

Commission to Recommend Methods for Preventing Deed Fraud in the State

Meeting Agenda

Monday, October 20, 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. **Deed Fraud – Maine Experience**
 - William L. King, Jr., York County Sheriff – via Zoom
3. **Deed Fraud – Overview of Available Data**
 - Office of Policy & Legal Analysis Staff
4. **Existing Laws and Practices in the State**
 - Civil remedies available to victims of deed fraud
Carrie Cote, Esq., First American Title
 - Criminal penalties potentially applicable to perpetrators of deed fraud
Office of Policy & Legal Analysis Staff
5. **Examples of Recent Legislation in other States and Recent Study Recommendations**
 - Office of Policy & Legal Analysis Staff
6. **Discussion and Planning for Next Meeting**

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

Future Meetings

- Wednesday, November 5, 2025 – 10:00 a.m. (State House Room 438)
- Wednesday, December 3, 2025 – 10:00 a.m. (State House Room 438)

Additional information and materials are available on the Committee's webpage at:

<https://legislature.maine.gov/commission-to-recommend-methods-for-preventing-deed-fraud-in-the-state>

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CURRENT DATA ON DEED FRAUD

The collation of data below is what is currently available from external resources. These resources only include self-reported data and survey data which may not be generalizable¹ due to sampling bias ².

SUMMARY OF SELF-REPORTED DATA IN MAINE

The following information is from publicly available FBI data specifically for the State of Maine. As noted in the 2025 FBI warning on the rise of deed fraud, “deed fraud” would fall under “real estate crime.” The statistics below relate to *real estate fraud*, which may or may not be deed fraud.

- In 2024, the FBI reported 55 victims in Maine lost \$122,001 to real estate fraud
Source: <https://www.ic3.gov/AnnualReport/Reports/2024State/#?s=22>
- From 2019-2023, the FBI reported 262 victims in Maine lost \$6,253,008 to real estate fraud
 - FBI data based on “Internet Crime Complaint Center (IC3), which provides the public with a means of reporting internet-facilitated crimes”
 - “Deed fraud” not a category for which the members of the public can select.
 - The FBI notes “The reported losses are most likely much higher due to that fact that many don’t know where to report it, are embarrassed, or haven’t yet realized they have been scammed.”Source: <https://www.fbi.gov/contact-us/field-offices/boston/news/fbi-boston-warns-quit-claim-deed-fraud-is-on-the-rise->
- The Maine Association of Realtors, at the first Commission meeting, shared:
 - Over 25 reports of targeted addresses in 2024;
 - At least 22 targeted addresses in 2025 (so far).
 - Additional details regarding the characteristics of these properties are not available.

SUMMARY OF NATIONAL SURVEY DATA

The American Land Title Association (ALTA) and the National Association of Realtors (NAR) have each conducted national studies if their members on the prevalence of deed fraud. The demographics of respondents for each survey are shared on page 2 of this document. A summary of current data from the surveys is on pages 3-5, including information on:

- Characteristics of seller impersonation fraud (SIF) (p. 3);
- Types of properties targeted (p. 4);
- Targeted U.S. geographical regions observed by real estate agents (p. 5);
- Targeted areas observed by real estate agents (p. 5)
- Observed red flags by title insurance companies (p. 5);
- When deed fraud may be identified by title insurance companies (p. 5); and
- Title insurance coverage of property owners (p. 5).

¹ <https://mrctcenter.org/glossaryterm/generalizability/>

² “An additional form of sampling bias comes from collecting data using convenience or volunteer sampling. This is when data is collected on individuals who are readily available or who volunteer to take a survey. Convenience and volunteer sampling can lead to particularly poor conclusions, as people who are convenient for sampling or readily volunteer to participate in a sample often share common traits, thus weighting their group's opinions more heavily in the results” from <https://www.sciencedirect.com/topics/mathematics/sampling-bias>

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Demographics of Survey Respondents

Seller Impersonation Fraud (SIF) Survey, conducted by ALTA (May 2024)

Source: <https://www.alta.org/business-operations/research-initiatives-and-resources/critical-issue-studies/seller-impersonation-fraud-study>

ALTA results based on “783 responses from ALTA members and businesses in the broader title insurance company across 49 states³ and [D.C.]” (p. 3).

- 78% of respondents operate only in one state (22% operate in “multiple states”)
- 70% of respondents averaged 75 closings or less each month; 18% of respondents average 76 to 250 closings a month; 12% averaged over 250 closings a month.
- 75% of respondents had annual revenues under \$1 million; 28% of respondents earned an annual revenue between \$1 and \$5 million; 7% of respondents had revenues about \$5 million.

2025 Deed & Title Fraud Survey, conducted by NAR (September 2025)

Source: <https://www.nar.realtor/sites/default/files/2025-09/2025-deed-and-title-fraud-survey-report-09-23-2025.pdf>

NAR survey results based on responses (unknown observations) from associations across 43 states and territories and Washington, D.C. NAR noted this was a small sample size. (p. 5).

- Regions defined used NAR’s Exiting-Home Sales regions (p. 22)
 - 36% of respondents from the West
 - 28% of respondents from the South
 - 21% of respondents from the Midwest
 - 15% of respondents from the Northwest
- Respondents area type (not defined in report) (p. 23)
 - 41% of respondents were located in a central city/urban area
 - 36% of respondents were located in a suburban area
 - 13% of respondents were located in a small town
 - 5% of respondents were located in a rural area
 - 5% of respondents were located in a resort area

³ Hawaii not represented in survey.

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Summary of Results from ALTA and NAR Surveys

- **Characteristics of SIF**

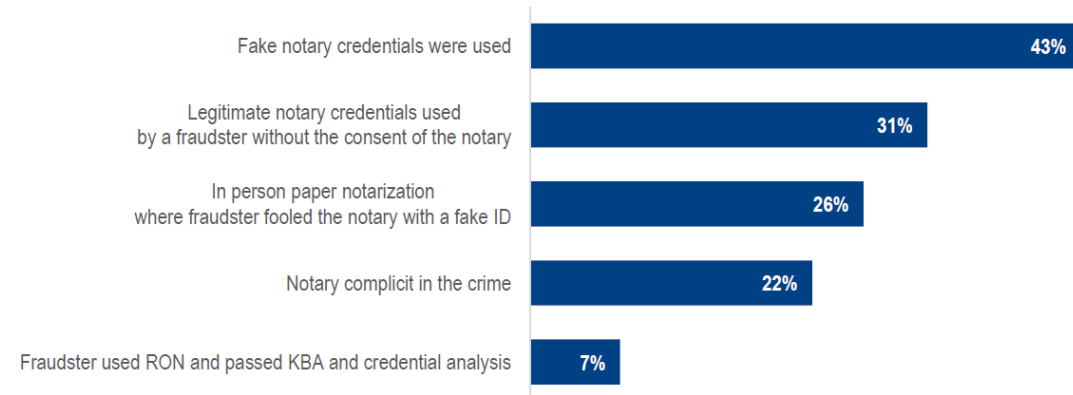
- Notarization Issues (ALTA, 2024, pp. 5-6)

Figure 4.

43% of companies with SIF attempts said fake notary credentials were used

Based on your experience with attempted SIF transactions, how common are the following notarization issues?

Share of respondents that selected somewhat common, common, or very common.



- Use of Property Owner's Legitimate Non-Public Personal Information (ALTA, 2024, p. 6)

Figure 5.

A property owner's legitimate birthdate, driver's license number and social security number were commonly used in fraud attempts

Based on your experience, how common is it for fraudsters to use the real owner's legitimate non-public personal information?

Share of respondents that selected somewhat common, common, or very common.



