

2. Verify that any transaction funds are going to a legitimate place. For example, licensees can independently confirm that funds are going to a real attorney, a licensed real estate licensee, or the true property owner. Attorneys and licensed real estate licensees can normally be looked up on State Bar websites (attorneys) or licensing websites (licensees). Frequently these listings will include verified contact information for the attorney or real estate licensee and you can use that verified contact information to compare to the communications you have received and/or reach out to the attorney or licensee via that verified contact information.

3. Avoid direct wire transfers, when possible, especially to foreign accounts (overseas accounts). Wire transfers are difficult to trace and recover once the funds are sent.

\*As a real estate licensee, you are bound to your client by the duties of loyalty, obedience, disclosure, confidentiality, **reasonable care, diligence**, and accounting. S.C. Code §40-57-350(A). This means, in part, that you have a legal obligation to safeguard your client's property, money, deeds, documents, and personal information by engaging in reasonable care and diligence in how you handle those items.

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*Example 4: The buyer/seller gets very angry at the real estate licensee as the transaction gets closer to closing and applies pressure on the licensee to make sure the deal goes through. Sometimes they offer an incentive such as commission bonuses or promising other opportunities to buy or sell. Or the buyer/seller makes constant excuses, is not able to perform the terms of the contract, or is not returning paperwork.*

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### **Suggestions:**

1. For any documents that must be notarized, you can contact the public notary to confirm that the notary witnesses any signatures on documents provided.
2. Ensure you are engaging in reasonable care and due diligence to ensure you are not being used as part of a fraudulent transaction. If needed, slow the transaction down a bit and utilize some of the methods described in this document to confirm you are dealing with who you

think you are dealing with, that the seller is the owner of the property, that funds are prepared to go to the correct and valid locations, and that any other proper steps are completed in a way you would expect them to be completed if you were the client and these were your funds involved in the transaction.

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*Example 5: The email address or phone numbers are from another country*

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### **Suggestions:**

1. You can send a letter (certified or signature confirmation) to the address of record for the property asking the person to contact you to confirm they are attempting to sell the property.
2. You can use online tools to verify that the area code and country code of the phone number relate to the location they should be based on the information received from the seller/buyer.
3. You can try calling or emailing from a different phone number or email address to see if you receive a response that lines up correctly with who you think you are dealing with at that phone number or email address.
4. You can ask the buyer/seller for an explanation as to why the email address or phone number are from another country and consider whether the explanation given is reasonable based on your professional experience. If the explanation does not appear reasonable, then a deeper look may be needed.
5. Review email domains to see if there are misspellings, odd words or letters, or other unusual parts. Consider checking behind the domain name by researching the domain itself to learn more about it and the types of people that typically use that domain.
6. If the contact is from an international real estate agent or company, you can verify their credentials with local or international regulatory bodies similar to the SC Real Estate Commission. Additionally, you can check for online reviews or feedback. If there are no online reviews or feedback, this is an additional red flag. Further, a review of such reviews or feedback may reveal concerning information to be considered. Finally, if you are familiar with any attorneys or real estate agents in the area the international real estate agent or company is located, you could also contact them to confirm the legitimacy of the person or company.

7. When communicating over the internet, including via email, especially for international deals, it is strongly recommended that licensees use a VPN (Virtual Private Network) to protect the privacy of the data being transmitted.

Utilizing the techniques described in this document does not guarantee that you or your client will never fall victim to fraud, but does improve the likelihood of discovering if an attempted fraud is in the works.

**If a client insists on completing the transaction:**

Despite the licensee expressing fraud concerns to the client, the client insists on completing the transaction. It is strongly recommended that the licensee either:

- 1) terminate the client relationship as allowed within the agency agreement; or
- 2) detail their concerns in a document including warning signs of fraud they see in the transaction, outline the steps they have taken to mitigate any of those warning signs/concerns, set forth in said document that the licensee shall not be responsible for any loss of funds or property if the client directs the licensee to complete the transaction despite these concerns, and require the client to sign this document prior to completing the transaction, including, if possible, prior to the transmission of any funds.

**Property owners that have fallen victim:**

Someone attempted to sell their property without their consent or the Property owner suffered (or almost suffered) fraud related to real estate. Property owners can contact resources below:

- Federal Bureau of Investigation - <https://www.fbi.gov/>
- Local Law Enforcement
- South Carolina Law Enforcement Division - <https://www.sled.sc.gov/>
- Local Solicitor or other Prosecutor's Office - <https://scprosecutors.sc.gov/circuitsolicitors>
- South Carolina Attorney General's Office - <https://www.scag.gov/>
- Federal Trade Commission – <https://www.identitytheft.gov>

**If the event involved matters on or communicated through the internet:**

- The FBI's Internet Crime Unit (<https://www.ic3.gov/>)
- The service provider or website the person was using at the time of the events

**If the event involved mortgage fraud:** in addition to the resources listed above, contact the Financial Crimes Enforcement Network at <https://www.fincen.gov/mortgage-and-real-estate-fraud>.

**Additional resources:**

- <https://www.fbi.gov/how-we-can-help-you/safety-resources/scams-and-safety>
- <https://consumer.sc.gov/consumer-resources/consumer-faqs/scam-education>
- <https://www.fincen.gov/resources-public>
- <https://www.fincen.gov/resources-institutions-and-financial-industry-professionals>
- <https://consumer.sc.gov/rental-scams>

## Commission to Recommend Methods for Preventing Deed Fraud in the State

### Proposed Findings — for Discussion Dec. 3, 2025

<b>General</b>		
Proposed Finding	Suggested by	Vote
1. Seller impersonation fraud is a growing problem nationwide.	Sen. Ingwersen	
2. Seller impersonation fraud (SIF) is the most commonly discovered type of real estate fraud in Maine, due to anecdotal evidence gathered and pursued predominantly by local law enforcement in Southern Maine.	Sen. Ingwersen	
3. Common seller impersonation fraud red flags include unencumbered vacant land transactions, requests for use of an unknown notary, all cash transactions, seller in a different state, and property for sale at below market value.	Sen. Ingwersen	
<b>Data</b>		
4. There is an agreement that there is very little information available which provides the extent of deed fraud data being committed statewide. It is thus difficult to discern where deed fraud begins or the process it takes in order for it to be successful.	Jane Towle	
5. There are no mechanisms currently available to allow or encourage the general public or real estate professionals to report attempted deed fraud.	Jane Towle	
6. Property owner fraud is an emerging issue in the State of Maine and nationwide. There is currently limited data available on the prevalence of fraudulent deed recordings and/or fraud attempts.	Hannah McMullen	
7. There is a lack of concrete data in Maine regarding the incidence, type, and outcomes of attempted deed fraud, including a lack of data identifying how each attempt at deed fraud was discovered.	Sen. Ingwersen	
<b>Training for Real Estate Professionals</b>		
Proposed Finding	Suggested by	Vote
8. Real estate professionals are currently required to complete 21 hours of biennial continuing education. This includes a Core Course, which during the last two cycles, deed fraud awareness has been emphasized.	Jane Towle	
9. Closing agents are often the last line of defense against a fraudulent sale, but more training and resources are needed to reduce the risk of deed fraud and to protect property owners.	Sen. Ingwersen	
<b>Education</b>		
Proposed Finding	Suggested by	Vote
10. As the awareness of deed fraud increases among real estate professionals through education and utilization of best practices, the public's awareness of deed fraud is still lacking statewide, as evidenced by the number of inquiries and requests for more information to state registry offices.	Jane Towle	
11. There is currently no available information “sheet,” state deed fraud information website to direct the public, nor public safety campaigns being promoted statewide to provide greater public awareness and safety.	Jane Towle	
12. There is a need to increase public awareness about property owner fraud.	Hannah McMullen	

**Commission to Recommend Methods for Preventing Deed Fraud in the State**

**Proposed Findings — for Discussion Dec. 3, 2025**

13. Education and awareness efforts are increasing and evident among title insurance and real estate professionals.	Sen. Ingwersen	
<b>Tools to Prevent or to Remedy Deed Fraud</b>		
<b>Proposed Finding</b>	<b>Suggested by</b>	<b>Vote</b>
14. There is currently no online option for a property owner to utilize a “title freeze.”	Jane Towle	
15. There are currently no available expedited and financially cost-effective court proceedings for title restoration.	Jane Towle	
16. A “toolbox of recommendations” to combat deed fraud is suggested among recent commission and deed fraud study groups.	Sen. Ingwersen	
<b>Miscellaneous</b>		
<b>Proposed Finding</b>	<b>Suggested by</b>	<b>Vote</b>
17. The Uniform Law Commission Deed Fraud Study Committee and the Virginia General Assembly have recently released reports and recommendations to combat deed fraud.	Sen. Ingwersen	

