Commission to Recommend Methods for Preventing Deed Fraud in the State

Meeting Agenda
Wednesday, November 5, 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. **Deed Fraud Educational Materials Overview and Discussion**
   - Commission members

4. **Review Deed Fraud Prevention Proposed Recommendations**
   - Office of Policy & Legal Analysis Staff
   - Commission members

5. **Discussion and Planning for Next Meeting**

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

Future Meeting
▪ 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

Commission to Recommend Methods for Preventing Deed Fraud in the State

<u>Information Requested During October 20, 2025 Meeting</u>

1. Improvident Transfers of Title Act

Commission members requested copies of the Improvident Transfers of Title Act, which they suggest may provide helpful statutory language for the creation of a statutory remedy voiding title purportedly transferred through a deed fraud scheme. Title 33, Chapter 20 of the Maine Revised Statutes (33 M.R.S. §1021 - §1025), commonly referred to as the Improvident Transfers of Title Act, is attached.

Among other things, this law establishes a presumption that a transfer of real property is the result of undue influence if the transfer is (1) from an elderly person who is dependent on others, (2) to a person with whom the elderly person has a confidential or fiduciary relationship, and (3) supported by less than full consideration. In addition to any other relief that may be available under any other law, if an elderly person or the person' estate demonstrates in a civil action that a particular transaction is the result of undue influence, the Improvident Transfers of Title Act provides the following forms of relief:

> **2. Relief available; protected transfers ….** When a court finds that a transfer of property … was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer …, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. The court shall award reasonable attorney's fees and costs to be paid by the person who exercised undue influence over the elderly dependent person or by any transferee who paid less than full consideration, as found by the court. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property …, the court shall refuse to enforce the transfer ….
>
> Relief obtained or granted under this section may not in any way affect or limit the right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. Relief obtained or granted under this section may not affect any mortgage deed to the extent of value given by the mortgagee.

33 M.R.S. §1023(2).

The limitations set forth in the second paragraph quoted above may not be appropriate in cases where the perpetrator of deed fraud forges a deed, however, because a forged deed is likely considered void under Maine law and incapable of transferring title to a subsequent creditor or good faith purchaser. *See Martel v. Bearce,* 311 A.2d 540, 543 (Me. 1973) (observing in dicta that "title depending on the ostensibly correct executive of a warranty deed" would be "destroyed by proof of forgery").

2. Recent Law Delaying Financial Transactions Based on Suspicions of Fraud

Commission members requested copies of recently enacted Maine Legislation establishing a process for financial institutions to flag suspicious disbursements from certain protected individuals' accounts. This law might provide a model for implementing a similar flagging and notification process for suspicious real estate transactions.

Public Law 2025, chapter 215 (LD 1445), *An Act to Prevent Financial Exploitation of Vulnerable Adults*, which is attached, creates a process for a financial institution or credit union authorized to do business in the State to flag and report suspected financial exploitation of adults 65 years of age or older or who are protected under the Adult Protective Services Act, referred to in the law as "eligible adults."

Effective September 24, 2025, if a financial institution or credit union "reasonably believes that a requested disbursement may result in financial exploitation of an eligible adult," it may delay the requested disbursement for up to 15 days (extendable by a court) while conducting an internal review of the transaction. The law defines the type of suspected "financial exploitation" that may form the basis for delaying a disbursement to include the wrongful taking or use of the eligible adult's assets or an attempt to exercise unauthorized control over an eligible adult's assets through deception, intimidation or undue influence. If the financial institution or credit union delays a requested disbursement, it **must**:

- Notify the account holder and all parties authorized to transact business on the account of the delay and reason for the delay within 2 days, except that notice is not required for any party reasonable believed to have engaged in suspected or attempted financial exploitation.
- Notify the Office of Attorney General of the delayed disbursement within 2 days and further notify the Office of the Attorney General of the results of the financial institution or credit union's internal review within 7 days of the date the disbursement was first delayed.

A financial institution or credit union that delays a requested disbursement **may** also:

- Make a referral to law enforcement and provide copies of records relevant to the suspected or attempted financial exploitation. Records provided under this law are designated as confidential.

The law affords a financial institution or credit union that takes any action in good faith under the law immunity from administrative or civil liability.

3. Distribution of Property Tax Bills and Updates to Property Tax Lists

Commission members requested additional information regarding the distribution of property tax bills by municipalities and how often property tax rolls are updated. Municipalities are not required by state law to **distribute property tax bills** but most, if not all, do. Under 36 M.R.S. §505(2), municipalities may vote the date or dates when property taxes are due and payable, which results in property owners receiving staggered property tax bills depending on the municipality where the property is located.

However, the **status and ownership** of all properties, regardless of the municipal location of the property, is determined **by April 1** of each year pursuant to 36 M.R.S. §502. Because property tax is assessed based on the status and the ownership of the property, the tax list/commitment book needs to be updated every year if there are changes in the ownership or the status of the property. Accordingly, property taxes are committed to the owner of record on April 1, the state-wide assessment date.

Here are two examples from the Maine Revenue Services of how this might play out:

- A person purchases 2 properties on March 31, 2025, one in Cumberland and one in Cutler. Since the person owns both of the properties by April 1, 2025, the state-wide assessment date, they will be listed as the owner in each town for the 2025 tax year.

  - Cumberland typically commits their taxes over the summer, so they will likely commit taxes in July 2025. The individual will then receive a property tax bill from Cumberland that lists them as the owner sometime in August 2025.
  - Cutler typically commits their taxes later than Cumberland, so the new owner would not receive a property tax bill that shows that they are the owner until sometime in December 2025 despite purchasing the property in March 2025.
- In another scenario, the person does not purchase the properties until April 2, 2025. Because they don't own the property on April 1, 2025, they are not considered the assessed owner for tax purposes until the 2026 tax year. Accordingly, the property tax bills from Cumberland and Cutler would both be pushed back by 1 full year from the previous example's dates.

4. "Title Lock" Products Advertised in Maine

Commission members requested additional information on the protections afforded by "title lock" insurance products frequently advertised on television in Maine. Although staff is unable to evaluate the merits of any specific advertised product, the Federal Trade Commission has issued the attached warning related to some of these products. *See* FTC, *Home title lock insurance? Not a lock at all*, available at https://consumer.ftc.gov/consumer-alerts/2024/08/home-title-lock-insurance-not-lock-all.

5. Structure of the Illinois Property Registry System

Commission members inquired whether county recorders, who are required by a recently enacted Illinois Law to establish fraud referral and review processes, are part of the Illinois court system.

Answer: No. It is true that between 1819 and 1870, the Illinois Constitution assigned the duties of county recorders to the clerks of the circuit courts in the State. In 1870, however, a new constitutional provision established the elected office of county recorder in counties with populations over 60,000. While the clerks of the circuit clerks continued to perform the duties of county recorders in counties with populations below 60,000 at that time, in 1968, the Illinois Legislature assigned the county recorder duties to the county clerks in these smaller counties. *See* Illinois Secretary of State website at https://www.ilsos.gov/departments/archives/irad/recorder.html; *see also* 55 ILCS 5/3-5001.