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- **Types of Property Targeted**

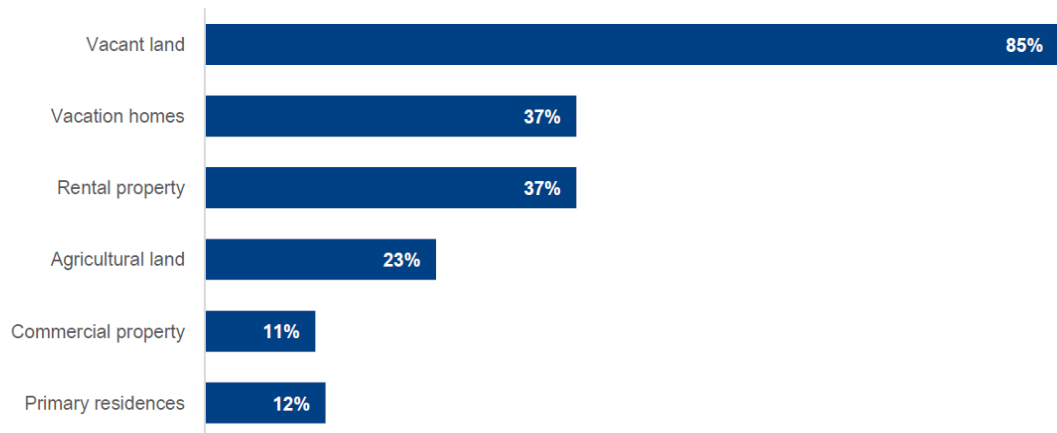
- In the ALTA (2024) survey respondents were instructed to share, based on experience, *how common is attempted SIF on the following properties.*

Figure 6.

Vacant land was the most targeted type of property for SIF attempts

Based on your experience, how common is attempted SIF on the following property types?

Share of respondents that selected somewhat common, common, or very common.



- In the NAR (2025) survey, respondents were instructed to answer regarding **the occupancy status** of the targeted property *in the most recent instance of which they were aware* (p. 9).
 - 62% observed deed fraud on vacant land
 - 14% observed deed fraud on “other” (not defined in report)
 - 12% observed deed fraud on owner-occupied land
 - 10% were “not sure” what type of occupancy of the property of which the deed fraud occurred
 - 2% observed deed fraud on vacation residential rental
 - 0% observed deed fraud on a vacant vacation rental
 - 0% observed deed fraud on a vacant property of a deceased owner.
- In the NAR (2024) survey, respondents were instructed to answer regarding **the type of property** targeted *in the most recent instance of which they aware* (p. 10).
 - 52% observed deed fraud on residential land
 - 32% observed deed fraud on “other” (not defined)
 - 16% s observed deed fraud on a detached single-family home
 - 0% observed deed fraud on a townhouse/row douse/duplex
 - 0% observed deed fraud on a condominium or cooperative

- **Targeted U.S. geographical regions observed by real estate agents**

- In the NAR (2024) survey, of the 63% of respondents who replied to the question, “In the past 12 months, are you aware of any instances of title fraud or deed theft in your state or area?” the following percentage of respondents responded in the affirmative (p. 7):
 - 92% of respondents in the Northwest
 - 59% of respondents in the West
 - 59% of respondents in the South
 - 53% of respondents in the Midwest

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- **Targeted areas observed by real estate agents**
 - In the NAR (2025) survey, of the 63% of respondents who replied to the question, “In the past 12 months, are you aware of any instances of title fraud or deed theft in your state or area?” (p. 8):
 - 64% observed deed fraud in a central/urban area (not defined in report)
 - 62% observed deed fraud in a suburban area (not defined in report)
 - 40% observed deed fraud in a central/urban area (not defined in report)
- **“Red Flags” Reported by title insurance companies (ALTA, 2024, pp. 7-8)**
 - Cash transaction — 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
- **When deed fraud may be identified by title insurance companies**
 - In the ALTA (2024) survey, title insurance companies were asked when it is common to identify fraud (pp. 8-9):
 - 46% of respondents reported it was “somewhat common, common, or very common” to identify fraud pre-closing, which “includes pre-listing, order entry, search and examine, during closing, and at signing.”
 - 26% of respondents reported it was “somewhat common, common, or very common” to identify fraud post-closing which includes the “recording onward.”
- **Title insurance coverage of property owners:**
 1. In the ALTA (2024) survey, 42% of respondents reported their customers bought a Homeowner’s Enhanced Policy that covered SIF into the future (p. 9).

Deed Fraud Commission - September 29, 2025

Presented by: Carrie B. Cote, Esq.
Senior Underwriting Counsel, First American ME & NH
Chair, MSBA Real Estate Section & Title Standards Subcommittee

Declaratory Judgment - Civil Remedies

Declaratory judgments in Maine are governed by:

- Maine Revised Statutes Title 14, Chapter 707
- Maine Rules of Civil Procedure, Rule 57

Use in Real Estate Title Fraud

In cases of **deed fraud**, a declaratory judgment can:

- Declare a fraudulent deed **void**.
- Confirm the **true ownership** of the property.
- Clear the **cloud on title** caused by impersonation or forgery.

Process Breakdown

- **Draft Complaint:** Clearly state the controversy and request a declaration of rights or legal status.
- **File in the Appropriate Court**
- **Serve the Complaint:** All parties with an interest in the subject matter must be served.
- Proceed **Under Maine Rules of Court Civil Procedure Rules**
- **Record Judgment** at Registry of Deeds

Process timeline and cost:

Factors Affecting Timeline

- **Court Docket Availability:** Some counties may have more congested dockets than others.
- **Complexity of the Case:** If the fraud involves multiple parties or disputed facts, it may take longer.
- **Service of Process:** All interested parties must be properly served, which can delay proceedings.
- **Request for Expedited Relief:** You can file a **motion for expedited hearing**, especially if there's a risk of further harm (e.g., sale of fraudulently transferred property)
- **Standard Declaratory Judgment:** May take **3–6 months** from filing to judgment.
- **Expedited Process:** *If granted*, a hearing could be scheduled within **30–60 days**, especially if supported by a motion for preliminary injunction or temporary restraining order.

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Estimate of Costs

➤ Court Filing Fees (as of May 1, 2025)

- **Civil case filing fee:** Approximately **\$150–\$300**, depending on the court and type of case.
- **Service of process:** \$40–\$75 per defendant if served by sheriff; more if using a private process server.
- **Certified copies or document management fees:** Additional small charges may apply.

➤ Attorney Fees

- **Hourly rates:** Typically range from **\$200 to \$600+ per hour**, depending on experience and complexity.
- **Flat fees:** Less common for declaratory judgments due to unpredictability.
- **Total cost:** A simple uncontested case may cost **a few thousand dollars**; a contested or complex case could exceed **\$10,000–\$20,000**.

Brainstorming: (some ideas from other real estate attorneys that I have polled about possible fixes)

- **Shortened judicial process akin to Protection from Abuse orders and Detainer and Entry orders**
- **Create a fund to assist with cost**
- **Create an “undoing” process where no judicial intervention is needed**
 - **Create a review board that can sign off on a certification that can be relied upon to invalidate the fraudulent deed and provide notice of fraudulent deed.**
 - **Defrauded parties sign a form that gets presented for review, and board provides a quick response. It could be recorded or it could be used to enable Registrars to redact a fraudulent deed.**

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Criminal Penalties for Deed Fraud Overview

Section 5 of the resolve directs the commission to examine the sufficiency of state laws and practices related to existing criminal penalties potentially applicable to perpetrators of deed fraud. As a preliminary step in accomplishing this task, the Office of Policy and Legal Analysis (OPLA) has gathered several state criminal statutes for the commission's reference. These statutes were highlighted in the attached public testimony provided by both the Criminal Law Advisory Commission and the Maine Association of Criminal Defense Lawyers related to LD 2240, *An Act to Implement Protections Against Deed Fraud*, which was considered by the 131st Legislature.

Aggravated Forgery - 17-A MRS §702

1. A person is guilty of aggravated forgery if, with intent to defraud or deceive another person or government, he falsely makes, completes, endorses or alters a written instrument, or knowingly utters or possesses such an instrument, and the instrument is:
 - A. Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental instrumentality;
 - B. Part of an issue of stocks, bonds or other instruments representing interests in or claims against an organization or its property
 - C. A will, codicil or other instrument providing for the disposition of property after death;
 - D. A public record or an instrument filed or required or authorized by law to be filed in or with a public office or public employee.
2. Aggravated forgery is a Class B crime.

Suppressing a Recordable Instrument – 17-A MRS §706

1. A person is guilty of suppressing a recordable instrument if, with intent to defraud anyone, he falsifies, destroys, removes or conceals any will, deed, mortgage, security instrument or other writing for which the law provides public recording, whether or not it is in fact recorded.
2. Suppressing a recordable instrument is a Class E crime.

Falsely Filing a Recordable Instrument – 17-A MRS § 706-A

1. A person is guilty of falsely filing a recordable instrument 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.
2. Falsely filing a recordable instrument is a Class D crime.