**Commission to Recommend Methods for Preventing Deed Fraud in the State**

**Proposed Findings — Revised for Discussion Dec. 3, 2025**

**I. Proposed Recommendations Identified as Priorities for Further Discussion**

Proposed Recommendation	Suggested by	Vote
<b>Prevention — Identity Verification</b>		
<p><i>Sample issues to consider for all identity verification proposed recommendations below:</i></p> <ul style="list-style-type: none"> <li>➤ Whose identity is subject to enhanced identity verification? All parties? Sellers only?</li> <li>➤ Which transactions are included?               <ul style="list-style-type: none"> <li>○ All voluntary real estate transactions or only certain higher-risk transactions (red flags)?</li> </ul> </li> <li>➤ What identity verification process is required? Should it be laid out in statute or through rules (by who)?               <ul style="list-style-type: none"> <li>○ How many / what types of identification are acceptable / required?</li> <li>○ And/or is a professional required to independently investigate the seller’s identification (examine tax records, mail letter to seller’s address, use approved (by who?) verification program, other?)</li> </ul> </li> <li>➤ Who must perform the enhanced identity verification and when?               <ul style="list-style-type: none"> <li>○ Realtor — prior to listing property?</li> <li>○ Notary public — when acknowledging recordable real estate documents?</li> <li>○ Settlement agent — at closing? Is this distinct from the notary’s responsibility?</li> <li>○ Other professional?</li> </ul> </li> <li>➤ How will this requirement be enforced?               <ul style="list-style-type: none"> <li>○ Statutory duty for licensed/registered in-state professionals? (failure = professional discipline?)</li> <li>○ Requirement for recording instruments in a Maine registry of deeds? (how prove compliance?)</li> </ul> </li> </ul>		
<p><b>1.</b> Require 2 forms of identification for all real estate transactions.</p>	<p>Cathy Beaudoin; Rep. Lavigne</p>	
<p><b>2.</b> Establish a state-approved identify verification form and require a notary to verify the seller’s identity using this form by, at a minimum, physical verification of a government-issued ID.</p> <p>Completion of the form should be required: (a) when property is listed with a real estate broker; or (b) prior to the sale in a private sale. Form must be presented to the Registry of Deeds when conveyance is recorded.</p> <p><i>Additional issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Who should be charged with creating the form?</li> </ul>	<p>Mark Samson</p>	
<p><b>3.</b> For electronic-only listings and closings — require enhanced identify verification using a service such as CertifID, Authenticate, or Forewarn.</p> <p>It may make sense to require that the service be approved by the State to ensure standardized reports and to negotiate the price.</p> <p><i>Additional issue to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Who should approve the service (may depend on who performs check)?</li> </ul>	<p>Mark Samson</p>	
<p><b>4.</b> If a transaction contains “red flags” — cash transaction, no property encumbrances, seller outside of Maine, entire transaction is completed electronically — require enhanced identity verification for the seller including by notifying the seller (<i>at what address?</i>) of the attempted sale.</p> <p>Impose requirement on real estate professional; if none, settlement agent.</p> <p><i>Additional issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Are there other red flags? E.g., sale price “well below” market value, reasons expressed to “rush” the sale?</li> </ul>	<p>Sen. Ingwersen</p>	

**Commission to Recommend Methods for Preventing Deed Fraud in the State**

**Proposed Findings — Revised for Discussion Dec. 3, 2025**

<b>Prevention —Property Freeze</b>		
<p><b>5.</b> Establish a process for owners to “freeze” title to their property in the registry of deeds. Commission member suggestions to consider:</p> <ul style="list-style-type: none"> <li>• Initiating freeze: (a) opt in / opt out during closing (<i>how?</i>); (b) sign up using a state-approved request form (c) require two-factor identity verification; (d) allow owners to request a freeze in person or online.</li> <li>• Freeze would not apply to certain involuntary transfers, for example, government filings or verified legal judgments.</li> <li>• Title insurers and lienholders would be notified of the freeze (<i>how?</i>)</li> <li>• Specific future transfers can be authorized by the property owner through in-person or multi-factor authentication.</li> </ul> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ If a state-approved form is required, who creates/approves the form?</li> <li>➤ What type of identity verification is required to freeze / unfreeze the title?</li> <li>➤ What procedures apply if the property owner dies?</li> <li>➤ Should the specific types of recordings not subject to the freeze (tax liens, court judgments, mechanic’s liens, etc.) be specified in the law?</li> <li>➤ Will the freeze be noted in the registry and/or a separate database?</li> <li>➤ Are registries required to make this process available? (mandate?)</li> <li>➤ Should Maine wait for a uniform law to identify potential pitfalls?</li> </ul>	<p>Cathy Beaudoin; Jane Towle; Sen. Moore; Sen. Ingwersen; Mark Samson</p>	
<b>Prevention – Public Education</b>		
<p><b>6.</b> Create and provide educational resources for members of the public. Committee member suggestions to consider:</p> <ul style="list-style-type: none"> <li>• Topics to address: seller impersonation, how to spot it, steps an owner can take to protect their property, and what to do if you are a victim of fraud (or an attempted fraud).</li> <li>• How to distribute: make these educational resources available at the Registry of Deeds, Secretary of State’s Office and any other state or local entity that wishes to provide educational materials</li> </ul> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Consider the list of existing educational materials and ones in progress</li> <li>➤ Who should be charged with developing these materials?</li> <li>➤ Are these the appropriate suggested topics &amp; distribution methods?</li> <li>➤ Should development of these materials be mandated by law or should the commission write letters encouraging creation/distribution of information?</li> </ul>	<p>Hannah McMullen; Carrie Cote</p>	
<b>Prevention – Professional Education</b>		
<p><b>7.</b> Provide educational materials for real estate transaction professionals and/or require continuing education on deed fraud for certain professionals. Note: licensed real estate brokers/agents must complete 21 hours of continuing education every 2 years; 6 hours must cover core topics identified by the Real Estate Commission. <i>See</i> <a href="#">32 M.R.S. §13197</a>.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Which professionals (all notaries or only notaries acting at closings, real estate brokers/agents, title insurers, settlement agents, anyone else)?</li> <li>➤ Should resources merely be created or should training be mandatory?</li> <li>➤ Who should be charged with developing these materials?</li> </ul>	<p>Carrie Cote; John Brautigam; Nancy Hammond</p>	

**Commission to Recommend Methods for Preventing Deed Fraud in the State**

**Proposed Findings — Revised for Discussion Dec. 3, 2025**

<b>Remedies – Registry of Deeds</b>		
<p><b>8.</b> Provide an electronic system to notify property owners immediately when there is an attempt to record a transfer of title to their property.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Can anyone sign up for the notification? If not, how verify identity?</li> <li>➤ Are registers of deed required to adopt these systems? (mandate?)</li> <li>➤ Should paper, mailed notifications also be available (not just email)?</li> </ul>	Cathy Beaudoin	
<p><b>9.</b> Create a registry process to nullify a deed that avoids the time &amp; expense of obtaining a court judgment. Commission member suggestions to consider:</p> <ul style="list-style-type: none"> <li>• Allow property owner to record an affidavit that fraud occurred — perhaps allow the affidavit to freeze title to the property for a limited period while owner seeks a court judgment that fraud occurred.</li> <li>• Allow joint affidavit from property owner &amp; buyer to nullify a deed.</li> </ul> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ What is the legal effect of this recording?</li> <li>➤ Members asked if it makes sense to wait for a uniform law to prevent negative impacts on the ability to provide title insurance in Maine.</li> </ul>	Cathy Beaudoin; John Brautigam	
<b>Remedies – Expedited Court Relief</b>		
<p><b>10.</b> Create an expedited, low-cost process to clear title and void forged deeds. Commission member suggestions to consider:</p> <ul style="list-style-type: none"> <li>• Create presumption in favor of attorney’s fees to a prevailing plaintiff</li> <li>• Create a court process akin to the process in <a href="#">5 M.R.S. §90-E</a> for challenging the validity of a financing statement filed under the UCC: (1) owner may file a verified motion, using a statutory form; (2) each party to the challenged deed must be personally served under Rules of Civil Procedure using the address stated in the deed; (3) court may not issue a decision until 20 days after personal service; (4) court must issue an expedited decision, using a statutory form, without hearing unless requested by defendant; (5) a copy of the court’s decision must be sent to all parties and to the registry of deeds; (6) if the decision becomes final (no appeal taken or appeal denied), the registry must record the court’s decision with the attached invalidated deed (<i>and remove void deed from the index?</i>); (7) the court’s decision addresses only the right to record the deed, not any underlying claims.</li> </ul> <p><i>Sample issues to consider for expedited court relief processes:</i></p> <ul style="list-style-type: none"> <li>➤ What must the plaintiff prove to obtain expedited relief?</li> <li>➤ How would the proceeding be expedited?</li> <li>➤ Would claims for damages be part of the action or a separate action? (Note: <a href="#">§90-E</a> establishes a separate injunction/statutory damages process)</li> <li>➤ Is it feasible to recover attorney’s fees (fraudster is likely not a party)?</li> <li>➤ What is the legal effect of the expedited court order?</li> </ul>	Cathy Boudoin; Carrie Cote; John Brautigam; Mark Samson; Nancy Hammond	
<b>Future Legislation</b>		
<p><b>11.</b> The Legislature (or Judiciary Committee?) should monitor whether the Uniform Law Commission adopts a uniform law to address deed fraud and, if so, should consider whether to adopt that uniform law in whole or in part.</p>	Cathy Beaudoin (at 11/5 meeting)	



**Commission to Recommend Methods for Preventing Deed Fraud in the State**

**Proposed Findings — Revised for Discussion Dec. 3, 2025**

**II. Proposed Recommendations neither Set Aside nor Identified as Priorities**

<b>Proposed Recommendation</b>	<b>Suggested by</b>	<b>Vote (?)</b>
<b>Remedies — Seller Deposit</b>		
<p><b>12.</b> Require a refundable deposit of \$100 from the seller upon the listing of property for sale.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Who collects the deposit? Is this a professional / statutory duty?</li> <li>➤ What is the penalty for failing to pay (or collect) the deposit?</li> <li>➤ When (under what conditions) is the deposit returned?</li> <li>➤ Under what conditions is the deposit forfeited, and to whom?</li> </ul>	John Brautigam	
<b>Remedies – Registries of Deeds</b>		
<p><b>13.</b> Grant Registers discretion to flag documents submitted for recording that appear to be fraudulent and, if they do so, require the register to notify law enforcement or the Attorney General’s Office to investigate. The process could mirror the process in <a href="#">P.L. 2025, ch. 215 (LD 1445)</a> for financial institutions to flag requests for disbursement that the institution “reasonably believes may result in financial exploitation of an eligible adult.”</p> <p><i>Sample issues to consider: Compare Illinois, Texas (and Montana) laws.</i></p> <ul style="list-style-type: none"> <li>➤ What criteria may justify the flagging of a document by the register? (consider resources needed for registers to make these determinations)</li> <li>➤ In addition to law enforcement, who else must the register notify if a document is flagged (property owner of record, mortgagee, others)?</li> <li>➤ Should the flagged document be recorded pending the investigation?</li> <li>➤ How long does the flag last? How is the flag removed?</li> <li>➤ If an investigation reveals that fraud occurred, does law enforcement seek a court order that the document is void and record that order?</li> </ul>	Hannah McMullen	
<p><b>14.</b> Require regular (annual/biennial) updates to property owner contact info. in the registry. (<i>remember: non-owner-occupied properties are often targeted</i>)</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ How/where would registers keep these addresses? May a fee be charged?</li> <li>➤ Should this be mandatory or optional for property owners?</li> <li>➤ Are these addresses public records or confidential? <i>Compare</i></li> <li>➤ Is this recommendation applicable only if a fraud alert system is adopted?</li> </ul>	Sen. Ingwersen	
<b>Data Collection</b>		
<p><b>15.</b> Require certain professionals (real estate professionals, title attorneys, law enforcement, etc.) to report incidents of successful and attempted deed fraud.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Who is required to submit a report? In what circumstances?</li> <li>➤ What info. must be included in the report (type of property, etc.)?</li> <li>➤ Who must accept these reports and maintain this information?</li> <li>➤ What confidentiality protections (if any) apply to these reports?</li> </ul>	Sen. Ingwersen; Nancy Hammond	
<p><b>16.</b> Ask stakeholder groups via letter to survey their members for information about instances of attempted and successful deed fraud in Maine.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Which groups should be contacted? Who sends letter (Commission/JUD)?</li> <li>➤ What type of info. should the surveys be designed to gather?</li> <li>➤ What is the target due date and to whom should survey results be sent?</li> </ul>	Attorney General Frey	