6. State laws imposing additional requirements for notarization of real property transactions

Commission members inquired whether other states, perhaps Indiana, impose additional qualification or education requirements on notaries that seek authority to perform notarial acts on documents or instruments related to real property that will be recorded in the states' equivalent of Maine's county registries of deeds. While staff research did not reveal any State that imposes additional qualification or education requirements on notaries that perform notarial acts on certain instruments related to real property, the National Notary Association reports that at least four states restrict a notary's ability to perform certain actions at real estate closings. *See also* pending Kansas legislation described on page 4.

***A. Indiana**: notary may not perform notarial acts at a real estate closing involving title insurance*

According to Bulletin 135, *Title Insurance Licensure Requirements: Insured Closing Services*, issued by the Indiana Department of Insurance, "Any person who conducts a real estate closing on behalf of a title insurance producer or title insurance company [in the State of Indiana] in which a title insurance policy is issued or is to be issued must be a licensed insurance producer." The types of real estate closing activities restricted to licensed insurance producers include "activities to determine proper execution, acknowledgement and delivery of conveyances, mortgage documents and other title instruments necessary to consummate a transaction."

B. Maryland: *notary must be accompanied by licensed title insurance producer at a closing*

According to Bulletin 16-34, *Reissuance of Bulletin 03-18: Notaries Who Participate in Real Estate Closings or Settlements*, issued by the Maryland Insurance Administration (MIA), "any person or company that provides escrow, closing or settlement services that may result in the issuance of title insurance must be licensed by the MIA as a title insurance producer." However, a notary "who merely attends a real estate closing or settlement … and who merely witnesses signatures" is not required to possess a title insurance producer's license as long as a licensed title insurance producer is also present.

C. Minnesota: *independent notary may only perform notarial acts at a closing*

According to the Minnesota Department of Commerce,[1] an independent contractor notary public (a/k/a a "mobile notary") may perform notarial acts but may not engage in certain other activities at a real estate closing unless the notary is also a licensed real estate closing agent. Activities that may not be performed by a notary public include: receiving or taking temporary possession of funds paid by the borrower; providing any explanation to a borrower, buyer or seller about the various documents being signed; charging fees not authorized by law—for example, fees for taking signatures on documents not requiring notarization.

D. Virginia: *notary may only perform notarial acts at a closing*

In 2016, the Deputy Secretary of the Commonwealth submitted comments in response to the Bureau of Insurance's proposed amendments to state regulations governing settlement agents in Title 14, Chapter 5-395 of the Virginia Administrative Code asserting that notaries public should not be required to become licensed as settlement agents to obtain signatures during closings. The bureau's order adopting the 2016 amendments to its regulations replied in response to these comments that "a Notary Public acting on behalf of a settlement agent may obtain signatures on closing documents without being licensed or registered provided that the Notary Public does not receive or handle money, and/or does not sell, solicit, or negotiate a contract of title insurance."

7. Constitutionality of Imposing Additional Requirements on Notaries Public Who Perform Notarial Acts on Documents to be Recorded in a Registry of Deeds

At the request of the Commission chairs, staff requested that the Office of the Attorney General provide guidance to the commission on the following question:

[1] Staff was unable to locate this information on the Department of Commerce website; however, the Minnesota Secretary of State's website provides a link to this information. *See* https://www.sos.mn.gov/notary-apostille/notary-help/notary-faq/.

Are there any constitutional concerns (dormant commerce clause, full faith and credit, other) with Maine legislation that would impose additional requirements on notaries (regardless of the state in which they practice) who notarize documents that will be recorded in a Maine Registry of Deeds?

8. Other states authorizing property owners to create a "title freeze"

Commission members inquired whether other states, perhaps Kansas and Missouri, have enacted laws authorizing property owners to obtain a title freeze that prevents the recording of unauthorized transactions involving their real property in the local registry of deeds. While staff research did not reveal any state that has enacted a property freeze law, pending legislation in Kansas and Missouri designed to prevent the recording of fraudulent instruments is described below.[2]

A. ***Kansas***: *pending legislation*

House Bill 2309, (attached) which was sponsored by the Kansas State Legislature's Committee on Legislative Modernization, has been referred to the House Committee on Judiciary. HB 2309 proposes that Kansas adopt a **biometric antifraud system for real property**. The bill:

- Defines "3D biometric information" as a digital record of an individual's facial features obtained via a "camera system utilizing 3D liveness detection and other technologies" (Sec. 1(a))
- Requires, beginning December 31, 2026:
  - That each applicant for certification as a notary public who seeks authority to notarize signatures for "real estate documents" (defined Sec. 1(b)) submit their own 3D biometric information using a system approved by the Secretary of State. (Sec. 2(a)(1) and (a)(4))
  - A notary public must utilize a biometric antifraud system approved by the Secretary of State when performing a notarial act on a real estate document. The system must:
    - Capture the notary's 3D biometric information, which must be authenticated by comparison with the 3D biometric information submitted at the time of certification;
    - Capture the signer's 3D biometric information and correlate this information with the real estate document and notarization event; and
    - Produce an indicia of authenticity (for example, a time stamp and a unique alphanumeric code) that is imprinted on the notarized document.
- Prohibits a county from accepting a real estate document for recording by a register of deeds without authentication through the biometric antifraud system described above.

HB 2309 also authorizes a register of deeds to **delay for up to 5 business days the recording** of an instrument conveying real estate "that, in the judgment of the register of deeds, may bear a fraudulent signature, notarization or otherwise raises suspicion of fraud."

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[2] At the request of a commission member, staff also investigated whether Wyoming has enacted or is considering enacting property title freeze legislation. Staff was unable to find such a proposal. However, in February 2025, Wyoming enacted a new law that, among other things, establishes a new deed-fraud-related crime. Beginning July 1, 2025, any person "who lists or advertises residential real property for sale knowing that the purported seller has no legal title or authority to sell the property, or who rents or leases the property to another person knowing that he has no lawful ownership or leasehold interest in the property" commits a felony punishable by up to 2 years' imprisonment and a fine of up to $5,000. *See* SF0006.

- After investigation, if the register is unable to verify the authenticity of the instrument, the register **may decline to record the instrument**. A register who declines to record an instrument must notify the person who signed the instrument and the notary (if these individuals can be ascertained) and the appropriate law enforcement agency.