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Theft by Deception – 17-A MRS §354

1. A person is guilty of theft if:
 - A. The person obtains or exercises control over property of another as a result of deception and with intent to deprive the other person of the property. Violation of this paragraph is a Class E crime; or
 - B. The person violates paragraph A and:
 - (1) The value of the property is more than \$10,000. Violation of this subparagraph is a Class B crime;

...
2. For purposes of this section, deception occurs when a person intentionally:
 - A. Creates or reinforces an impression that is false and that the person does not believe to be true, including false impressions that the person is a veteran or a member of the Armed Forces of the United States or a state military force and false impressions as to identity, law, value, knowledge, opinion, intention or other state of mind; except that an intention not to perform a promise, or knowledge that a promise will not be performed, may not be inferred from the fact alone that the promise was not performed;
 - B. Fails to correct an impression that is false and that the person does not believe to be true and that:
 - (1) The person had previously created or reinforced; or
 - (2) The person knows to be influencing another whose property is involved and to whom the person stands in a fiduciary or confidential relationship
 - C. Prevents another from acquiring information that is relevant to the disposition of the property involved; or
 - D. Fails to disclose a known lien, adverse claim or other legal impediment to the enjoyment of property that the person transfers or encumbers in consideration for the property obtained, whether such impediment is or is not valid, or is or is not a matter of official record.
3. It is not a defense to a prosecution under this section that the deception related to a matter that was of no pecuniary significance or that the person deceived acted unreasonably in relying on the deception.

False Swearing - 17-A MRS §452

1. A person is guilty of false swearing if:
 - A. The person makes a false statement under oath or affirmation or swears or affirms the truth of such a statement previously made and the person does not believe the statement to be true, provided
 - (1) the falsification occurs in an official proceeding as defined in section 451, subsection 5, paragraph A, or is made with the intention to mislead a public servant performing the public servant's official duties; or
 - (2) the statement is one which is required by law to be sworn or affirmed before a notary or other person authorized to administer oaths; or

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- B. The person makes inconsistent statements under oath or affirmation, both within the period of limitations, one of which is false and not believed by the person to be true. In a prosecution under this subsection, it need not be alleged or proved which of the statements is false, but only that one or the other was false and not believed by the defendant to be true.

2. It is an affirmative defense to prosecution under this section that, when made in an official proceeding, the defendant retracted the falsification in the course of such proceeding before it became manifest that the falsification was or would have been exposed.

2-A. In a prosecution under subsection 1, paragraph A, evidence that the allegedly false testimony or statement in the prior official proceeding or before a notary or other person authorized to administer oaths was contradicted by evidence in that proceeding may not be a sufficient basis by itself to sustain a conviction for false swearing.

3. It is not a defense to prosecution under this section that the oath or affirmation was administered or taken in an irregular manner or that the declarant was not a competent witness in making the statement or was disqualified from doing so. A document purporting to be made upon oaths or affirmation at any time when the actor presents it as being so verified shall be deemed to have been duly sworn or affirmed.

- 3. False swearing is a Class D crime.

Unsworn Falsification – 17-A MRSA §453

- 1. A person is guilty of unsworn falsification if:
 - A. He makes a written false statement which he does not believe to be true, on or pursuant to, a form conspicuously bearing notification authorized by statute or regulation to the effect that false statements made therein are punishable;
 - B. With the intent to deceive a public servant in the performance of his official duties, he
 - (1) makes any written false statement which he does not believe to be true, provided, however, that this subsection does not apply in the case of a written false statement made to a law enforcement officer by a person then in official custody and suspected of having committed a crime, except as provided in paragraph C; or
 - (2) knowingly creates, or attempts to create, a false impression in a written application for any pecuniary or other benefit by omitting information necessary to prevent statements therein from being misleading; or
 - (3) submits or invites reliance on any sample, specimen, map, boundary mark or other object which he knows to be false; or
 - C. With the intent to conceal his identity from a law enforcement officer while under arrest for a crime, after having been warned that it is a crime to give false information concerning identity, he gives false information concerning his name or date of birth, including, but not limited to, a signature.

- 2. Unsworn falsification is a Class D Crime.

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Maine Criminal Code Background

The Maine Criminal Code categorizes crimes into five classes based on severity, ranging from Class E (least serious) to Class A (most serious). The maximum prison sentence and fine a person can receive depend on the class of the crime they are convicted of with higher classes carrying harsher maximum penalties. Additionally, a court may sentence an individual to probation as part of a sentencing alternative which similarly has limits on the length of probation based on the class of crime. Below is a chart detailing the maximum limits on terms of imprisonment, fines and probation based on the class of crime committed. Please note that this is intended as a general overview and there are exceptions and carve-outs to these general principles.

17-A MRSA §§1604, 1704, 1804	
Class of Crime	Maximum Penalties
A	30 years of incarceration \$50,000 fine 4 years of probation
B	10 years of incarceration \$20,000 fine 3 years of probation
C	5 years of incarceration \$5,000 fine 2 years of probation
D	1 year of incarceration \$2,000 fine 1 year of probation
E	6 months of incarceration \$1,000 fine 1 year of probation

The class of crime can also determine an individual's place of imprisonment. Generally, the court will specify a county jail as a place of imprisonment for Class D or E crimes. If an individual is convicted of multiple crimes and the terms of imprisonment run consecutively for more than one year or more, they may be placed in a state prison. For Class A, B or C crimes, the court shall specify a county jail of imprisonment if the term is 9 months or less or to a state prison if the term of imprisonment is more than 9 months.

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
Georgia HB 1292 (2023-2024 Session) <i>Effective Jan. 1, 2025</i>	Self-Filer Requirements (new) • <u>“Self-filer” definition</u>: any party to an instrument conveying, transferring, encumbering or affecting real (and personal) property (including deeds, mortgages, liens, plats) — <u>except</u>: ○ an agent of a federally insured bank or credit union; ○ an agent of a mortgage lender or mortgage servicer; ○ a public official performing their official duties; and ○ the following Georgia-licensed professionals and their representatives: title insurers; attorneys; real estate brokers or salespersons; and professional land surveyors. • <u>Self-filers must use electronic filing</u> (requires identity verification – see below) for recording • <u>Journal for self-filer notarizations</u>: A notary must maintain in a written or electronic journal of all notarial acts performed at the request of a self-filer. The journal must contain the following information for each of these notarial acts: ○ self-filer’s name, address and telephone number; ○ whether notary had personal knowledge of the self-filer’s identity or the type of government-issued photo ID presented by the self-filer, including any identifying number on the ID; ○ self-filer’s signature; ○ date, time and location of notarization; and ○ type of document presented for notarization.	Sample issues to address: ❖ What categories of filers should receive extra scrutiny when recording or having documents notarized? What type of scrutiny should apply? Current Maine law: In Maine, notaries must keep journals for remote or electronic notarizations. Maine’s required journal details mirror those in the Georgia law (except the notary’s fee must also be noted in Maine). 4 M.R.S. §1920(3). ❖ Should a journal also be required for some or all in-person notarizations?
	Electronic Recording — Identity Verification (new) • <u>Identity verification</u>: The Georgia Superior Court Clerks’ Cooperative Authority must adopt rules requiring all individuals who electronically record documents to first have their identity verified by submitting a government-issued ID (driver’s license, passport, military ID, or non-driver ID card) • <u>Verification process</u>: Under the rules, the Authority must verify the individual’s identity, which process may include providing the Authority with the individual’s identity and demographic information to third parties for validation • <u>Confidentiality</u>: Identity information submitted by an individual who is seeking authority to electronically record documents is confidential and may be released only: ○ to law enforcement investigating potential crimes; ○ in response to a subpoena, discovery request or court order; ○ to a person who holds a recorded interest in property subject to a document electronically recorded by the individual; ○ to a person named as a party in any electronic document submitted for recording by that particular individual	Sample issues to address: ❖ How will adoption of an identity verification system be funded? ❖ What process should be used for verifying the identity of e-filers? Should the process be specified in statute or in rule (if in rule, who should adopt the rule)? Is it possible to use a program currently approved in Maine for identity verification during remote notarizations? ❖ What confidentiality protections should apply to identity documents?