## Commission to Recommend Methods for Preventing Deed Fraud in the State

Proposed Findings — Revised for Discussion Dec. 3, 2025

### III. Proposed Recommendations Set Aside

Proposed Recommendation	Suggested by	Vote (?)
<b>Prevention – Notary requirements</b>		
<p><b>17.</b> Reduce the term of a notary public’s commission — perhaps to 4 years. Compare <a href="#">4 M.R.S. §1922(4)</a> (current 7-year term).</p>	Rep. Lavigne; Sen. Moore; C. Beaudoin	
<p><b>18.</b> Require renewal applicants to re-take the notary public examination. Compare <a href="#">4 M.R.S. §1923(1)</a> (examination only required on initial application). <i>Note:</i> When a notary renews a license online, the notary must correctly answer refresher questions (multiple chances given).</p>	C. Beaudoin	
<p><b>19.</b> Require notaries public to take continuing education on deed fraud.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ How many hours of deed fraud continuing education should be required and how frequently (every year? once per term)?</li> <li>➤ What topics must be covered in the course?</li> <li>➤ Must the course be approved by the Secretary of State?</li> <li>➤ Should any of these details be addressed by the Secretary of State through rulemaking? See <a href="#">4 M.R.S. §1928</a> (rulemaking authority).</li> </ul>	Rep. Lavigne; Sen. Moore	
<p><b>20.</b> Require notaries public to use an embossed stamp that indicates the expiration date of their commission.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Would a version of this requirement apply to all notarial officers (including judges and attorneys) or only notaries public?</li> <li>➤ Embossed stamps may be incompatible (?) with electronic recording</li> </ul>	Rep. Lavigne; Sen. Moore	
<p><b>21.</b> Require all notarial acts performed by out-of-state notaries to be reviewed by an in-state notary.</p> <p><i>Sample issues to consider:</i></p> <ul style="list-style-type: none"> <li>➤ Current law: Under RULONA, notarial acts are valid in Maine when performed by a notarial officer whose authority is provided by (a) another State, (b) a federally recognized Indian tribe, (c) federal law, or (d) a foreign government or multinational / international governmental organization. See <a href="#">4 M.R.S. §1911</a>; <a href="#">§1912</a>; <a href="#">§1913</a>; <a href="#">§1914</a>.</li> <li>➤ Are there any constitutional concerns with this proposal?</li> <li>➤ How will the in-State notary know what steps the out-of-state notary took when notarizing the document?</li> </ul>	Rep. Lavigne; Sen. Moore	
<b>Remedies – Notary Journals</b>		
<p><i>Sample issues to consider for notary journal recommendations proposed below:</i></p> <ul style="list-style-type: none"> <li>➤ Would the journal requirement apply to all notarial officers (judges/attorneys) or only notaries public?</li> <li>➤ What information must be included in the journal; how long should the journal be retained? Compare RULONA, <a href="#">4 M.R.S. §1920</a> (detailed journal requirement for remote and electronic notarizations).</li> <li>➤ Privacy concerns related to notary retention of DOBs and copies of government-issued IDs?</li> </ul>		
<p><b>22.</b> Require notaries to keep a journal for all notarizations.</p> <p>Compare <a href="#">4 M.R.S. §1920</a> (requiring a journal only for remote and electronic notarizations).</p>	C. Beaudoin; N. Hammond; Rep. Lavigne; Sen. Moore	

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<p><b>23.</b> Require the notary public to include a copy of the document signer’s government-issued ID and the signer’s date of birth in the journal.</p>	<p>Rep. Lavigne; Sen. Moore; Mark Samson</p>	
<p><b>Remedies – Criminal Penalties</b></p>		
<p><del><b>24.</b> Create a new crime specific to the knowing recording of forged or false real property deeds.</del></p> <p><del><i>Sample issues to consider:</i></del></p> <p><del>➤ How would this crime differ from the existing crime of falsely filing a recordable instrument in <a href="#">17-A M.R.S. §706-A</a>?</del></p> <p><del>➤ What penalty should be imposed? <i>Note:</i> §706-A is a Class D crime.</del></p>	<p><del>John Brautigam</del></p> <p align="center"><del><b>Withdrawn</b></del></p>	
<p><b>25.</b> Increase penalties for those found to be attempting a fraudulent transaction.</p> <p><i>Sample issues to consider:</i></p> <p>➤ In Maine, a person who attempts to commit a crime may be charged with the crime of criminal attempt, which is one class below the existing offense — <i>e.g.</i>, attempting to falsely filing a recordable instrument under §706-A is a Class E crime. <i>See</i> <a href="#">17-A M.R.S. §152</a>.</p> <p>➤ Does the commission wish to increase the penalties for all related existing crimes (and existing attempt crimes) or create a new crime, with stiff penalties, for engaging in deed fraud? See questions above.</p>	<p>Rep. Lavigne; Sen. Moore John Brautigam</p>	

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- F. Staff handout: Criminal Penalties for Deed Fraud Overview

DRAFT

## Executive Summary

Possibly add opening paragraph ... (the hook)

Through Resolve 2025, chapter 104, the Legislature established the Commission to Recommend Methods for Preventing Deed Fraud in the State to study and recommend to the Legislature options for both preventing and remedying the effects of deed fraud in the State. The commission was comprised of 13 members, including several legislators and the following array of individuals with expertise relevant to the commission's work: a county register of deeds; an experienced title attorney; an attorney from the Maine Association of Realtors; a board member of the Maine Credit Union League; the Executive Director of Legal Services for Maine Elders; the commander of the Maine State Police Computer Crimes Unit; a member of the Real Estate Commission serving as the designee of the commission's chair; the Director of Corporations, UCC & Commissions within the Office of the Secretary of State, serving as the Secretary of State's designee; and the Attorney General of Maine.

Resolve 2025, chapter 104 charged the commission with the following duties:

- Gathering information and data, if available, on the number and characteristics of successful incidents of and unsuccessful attempts at deed fraud in the State;
- Examining the sufficiency of state laws and practices for:
  - Identity verification for the sale of real property in Maine;
  - Notarization and recording of instruments affecting title to real property in Maine;
  - Existing criminal penalties potentially applicable to perpetrators of deed fraud; and
  - Civil remedies available to victims of deed fraud, including processes for nullifying fraudulently recorded deeds and returning properties to the rightful owners;
- Gathering and examining the sufficiency of currently available educational materials regarding deed fraud in the State for property owners, real estate brokerage agencies, title insurance companies, real estate attorneys and other professionals;
- Examining ways to mitigate the fraudulent listing of homes for rent by individuals who are not the legal homeowners; and
- Examining ways in which deed fraud is conducted through the Internet, including through the use of artificial intelligence technology.

The Commission held four public meetings at the Maine State House in the fall of 2025, receiving information on the following topics from commission members, a national expert and legislative staff:

- Currently available data on the prevalence and characteristics of deed fraud both in Maine and actual examples of both successful and unsuccessful instances of deed fraud in York County;
- Practices and duties of licensed realtors for verifying the identity of persons selling real property in the State; the role of title attorneys and the scope of available title insurance products in the State; requirements for the notarization of instruments affecting title to real property in the State, including requirements for remote notarization; and recording of instruments affecting title to real property in the State and the role of Maine's county registers of deeds;
- Existing criminal penalties potentially applicable to perpetrators of deed fraud under state law and potential civil remedies for victims of deed fraud in the State;
- Deed fraud awareness and prevention educational materials currently available to professionals involved in real estate transactions and members of the public; and

- and nationally as well as recent studies and legislation from other states and the Uniform Law Commission designed to prevent and to provide relief for victims of deed fraud.

After carefully considering this information, the commission makes the following **unanimous?** findings and recommendations:

**Findings and recommendations here**

DRAFT

## I. COMMISSION PROCESS

The Commission to Recommend Methods for Preventing Deed Fraud in the State (“the commission”), was established by the Maine Legislature to study and recommend to the Legislature options for both preventing and remedying the effects of deed fraud in the State. (A copy of Resolve 2025, chapter 104, the commission’s authorizing legislation, is included in [Appendix A](#).) The commission was comprised of 13 members, including four legislators and nine individuals with an array of expertise in real estate transactions: a county register of deeds; an experienced title attorney; an attorney from the Maine Association of Realtors; a board member of the Maine Credit Union League; the Executive Director of Legal Services for Maine Elders; the commander of the Maine State Police Computer Crimes Unit; a member of the Real Estate Commission serving as the designee of the commission’s chair; the Director of Corporations, UCC & Commissions within the Office of the Secretary of State, serving as the Secretary of State’s designee; and the Attorney General of Maine. (A list of commission members is included in [Appendix B](#).)