B. *Missouri: pending legislation*

House Bill 323, *The Real Property Fraud Prevention Act,* has been referred to the Missouri House of Representative's Committee on Judiciary. HB 323 proposes to **delay recording of certain deeds pending notice to the property owner of record** through the following process:

- Recorders must delay for at least 5 working days the recording of a general warranty deed or quit claim deed affecting ownership of a parcel of real property.
  - The recorder must notify each property owner of record that a deed affecting their interest in the property has been submitted for recording. Notice must be sent both by telephone, text message, fax or email if this contact information is known and by first class mail to the address of record of each property owner.
  - If each property owner of record confirms in writing that the deed is legitimate, the recorder may immediately proceed with recording the deed.
  - If, within the 5-working-day period of delay, each property owner of record notifies the recorder that the deed is fraudulent, the recorder must delay recording for an additional 2 business days to permit a property owner to seek an order prohibiting the recording.
- **Exceptions**: This process does not apply if the general warranty deed or quitclaim deed was submitted for recording by: (a) a licensed real estate broker or (b) a licensed title company that has issued title insurance guaranteeing the validity of the deed to the prospective property owner.

HB 323 also proposes to **authorize recorders to reject "defective deeds" for recording**:

- The bill defines a "defective deed" as a general warranty deed or quitclaim deed that: (a) Fails to provide adequate grantee or grantor information or a proper description of the real property; (c) lacks the signature of a grantor; (d) lacks a proper notary acknowledgement or seal; or (e) is notarized by a notary whose commission expired prior to notarizing the deed.
- The bill authorizes (but does not require) a county to reject and return a general warranty deed or a quitclaim deed presented for recording that the recorder deems to be a defective deed.

C. *Platte County, MO & Leavenworth County, KS: biometric property freeze (not legislative)*

In testimony submitted in February 2025 in favor of the pending legislation in Kansas (HB 2309), the Register of Deeds for Leavenworth County, Kansas, noted that her county's registry of deeds was in the process of adopting a **self-imposed biometric lien [property freeze] process**:

> We will begin to offer in Leavenworth County the service that a land owner may voluntarily come in and file a lien with their biometric photo. Their parcel is then flagged on the Appraiser's webpage, the hunting ground of fraudsters, with a bold warning: "**This property is locked for conveyance.**

> **Contact the Register of Deeds**." The owners agree to return and be photographed in the future at the time they wish to sell their property. A matching photo will unfreeze their deed. Leavenworth County, along with Platte County, MO, are the first county governments in the nation to use this technology.

According to the description of this process that appears on the Leavenworth County website, property owners of record for a parcel of real property may elect to have their pictures taken at the registry of deeds with special "3D biometric liveness" cameras and software. These pictures will then be associated with a lien document recorded in the registry of deeds designed to provide notice to banks, title companies and others that homeowners do not want their property conveyed unless they personally release the lien. If a property has multiple owners, the process requires each owner both to have their picture taken and agree to placing the lien on the property. If the property owner(s) wish to release the lien and authorize a sale of the property, the owner(s) must return to the registry and have new picture(s) taken and compared to the picture(s) associated with the lien. Alternatively, the lien may be released with respect to a particular owner by filing that person's death certificate.

The Recorder's Office in Platte County, Missouri, advertises a similar process on its website. In mid-November 2024, the Platte County Commission entered a contract with a technology company to create a one-year pilot program to protect the public from deed fraud. Property owners who wish to utilize the pilot program are able to obtain a biometric image that will be associated with their property. The image must be matched with a new image before a future property transaction may be recorded. The company agreed to provide the necessary biometric imaging and matching services to the County for one year without charge, on the condition that the county provide consistent feedback to facilitate implementation and improvement of the program. The Platte County Commission will evaluate statistical data from the pilot program at the end of the first year (anticipated to occur later this month).[3]

It appears that in both counties the technology providers retain anonymized biometric information from each image while the counties retain the personally identifying information for each property owner.

9. Virginia Deed Fraud Study Report

In 2025, the Virginia Assembly enacted a law, 2025 Va. Acts ch. 271,[4] 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 directed the technical advisory group to submit a report of its findings and recommendations to specific committees of the Virginia Assembly by November 1, 2025. The final report contains 25 recommendations, some that were unanimous and others that were opposed by members of the technical advisory group. These recommendations addressed several broad topics:

- *Identity verification* (new real estate agent duties to verify property seller identities; settlement agent duties to identify seller in certain transactions; and enhanced notary identity verification);

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[3] See Commission Order 2024-CO-209, approving the contract establishing the pilot project.
[4] The Virginia law is available at: https://lis.blob.core.windows.net/files/1072698.PDF.

- *Fraud detection, alerts, and reporting* (require use of fraud identification services by real estate agents; required reporting of stolen notary credentials; trainings for clerks of court who accept documents for recording in Virginia; authorize or require clerks to reject documents if notary seal or commission number is invalid; establish free property owner alert system and a system to alert notaries when their credentials appear on a document submitted for recording);
- *Access and security of land records* (offer a property title "freeze" system; limit electronic filing of documents for recording to known filers; limit general public access to signatures, notary information or other sensitive information on recorded documents; and require taxing authority to note the date that any property owner change of address forms have been filed);
- *Training, education and professional standards* (offer consumer training; require initial and continuing professional training for real estate agents, notaries and settlement agents; require notaries to purchase security bonds; require notaries to keep a journal of all notarial acts; and expand civil liability for notary misconduct to their employers, including title companies);
- *Criminal enforcement* (make deed fraud — broadly defined to include fraudulent recording, forging of documents or signatures, notary fraud, owner or seller impersonation, deceptive conveyances and fraudulent lien filing — a separate felony-level offense with enhanced penalties for repeal offenders; and permit prosecution of deed fraud crimes either in the place where the property is located/documents are recorded or the place where the true owner resides);
- *Victim remedies* (create expedited court proceeding for title restoration with a streamlined process and standardized court forms or, alternatively, establish an administrative procedure to correct property records in cases of deed fraud; in civil actions based on deed fraud, establish a minimum statutory damages award and require award of reasonable attorney's fees, including expert witness fees related to proving fraud or forgery, to prevailing plaintiffs; and waive payment of recording fees and transfer taxes when a property owner records a corrective deed after an incident of deed fraud).

CHAPTER 20

IMPROVIDENT TRANSFERS OF TITLE

§1021. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1987, c. 699, §1 (NEW).]

1. Dependent. "Dependent," with respect to an elderly person, means wholly or partially dependent upon one or more other persons for care or support, either emotional or physical, because the elderly person:

A. Suffers from a significant limitation in mobility, vision, hearing, emotional or mental functioning or the ability to read or write; or [PL 1987, c. 699, §1 (NEW).]

B. Is suffering or recovering from a major illness or is facing or recovering from major surgery. [PL 1987, c. 699, §1 (NEW).]

[PL 1987, c. 699, §1 (NEW).]

2. Elderly person. "Elderly person" means a person who is 60 years of age or older.
[PL 1987, c. 699, §1 (NEW).]

3. Independent counsel. "Independent counsel" means an attorney retained by the elderly dependent person to represent only that person's interests in the transfer.
[PL 1987, c. 699, §1 (NEW).]