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
Georgia (cont'd)	Notary Requirements (new) • <u>Journal for self-filer notarizations</u>: Notaries must maintain journals of all notarial acts performed for self-filers as described above • <u>Identity verification</u>: if a notary lacks personal knowledge of a document signer's, oath taker's or affiant's identity, the notary must verify the person's identity with a government-issued photo ID • <u>Notary education</u>: Notaries must complete an approved "educational training class related to the duties of notaries public" prior to their initial appointment and within 30 days of each renewal	Current Maine law: ❖ Journals – see above ❖ Notaries may verify an individual's identity using personal knowledge; a government ID with a photo and signature; or verification by a credible witness. 4 M.R.S. §1907 ❖ A notary public (but not a judge, lawyer or other notarial officer) must pass an examination covering a course of study approved by the Secretary of State. 4 M.R.S. §1923.
	Civil Remedies for Deed Fraud • <u>Attorney Fees – quiet title actions</u>: A complainant in a quiet title action is entitled to an award of attorney's fees and costs in any case "where it is found that the defendant fraudulently created the instrument that is sought to be cancelled." • <u>New deed-fraud-specific cause of action</u>: An owner of real property may bring an action against an individual who has "knowingly" filed or recorded or caused to be filed or recorded "a false or forged deed or other instrument" transferring or encumbering the owner's interest in the property. ○ <i>Relief</i>: actual damages or \$5,000, whichever is greater, plus attorney's fees and costs • <u>Immunity</u>: The new cause of action may not be brought against a public official (including recording clerk) for actions taken in the performance of the official's duties	Sample issues to address for a new cause of action: ❖ What mental state is required? ❖ What types of relief are available: recorded declaration the deed is void? damages – actual, statutory or punitive? attorney's fees and costs (to whomever prevails)? ❖ May a later purchaser bring a damages action? ❖ should the proceeding be expedited? Jt. Rule 318
	Unsolicited Real Estate Purchase Offers – Warnings Required • <u>Warning</u>: Amends Fair Business Practices Act (which already required other warnings) to require that any unsolicited written monetary offer to buy real property — by a person who is not a licensed attorney, residential contractor, real estate broker or salesperson — include a specific statement that the offer may or may not be the fair market value of the property and, if the offer is less than the previous year's assessed tax value, the offer must state that fact using prescribed statutory language (both statements must be in capital letters).	Sample issues to address: ❖ Does this address deed fraud? ❖ What warnings should be required and in what circumstances? ❖ What penalties should apply? (Maine's Unfair Trade Practices

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
Georgia (cont'd)	• <u>Civil penalty</u>: Violations of these requirements are unfair and deceptive trade practices for which victims may bring a civil action to recover treble (3x) damages or \$600, whichever is greater • <u>Criminal penalty</u>: Violation of these warning requirements is also a misdemeanor	Act is enforceable civilly and can lead to equitable relief, actual damages and fines - not criminal penalties).
Illinois Public Act 104-382 <i>Effective Jan. 1, 2026</i> Notes: ★ Public Act 103-400 (eff. Jan. 1, 2024) had authorized but did not require recorders to create fraud referral and review processes.	County Recorder Fraud Referral and Review Process • <u>Process required</u>: County recorders must establish a fraud referral and review process • <u>Referral determination</u>: A recorder who, after review by legal counsel, reasonably believes that a “filing may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property” may refer the document to an administrative law judge (ALJ) for review. Factors the recorder may consider in making this determination include (there are more!) whether: ○ The property owner reports someone is attempting to record a fraudulent deed on the property ○ Law enforcement indicates they have probable cause to suspect title or recording fraud; ○ The document is a deed not properly signed by last legal owner of record or their agent; ○ The documents dispute a foreclosure proceeding but are not also filed with the foreclosure court or the documents claim that a bank cannot hold title after foreclosure; ○ The documents are intended to re-record deeds in order to to re-notarize a notary certificate that appeared valid when originally recorded; and ○ The document is filed with the intent to harass or defraud: (a) the person identified in the record; (b) any person; or (c) a government official (including the recorder). • <u>Notice of referral</u>: Prior to referral, the recorder must notify the last owner of record of the document(s) suspected to be fraudulent. The owner may confirm the suspicion of fraud and request the recorder refer the document(s) for review. A recorder who makes a referral to an ALJ: ○ Shall record a “Notice of Referral” identifying the document and date of referral; ○ Shall use county tax records to identify and notify the last owner of record by telephone and certified mail and also send notice by mail to the physical address of the property; and ○ May notify law enforcement officials regarding the suspected fraudulent filing. • <u>Process</u>: The ALJ must conduct a hearing within 30 days of receiving the referral. Notice of the hearing must be provided to the filer, the legal representative of the recorder of deeds and the last owner of record. The ALJ’s decision may be appealed to the circuit court for a de novo review. • <u>Remedy</u>: If the ALJ finds “clear and convincing evidence” that the document is fraudulent, the recorder shall within 5 business days record with a copy of the judgment along with a statement that the document is fraudulent and does not affect the chain of title. An ALJ decision that the document is legitimate must also be recorded but does not preclude a criminal investigation or criminal charges.	Sample issues to address: ❖ Potential state mandate — requiring 2/3 vote or funding ❖ What additional resources (if any) would be required for registers to undertake this duty? ❖ If the register’s decision is not meant to be discretionary, the statute should clearly specify the factors that lead to referral and those factors should be objective (not subjective). <i>Compare Texas on pages 7-8</i> ❖ To whom should referrals be made for a decision (Maine does not have county ALJs)? ❖ What should be the legal effect of recording the ultimate decision that a document is fraudulent, does it affect: title insurance or protections for good faith purchasers for value? does it have any legal effect in other proceedings? <i>Compare Texas on pages 7-8</i>

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
Illinois (cont'd) ★ Public Act 99-75 (eff. Jan. 1, 2016) had authorized but did not require counties to establish property fraud alert systems	County Recorder Property Fraud Alert System • <u>Process required:</u> County recorders must establish an automated system that informs a property owner by e-mail, phone or mail when a recording is made relating to a registered property • <u>Registration:</u> A property owner (or real estate professional) may register a property using a form created by the county. The owner must sign the form, which must state: ○ the property owner's name and mailing address; ○ the Property Index Number or unique parcel identification code of the property; ○ the email, mailing address or telephone number to which the alert should be sent (to the property owner and up to 3 other recipients). • <u>Warnings to property owner:</u> The registration form must describe the system and its cost and clearly explain that the recorder, third-party vendor, real estate professional and their employees are not liable if the system fails to alert the owner of a recorded document. • <u>Immunity:</u> absent willful and wanton misconduct, a county, recorder, third-party vendor, real estate professional and their employees are not liable for any error or omission in registering a property or for damages caused by the failure to alert the property owner of a recorded document	Sample issues to address: ❖ Potential state mandate — requiring 2/3 vote or funding ❖ What additional resources (if any) would be required for all counties to adopt this system? ❖ Who should be able to register a property and receive an alert: record owner (even if property is mortgaged)? mortgagee? anyone else? ❖ May counties charge a fee for the alert system?
	Private Right of Action for Deed Fraud (new) • <u>New cause of action:</u> The rightful property owner may bring an action against a person who “knowingly” records a deed or instrument “that is fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property.” ○ <i>Remedies:</i> The court may award “such legal or equitable relief as may be appropriate.”	See sample issues to address for a new cause of action (page 2)
Michigan P.A. 2024, No. 154 (HB 5598) <i>Effective April 2, 2025</i>	Expanded / New Criminal Penalties Since 1883, a person who recorded any conveyance of real estate “with intent to deceive any person as to the <i>identity of the grantor</i> mentioned in such conveyance” was guilty of a felony punishable by ≤ 3 years of imprisonment and/or a fine of ≤ \$5,000. The new law, effective April 2, 2025: • <u>Broader scope:</u> Applied this crime to a person who records a conveyance of real estate “with intent to deceive any person as to the <i>veracity of the document</i> recorded.” (Existing penalties retained.) • <u>New Crime:</u> A person who “knowingly and willfully drafts or submits a document to be filed and recorded . . . with intent to defraud the owner of real estate or the owner of an interest in real estate” is guilty of a felony punishable by ≤ 10 years of imprisonment and/or a fine of ≤ \$5,000. • <u>Notice to prosecutor:</u> A register <i>may</i> provide evidence to a county prosecutor if the register “believes a document was submitted to the register of deeds in violation” of either of these crimes.	Current Maine law: Falsely filing a recordable instrument with intent to defraud, harass or intimidate and with knowledge the instrument is false or lacks legal authority — is a Class D crime (<1 year; ≤ \$1,000 fine) ❖ Is a new crime needed to capture different conduct or are increased penalties desirable in specific circumstances? ❖ Would a law stating that a register may report suspicious filings be helpful?