Resolve 2025, chapter 104 charged the commission with the following duties:

- Gathering information and data, if available, on the number and characteristics of successful incidents of and unsuccessful attempts at deed fraud in the State;
- Examining the sufficiency of state laws and practices for:
  - Identity verification for the sale of real property in Maine;
  - Notarization and recording of instruments affecting title to real property in Maine;
  - Existing criminal penalties potentially applicable to perpetrators of deed fraud; and
  - Civil remedies available to victims of deed fraud, including processes for nullifying fraudulently recorded deeds and returning properties to the rightful owners;
- Gathering and examining the sufficiency of currently available educational materials regarding deed fraud in the State for property owners, real estate brokerage agencies, title insurance companies, real estate attorneys and other professionals;
- Examining ways to mitigate the fraudulent listing of homes for rent by individuals who are not the legal homeowners; and
- Examining ways in which deed fraud is conducted through the Internet, including through the use of artificial intelligence technology.

The Commission held four public meetings at the Maine State House in the fall of 2025. Meeting materials, background materials and links to the archived video recordings for each meeting were posted online and have been archived on the following website: <https://legislature.maine.gov/commission-to-recommend-methods-for-preventing-deed-fraud-in-the-state>.

The commission solicited information from the following experts and commission members over the course of the first two meetings:

- Commission members Hannah McMullen, representing the Maine Association of Realtors, and Jane Towle, representing the Real Estate Commission, provided information on the practices and duties of licensed realtors for verifying the identity of persons selling real property in the State;
- Commission member and title attorney Carrie Cote, Esq., provided information on the role of title attorneys in validating title and the scope of available title insurance products in the State as well as information gathered from members of the Real Estate & Title Section of the Maine State Bar Association;



- Commission member and York County Register of Deeds Nancy Hammond provided information regarding the recording of instruments affecting title to real property in the State;
- Commission member and Director of Corporations, UCC and Commissions within the Department of the Secretary of State Cathy Beaudoin provided information on the requirements under state law and rules for notarization of instruments affecting title to real property in the State, including the requirements for remote notarization;
- York County Sheriff William L. King, Jr. identified characteristics of properties subject to recent deed fraud attempts in southern Maine and both he and Register Hammond provided examples of the false identification documents and forged instruments employed in these cases; and
- J. Cliff McKinney, Esq., chair of the Uniform Law Commission’s Deed Fraud Study Committee, provided information on the Uniform Law Commissions’ consideration of the advisability and scope of a possible uniform law to combat deed fraud.

At the direction of the commission and the commission’s co-chairs, legislative staff also provided information at the first three meetings on existing criminal penalties potentially applicable to perpetrators of deed fraud in the State; currently available data on the prevalence and characteristics of deed fraud both in Maine and nationally; and recent studies and legislation from other states designed to prevent and to provide relief for victims of deed fraud. In advance of the third meeting, commission members gathered deed fraud awareness and prevention educational materials developed by or in the process of being developed by members of their professions. Commission members also submitted proposed findings and recommendations for the commission’s consideration during the third and fourth meetings. After lengthy discussions and a careful evaluation of the merits of these proposals, the commission ultimately voted **unanimously?** to adopt a series of findings and recommendations at the fourth meeting for presentation to the Maine Legislature’s Joint Standing Committee on Judiciary during the Second Regular Session of the 132nd Maine Legislature.

## II. BACKGROUND INFORMATION

### A. What is “deed fraud,” how does it occur, and how often does it occur in Maine?

Resolves 2025, chapter 104 defines deed fraud as occurring “when a person sells real property by falsely claiming to be the property owner and records a deed of the fraudulently induced sale in the registry of deeds, depriving the rightful owner of a significant asset without the owner's knowledge.” Deed fraud is often also referred to as “seller impersonation” fraud because the rightful property owner is being impersonated by a fraudster who “illegally sells the real property the perpetrator does not own.”<sup>1</sup> For this reason, the terms “deed fraud” and “seller impersonation fraud” are used interchangeably in this report.

Although limited quantitative data on deed fraud is available, the commission reviewed national survey results from the American Land Title Association (ALTA), published in 2024,<sup>2</sup> and the National Association of Realtors (NAR), published in 2025.<sup>3</sup> Each association surveyed its members to elicit information on the prevalence and practice of seller impersonation fraud as experienced by industry

<sup>1</sup> See, e.g., <https://www.alta.org/file/What-is-Deed-Fraud.pdf>.

<sup>2</sup> See ALTA & NDP Analytics, ALTA Critical Issues Study: Seller Impersonation Fraud (July 2024), available at <https://www.alta.org/file/Seller-Impersonation-Fraud-Study-Report.pdf>. This report was distributed to commission members on September 29, 2025 and is also available on the commission’s website.

<sup>3</sup> See National Association of Realtors, Deed and Title Fraud Survey (May 2025), available at <https://www.nar.realtor/research-and-statistics/research-reports/deed-and-title-fraud-survey>. This report was also distributed to commission members on September 29, 2025 and is available on the commission’s website.

professionals. The reported results of the ALTA survey are based on “783 responses from ALTA members and businesses in the broader title insurance company across 49 states and [D.C.]” while the reported results of the NAR survey were gathered from associations across the 43 states, territories and D.C. While the data is based on self-reported survey results and, thus, may not fully capture the practice and prevalence of deed fraud, the statistics help contextualize commonalities among deed fraud cases and show the widespread pervasiveness of deed fraud across the United States. (A summary of the data collected in these reports is included in [Appendix C.](#))

### *Common Characteristics of Targeted Properties*

In both surveys, vacant, non-owner-occupied properties on residential land are identified as common targets for deed fraud. In the ALTA survey, respondents were instructed to share, based on experience, “how common is attempted SIF on the following properties”: vacant land, vacation homes, rental property, agricultural land, commercial property and primary residences. The ALTA report summarized that 85% of respondents indicated it was “somewhat common, common or very common” for the scam to occur on vacant property. In the NAR survey, respondents were instructed to answer, to the realtor’s knowledge, the occupancy status of the targeted property in the most recent deed fraud case the realtor encountered. The survey options included: vacant land, other, owner-occupied land, unknown, vacation residential rental, vacant vacation rental, vacant property of a deceased owner. The NAR report summarized that 62% of realtors observed deed fraud attempts occurred on vacant property. Furthermore, the NAR report summarized 52% of realtors, in the most recent instance of deed fraud of which realtor encountered, observed deed fraud attempts occurred on residential land.

### *Common “Red Flags”*

In its 2024 survey, ALTA asked title insurance companies to identify certain actions observed during real estate transactions that, although not necessarily uncommon or problematic, help title insurance companies identify an increased risk of seller impersonation fraud. The responding title insurance companies identified the following factors as indicating a higher risk of fraud:

Cash transactions	88% of respondents
Seller requests mail away signing, using their own notary	86% of respondents
No existing mortgage or encumbrance on the property	84% of respondents
Seller will not meet, take voice or video calls	83% of respondents
Property selling for below market value	74% of respondents
Seller in a different state than the purported notary	62% of respondents
Seller requests proceeds wired to a country other than where the seller lives	52% of respondents
Title holder is deceased	36% of respondents

In a presentation to the commission, York County Sheriff William King identified additional red flags involved in recent seller impersonal fraud attempts in Southern Maine, including that that the seller rushes to close and expresses an urgent need for money but does not request an earnest money deposit from the buyer. (A copy of Sheriff King’s presentation is included in [Appendix D.](#))

### *How Deed Fraud Occurs*

As commission member Carrie Cote, Esq., explained to the commission, the methods used by the perpetrators of deed fraud, including the perpetrators seller impersonation fraud, vary from case to case. She nevertheless described the typical progression of a real estate transaction involving deed fraud.

1. *Identifying a target property:* A wealth of information about properties is available online, including public documents available online from each county registry of deeds. A perpetrator can therefore effectively search, often using Artificial Intelligence (AI) technology, for vulnerable properties — for example, vacant, non-owner-occupied residential land; property not subject to a mortgage or other encumbrances; property where the seller is elderly or lives outside of the State.
2. *Listing the property for sale.* Posing as the property owner, the perpetrator contacts a real estate broker, usually via email or an online inquiry portal, requesting to list the property for sale. Although the real estate professional may attempt to verify the seller's identity at this point in the process, specific verification processes are not required by Maine law. If the real estate professional is concerned and hesitates to provide the listing, the perpetrator simply contacts multiple additional real estate professionals until successful at listing the property.
3. *Closing:* Once a buyer is identified (the buyer may or may not also be a part of the deed fraud scam), a title insurance company is generally engaged to perform a title search and handle the closing. The perpetrator, who is not located in Maine, requests a mail-away closing, in which documents are mailed or emailed to the seller for signature and notarization before being mailed or emailed back to the closing agent. Often, the “notary” selected by the perpetrator is also an imposter who uses forged credentials and does not perform the required identity verification before notarizing the documents. Even when a licensed notary is involved, results from the 2024 ALTA survey reveal that it is common for the perpetrator to have access to the true property owner's non-personal public information such as the owner's birthdate, driver's license number or social security. As exhibited during Sheriff King's presentation to the commission, perpetrators can use this information to create often convincing forged identity documents that may only be detectable after careful examination.
4. *Transfer of funds.* Following the closing, the fraudulent deed is recorded in the registry of deeds often by mailing the documents to the registry or using a program that facilitates electronic record. The fraudulent deed information is also sent to the municipality, where property ownership and tax records are updated to reflect information in the fraudulent deed. The perpetrator receives the proceeds of the sale, often by wire transaction to a domestic account before the money is transferred by the perpetrator to a foreign or untraceable account.

46% of title insurance companies who responded to the 2024 ALTA Survey report that it is at least somewhat common to identify deed fraud pre-closing, while 26% of responding title insurance companies reported it was at least somewhat common not to identify fraud until after a fraudulent deed has been recorded. Many property owners do not realize that their property has been the target of deed fraud until there is some sort of abnormality — *e.g.*, the true owner stops receiving municipal tax bills or the true owner or a friend, if the true owner lives out of state, notices unauthorized construction or other activity on the property. For example, York County Sheriff William King described a recent deed fraud attempt targeting non-owner-occupied residential property located in Rockland, Maine. Impersonating the property owner, who lived in New Hampshire, the perpetrator contacted a real estate agent through Zillow and requested that the property be listed for sale below market value. Despite numerous red flags, the attempted fraud was not discovered until a neighbor called the true owner, informing him that a “For Sale” sign had been posted on the property. In addition, during the title search, the title insurance agent noticed the signatures on the purchasing document did not match the signatures on the selling the document.