4. Less than full consideration. "Less than full consideration," with respect to a transfer of property, means the transferee pays less than fair market value for the property or the transfer is supported by past consideration.
[PL 1987, c. 699, §1 (NEW).]

5. Major transfer of personal property or money. "Major transfer of personal property or money" means a transfer of money or items of personal property which represent 10% or more of the elderly dependent person's estate.
[PL 1987, c. 699, §1 (NEW).]

6. Transfer. "Transfer" includes, but is not limited to, a transfer under the Uniform Real Property Transfer on Death Act, but does not include testamentary transfers, which are outside the scope of this chapter. For purposes of this chapter, a transfer under the Uniform Real Property Transfer on Death Act occurs when the deed is executed or recorded.
[PL 2017, c. 402, Pt. E, §1 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW). PL 1989, c. 238, §§1,4 (AMD). PL 2017, c. 402, Pt. E, §1 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF).

§1022. Undue influence

1. Presumption. In any transfer of real estate or major transfer of personal property or money for less than full consideration or execution of a guaranty by an elderly person who is dependent on others to a person with whom the elderly dependent person has a confidential or fiduciary relationship, it is presumed that the transfer or execution was the result of undue influence, unless the elderly dependent person was represented in the transfer or execution by independent counsel. When the elderly dependent person successfully raises the presumption of undue influence by a preponderance of the evidence and when the transferee or person who benefits from the execution of a guaranty fails to rebut

the presumption, the elderly dependent person is entitled to avoid the transfer or execution and entitled to the relief set forth in section 1024.
[PL 2003, c. 236, §1 (AMD).]

2. Confidential or fiduciary relationship. For the purpose of this section, the transfer of property or execution of a guaranty is deemed to have been made in the context of a confidential or fiduciary relationship if the transferee or person who benefits from the execution of a guaranty had a close relationship with the elderly dependent person prior to the transfer or execution. Confidential or fiduciary relationships include the following:

A. A family relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, including relationships by marriage and adoption; [PL 2003, c. 236, §1 (AMD).]

B. A fiduciary relationship between the elderly dependent person and the transferee or person who benefits from the execution of a guaranty, such as with a guardian, conservator, trustee, accountant, broker or financial advisor; [PL 2003, c. 236, §1 (AMD).]

C. A relationship between an elderly dependent person and a physician, nurse or other medical or health care provider; [PL 1987, c. 699, §1 (NEW).]

D. A relationship between the elderly dependent person and a psychologist, social worker or counselor; [PL 1987, c. 699, §1 (NEW).]

E. A relationship between the elderly dependent person and an attorney; [PL 1987, c. 699, §1 (NEW).]

F. A relationship between the elderly dependent person and a priest, minister, rabbi or spiritual advisor; [PL 1987, c. 699, §1 (NEW).]

G. A relationship between the elderly dependent person and a person who provides care or services to that person whether or not care or services are paid for by the elderly person; [PL 1987, c. 699, §1 (NEW).]

H. A relationship between an elderly dependent person and a friend or neighbor; or [PL 1987, c. 699, §1 (NEW).]

I. A relationship between an elderly dependent person and a person sharing the same living quarters. [PL 1987, c. 699, §1 (NEW).]

When any of these relationships exist and when a transfer or execution is made to a corporation or organization primarily on account of the membership, ownership or employment interest or for the benefit of the fiduciary or confidante, a fiduciary or confidential relationship with the corporation or organization is deemed to exist.
[PL 2003, c. 236, §1 (AMD).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW). PL 2003, c. 236, §1 (AMD).

§1023. Civil action; relief available

1. Civil action. A civil action may be brought to obtain relief under this chapter by an elderly dependent person, that person's legal representative or the personal representative of the estate of an elderly dependent person.
[PL 2003, c. 236, §2 (AMD).]

2. Relief available; protected transfers and executions. When a court finds that a transfer of property or execution of a guaranty was the result of undue influence, it shall grant appropriate relief enabling the elderly dependent person to avoid the transfer or execution, including the rescission or reformation of a deed or other instrument, the imposition of a constructive trust on property or an order enjoining use of or entry on property or commanding the return of property. The court shall award reasonable attorney's fees and costs to be paid by the person who exercised undue influence over the elderly dependent person or by any transferee who paid less than full consideration, as found by the court. When the court finds that undue influence is a good and valid defense to a transferee's suit on a contract to transfer the property or a suit of a person who benefits from the execution of a guaranty on that guaranty, the court shall refuse to enforce the transfer or guaranty.

Relief obtained or granted under this section may not in any way affect or limit the right, title and interest of good faith purchasers, mortgagees, holders of security interests or other 3rd parties who obtain an interest in the transferred property for value after its transfer from the elderly dependent person. Relief obtained or granted under this section may not affect any mortgage deed to the extent of value given by the mortgagee.
[PL 2025, c. 279, §1 (AMD).]

3. Statute of limitations. The limitations imposed by Title 14, section 752, apply to all actions brought under this chapter.
[PL 1987, c. 699, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW). PL 1989, c. 238, §§2,4 (AMD). PL 2003, c. 236, §2 (AMD). PL 2025, c. 279, §1 (AMD).

§1024. Other common law and statutory causes of action and relief still available

Nothing in this chapter may be construed to abrogate any other causes of action or relief at law or equity to which elderly dependent persons are entitled under other laws or at common law. [PL 1987, c. 699, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 699, §1 (NEW).

§1025. Title practices

This chapter does not require that language showing compliance with this chapter be included in a deed and does not require that evidence of compliance with this chapter be recorded in the registry of deeds. Any attempt to record such evidence is void and has no effect on title. [PL 1989, c. 238, §3 (NEW).]

SECTION HISTORY

PL 1989, c. 238, §§3,4 (NEW).

Request #2

APPROVED	CHAPTER
JUNE 9, 2025	215
BY GOVERNOR	PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-FIVE

S.P. 586 - L.D. 1445

An Act to Prevent Financial Exploitation of Vulnerable Adults

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 9-B MRSA §162, sub-§5, as amended by PL 2009, c. 213, Pt. AAAA, §3, is further amended to read:

5. Disclosure to the Department of Health and Human Services upon suspicion of financial exploitation. The financial records are disclosed to the Department of Health and Human Services pursuant to Title 22, section 3479 because a financial institution authorized to do business in this State or its affiliate or a credit union authorized to do business in this State or its affiliate has reasonable cause to suspect that an incapacitated or dependent adult has been or is at substantial risk of abuse, neglect or exploitation; ~~or~~

Sec. 2. 9-B MRSA §162, sub-§5-A is enacted to read:

5-A. Disclosure upon suspicion of financial exploitation. The financial records are disclosed to the Office of the Attorney General or a law enforcement agency pursuant to section 245 because a financial institution authorized to do business in this State or its affiliate or a credit union authorized to do business in this State or its affiliate has reasonable cause to believe that a disbursement requested by an individual 62 years of age or older may result in financial exploitation of that person;

Sec. 3. 9-B MRSA §162, sub-§6, as enacted by PL 2009, c. 213, Pt. AAAA, §4, is amended to read:

6. Disclosure in response to a request by the Department of Administrative and Financial Services, Bureau of Revenue Services. The financial records are disclosed in response to a request for information by the Department of Administrative and Financial Services, Bureau of Revenue Services for purposes related to establishing, modifying or enforcing tax debts~~.~~; or

Sec. 4. 9-B MRSA §245 is enacted to read:

§245. Protection of eligible adults from financial exploitation

1. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Eligible adult" means:

(1) An individual 65 years of age or older; or

(2) An individual protected under the Adult Protective Services Act.