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
New York Laws 2023, ch. 630 (S 6577) <i>Effective Dec. 14, 2023</i>	Stay of cases involving property rights • <u>Possession and quiet title actions</u>: A court must stay an action to recover possession of (including evictions, foreclosures, etc.) or quiet title related to a residential dwelling unit or property: ○ During the pendency of a good faith <i>investigation</i> by a federal, state or local government agency into theft or fraud in the title to or financing of the premises; ○ If a party is subject to a <i>pending charge</i> of deed theft, larceny, offering a false instrument for filing, possession of stolen property or another offense involving title theft or fraud; or ○ If a federal, state or local government agency has commenced a <i>civil action</i> relating to theft or fraud in the title to or financing of the premises. • <u>Eviction actions</u>: A court must stay an eviction action related to a residential dwelling unit or property for 90 days (stay is renewable) to allow a party to file a complaint in the appropriate court when there is a bona fide dispute between the parties regarding ownership of the property. ○ There is a <i>rebuttable presumption</i> of a bona fide dispute if the party disputing the petitioner's title owned the property in the last 3 years or is a beneficiary of the estate of such a person.	Sample issues to address: ❖ What types of cases should be subject to a stay (consider what impact the stay may have on the parties to that case)? ❖ What circumstances should lead to a stay? (investigations, pending criminal charges, certain types of civil actions?) must a party to the case being stayed be involved in the other matter? ❖ How will court learn of those circumstances? ❖ How long should stay last?
	Lis Pendens • A prosecutor may file a “notice of pendency” (giving constructive notice to any purchaser of the pendency of a proceeding or potential claim, similar to a lis pendens) in the property registry if: ○ There is <i>probable cause</i> that a crime involving title to, incumbrance of, or possession of real property has occurred. The notice expires after 6 months but may be renewed twice; or ○ A <i>criminal complaint or indictment</i> alleging a crime affecting the title to, incumbrance of or possession of real property has been filed. The notice lasts until the criminal case concludes.	Sample issues to address: ❖ What circumstances should be grounds for filing such a notice? and who files the notice? ❖ How long does the notice last? ❖ Will the notice have any lingering effects on the title?
	Loss of Good Faith Purchaser Protection in Certain Transactions Involving Mortgaged Property Prior law protected the rights of a purchaser of real property for valuable consideration unless the purchaser had actual or constructive notice either of the fraudulent intent of the immediate grantor or of fraud rendering the grantor's title void. The new law, effective Dec. 14, 2023: • Establishes a <i>rebuttable presumption</i> that the purchaser had notice of fraud or fraudulent intent in the sale of real property subject to a mortgage unless the transfer was accompanied by the recording of a written statement from the mortgagee indicating either that the mortgage has been satisfied or that the buyer has assumed the mortgage debt. ○ <i>Exception</i>: This rebuttable presumption does not apply if the purchaser and seller were “associated parties” – spouses, ex-spouses, parents and children, siblings, or a family trust or wholly owned LLC.	Note: A rebuttable presumption shifts the burden of proof. Here, it shifts the burden to a purchaser who wants their interest in the property protected to prove they lacked notice of the fraud. Sample issues to address: ❖ Does Maine law currently protect a purchaser if the seller's title was void (ex: forged deed)? ❖ When should such a rebuttable presumption apply? exceptions?

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
New York (cont'd)	Impact of criminal conviction for deed fraud • <u>Action to Void Instrument</u>: If a defendant is convicted of “any crime that affects the title to, encumbrance of, or the possession of real property,” a prosecutor or law enforcement agency may file an action o/b/o the victim to void an instrument material to the offense. (The prior version of this law, enacted in 2019, applied only to criminal convictions for filing a false instrument.) ○ Notice must be given to: the last record owner of the property, the current resident and any resident during the pendency of the prosecution, anyone with an unsatisfied lien against the property, and all parties who have recorded an instrument affecting title to the property. Notice must also be recorded in the county registry within 10 days. ○ After a hearing (at which there is a rebuttable presumption that the instrument is void) the court may enter an order declaring the instrument void ab initio or grant other appropriate relief. Notice of the judgment must be recorded in the county registry. • <u>Quiet title action</u>: In a quiet title action, there is a <i>rebuttable presumption</i> that a particular deed transfer was fraudulent if a person has been convicted of a crime involving either deed theft or a fraudulent transaction involving real property involving that deed transfer.	Sample issues to address: ❖ Who may file the action (only prosecutor, also victim?) and if a prosecutor, is this discretionary? ❖ What specific convictions qualify? How does one prove that the crime was related to a specific recorded instrument? ❖ What relief should be available? Should the effect of the recorded order (on title insurance, future purchasers, etc.) be stated? Note: Rebuttable presumptions shift the burden of proof.
Laws 2024, ch. 56, pt. O (S8306-C) (part of a budget bill) Effective July 19, 2024	Criminal penalties – Deed Theft • <u>Definition</u>: Establishes a new type of larceny entitled “deed theft” committed when a person: ○ with the intent to deceive, defraud or unlawfully transfer or encumber real property, intentionally alters, falsifies, forges or misrepresents a written instrument involved in the conveyance of financial of real property; or ○ with intent to defraud, either (a) misrepresents themselves as the owner or authorized representative of the owner of real property to induce others to rely on the misrepresentation to obtain ownership or possession of the property or (b) takes, obtains or transfers title or ownership of real property by any fraudulent or deceptive practice (including forgery). • <u>Penalties</u>: deed theft is “grand larceny” punishable as follows: ○ <i>First degree grand larceny</i> (≤ 25-year sentence + fine): if the property is occupied residential real property; residential real property owned by an elderly, incompetent, incapacitated or physically abused person; or ≥ 3 residential real properties ○ <i>Second degree grand larceny</i> (≤ 15-year sentence + fine): if the property is residential real property; mixed-use property with ≥ 1 residential unit; or ≥ 2 commercial properties ○ <i>Third degree grand larceny</i> (≤ 7-year sentence + fine): if the property is commercial • <u>Statute of limitations</u>: Although prosecutions for felonies generally must be commenced within 5 years of the commission of the crime, a prosecution for “deed theft” or “where there is fraud in connection with a transaction involving real property” may <u>also</u> be commenced within 2 years after the facts constituting the crime are discovered by the victim. • <u>Prosecution</u>: In addition to a district attorney, the attorney general may prosecute deed theft crimes	Sample issues to address: ❖ Compare to existing Maine crimes (see page 4 above). Is a new crime needed to capture different conduct or are increased penalties desirable in specific circumstances? ❖ What should the penalties be and in what circumstances? Note: the penalties for many theft offenses (in both Maine and New York) depend on the value of the property; in this NY law, the penalties depend on the type of property and type of victim. Note: In Maine, Class A, B & C crimes (felonies) must be brought within 6 years and Class D & E crimes (misdemeanors) must be brought within 3 years of the date the crime is committed (not when it is reasonably discovered).