#### *Maine-Specific Data on Deed Fraud*

It was difficult for the commission to precisely quantify the prevalence of deed fraud in Maine. There is no central repository within the State that gathers statistics on the number of incidents of attempted or successful deed fraud. Anecdotally, the Maine Association of Realtors had gathered reports from its members of approximately 25 addresses targeted by attempted deed fraud in 2024 and at least 22 addresses targeted by deed fraud from January – September of 2025. Unfortunately, additional information the characteristics of these properties or the methods used by the perpetrators who targeted these Maine properties are not available.

Data gathered and reported by the federal government is similarly incomplete. The Boston Division of the Federal Bureau of Investigation observed in an April 1, 2025, press release that its “Internet Crime Complaint Center (IC3), which provides the public with a means of reporting internet-facilitated crimes, does not have specific statistics solely for quit claim deed fraud [*i.e.* deed fraud].” Instead, self-reported complaints to the IC3 that involve incidents of deed fraud fall within the IC3’s “real estate crime” category of data. From 2019 through 2023, a total of 262 victims in Maine self-reported incidents of internet-based real estate crime to the IC3, resulting in \$6,253,008 of total self-reported losses.<sup>4</sup> More recently, in its 2024 IC3 report, the FBI noted that 55 victims in Maine had self-reported total losses of \$122,001.<sup>5</sup> However, it is not possible to discern from this data how many of these Maine victims specifically subject to deed fraud as opposed to other real estate crimes. Moreover, the FBI cautions that “The reported losses are most likely much higher due to the fact that many don’t know where to report it, are embarrassed, or haven’t yet realized they have been scammed.”<sup>6</sup>

## **B. Seller identity verification by real estate professionals in Maine**

Over the course of the first two meetings, the Commission learned that, although both the Maine Real Estate Commission and the Maine Association of Realtors disseminate and facilitate best practices for verifying the identity of a person attempting to sell real property in the State and believe that adherence to these best practices is required as a matter of professional ethics, there are no specific laws or rules detailing the identity-verification steps that a real estate professional must take before listing a property and during the course of a real estate transaction.

### *Identity Verification Processes Encouraged by the Maine Real Estate Commission*

It is unlawful for a person to engage in real estate brokerage activities in the State unless that person is licensed by the Maine Real Estate Commission and is acting under the auspices of a licensed brokerage agency. 32 M.R.S. §13003. As a matter of state policy, the Maine Real Estate Commission is directed by law to supervise real estate licensees “in a manner to ensure that they meet standards which will promote public understanding and confidence in the business of real estate brokerage.” 32 M.R.S. §13061. The Legislature has delegated authority to the Maine Real Estate Commission to adopt rules consistent with state law that are designed to “assure applicants are sufficiently trustworthy and competent to transact the business for which they will be licensed,” and that “establish standards of practice which serve the interests of both the public and the industry.” 32 M.R.S. §13065. Moreover, licensees of the Maine Real Estate Commission must provide services “through a brokerage agreement for a client” and are statutorily “bound by the duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence and accounting” to their clients. 32 M.R.S. §13272.

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<sup>4</sup> FBI Boston Warns Quit Claim Deed Fraud is on the Rise: Landowners and Real Estate Agents Urged to Take Action to Protect Themselves (April 1, 2025), available at <https://www.fbi.gov/contact-us/field-offices/boston/news/fbi-boston-warns-quit-claim-deed-fraud-is-on-the-rise->.

<sup>5</sup> The FBI’s 2024 IC3 Annual Report, as well as the data tables specific to each state, including Maine, are available at <https://www.ic3.gov/annualreport/reports>.

<sup>6</sup> <https://www.fbi.gov/contact-us/field-offices/boston/news/fbi-boston-warns-quit-claim-deed-fraud-is-on-the-rise->

To date, the Maine Real Estate Commission has not adopted rules requiring licensed real estate professionals to take any specific, affirmative steps to prevent their services from being used to facilitate fraudulent real estate transactions in the State. It has, however, posted several articles on its website warning licensees of the increased prevalence and sophistication of deed fraud attempts, including seller-impersonation fraud, both nationwide and in Maine. These articles warn licensees “to practice due diligence when contacted by prospective sellers who are not available for in-person meetings,” especially when the seller quickly accepts an offer below market value and requests a quick closing, including by independently researching the identity of the property owner, requesting an in-person or virtual meeting with the seller and a copy of the seller’s government-issued identification, and using trusted title companies and attorneys for closing and exchange of funds instead of allowing the seller to select the notary used at closing.<sup>7</sup>

Moreover, as a condition of license renewal, real estate professionals must complete 21 hours of continuing education every two years, which provides the opportunity for new and seasoned real estate professionals to learn about emerging issues including deed fraud. The Maine Real Estate Commission has the authority to specify the content of up to 6 core hours the required continuing education with the remaining required hours fulfilled through elective programs approved by the commission. 32 M.R.S. §13197. Maine Real Estate Commission Director Catherine Pendergrast submitted a memorandum to the commission explaining that multiple continuing education courses approved by the commission address deed fraud and suggest practices that licensees may adopt to prevent deed fraud:<sup>8</sup>

- The Maine Real Estate Commission’s currently approved core continuing education course includes a one-hour section entitled “Buyer, Seller & Property Identification” that specifically reviews a variety of detailed steps that a real estate professional, as part of the professional’s duty of reasonable care and diligence, can take to verify the identity of buyers and sellers and to confirm the details of properties listed for sale. Suggested steps include requesting copies of the seller’s photo identification, verifying that the seller’s name matches the name on the deed of record, requesting a virtual meeting if the seller is unable to meet in person, and mailing a letter to the address in the municipal tax records and requesting that the seller confirm receipt of the letter.
- At least 30 of the elective continuing education courses approved by the Maine Real Estate Commission between April 2024 and September 2025 address, at least in part, topics related to deed fraud including, for example, fraud and cybercrime in real estate transactions and the importance of adapting real estate practices to address these threats.

Although the Maine Real Estate Commission has not yet received a complaint alleging licensee misconduct involving an instance of deed fraud, Maine Real Estate Commission Director Catherine Pendergrast assured the commission that the Maine Real Estate Commission would investigate any such complaint and impose discipline on any licensee who it determines was either negligent in preventing deed fraud or who actively engaged in deed fraud. Director Pendergrast observed that, as a professional licensing board within the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, the Maine Real Estate Commission is authorized by 10 M.R.S. §8003(5-A)(A) to impose administrative discipline against a licensee for a variety of reasons, including the

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<sup>7</sup> The relevant articles, entitled “Scam Alert and Home Security” and “Communication and Fraud Alert” are available on the Maine Real Estate Commission’s website at <https://www.maine.gov/pfr/professionallicensing/professions/real-estate-commission/home/news-publications>.

<sup>8</sup> Maine Real Estate Commission Director Catherine Pendergrast’s memorandum and the attached syllabi of the relevant commission-approved continuing education courses addressing deed fraud can be found on pages 131-149 of the combined PDF of the November 5, 2020 meeting materials that has been archived on the commission’s website at <https://legislature.maine.gov/doc/12078>. **Should these materials be included in Appendix E?**

following grounds that may be relevant if a licensee fails to take sufficient steps to prevent an incidence of deed fraud:

- (2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;
- ...
- (4) Any violation of the governing law of an office, board or commission;
- (5) Any violation of the rules of an office, board or commission; [or]
- (6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held; ....

The Maine Real Estate Commission's enabling statute, 32 M.R.S. § 13067-A, further authorizes it to impose administrative discipline on licensed real estate professionals based on the following additional potentially relevant grounds:

1. Lack of trustworthiness. Lack of trustworthiness and competence to transact real estate brokerage services in such manner as to safeguard the interests of the public;
2. Misconduct. Any act or conduct, whether of the same or different character than specified in this chapter, that constitutes or demonstrates bad faith, incompetency, untrustworthiness or dishonest, fraudulent or improper dealings;
3. Act that constitutes grounds for denial. Performing or attempting to perform any act or acts for which a license may lawfully be denied to any applicant;
4. Substantial misrepresentation. Making any substantial misrepresentation by omission or commission, but not including innocent misrepresentation;
5. Failure to protect principal. Failing to act in a reasonably prudent manner in order to protect and promote the interests of the principal with absolute fidelity;
6. Failure to avoid error, exaggeration or concealment. Failing to act in a reasonably prudent manner in order to avoid error, exaggeration or concealment of pertinent information;

If a complaint of misconduct involving deed fraud demonstrates that a licensed real estate professional is subject to administrative discipline under either of these statutes, the Maine Real Estate Commission may issue a warning, censure or reprimand; suspend the professional's license for up to 90 days per violation; impose civil penalties of up to \$2,000 per violation; impose conditions of probation that may include additional required continuing education, mandatory supervision, practice restrictions or other appropriate conditions; and, in severe cases of misconduct, revoke the professional's license. In appropriate instances, the Maine Real Estate Commission would also refer allegations of fraud by a licensee and any allegation of unlicensed real estate practice to the Attorney General's Office for prosecution. (A copy of Director Pendegrast's Memorandum is included in **Appendix E**.)

#### *Identity Verification Best Practices Identified by the Maine Association of Realtors*

According to its website, the Maine Association of Realtors "is Maine's largest professional trade association, representing nearly 6,100 real estate professionals engaged in all aspects of the real estate business."<sup>9</sup> Membership in the association is voluntary and members must agree to adhere to the National Association of Realtor's Code of Ethics and Standards of Practice.<sup>10</sup> Since 2002, the association has made

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<sup>9</sup> See <https://www.mainerealtors.com/about-mar/>.