B. "Financial exploitation" means:

(1) The wrongful or unauthorized taking, withholding, appropriation or use of money, assets or property of an eligible adult;

(2) Any act or omission by a person to obtain control, through deception, intimidation or undue influence, over the eligible adult's money, assets or property to deprive the eligible adult of the ownership, use, benefit or possession of the eligible adult's money, assets or property; or

(3) Any act or omission by a person to obtain or exercise unauthorized control over the eligible adult's property with the intent to deprive the eligible adult of the property.

C. "Trusted contact person" means an individual whom an account holder identifies and authorizes a financial institution or credit union to contact and disclose information to about the account holder's account to address possible financial exploitation or to confirm the specifics of the account holder's current contact information or health status or the identity of any conservator, executor, trustee or holder of a power of attorney.

2. Designation of trusted contact person. A financial institution authorized to do business in this State or a credit union authorized to do business in this State may develop a written policy permitting a customer of the financial institution or member or the credit union to designate, upon each account wholly or partly owned by the customer or member:

A. At least one trusted contact person other than a co-owner, beneficiary or fiduciary on the account; and

B. Its procedure for communicating with the trusted contact person if the financial institution or credit union reasonably believes that financial exploitation of an eligible adult may have occurred, may have been attempted or is being attempted.

The financial institution or credit union shall provide a copy of any written policy developed in accordance with this subsection to the customer or member.

3. Delay of account transactions. A financial institution authorized to do business in this State or a credit union authorized to do business in this State may delay a disbursement from an account of an eligible adult if the financial institution or credit union reasonably believes that the requested disbursement may result in financial exploitation of an eligible adult and the financial institution or credit union:

A. Not more than 2 business days after the requested disbursement, provides notification of the delay, the reason for the delay and the name of the primary employee of the financial institution or credit union that should be contacted regarding the delay to the customer or member and all parties authorized to transact business on the account, unless any such party is reasonably believed to have engaged in suspected or attempted financial exploitation;

B. Provides notification of the delay to the Office of the Attorney General not more than 2 business days after the requested disbursement; and

C. Continues its internal review of the suspected or attempted financial exploitation of the eligible adult, as necessary, and reports the results of the review to the Office of the Attorney General within 7 business days after the day the financial institution or credit union first delayed disbursement of the funds.

In any communication regarding a delay under this subsection, the financial institution or credit union shall use any method of communication that may be consistent with other time-sensitive communications and that is reasonably calculated to ensure that the recipient is effectively alerted to the nature of the information.

A delay of a disbursement in accordance with this subsection may not continue past the time required by the financial institution or credit union to determine that the disbursement will not result in financial exploitation or 15 business days after the date on which the financial institution or credit union first delayed disbursement of the funds, whichever occurs earlier. A court of competent jurisdiction may enter an order extending the delay of the disbursement of funds or may order other protective relief upon the petition of the financial institution or credit union or another interested party.

4. Immunity. A financial institution authorized to do business in this State or a credit union authorized to do business in this State that, in good faith, takes any action pursuant to this section is immune from administrative or civil liability that might otherwise arise from such an action or for any failure to take such an action.

5. Report to law enforcement. In addition to notifying the Office of the Attorney General, a financial institution authorized to do business in this State or a credit union authorized to do business in this State may make a referral to law enforcement agencies upon imposition of a delay pursuant to subsection 3. A financial institution or credit union may provide access to or copies of records that are relevant to the suspected or attempted financial exploitation of an eligible adult to a law enforcement agency, either as part of a referral to law enforcement or upon request of a law enforcement agency pursuant to an investigation. The records may include historical records as well as records relating to the most recent transaction that may constitute financial exploitation of an eligible adult. Any records made available to a law enforcement agency under this section are confidential.

REQUEST #3

FEDERAL TRADE COMMISSION
CONSUMER ADVICE

Consumer Alert

Home title lock insurance? Not a lock at all

By: Larissa Bungo, Senior Attorney | August 26, 2024

If you've seen ads for home title lock insurance, they might have you worried. After all, the ads say thieves can steal the title to your home. But then the ads tell you to buy title lock insurance to supposedly prevent home title theft. Stop. Take a breath. It's just a ploy to scare you.

First, know that "title lock insurance" is not title insurance. If you're a homeowner, you might remember buying title insurance when you first bought your house. It protects you against challenges to the title, like a lien you didn't know about. But "title lock insurance" is different — and it's not insurance at all. Instead, it's a service that claims to monitor your deed to protect you against title fraud. You'd only find out AFTER your title got transferred to someone else without your authorization. So much for the lock.

Title fraud is identity theft: someone pretends to be you and transfers your deed to someone else. Title lock insurance (again: not a lock, not insurance) wouldn't stop that. And you can check your title for free with your state's land records office, and some areas even have a free notification program that allows you to sign up for alerts about any legal changes, like ownership of a property.

Here are some other steps you can take to protect yourself from identity thieves:

- **Check your credit report**. Check your credit report for free through AnnualCreditReport.com. Each of the nationwide credit bureaus lets you get free weekly credit reports online.
- **Monitor your bills**. If you suddenly stop receiving utility bills, that may be a sign of identity theft. If you're worried, contact your utility company directly.
- **Get help.** If you suspect identity theft, go to IdentityTheft.gov for a free, personalized recovery plan.

And if you spot a scam, tell the FTC.

Source: https://www.leavenworthcounty.gov/government/register_of_deeds_office/biometric_lien.php

Request #4

Leavenworth County Kansas

Biometric Lien (Self-Imposed)

1. Make an appointment by calling our office at 913-684-0424. Plan on 45 minutes to complete your recording.

2. Bring a credit card for the creation of the form to be filed. Then, preferred payment for the recording of your Self-Imposed Biometric Lien is cash or check to save you wait time and extra credit card fees. The cost of the recording is dependent on the length of your legal description. (Most city parcels are filed for a total of $78.00 each.)

3. All owners come to the appointment for your filing. Each person needs to present a valid state issued driver's license or passport for Identification.