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
Texas Acts 2025, 89th Leg., ch. 321 (S.B. 1734) and Acts 2025, 89th Leg., ch. 773 (S.B. 647) <i>Both effective September 1, 2025</i>	Recording of presumptively fraudulent instruments or documents Under a law originally enacted in 1997 and amended in 2005 and 2007, if there is a reasonable basis to believe in good faith that document or instrument purporting to create a lien against or assert a claim to or interest in real property submitted for recording is fraudulent, the <u>clerk must provide notice</u> of the submission to the last known address of the person named in the document as the obligor and any person named as owning an interest in the property. This prior law also established a presumption that documents or instruments were fraudulent in certain, limited circumstances and provided that a <u>title insurer</u> does not have a duty to disclose a presumptively fraudulent recorded document or instrument in connection with a sale, conveyance, mortgage or other transfer of real property or an interest in real property. Effective September 1, 2025: • <u>New presumptions of fraud:</u> ○ <i>Criminal conviction:</i> A document or instrument is presumed to be fraudulent if it purports to convey title to or an interest in real property and a person has been convicted of certain crimes (including theft, fraud and perjury) with respect to the document or instrument; or ○ <i>Uncontroverted owner affidavit:</i> The owner of the property files an affidavit for recording asserting that a specific recorded document or instrument is fraudulent along with a certificate of mailing showing that they sent a copy of the affidavit by registered or certified mail to the grantor and grantee named in the document or instrument. The presumption of fraud applies if neither the grantor or grantee files a “controverting affidavit” asserting that the conveyance in the document or instrument is valid within 120 days. • <u>New presumptions against fraud:</u> ○ <i>Additional documentation:</i> A document or instrument is presumed not to be fraudulent if certain additional documentation is provided to the recording clerk (ex: sale contract containing the signature of the property owner). This documentation is confidential. ○ <i>Certain filers:</i> A document or instrument is presumed not to be fraudulent if it is filed by a person engaged solely in the business of providing services in connection with the transfer of real property (including an attorney, title agent, title company or escrow company). • <u>Notice of presumptively fraudulent instrument or document:</u> In addition to notifying the named obligor and property owner that an instrument or document is presumptively fraudulent, the clerk must also notify (a) the named grantor, (b) the named grantee, and (c) the last known owner of the property if their address is different from the address of the named grantor, obligor or debtor. • <u>Other required actions by recording clerk:</u> If the clerk reasonably believes that a document or instrument submitted for recording is fraudulent the clerk shall: ○ Request the assistance of a local prosecutor to determine whether the document or instrument is fraudulent before recording the document; and	Sample issues to address: ❖ Potential state mandate — requiring 2/3 vote or funding ❖ What additional resources (if any) would be required for registers to undertake these duties (to make decisions on presumed fraud, notify record owners of presumed fraudulent documents, to refer cases to prosecutors and to retain additional documents that must be kept confidential)? ❖ What circumstances should give rise to a presumption of fraud? Note: these presumptions in Texas appear to rely on objective facts that do not require register discretion to apply — but how does the register know of a particular criminal conviction or that it involved a specific recorded instrument? ❖ What should be the legal effect of a presumption of fraud? Note: in Texas, a title insurer does not have to disclose its existence (but how does the insurer know of the presumption?). only if certain additional steps occur, the clerk must refuse to record the document. <i>See below for the process to obtain a court order for recording in the registry</i> ❖ Should registers be permitted or required to refuse to record an instrument? If so, in what circumstances?

Examples of Recently Enacted Deed Fraud Legislation in Other States

State	Summary of Recently Enacted Legislation	Considerations for Maine
Texas (cont'd)	○ Request additional documentation from the prospective filer (ex: ex: contract for sale or lien containing the signature of the property owner) and forward any additional documentation received to the local prosecutor. This documentation must otherwise be kept confidential. • <u>Refusal to record</u>: the clerk must refuse to record a document or instrument if: ○ The local prosecutor finds probable cause that the document or instrument is fraudulent; or ○ The prospective filer refuses to provide the additional documentation requested by the clerk. • <u>Immunity</u>: A clerk who in good faith records or refuses to record a document or instrument as described above is immune from civil liability and any adverse employment action on that basis.	❖ What happens if a document is both presumed fraudulent and presumed not to be fraudulent? ❖ What happens if a document is not recorded based on probable cause of a crime, but the crime is not prosecuted or the defendant is acquitted?
	Action on fraudulent conveyance (new) • <u>Process</u>: An owner of real property may file a verified court petition challenging the validity of a document or instrument purporting to convey title to or an interest in real property. ○ The petition must be accompanied by an affidavit asserting that the document or instrument is presumed to be fraudulent on (a) a criminal conviction or (b) an uncontroverted owner affidavit (as these presumptions are described above). ○ “The court may “without delay or notice of any kind” review the verified petition, affidavit, challenged document or instrument, any other supporting evidence submitted by the petitioner and any relevant public records. ○ The court must issue findings of fact and conclusions of law stating whether the document or instrument does or does not convey title to or an interest in the real property (depending on whether a presumption of fraud was appropriately triggered by a criminal conviction or uncontroverted owner affidavit). ○ A copy of the court’s order must be: (a) sent to the petitioner; (b) sent to the person who filed the challenged document or instrument in the registry; and (c) recorded in the registry. • <u>Effect of recorded order</u>: ○ A bona fide purchaser or mortgagee for value (or their successors) “may rely conclusively” on the district court’s recorded findings of fact and conclusions of law that a specific document or instrument does not convey title to or interest in the described real property. ○ The recorded court order must state that the court “makes no finding as to any underlying claims of the parties involved.”	Compare Illinois: In Illinois the <u>register</u> must refer a document based on somewhat <u>subjective</u> factors; the ALJ then decides after <u>notice</u> to interested parties <u>and a hearing</u>. In Texas, the factors for a presumption of fraud are more <u>objective</u>, a <u>party</u> refers the matter to a court and the court may decide <u>without notice or hearing</u>. Sample issues to address: ❖ What should be the grounds for a court order that a conveyance is invalid? (If Maine follows Texas, how will the court know a crime involved a specific instrument? In a case based on an uncontroverted owner affidavit, does it matter if the grantor and grantee in fact received notice of the initial owner’s affidavit?) ❖ What should be the legal effect of the order (title insurance, good faith purchasers for value, effect on other proceedings)? ❖ Who may bring the action and what court processes apply?

Commission to Recommend Methods for Preventing Deed Fraud in the State

Example Recent & Pending Studies Examining Deed Fraud

1. Uniform Law Commission’s Deed Fraud Study Committee

The Uniform Law Commission (ULC) created a Deed Fraud Study Committee to examine the advisability of creating a uniform law to address the topic of deed fraud. On September 29, 2025, the Deed Fraud Study Committee approved issuing a final report recommending creation of a uniform law on this topic (we currently only have access to the text of the draft report). If the ULC adopts this recommendation, it will appoint a drafting committee to draft the text of the proposed uniform law over the next couple of years. If that draft legislation is finally adopted by the ULC, the text of the uniform law will be made available for consideration and adoption by any interested state. Both during the study committee process and any resulting drafting committee process, input from numerous stakeholders and legal experts across the country has been and will be solicited. Additional information about the ULC and its uniform laws is available at: <https://www.uniformlaws.org/aboutulc/faq>.

The table below provides information on provisions that the ULC’s Deed Fraud Study Committee recommended (in its draft report) for inclusion in a uniform law addressing deed fraud as well as a selection of issues the Maine Commission to Recommend Methods for Preventing Deed Fraud in the State may wish to consider related to these recommendations.

In addition to issues specific to each recommendation, the Maine Commission may also wish to consider:

- Whether Maine should wait to decide whether to adopt some or all of the recommendations below until the Uniform Law Commission drafts proposed uniform legislation on the topic?

Recommendation (quoted from text of draft report)	Sample Issues for Consideration
1. Known Filer System for Recorded Documents A known filer system would allow parties who regularly record documents, such as attorneys, title agents, and financial institutions, to register with the state or county to receive a unique identifier. These known filers could submit documents electronically or in person with dual authentication. The state or county would maintain a secure database of known filers and would be updated regularly. Annual renewal of known filer status would insure continued eligibility. Filers without a known filer number would be required to appear in person with valid government-issued identification. Additional confirmation of identity for in-person filers could be required. <u>Concern noted by ULC Study Committee:</u> • Fraudsters who forge deeds may also have false identity documentation	❖ Who qualifies as a “known filer”? Should anyone be disqualified (if so, are background checks needed)? ❖ May a person merely demonstrate they have a certain professional license when presenting a document for recording or should the person be required to pre-apply for known filer status? If the latter, who establishes and maintains the registry? ❖ What are the benefits of known filer status: ability to file documents electronically for recording? ability to file without also providing a government ID? ❖ If a government ID is required for a non-known filer, should a copy of that ID be associated with each document they record? If so, who may access to the copy of the ID (is it a public record)? ❖ What “additional confirmation of identity” (if any) should be required for non-known filers? Who performs this verification? ❖ Should liability attach to a known filer who improperly records a document? If so, in what circumstances? ❖ <i>Compare Georgia self-filer requirements</i>