<sup>10</sup> The National Association of Realtors' Code of Ethics and Standards of Practice are available at <https://www.nar.realtor/about-nar/governing-documents/the-code-of-ethics>. It does not appear that the code and

determined efforts to educate real estate professionals about the emerging threat of deed fraud and has identified best practices for the prevention of seller impersonation fraud in the form of weekly newsletters, quarterly magazines, and access to the National Association of Realtors conferences where topics such as deed fraud are discussed.<sup>11</sup>

Acknowledging that there is no state law or rule requiring real estate professionals to take specific steps to verify the identity of the seller of real property, commission member and representative of the Maine Association of Realtors Hannah McMullen, Esq., explained that the association has encouraged its members to employ at least the following best practices to verify seller identities:

- Require the seller to provide a copy of government-issued photo ID request that the seller engage in a face-to-face interaction (potentially over the Internet) with the real estate professional before listing the property;
- Use FOREWARN, a risk assessment tool provided by the association at no additional cost to its members that draws public information from multiple sources and can be used to cross-check the identity of the seller. A member may, for example, use FOREWARN to conduct a reverse search of the seller's proffered phone number to check that the number is registered under the correct name. Alternatively, FOREWARN may be used to identify known phone numbers for the property owner, who can then be contacted to ensure they have authorized sale of the property.
- Verify the identity of the property owner by checking the county registry of deeds and municipal tax records, including by sending a certified letter to the address of record on the tax bill.
- If there will be a remote closing, ask the title company or closing attorney to select the notary, thereby preventing the seller from selecting a "notary" who may lack proper credentials and be complicit in the fraud.
- Report suspicious activity to law enforcement and targeted addresses to the association for future reference by association members who may be contacted by persons impersonating the owners of those properties as part of future fraud attempts.

### **C. Recording and Notarization of instruments affecting title to real property in Maine**

#### *Recording of instruments affecting title to real property*

In Maine, a document conveying an interest in real property, including a deed of sale, that is recorded in the registry of deeds in the county where the real property is located provides constructive notice of the conveyance to all persons.<sup>12</sup> When a new transaction for the sale of real property is contemplated, a potential buyer or the buyer's title insurance company may perform a title search — *i.e.*, they may examine all instruments related to the real property that have been recorded in the county registry of deeds — to determine who currently owns the property and what liens or encumbrances have been recorded against the property. These documents may be accessed by members of the public not only in

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standards currently impose an affirmative duty on members to take any specific action to prevent deed fraud, including by requiring a realtor verify the identity of the seller of real property.

<sup>11</sup> For example, an article published in the Summer 2025 issue of Maine Realtor magazine, entitled "Commission Corner: Fraudsters are Stealing Land Out from Under Owners," can be found on page 15 of the combined PDF of the September 29, 2025 meeting materials that has been archived on the commission's website at <https://legislature.maine.gov/doc/11995>.

<sup>12</sup> 33 M.R.S. §201.

person at the registry of deeds but also through each registry’s publicly accessible website.<sup>13</sup> Personal information contained within recorded documents — including the first name or initial and last name of a person in combination with the person’s social security numbers, driver’s license and nondriver identification card numbers and credit card or financial institution account numbers — must be displayed with the instrument on the registry’s publicly accessible website unless the person to whom the information pertains specifically requests that the personal information be redacted.<sup>14</sup>

York County Register of Deeds Nancy Hammond explained to the commission that county registers of deeds lack discretion to deny the recording of a deed or other instrument conveying an interest in property that is filed either in writing or electronically and meets certain minimum requirements. The Register must accept and record the instrument if the instrument has been acknowledged by the grantor or person executing the instrument before a notary,<sup>15</sup> if the name of each signer is typed or printed on the instrument below each signature and the instrument is legible for recording and archival purposes,<sup>16</sup> including by having sufficient margins for notations by the register. No Maine laws grant a register the authority to refuse to record a document when the register suspects that a signature on the instrument was forged or that the transaction memorialized in the instrument has otherwise been tainted by fraud. And, once a deed or other written instrument has been recorded in the registry of deeds, it cannot be removed from the registry and becomes part of any future title search performed on the property.

Accordingly, as is explained in more detail in Part II.D of this report, the recording of a fraudulent deed has a significant, negative impact on a property’s marketability and insurability of title.

#### *Notarization of instruments affecting title to real property*<sup>17</sup>

Before a deed or other written instrument conveying an interest in real property may be recorded in a county registry of deeds, it must be acknowledged before a notarial officer in accordance with the requirements of the Revised Uniform Law on Notarial Acts (RULONA), which Maine Adopted in 2022.<sup>18, 19</sup> Importantly, when taking an acknowledgment, a notarial officer is required by law to “determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the acknowledgment has the identity claimed and that

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<sup>13</sup> The Maine Register of Deeds Association provides links to the electronic records portals for each of Maine’s 16 county registry of deeds on the following website <https://www.maineregistryofdeeds.com>.

<sup>14</sup> 33 M.R.S. §651-B.

<sup>15</sup> 33 M.R.S. §203. Indeed, under the Revised Uniform Law on Notarial Acts, An acknowledgement is presumptively valid under RULONA if it is performed in Maine by a notarial officer authorized by Maine law to perform notarial acts, if it is performed in another state by a notarial officer authorized under the laws of that State, or if it is performed under the authority of a federally recognized Indian tribe or federal law by a person authorized by the tribe or by federal law to perform notarial acts. 4 M.R.S. §1910, §1911, §1912, §1913.

<sup>16</sup> 33 M.R.S. §651-A.

<sup>17</sup> The information summarized in this section primarily derives from resources provided to the commission at its first meeting on September 29, 2025, and at its third meeting on November 5, 2025. These resources include the current Rules Governing Notaries Public, Notarial Officers, Notarial Acts and The Procedures for Electronic and Remote Notarization, which are contained in 29-250 C.M.R. Chapter 700 and are available at <https://www.maine.gov/sos/rulemaking/agency-rules/department-secretary-state-rules>, as well as and the notarial course of study provided by the Secretary of State, which is available at <https://www.maine.gov/sos/sites/maine.gov.sos/files/content/assets/courseofstudy.pdf>.

<sup>18</sup> 33 M.R.S. §203.

<sup>19</sup> Add footnote here briefly describing Legislature’s request for the Secretary of State to study RULONA, issuance of Secretary of State’s Report, and final adoption of RULONA through Public Law 2021, chapter 651?



the signature on the record is the signature of the individual.”<sup>20</sup> Because many of the primary harms caused by deed fraud derive from the recording of fraudulent instruments, nationwide studies and efforts to combat deed fraud frequently focus on issues surrounding the failure of notaries to properly verify the identity of the person who executes the instrument claiming to be the owner of the property.<sup>21</sup> The commission similarly explored whether current laws governing the notarization of recordable instruments, including the requirements for remote notarization, are sufficient to prevent deed fraud.

Notarial acts may be performed in Maine by a notary public commissioned by the Secretary of State; a justice, judge or clerk of a Maine court; an attorney admitted to the practice of law in the State; or any other individual authorized by law to perform a specific notarial act.<sup>22</sup> Under RULONA, each notarial act performed by a notarial officer must be evidenced by a contemporaneously executed certificate that is signed and dated by the notarial officer, identifies the jurisdiction in which the notarial act is performed, contains the title of office and name of the notarial officer and, if the notarial officer is a notary public, indicates the date of expiration of the officer’s commission.<sup>23</sup> A notarial officer may, in the presence of the person whose acknowledgment is being taken, take an acknowledgment involving either a tangible or an electronic document. A notarial officer may also take the acknowledgment of a remotely located individual. In performing these duties, a Maine notary public is not required to keep or use an official stamp<sup>24</sup> nor is a notarial officer required to record and maintain details regarding notarial acts in an official journal unless the document being notarized in the presence of the notary is electronic or the notarial acts are performed for remotely located individuals.<sup>25</sup> Nevertheless, as commission member Cathy Beaudoin explained, the Department of the Secretary of State highly encourages notaries public to maintain a journal and use an official stamp for all notarizations.

As is explained above, regardless of whether a notarization is performed in person or remotely, a notarial officer who takes an acknowledgment is statutorily required to determine both that the individual who personally appears before the officer to make the acknowledgment has the identity the individual claims and that the signature on the tangible or electronic record is the signature of that individual. Satisfactory evidence of the identity of an individual may be based on one of the following:

- A notarial officer’s “personal knowledge of the identity of the individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed”;
- A “passport, driver’s license or government issued nondriver identification card; or another form of government identification that contains the signature or a photograph of the individual and is satisfactory to the notarial officer”; or

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<sup>20</sup> 4 M.R.S. §1905(1).

<sup>21</sup> See the 2024 ALTA Survey, *supra* note 2 (noting that, of the title insurance companies who responded to the survey, 43% reported that the use of fake notary credentials was at least somewhat common in deed fraud; 31% reported that it was at least somewhat common for legitimate notary credentials to be used by a fraudster without the consent of the notary; 26% reported that it was at least somewhat common for the fraudster to fool a notary with fake identification documents; and 22% reported that it was at least somewhat common for the notary to be complicit in the deed fraud). See also the 2025 Survey by the National Association of Realtors, *supra* note 3; and the information provided below in Part II.G of this report.

<sup>22</sup> 4 M.R.S. §1910.

<sup>23</sup> 4 M.R.S. §1916(1).

<sup>24</sup> 4 M.R.S. §1916(2).

<sup>25</sup> 4 M.R.S. §1920.

- “A verification on oath or affirmation of a credible witness personally appearing before the notarial officer and known to the officer or whom the officer can identify on the basis of a passport, driver’s license or government-issued nondriver identification card.”