4. You will leave your appointment with a recording stamped document for your records. An electronic copy will be emailed.

Details on the process:
A Self-Imposed Biometric Lien is a document created by Polsinelli Law firm. The grantee is "Public" on a document recorded as a lien thus showing up in a title search or when a bank is researching a potential mortgage. It is a method to notify banks, title companies, and fraudsters, that homeowners do not want their property conveyed or sold until they release the lien themselves.

The homeowner is in control. *This is not mandatory.* It is a voluntary recording completed at the request of the homeowners and paid by the homeowners. If there are three people that own the property, three biometric pictures are attached to one Self-Imposed Biometric Lien per parcel. When they chose to sell their home, the same three people come in to be photographed, which matches the original photos, to release the Self-Imposed Biometric Lien prior to filing the deed to convey their property or acquiring a mortgage. The filing of a death certificate releases their biometric lien by the deceased, and the other owners remain on the existing lien.

In two months of recording these bio liens, we pre-warned three customers recordings were coming that would affect their property. Appointments are required as we do prep work to be certain we freeze the correct deed. As an additional benefit, we have twice discovered errors in our land records so egregious that it caused one customer to need a survey.

My constituency is raving over how much they love the process. They often comment, "Now I feel safe." We register one property and the owners tell ten more people.

If a fraudster comes in to convey a property by identity theft, we say, "Smile for the camera!" Criminals operate in anonymity and will run from a camera. If we do get a biometric picture, it will hold up in court as firm identification of the perpetrator.

This is a special 3D biometric liveness camera that cannot be deep faked by AI or a flat picture. The depth of the eye sockets, the width of the nose, the length of the chin and so on are all unique to you.

The camera and the computer with an application to request a bio lien be created or a picture be taken sits on the counter of my office, outside the firewall of Leavenworth County. The customer types in their information, adds the legal description and pays $20 by credit card through the application for the printed form that my office records for the state mandated recording fee (usually $55-$58 for three pages.)

The biometric photo is transferred to the vendor over the internet, sans any Personal Identifiable Information (PII). There is no metadata header information, so the vendor doesn't know who they have and cannot search for a specific person.

Conversely, the county government never sees nor stores any biometrics, but we hold all the PII. There are two halves to every transaction connected only by an alphanumeric link. If the vendor were to be hacked, only penetrating multiply firewall layers, and breaking the encryption of each individual face map would only yield useless bits and bytes. The hacker wouldn't know who they have, where they are located, what the transaction was, or have any contact information.

This process does not interfere with Power of Attorney nor Transfer on Death Deeds. Judicial action takes precedent over the biometric lien.

SIGN-UP FOR ALERTS

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Sign up for an account to engage the County View All

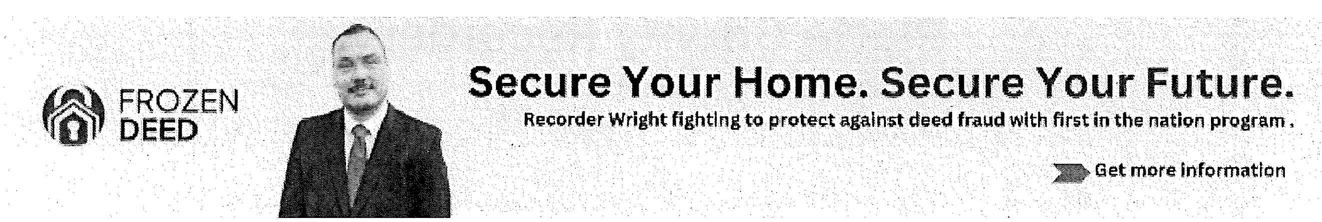
Platte County, Missouri

Elected Officials Departments Agendas & Minutes Platte County Services Get Involved Contact Us My Profile Sign Up Login

Platte County Recorder's Office

WE HAVE MOVED!

Please pardon our clutter as we begin the transition to our new office which will be located on the LOWER LEVEL of the Platte County Administration Building.



Elected officeholder: Christopher L. Wright

Chief of Staff / Office Manager: Kim Wyatt

Assistant Chief Deputy: Jamie Vossler

Deputy recorders:

Kyle Cummings

Travis Youmans

General counsel:

William Quitmeier, esq

Platte County Administration Building

415 Third St., Room 035

Platte City, MO 64079

Phone: (816) 858-3326

The Recorder's Office will be closed for the following holidays:

November 11 - Veterans' Day

November 27 - Thanksgiving Day

November 28 - Day After Thanksgiving

Click Here For A Complete List Of 2025 Recorder's Office Closings

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Mission Statement:

To maintain a perpetual, comprehensive set of public records consisting of real estate deeds, federal and state tax liens, marriage licenses, and all other documents appropriately presented for recording, in an accurate, timely, professional and courteous manner and to ensure a high quality service. Track the flow of revenue through the office in a clear and thorough manner.

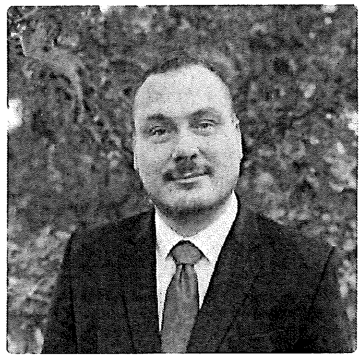
In accomplishing this, the Recorder's Office will:

- Foster cooperation between county offices.
- Provide EXCELLENT customer service.
- Engage in regular review processes geared to improve services.

Vision Statement:

To simplify the business of life for our community through innovative solutions, trusted expertise and a fully engaged workforce.

Platte County Recorder



Christopher L. Wright
Recorder of Deeds
(816) 858-1832

Responsibilities:

- Record and maintain Real Estate transactions.
- Issue and maintain Marriage License information.
- File and maintain State and Federal Tax Liens.
- File and maintain Military Discharge documents.

Effective July 1, 2001, all Uniform Commercial Code filings are done through
the Secretary of State: http://www.sos.mo.gov/ucc

General Office Information:

- With the exception of the DD214 disclaimer form, you do not need an open records request to request documents from the Recorder's Office. Please call or email us and we'll be happy to assist.
- The Recorder's Office is open between the hours of 8:00 am & 5:00 pm to search records or make copies as needed. (We are open during the lunch hour)
- Documents are recorded between the hours of 9:00 am & 4:00 pm.
- You may apply for a marriage license between the hours of 8:00 am & 4:00 pm. The fee is $51 for the license or $61 for the license plus a certified copy. Cash (must be exact change) or Card (convenience fee applies to card use). Payment is required at time of application. Please bring exact change as our office does not keep change.
- Note: The Recorder's data is not considered official data and is not intended as a substitute for advice from a licensed/legal professional.

Follow Us On Facebook!

For more information and updates, please follow our office on Facebook.