Commission to Recommend Methods for Preventing Deed Fraud in the State

Recommendation (quoted from text of draft report)	Sample Issues for Consideration
2. Electronic Notification System for Landowners Property owners would voluntarily register their contact information with the county recorder, or without a registration requirement, the county recorder would send notice to an address or email already known to the county recorder (such as the address for property tax bills). Notifications could include a link to the recorded document for review. Owners could then report unauthorized filings to the recorder's office or to law enforcement for expedited investigation. Recorders may be able to use existing government communication platforms to minimize costs. For a voluntary system, public awareness campaigns could encourage homeowners to register for notifications. <u>Concerns noted by ULC Study Committee:</u> • If registration is required, those most in need of the service are unlikely to register for notification. • Notification occurs after the fact, with the fraudulent document already recorded.	Note: Several Maine counties have already established voluntary notification systems. To access each county's registry, see https://www.maineregistryofdeeds.com/. ❖ If counties are required to implement these systems, would this be considered a state mandate? ❖ Are there any costs to counties associated with this program and, if so, may the counties charge a fee for participation in the program? ❖ Who may register to receive a notice for a specific property (owner, mortgagee, real estate professional, etc.)? May that individual request that the notice be sent to another person (their lawyer?) or request that the notice be sent to them at any address they choose? Or, must the notice be sent to the physical address of the property or a specific other address associated with the property (ex: tax bill address)? ❖ Should legislation mandate or encourage public awareness efforts? If so, of what aspects of this program (its existence, how to sign up, limitations of this after-the-fact system but ability to report unauthorized filings to law enforcement, etc.) and who should be responsible for notifying the public? ❖ <i>Compare Illinois Property Fraud Alert System</i>
3. Property Title Freeze Property owners may request a title freeze through the county recorder's office, either in person or through a secure online portal. The freeze would prevent voluntary transfers but would still allow involuntary liens (e.g., tax liens, mechanics' liens, or judgments) to attach. Transfers could be authorized by the owner using multi-factor authentication or in-person verification. A simple online form or in-person request system could facilitate freezes with minimal delay. The system must consider transfers that would not be authorized by the owner such as probate, inheritance, foreclosure, or other court-ordered sales. The system would also need to consider other types of involuntary filings or notices, such as a lis pendens. Title insurers and lienholders could be notified of any title freezes. <u>Concerns noted by ULC Study Committee:</u> • Fraudster may be able to unlock title. • Those most in need of the service may not take advantage of it.	❖ If counties are required to implement title freeze systems, would this be considered a state mandate? ❖ Who may request a title freeze (owner of record even if a mortgagor, mortgagee, someone else)? ❖ How would the person request a title freeze and what identity verification should be required? ❖ What is the effect of the freeze? Does it prevent <i>recording</i> of certain transfers or allow them to be recorded but <i>not take effect</i>? What specific types of transfers are considered voluntary and prevented? What specific types of transfers are not prevented? (See ULC suggestions listed in the left-hand column.) ❖ What should be the process to "unfreeze" the title or to authorize recording of a specific voluntary transfer? ❖ Who is entitled to notice of the title freeze (specific lienholders, the owner of record at the property address to ensure no fraud is involved, anyone else?) and how is that notice provided (send notice to addresses on file, record notice of the title freeze in the registry)?

Commission to Recommend Methods for Preventing Deed Fraud in the State

Recommendation (quoted from text of draft report)	Sample Issues for Consideration
• Must have a mechanism for unlocking title after the death of the owner.	❖ May the counties charge a fee for participation in the program (to recoup costs of the program)? ❖ Should any liability attach (for example, to a title insurer or real estate professional) who participates in a “voluntary” transfer of a property with a title freeze? ❖ Should legislation mandate or encourage public awareness efforts about the program? Who is charged with these efforts and what should be covered?
4. Recorder Discretion to Flag Suspicious Filings Recorders would be able to flag a filing when fraud indicators are present (e.g., suspicious notarization, grantor discrepancy, known sovereign citizen filer). This could be implemented in connection with a requirement for additional identity verification or property owner confirmation before recording. A standardized review process would be implemented to determine the validity of a flagged document. Flagging would not disrupt priority of a recorded document if it is later determined to be valid but would give notice that the document is flagged as suspicious. Recorders could be provided with guidelines to help distinguish between legitimate and fraudulent transactions, and recorders who act in good faith must have protection against liability for incorrectly flagging a document. <u>Concerns noted by ULC Study Committee:</u> • Recorders may not want this discretion and may be hesitant to flag transactions. • Legitimate transactions may be incorrectly flagged.	❖ Should registers be required or authorized to flag suspicious filings? If registers are required to flag suspicious filings, is this a state mandate and/or do they need additional resources to undertake this duty? ❖ What factors should or may registers rely on in flagging suspicious filings? Should these be entirely objective factors (ex: discrepancy in the name of the grantor) or also objective factors (ex: suspicious notarization)? ❖ Must the register accept suspicious filings for recording (for example, to preserve priority status)? If so, should a notice of the suspicion also be recorded with the filing and/or should the flagging trigger a review by someone (law enforcement, court)? ❖ May the register require additional identity verification (if so, what type?) or property owner confirmation (if so, using what process to avoid fraudulent confirmation) for suspicious filings? ❖ What is the legal effect (if any) of flagging the document as suspicious (validity of the transfer, title insurance, good faith purchaser status)? Should legal effects (if any) only apply if there is a further review of the document by law enforcement or the courts? ❖ <i>Compare Illinois and Texas processes for registers to identity potentially fraudulent filings</i>
5. Expedited Quiet Title Action for Fraud Victims Victims of deed fraud would have a streamlined process for expedited quiet title actions. They would have the burden of proof to establish fraud by clear and convincing evidence. Title insurers and affected lenders could participate in the expedited process. <u>Concerns noted by ULC Study Committee:</u> • Resolving title disputes may be complex litigation. • Courts are already busy with important matters—why should these disputes receive special attention?	Sample issues to address for a new cause of action: ❖ Who may bring the action: the former owner, a mortgagee of the former owner, a subsequent purchaser of the property (who is only seeking damages)? ❖ Who must have notice of and be joined in the case? ❖ What must be proven to obtain expedited relief (is knowingly or recklessly providing false information sufficient or must the act be intentional) and by what standard of proof (preponderance of the evidence, clear and convincing evidence)?

Commission to Recommend Methods for Preventing Deed Fraud in the State

Recommendation (quoted from text of draft report)	Sample Issues for Consideration
• An expedited process may not be appropriate for family disputes.	❖ What types of relief are available: A recordable declaration the transfer is void? Damages – actual, statutory or punitive? Attorney’s fees and costs (to whomever prevails or only a prevailing plaintiff)? ❖ How should these proceedings be expedited? See Joint Rule 318 (Judicial Proceedings Priority Reviews) ❖ If damages are available, is there a right to a jury trial? How does this affect expedited processing? ❖ If only certain claims may be expedited (ex: deed nullification), should the statute specify the resolution of any other claim is not affected by the court decision?
6. Electronic Notification System for Notaries The county recorder would send notice to the notary when a document is filed. Notaries will be required to keep their contact information updated. The notification can include a link to the recorded document for review. Notaries will report unauthorized filings to the recorder’s office and law enforcement for expedited investigation. <u>Concern noted by ULC Study Committee:</u> • Notification occurs after the fact, with the fraudulent document already recorded.	❖ If counties are required to implement notification systems, would this be considered a state mandate? ❖ Does this require a central registry of contact information for all notarial officers (including judges, attorneys, etc.)? ❖ How will the register obtain contact information from the registry? Would the system be automated statewide; if so, who is responsible for creating, funding and maintaining the system? ❖ Will notarial officers be required to report unauthorized filings to law enforcement? ❖ What would be the purpose of reporting unauthorized filing to the registry? Can they refuse to record? Record a notice of disputed notarization?
7. Dual Authentication for Notarial Acts Before completing an acknowledgement, a notary would be required to go online to get a transaction specific bar code which goes on the document. The recorder must authenticate the bar code before recording the document. <u>Concerns noted by ULC Study Committee:</u> • Party who impersonates a notary might gain access to the notary’s account for getting the bar code. • Notaries and county recorders may resist the extra step.	❖ Who should be responsible for creating the bar code system (Secretary of State? Someone else)? How is the system funded? (per-use fee? annual notary fee? can fee be passed along? leave this to rulemaking?) ❖ For what specific types of documents and notarial acts is a notary required to use the system? ❖ Must all notarial officers use the system or only notaries public? Should out-of-state notaries be required to use the system if notarizing certain documents for recording in a Maine registry? ❖ Is there a penalty for a notary (or a register) who does not use the system when required? ❖ If registers are required to authenticate bar codes before recording: Would this be considered a state mandate? If the bar code is not authenticated, may or must the register refuse to record the document?