When necessary, a notarial authority has statutory authority to require an individual to provide “additional information or identity credentials necessary to assure the officer of the identity of the individual.”<sup>26</sup>

Additional requirements apply when notarial officers perform notarial acts for remotely located individuals. To satisfy the requirement that an individual personally appear before the notarial officer, RULONA requires that these notarizations be conducted using communication technology approved by the Secretary of State that allows the notarial officer and the remotely located individual to communicate with each other simultaneously by sight and sound.<sup>27</sup> Before a notarial officer may perform a remote notarization, the officer must notify the Secretary of State and identify which approved communication technology provider the notarial officer intends to use. The Secretary of State has, by rule, adopted detailed criteria that communication technology providers demonstrate to obtain approval, including that the communication technology:

- A. Restricts access to notarial officers whose written notice to the Secretary of State of intent to perform remote notarization has been accepted, in accordance with the requirements of this rule;
- B. Requires a password or other secure means of authentication to access the provider’s technology;
- C. Requires a notarial officer to present a valid Maine notary public commission or other evidence of the notarial officer’s qualification to perform notarial acts in order to access or utilize the communication technology to perform remote notarizations;
- D. Includes a method to ensure that a notarial officer enrolled to use the technology has the requisite knowledge to use it to perform notarial acts in compliance with [RULONA] and this rule;
- E. Enables a notarial officer to verify the identity of the principal and any required witness in compliance with [RULONA] and this rule;
- F. For remote notarization of electronic records, enables a notarial officer to affix their electronic signature to an electronic notarial certificate in a manner that attributes the signature to the notarial officer and is tamper-evident;
- G. For remote notarization of electronic records, enables a notarial officer to attach or logically associate a certificate of notarial act to the electronic record in a tamper-evident manner;
- H. Provides continuous, synchronous audio-visual feeds that allow the remotely located individual and the notarial officer to see and speak to one another simultaneously through live, real time transmission;
- I. Captures images with sufficient resolution to enable analysis of the remote individual’s credentials;
- J. Includes at least two (2) of the following methods of identity proofing:
  - (1) A credential that is validated by a government or third party;
  - (2) A biometric identifier, including a retina or iris scan, fingerprint, voiceprint, scan of hand or face geometry, or any other physiological, biological or behavioral characteristic used to identify an individual;
  - (3) A public key certificate; or
  - (4) An identity assessment based on a set of questions formulated from public or private data sources for which the principal has not provided a prior answer;
- K. For remote notarization of electronic records, provides a secure method of document upload and transfer;

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<sup>26</sup> 4 M.R.S. §1907.

<sup>27</sup> 4 M.R.S. §1915(1)(A) and (2).

L. Records the audio-visual communication in real time and associates that recording with the notarial officer's electronic record;

M. Provides reasonable security measures to prevent unauthorized access to:

- (1) The live communication between the notarial officer and the remotely located individual;
- (2) The recording of the audio-visual communication;
- (3) The verification methods and credentials used to verify the identity of the remotely located individual; and
- (4) Electronic records presented for remote notarization, if applicable;

N. Is capable of securely creating, storing, accessing and reproducing a copy of an electronic recording of the remote notarial act. and

O. For remote notarization of electronic records, provides an electronic verification or audit trail of the electronically notarized document that is accessible to all parties involved in a notarial act that is performed remotely.<sup>28</sup>

When performing a remote notarization using an approved communication technology, the notarial officer must be able “reasonably to confirm” that the record before the notarial officer is the same record on which the individual executed a signature.<sup>29</sup> The notarial officer must also be able to confirm the identity of the remotely located individual using one of the following methods:

- Similar to an in-person notification, a notarial officer's “personal knowledge of the identity of the individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed”;
- By verification “on oath or affirmation of a credible witness” whose identity is verified either (a) if the credible witness appears in person before the notarial officer by the officer's personal knowledge or on the basis of a passport, driver's license or government-issued nondriver identification card, as in in-person notarizations; or (b) if the credible witness appears remotely, by using at least two different types of identity proofing (see below); or
- By using at least two different types of identity proofing. The types of identity proofing approved by the Secretary of State are described in paragraph J of the excerpt from the Rules Governing Notaries Public, Notarial Officers, Notarial Acts and The Procedures for Electronic and Remote Notarization quoted above.<sup>30</sup>

Finally, the communication technology used by the notarial officer to perform a remote notarization must create an audiovisual recording of the notarial act and the notarial officer must record in a journal and retain the following details about the notarization:

- The date and time of the notarial act;
- A description of the record, type of notarial act and the fee, if any, charged by the officer;
- The full name and address of each individual for whom a notarial act is performed; and
- A brief description of the method used to verify the identity of the individual, including the date of issuance and expiration of any identity credential presented.

The audiovisual recording must be maintained for at least 10 years and the journal in which the details of that act must be maintained for at least 10 years after the performance of the last notarial act it describes.<sup>31</sup>

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<sup>28</sup> See 29-250 C.M.R. ch. 700, §6.

<sup>29</sup> 4 M.R.S. §1915(3)(B).

<sup>30</sup> 4 M.R.S. §1915(3)(A); 29-250 C.M.R. ch. 700, §6.

<sup>31</sup> 4 M.R.S. §1915(3)(C), §1915(11), and §1920.

## *Oversight of notaries public*

Although the Secretary of State does not have direct regulatory authority over notarial officers who are judges, court clerks and licensed attorneys, the Secretary of State may “deny, refuse to renew, revoke, suspend or impose a condition on a notary public commission for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act a notary public. By law, such acts and omissions include, inter alia, “a finding against, or admission of liability ... in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit” and a “failure of the notary public to discharge any duty” imposed on the notary public by statute or by rule. Further, under rules adopted by the Secretary of State, a notary public is subject to administrative discipline whenever the notary public commits “an act of fraud, deceit or dishonesty.”<sup>32</sup> Add statement here that this authority appears sufficient to discipline notaries public who are complicit in deed fraud?

### **D. Existing civil remedies available to victims of deed fraud in Maine**<sup>33</sup>

Although a deed claiming to transfer an owner's interest in real property is generally considered void if the seller's signature was forged on the deed,<sup>34</sup> the facts that the signature was forged and that the deed has no legal effect may not be readily apparent to future buyers during a title search. The recorded fraudulent deed thus creates a “cloud” on the title that may harm both future buyers and the true owner of the property. On the one hand, a future buyer and any lender who is financing the buyer's purchase of the property might incorrectly rely on the recorded, forged deed as evidence that the person purporting to sell the property owns the property. On the other hand, the true owner of the property may have difficulty selling or mortgaging the property because the recorded, forged deed incorrectly suggests that the true owner no longer holds an interest in the property.

In several of the known instances where seller impersonation fraud has occurred or has been attempted in Maine, the Commission learned that the “true owner” of the property attempted to clarify title to the property by recording an affidavit in the registry of deeds swearing that they did not sign and had no knowledge of the fraudulent deed.<sup>35</sup> Commission members generally agree that, although such an affidavit may provide notice to subsequent purchasers of a dispute regarding ownership of the property, the affidavit does not legally affect title to the property. Put differently, the affidavit does not clarify whether title to the property was validly transferred through the challenged deed or instead remains with the true owner who executed the affidavit.

To clarify ownership of the property after a fraudulent deed has been recorded, the true owner generally must bring a declaratory judgment action seeking a court order declaring that a particular deed is fraudulent and therefore void.<sup>36</sup> To initiate the action, the true owner must file a complaint with the court

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<sup>32</sup> 4 M.R.S. §1924; 29-250 C.M.R. ch. 700, §4(A).

<sup>33</sup> Staff will likely insert a footnote here referencing Carrie Cote's handouts – which will likely be included in the appendices to the report.

<sup>34</sup> See, e.g., *Martel v. Bearce*, 311 A.2d 540, 543 (Me. 1973) (recognizing in dicta that “title depending on the ostensibly correct execution of a warranty deed” would be “destroyed by proof of forgery”).

<sup>35</sup> Commission member and York County Register of Deeds Nancy Hammond provided documentation from the Registry of Deeds related to four examples of deed fraud or attempted deed fraud in York County. In several of these examples, the true owner of the property, or the owner's attorney, responded to the deed fraud attempt by recording an affidavit stating that a prior recorded deed had been forged. These documents were distributed at the October 20 Commission meeting and are available online at: <https://legislature.maine.gov/doc/12051> (pages 38-95).

<sup>36</sup> 14 M.R.S. §5954 (“Any person interested under a deed ... or other writings constituting a contract or whose rights, status or other legal relations are affected by a ... contract ... may have determined any question of

and pay the required filing fee of \$175.<sup>37</sup> The true owner must then ensure that each of the necessary parties to the action, including any purported buyer of the property under the challenged deed, receives personal service of the complaint as required by the Maine Rules of Civil Procedure. The costs for personal service can range from \$40 to \$75 if effectuated by the sheriff but may be increased if the sheriff is unable to locate the other party or other forms of service are employed.<sup>38</sup> Ultimately, if the true owner satisfies the burden of proving to the court that the deed was forged or otherwise fraudulent, the court will enter an order stating that the deed is void and of no legal effect.<sup>39</sup> Upon payment of a \$40 filing fee, this court order may then be recorded in the registry of deeds, thereby removing any cloud on the true owner's title caused by the fraudulent deed.

Although not personally aware of any past Maine declaratory judgment actions involving deed fraud, members of the Real Estate and Title Section of the Maine State Bar Association estimate that it may take three to six months from the date an action is filed to resolve this type of case in Maine. It may take even longer to obtain a judgement in a court with a particularly congested docket or in a case where another party appears and contests the action. It is possible that the process may be expedited if the true owner successfully files a motion for an expedited hearing in cases where there is a risk of immediate and irreparable damage, however — for example, if the fraudulently transferred property is the subject of an imminent sale.<sup>40</sup>

Because Maine attorneys generally charge between \$200 and \$600 per hour, depending on their experience and expertise, members of the Real Estate and Title Section of the Maine State Bar Association estimate that it may cost the true owner a few thousand dollars in attorney's fees to pursue a simple, uncontested declaratory judgment action. If the case is contested or complex, perhaps involving an innocent buyer, the true owner's attorney's fees may be as high as \$10,000 to \$20,000. An innocent buyer who contests a declaratory judgment action may incur similar attorney's fees cost and, if unsuccessful, may be declared not to hold title to the property without recovering the funds expended to purchase and make improvements to the property.

The Commission learned that title insurance provides some, but not complete, financial protect for victims of deed fraud who elect to purchase a title insurance policy when they purchase real property. Title insurance is not required; however, most lenders require buyers who use financing to purchase a property to obtain title insurance as part of the mortgage application process. As Commission Member Carrie Cote, Esq. explained during the first Commission meeting, the two most common types of title insurance issued in Maine provide different levels of protection from deed fraud both for the true owner of the property and for an innocent buyer:

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construction or validity arising under the instrument ... and obtain a declaration of rights, status or other legal relations thereunder.”); *see, e.g., Colquhoun v. Webber*, 684 A.2d 405, 411 (“An action for declaratory judgment is appropriate for the determination of the validity ... of a deed” (citations omitted)).