Services

iRecord Search Login

Document Formatting Standards

Platte County Recorder Fee Schedule

FAQs

Share

Contact Us

County Courthouse and Administrative Building 415 Third Street
Platte City, MO 64079

Hours of operation

Mon-Fri 8:00 am - 5:00 pm

County Phone Number

Main line: 816-858-2232

County Facebook

Platte County
Parks and Recreation
Sheriff's Office
Convention & Visitor's Bureau
Assessor's Office

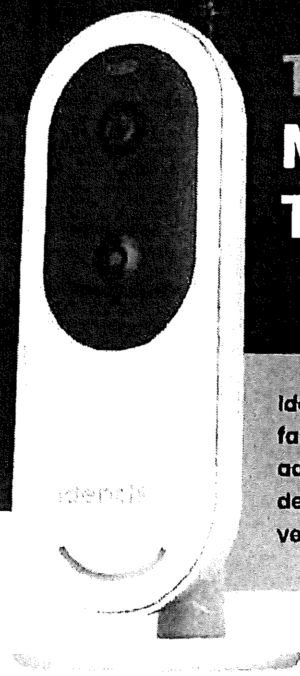
County Twitter

Platte County
Sheriff's Office

County Youtube

Platte County

identifiD

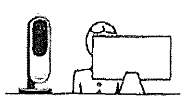


The Future of Secure Mortgage & Title Transactions

Identifid provides a revolutionary solution to the problems faced by the mortgage and title industry. By leveraging advanced biometric technology and secure, encrypted IoT devices, Identifid transforms the way transactions are verified and secured.

Innovative Biometric Technology for Unmatched Security

- **Advanced Biometric Authentication**
  Our 3D biometric cameras capture and encrypt thousands of geometric data points to create a unique biometric signature for each consumer in seconds. This ensures that only authorized individuals can access and complete transactions.
- **Secure And Encrypted IoT Devices**
  All images are taken by our secure, encrypted IoT devices controlled by the identifid network. Ensuring trust not just in accuracy but that the individual was standing in front of a specific device at the time of transaction.
- **Data Privacy And Security**
  Identifid does not store transactional data on its platform, and our clients do not store biometric data or fraudulent reports on their databases. This approach ensures maximum data privacy and security.
- **Seamless Integration And Efficiency**
  Identifid services integrates easily with existing systems running at both government offices & private companies, allowing transactions to be secured at any step in the process.
- **Collaborative Deterrent**
  Fraudulent transactions are reported, adding the individual into a shared watch list. This flags the individual anywhere on the network, regardless of the ID use.
- **Environment Friendly**
  Devices can be located in any county office, bank, or title agency, allowing each to work together in protecting consumers



Instant Setup

Plug it in and go - put it on a teller window, loan officer's desk, anywhere, and can be doing transactions in minutes.

Enhanced Security

No PII is needed or captured, just the high-resolution images linked to an anonymous SignatureID - and this encrypted data would be largely worthless to hackers.

FROM Platte County website

identifiD

Advancing Fraud Prevention In Mortgage & Title Transactions

The mortgage and title industry faces significant challenges related to fraud and data security. Traditional methods of verifying identities and securing transactions are increasingly vulnerable to sophisticated fraud techniques. These issues can lead to financial losses, legal complications, and damage to consumer trust.

Secure, Accurate, and Efficient Fraud Prevention

Identification Of The Individual, Not An ID

IdentifID focuses on the individual not the PII by adding a high resolution, biometric image to any transaction. Fraudsters will walk away rather than lose the anonymity required for these crimes.

Option To Lock The Property Down

Extend the protection by offering a property owner to proactively enroll, effectively locking out fraud by requiring a bio-metric signature to release or process any transaction.

Link The Individual To The Transaction Not The ID They Are Using

Eliminating Anonymity - Securely

In the realm of mortgage and title transactions, fraudsters can easily exploit the system by using fake IDs, leaving behind minimal traces and escaping accountability. Currently, these bad actors can walk away from transactions with little risk of being caught, as the fake ID provides them the anonymity they need. Fake IDs are unlimited, but captured biometrics are not.

Identifid's biometric authentication technology will tie an individual to their transaction through advanced face recognition and encrypted biometric data, eliminating the anonymity that fraudsters rely on. This ensures that every mortgage and title transaction is securely linked to the real identity of the person involved, making it virtually impossible for bad actors to use fake IDs and escape undetected.

Deed Fraud Study Final Report

Prepared in Response to Virginia Senate Bill 1270 and House Bill 2396

2025 Regular Session of the Virginia General Assembly

Prepared by

Virginia Center for Housing Research, Virginia Tech

Mel Jones, Co-Director

Ainsley Raymond, Research Assistant

and

Center for Regional Analysis, George Mason University

Terry Clower, Director

and

HousingForward Virginia

Jonathan Knopf, Executive Director for Programs

Maria Dougherty, Senior Associate

Prepared for

Virginia Housing Deed Fraud Technical Advisory Group

Submitted November 1, 2025, to

Chairmen of the House Committee on General Laws

Senate Committee on General Laws and Technology

Executive Summary

Deed fraud increasingly affects landowners and buyers across the commonwealth and primarily targets unencumbered, vacant properties. Fraudsters use information available on the internet and digital tools to forge signatures and impersonate property owners, often advertising rushed, cash-only sales. Fraudulent sellers may bypass typical third parties in the transaction process, such as real estate agents and mortgage lenders, leaving victimized buyers especially at risk without this professional oversight. At the root, deed fraud occurs when a fraudulent seller's identity is not accurately verified during the real estate transaction process.

Deed fraud, also referred to as title fraud, title theft, and seller impersonation fraud, occurs when a property title is fraudulently transferred by a bad actor impersonating the rightful property owner or otherwise fraudulently listing the property for sale. Deed fraud occurs all over the United States and is particularly prevalent in the Northeast, according to reported cases.[1] In 2023, 28% of title insurers saw at least one seller impersonation fraud attempt, and in April 2024 alone, 19% of insurers saw at least one attempt.[2] In 2023, 21% of the money spent by title insurers went toward fraud and forgery claims.[3] Deed fraud most commonly involves vacant land and homes that are not regularly occupied (i.e., second homes or vacation homes), and targeted properties tend to have clear titles.[4][5][6] Fraudsters may use publicly available records to identify vacant, unencumbered properties and information about true property owners. They may use unknowing real estate agents and title agents during the transaction process and may successfully bypass notarial identity verification. In instances of deed fraud, common indicators of fraudulent seller behavior include the request for a cash sale, the property being listed below market value, the request for signing and notarization to be conducted remotely, and urgent communication conducted via email or text only.