Commission to Recommend Methods for Preventing Deed Fraud in the State

2. Tennessee Advisory Commission on Intergovernmental Relations

In 2024, the Tennessee General Assembly enacted a law directing the Tennessee Advisory Commission on Intergovernmental Relations (“the Commission”) to conduct a study and compile a report on real estate fraud in state. *See* Public Chapter 941, Acts of 2024.¹ As the attached memorandum² from commission staff to the commission dated September 18, 2025 explains,

The law directed the commission to study:

- the prevalence of real estate fraud in Tennessee,
- the different schemes used to perpetrate real estate fraud,
- the methods used by other states to combat real estate fraud, and
- the best practices for local government officials in registering documents related to real estate transactions.

It also directed the commission to suggest statutory revisions designed to reduce the risk of real estate fraud for property owners in this state.

Commission staff prepared a draft report for review by the commission at both the June 2025 and the September 2025 commission meetings. The draft report³ proposed that the commission make the following recommendations to the Tennessee General Assembly:

that the state [enact legislation] require[ing] notaries to:

- **verify the identity of individuals by means of a government-issued credential or personal knowledge of a credible witness can suffice if the witness has a government-issued credential;**
- **maintain a journal of all notarizations performed in-person and, as is already required of online notaries, keep these journals for at least five years; and**
- **ensure journal records include:**
 - the date, time, and type of the notarial act;
 - description of the document or proceeding;
 - the name, address, and signature of each individual signer and witness identifying a signer;
 - a description of the evidence used to identify any signer and witness identifying a signer; and
 - the itemized fees, if any, paid by the signer to the notary.

Also, because a process for registers of deeds to review or refuse to record suspicious documents, as several other states have authorized, could prevent fraudulent deeds from being recorded and stop those who attempt to commit real estate fraud from completing and profiting from the fraudulent transaction, **the . . . General Assembly [should] authorize counties to establish fraud referral and review processes—possibly similar to the process authorized in Illinois—for real estate documents that county registers of deeds have reason to suspect are fraudulent.**⁴

At its September 18, 2025 meeting, the Commission deferred voting on whether to approve the draft report and asked staff to further examine whether the Commission should also recommend:

- requiring that a person presenting a document for recording also provide a government-issued ID and that a copy of that ID be included as part of the recording;
- whether to create enhanced penalties for notaries who participate in deed fraud schemes;

¹ The Tennessee law is available at: <https://publications.tnsosfiles.com/acts/113/pub/pc0941.pdf>.

² The staff memorandum is available at: https://www.tn.gov/content/dam/tn/tacir/commission-meetings/2025-september/2025Sept_Tab5RealEstateFraud_Memo.pdf.

³ The draft report is available at: https://www.tn.gov/content/dam/tn/tacir/commission-meetings/2025-september/2025Sept_Tab5RealEstateFraud_DraftReport.pdf.

⁴ This summary of the draft report recommendations appears in the September 2025 staff memorandum. *See supra* note 2.

Commission to Recommend Methods for Preventing Deed Fraud in the State

- whether additional qualification requirements should be imposed on individuals seeking to become notaries (including whether to require background checks); and
- whether it is possible to address the issue of notary impersonation by creation a verification process to ensure that a person purporting to act as a notary is in fact a notary.⁵

The Commission plans to review an updated draft report at its next meeting, which is anticipated to take place in December.

3. Virginia Housing Development Authority

In 2025, the Virginia Assembly enacted a law, 2025 Va. Acts ch. 271,⁶ directing the Virginia Housing Development Authority to:

convene a technical advisory group to evaluate the prevalence of deed fraud, including notary fraud, seller impersonation, owner impersonation, and fraudulent lien filing; develop recommendations for the prevention of deed fraud; and develop measures to enhance protections for property owners from such crimes.

The law further directs the technical advisory group to:

give consideration to policy proposals, including (i) requiring identity verification processes by notaries, (ii) strengthening safeguards to prevent fraudulent notaries, (iii) enhancing security for public access to land records, (iv) providing consumer and professional education and awareness training, (v) granting local governments and circuit clerks authority with respect to suspected fraudulent documents, (vi) establishing free property alert notification systems within local land record offices, and (vii) establishing an alert notification system to inform notaries when documents containing a notary's name or registration number are submitted for recording.

The law directs the technical advisory group to submit its report and recommendations to specific committees of the Virginia Assembly no later than November 1, 2025.

Although the final report has not yet been released, the Director of Policy at the Virginia Housing Development Authority has offered to discuss the process used by the technical advisory group to conduct the study with Office of Policy and Legal Analysis Staff later this week.

⁵ Office of Policy and Legal Analysis staff compiled this list of additional considerations after reviewing a recording of the Commission meeting. The meeting recording is available at: <https://youtu.be/CzXf7mETXto>.

⁶ The Virginia law is available at: <https://lis.blob.core.windows.net/files/1072698.PDF>.



STATE OF MAINE
DEPARTMENT OF PROFESSIONAL & FINANCIAL
REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL
REGULATION



REAL ESTATE COMMISSION

Janet T. Mills
Governor

Penny Vaillancourt
Director

Joan F. Cohen
Commissioner

MEMORANDUM

To: Senator Henry Ingwersen, Representative Adam Lee
From: Catherine E. Pendergast, Real Estate Commission Director
Date: October 17, 2025
Subject: Information for Commission to Recommend Methods for Preventing Deed Fraud in the State

Thank you for the opportunity to share additional information on the Real Estate Commission (REC) and its response to deed fraud. We thought the information below would be helpful to your deliberations. Additionally, the Deputy Director of the REC will be attending your meeting on Monday and can answer any questions you may have at that time.

- The REC has had no deed fraud complaints against any Maine licensee.
- If the REC received a complaint alleging deed fraud, it would be investigated. The REC has broad authority to discipline licensees. If, after an investigation, it was determined that the licensee had been negligent in an instance of deed fraud, or actively engaged in the fraud, the Commission could impose discipline. Complaints normally involve multiple violations (see potential grounds for discipline below). Discipline that could be imposed includes:
 - A warning, censure or reprimand;
 - License suspension of up to 90 days per violation;
 - Imposition of civil penalties up to \$2,000 per violation;
 - Imposition of conditions of probation which may include additional continuing education, mandatory professional or occupational supervision of the licensee, practice restrictions, and other conditions as the Commission determines appropriate; and
 - License revocation
- If there was an allegation of fraud against a licensee, in addition to discipline against their license, the REC would refer the licensee to the AAG for criminal prosecution.
- Allegations of unlicensed practice are rare. They are investigated and if not resolved quickly through licensure or stopping the activity, are referred to the AAG for criminal prosecution.

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Phone: (207) 624-8518

TTY: Please Call Maine Relay 711

Catherine.Pendergast@maine.gov

- The REC cannot award monetary damages to any complainant. A complainant seeking reimbursement of monetary damages would need to pursue a civil action.
- Maine's authority to discipline licensees is the same as New Hampshire's with the following exceptions:
 - The maximum fine amount in NH is \$3,000 per offense, or, in the case of continuing offenses, \$300 each day the violation continues, whichever is greater
 - NH has authority over unlicensed practice. They can impose a fine not to exceed the amount of any gain or economic benefit that the person derived from the violation, or up to \$10,000 for each offense, whichever amount is greater.

Statutory Authority

The authority for the REC to discipline licensees is broadly set forth in 10 M.R.S. § 8003 (5-A):

5-A. Authority of Office of Professional and Occupational Regulation. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Professional and Occupational Regulation, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

- (1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;
- (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;
- (3) Conviction of a crime to the extent permitted by Title 5, chapter 341;
- (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;
- (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;
- (7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;
- (8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;
- (9) Noncompliance with an order or consent agreement of an office, board or commission;
- (10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation;



- (11) Any violation of a requirement imposed pursuant to section 8003-G; or
- (12) Failure of an individual subject to Title 22, section 1711 or Title 22, section 1711-B to provide to a patient, upon written request, a copy of that patient's treatment records in accordance with the requirements of Title 22, section 1711 or Title 22, section 1711-B, whichever is applicable.

Additionally, the following grounds set forth in the Real Estate Brokerage License Act could be applicable to a deed fraud complaint:

32 M.R.S. §13067-A. Denial or refusal to renew license; disciplinary action

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the commission may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

- 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.