<sup>37</sup> *See* Maine Supreme Judicial Court, Administrative Order JB-05-26 (A. 10-25), available at <https://www.courts.maine.gov/adminorders/jb-05-26.pdf>. Additional filing fees may be imposed if the plaintiff files certain motions during the proceeding.

<sup>38</sup> If seller impersonation fraud occurred, it is unlikely that the alleged fraudster, who does not purport to have any legal interest in the property, would be served with a copy of the complaint or be a party to the proceeding.

<sup>39</sup> *See Colquhoun*, 684 A.2d at 411-12 (noting, in a declaratory judgment proceeding, that the trial court properly entered an order declaring a specific deed and all deeds based upon that deed “void ab initio and of no effect, legal equitable or otherwise” and directing the county registrar to record the court's judgment in the Registry and to mark each page of the void deeds as “NULL AND VOID”).

<sup>40</sup> *See, e.g., M.R.C.P. 57* (recognizing court discretion to grant expedited relief in declaratory judgment actions).

1. *Standard title insurance policies* are commonly issued to protect the buyer’s interest in commercial property or unimproved (land-only) residential property. These policies generally protect an insured buyer from loss or damage sustained due to “forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation” occurring before the policy was issued. Standard policies do not protect an insured buyer from defects in title that arise during their ownership of the property after the policy was issued, including losses or damage related to subsequently recorded fraudulent deeds.
2. *Enhanced title insurance policies* are commonly issued to protect a buyer’s interest in residential real property. These policies generally protect an insured buyer from any loss or damage due to “forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation” both that occur before the policy was issued and that occur during their ownership of the property after the policy was issued.

When an insured files a covered claim with a title insurance company, the company may, in its discretion, elect to satisfy its obligation in one of several ways, including by taking steps to affirmatively fix a title defect, including by negotiating and recording a resolution of the title dispute with all affected parties; by bringing a declaratory judgment action to clear the insured’s title to the property; or by paying the insured the amount of the loss up to the full amount of the policy, which is usually tied to the amount the insured paid to purchase the property.

The following examples illustrate the degree to which these common forms of title insurance in Maine protect both true owners and innocent buyers from deed fraud.

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#### **Example 1: Standard Title Insurance**

**Facts:**

In 2024, Mr. Owner purchased unimproved (land-only) property for \$100,000, secured by a standard title insurance policy.

In 2025, a person impersonating Mr. Owner fraudulently executed and recorded a warranty deed selling the property to Mr. Buyer for \$120,000. When Mr. Buyer purchased the land, he also purchased a standard title insurance policy.

**Outcome:**

❖ Although Mr. Owner remains the true owner of the property, the fraudulent 2025 deed creates a cloud on his title. Mr. Owner’s standard title insurance policy does not cover any losses or damages arising from fraud occurring after the policy was issued in 2024.

❖ Mr. Buyer may file a claim under his standard title insurance policy when he discovers that he does not own the property because the 2025 deed was fraudulent. He is likely entitled to payment of the full policy amount, which would generally be set at the purchase price of \$120,000. That amount may be adjusted for inflation over time, depending on the terms of the policy. The insurance company likely is not required to compensate him for any improvements she has made to the property.

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#### **Example 2: Enhanced Title Insurance**

**Facts:**

In 2024, Mr. Owner purchased residential real property for \$400,000, secured by an enhanced title insurance policy.

In 2025, a person impersonating Mr. Owner fraudulently executed and recorded a warranty deed selling the property to Mr. Buyer for

**Outcome:**

❖ Mr. Owner may file a claim under his enhanced title insurance policy when he discovers the cloud on his title created by the 2025 fraudulent deed. The insurance company may take steps to fix the title defect — *i.e.*, bring a declaratory judgment action to confirm Mr. Owner’s title or defend Mr. Owner in a similar lawsuit brought by Mr. Buyer — or it may choose to pay Mr. Owner up to the full policy

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\$500,000. When Mr. Buyer purchased the land, he also purchased enhanced title insurance policy.

amount, likely the \$400,000 purchase price he paid in 2024, potentially adjusted for inflation depending on the terms of the policy. The insurance company is not required to compensate him for any improvements he has made to the property.

❖ Mr. Buyer may file a claim under his standard title insurance policy when he discovers that he does not own the property because the 2025 deed was fraudulent. He is likely entitled to payment of the full policy amount, which would generally be set at the purchase price of \$500,000. That amount may be adjusted for inflation over time, depending on the terms of the policy. The insurance company likely is not required to compensate him for any improvements she has made to the property

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### **E. Existing criminal penalties potentially applicable to perpetrators of deed fraud in Maine**

During the 131st Legislature, the Judiciary Committee considered LD 2240, An Act to Implement Protections Against Deed Fraud, which in its original form proposed to create a new Class B crime involving the recording of a fraudulent instrument with a register of deeds.<sup>41</sup> During the public hearing on this bill, the Maine Association of Criminal Defense Lawyers (MACDL) and the Criminal Law Advisory Commission (CLAC) submitted testimony in opposition to the proposed creation of a new deed fraud offense, identifying several existing crimes within the Maine Criminal Code that they believe are potentially applicable to perpetrators of deed fraud, including included falsely filing a recordable instrument, aggravated forgery and theft by deception. (A memorandum detailing the elements of and penalties applicable to these crimes as well as several additional crimes referenced in MACDL’s and CLAC’s testimony — suppressing a recordable instrument, unsworn falsification, and false swearing — is included in [Appendix F.](#))

#### *Crimes related to the creation and recording of fraudulent deeds*

As the commission learned in the course of its work this year, deed fraud often involves the creation and recording of a deed containing the forged signature of the property owner; in some cases, the required acknowledgment of that signature may have been performed by a person using either false notary credentials or legitimate notary credentials without the consent of the notary.<sup>42</sup> If deed fraud is performed in this manner, the perpetrators of the fraud are likely subject to prosecution for falsely filing a recordable instrument. A person is guilty of this crime if, “with intent to defraud, harass or intimidate, the person files or causes to be filed a will, deed, mortgage, security instrument or other writing for which the law provides public recording, knowing or believing the writing to be false or without legal authority.” Falsely filing a recordable instrument is a Class D crime punishable up to 364 days of imprisonment and a maximum fine of \$2,000.<sup>43</sup>

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<sup>41</sup> Information about LD 2240, including the text of the original bill, copies of testimony submitted at the public hearing, and the text of the Judiciary Committee’s unanimous amendment to the bill, has been archived on the Maine Legislature’s website at <https://legislature.maine.gov/billtracker/#Paper/SP0960?legislature=131>.

<sup>42</sup> See the 2024 ALTA Surve results summarized in footnote 21.

<sup>43</sup> 17-A M.R.S. §706-A (falsely filing a recordable instrument). The penalties applicable to each of the crimes identified in this section are set forth in 17-A M.R.S. §1604 and §1704.

By forging a signature on a deed or other written instrument that may be recorded in a county registry of deeds, a perpetrator is likely subject to prosecution for the crime of aggravated forgery. A person is guilty of aggravated forgery if, “with intent to defraud or deceive another person or government, [the person] falsely makes, completes, endorses or alters a written instrument, or knowingly utters or possesses such an instrument,” including “an instrument filed or required or authorized by law to be filed in or with a public office or public employee.” Aggravated forgery is a Class B crime punishable by up to 10 years of imprisonment and a maximum fine of \$20,000.<sup>44</sup>

Although not identified by MACDL or CLAC in their testimony on LD 2240, it is also possible that a perpetrator who creates or possesses fake notary credentials in furtherance of a deed fraud scheme might also be charged with possession of forgery devices. A person is guilty of possession of forgery devices if the person “makes or possesses with knowledge of its character, any plate, die or other device, apparatus, equipment or article specifically designed or adapted for use in committing aggravated forgery or forgery.” Possession of forgery devices is a Class E crime punishable by up to 6 months of imprisonment and a maximum fine of \$1,000.<sup>45</sup>

Although deed fraud may sometimes be perpetrated by a person who does not intend to possess the underlying real property, the fraudster may also be guilty of theft by deception with respect to the proceeds of the fraudulent sale of that property to an innocent buyer. A person is guilty of theft by deception if “the person obtains or exercise control over property of another as a result of deception and with intent to deprive the other person of the property.” For purposes of this crime, “deception” can occur in several ways, including if the person “creates or reinforces an impression that is false and does not believe to be true,” including, perhaps, that the person owns the real property being sold. The punishments available for this crime depend on the value of the property. If the value of the property:

- Is more than \$500 but not more than \$1,000, theft by deception is a Class D crime punishable up to 364 days of imprisonment and a maximum fine of \$2,000;
- Is more than \$1,000 but not more than \$10,000, theft by deception is a Class C crime punishable by up to 5 years of imprisonment and a maximum fine of \$5,000; or
- Is more than \$10,000, theft by deception is a Class B crime punishable by up to 10 years of imprisonment and a maximum fine of \$20,000.<sup>46</sup>

#### **F. Educational materials available to professionals and members of the public**

This section will summarize the educational materials presented and discussed at 3rd commission meeting

#### **G. Recent legislative approaches to combatting deed fraud in other jurisdictions**

This section will summarize the recent legislation in other states presented at the 2nd commission meeting as well as the work of the Uniform Law Commission presented at the first meeting and the Tennessee Deed Fraud Study discussed at the 3rd commission meeting

### **III. FINDINGS AND RECOMMENDATIONS**

This part of the report will detail the findings and recommendations voted favorably by the commission during the 4<sup>th</sup> commission meeting. To the extent commission members express the rationale for each of

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<sup>44</sup> 17-A M.R.S. §702.

<sup>45</sup> 17-A M.R.S. §704.

<sup>46</sup> 17-A M.R.S. §354.



these findings and recommendations during this meeting, staff will summarize that expressed rationale in this section of the report.

DRAFT