The technical advisory group convened by Virginia Housing in response to Senate Bill 1270 (and its companion House Bill 2396) included 25 members representing all aspects of the real estate transaction process, including real estate agents, mortgage lenders, mortgage insurers, land title and settlement agents, notaries, lawyers, and clerks of court. Members provided their own encounters with deed fraud, insight into vulnerabilities within the transaction process, and recommendations for how to best address these vulnerabilities based on their professional experience. For each recommendation compiled in this report, members of the technical advisory group were given the opportunity to comment, express their endorsement or dissent, and raise specific concerns and suggestions.

The research team and technical advisory group identified key vulnerabilities that introduce opportunities for deed fraud throughout the real estate transaction process. Often, multiple unknowing

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[1] National Association of REALTORS® (2025). Deed and Title Fraud Survey.
[2] American Land Title Association (2024b). New Study Shows Increase in Seller Impersonation Fraud.
[3] American Land Title Association (2024a). Analysis of Claims and Claims Related Losses in the Land Title Insurance Industry.
[4] National Association of REALTORS® (2025). Deed and Title Fraud Survey.
[5] American Land Title Association (2023). Wire Fraud Advisory: Vacant Property Fraud.
[6] New York State Attorney General (2022). Attorney General James Announces Arrests in New York City Deed Theft Ring.

parties are used by fraudsters throughout the transaction process to carry out these fraudulent sales. Key vulnerabilities that were identified include

- Publicly available land records allow fraudsters to identify vulnerable properties and collect information used to impersonate property owners.
- Many real estate agents are unprepared to identify and prevent deed fraud when approached by a fraudulent seller.
- No training or testing is required to be commissioned as a notary public or electronic notary public in Virginia, meaning that many notaries lack training in identifying potentially fraudulent signers.
- With advancements in deepfake technology and AI-generated material, it is easy for fraudsters to forge identification documents or create deepfake video impersonations allowing them to pass identity verification processes conducted by notaries and electronic notaries.
- Closing agents are often the last line of defense against a fraudulent sale, and many title insurers have incorporated advanced fraud detection techniques. However, more training and resources are needed to reduce risk and protect property owners.
- In Virginia, clerks of court are required to record all documents submitted for filing that appear to contain the necessary information, signatures, and proof of notarization, regardless of whether a document appears to be fraudulent or forged.

In collaboration with the technical advisory group, the research team compiled a list of 25 recommendations (and 14 sub-recommendations) for the prevention of deed fraud and for the protection of property owners. The recommendations address a wide range of issues related to deed fraud, covering identity verification, fraud detection, alert systems, security of land records, training and education, criminal enforcement, and victim remedies. Each recommendation includes a detailed description with relevant model legislation from other states, work from key advocacy bodies, and areas for further research. Input directly from the technical advisory group is included with each recommendation, and background information is provided to contextualize the issues each recommendation addresses and to describe any relevant current policies or solutions within Virginia.

Contents

This report includes details on the technical advisory group's process, findings, and recommendations. The group's membership and meetings are described in the Process section. Details regarding findings, deliberations, and recommendations are included in the Recommendations section. There are six appendices, which include further details on recommendations, background research, and technical advisory group meetings.

Process

In response to Senate Bill 1270 (and its companion, House Bill 2396), Virginia Housing convened a technical advisory group to

- evaluate the prevalence of deed fraud
- develop recommendations for preventing deed fraud
- develop measures to enhance protections for property owners from such crimes

The group comprised 25 members representing

- the Virginia Bankers Association
- the Virginia Court Clerks Association
- the Community Associations Institute
- the Virginia Association for Commercial Real Estate
- the Home Builders Association of Virginia
- the Virginia Municipal League
- the Virginia Association of Notaries
- the Virginia Land Title Association
- the Virginia Mortgage Bankers Association
- Virginia REALTORS®
- the Virginia Bar Association Real Estate Section Council

George Mason Center for Regional Analysis, the Virginia Center for Housing Research at Virginia Tech, and HousingForward Virginia supported the technical advisory group by

- facilitating meetings
- reviewing relevant academic and trade literature
- reviewing other state policy and model legislations
- conducting interviews with subject matter experts
- reviewing existing local policy and programs to prevent or address deed fraud
- facilitating recommendation development
- drafting recommendations and the final report

The technical advisory group (TAG) met three times. In the initial meeting, the research team introduced the group's charge and led a discussion of the members' experiences with deed fraud. The research team also solicited members' insights into key vulnerabilities in the real estate transaction process and requests for more information. Subsequent meetings were used for the research team to deliver findings and for the TAG to deliberate about possible prevention and remedy strategies. Meeting agendas are included in Appendix F. The final meeting was used to consider recommendations and their priority.

The research team conducted seven interviews. Interviewees included law enforcement, expert participants in the real estate transaction process (e.g., real estate agents, notaries, attorneys, and other closing agents), representatives from data aggregators and technology firms that focus on identifying and preventing deed fraud, elected officials, and other professionals. The findings of these interviews were conveyed to the TAG to inform their deliberations on the recommendations reported below.

The research team identified recommendations for actions and policies based on TAG recommendations, existing policy from other states, proposed or planned programs in Virginia, model legislation, and suggestions from industry associations.

Recommendations

The recommendations are divided into six categories:

- Identity verification
- Fraud detection, alerts, and reporting
- Access and security of land records
- Training, education, and professional standards
- Criminal enforcement
- Victim remedies

Each recommendation includes important details, model legislation, documentation of TAG input, and relevant background information and research.

Identity verification

1. Require real estate agents to verify a seller's identity

Recommendation Details

In most real estate transactions, the first identity verification happens at closing. Requiring real estate agents to verify a seller's identity earlier in the transaction process could prevent bad actors from successfully carrying out fraudulent real estate transactions. This requirement could mirror the standard identity verification processes that notaries follow for signers, customer identification protocols required by banks and non-bank mortgage lenders, or some other standardized identity verification procedure.

There are multiple points in the listing process at which identity verification could be required. Recommendations 1.1 and 1.2 are redundant with Recommendation 1 in that they specify two potential points for identity verification. Recommendation 1.1 specifies that a real estate agent should verify a seller's identity before listing a property for sale, which would take place after a brokerage agreement is signed. Recommendation 1.2 specifies that a real estate agent should verify a seller's identity before a brokerage agreement is signed. Requiring that a seller's identity be verified prior to signing a brokerage agreement could uncover a fraudulent seller earlier in the real estate transaction process. However, requiring that a seller's identity be verified only prior to listing could allow for more time and flexibility for the real estate agent to carry out the verification while still creating a checkpoint to discover a fraudulent seller early in the transaction process.

Any policy requiring real estate agents to verify a seller's identity must include the specific identity verification methods deemed acceptable and the steps and/or deliverables they involve (similar to policies defining acceptable identity verification methods for notaries). Specific requirements detailing how a real estate agent must carry out identity verification may standardize the process, make identity verification by real estate agents more accurate and reliable, and protect real estate agents from being liable in the event of an inaccurate identity verification where the proper steps were diligently carried out by the real estate agent, but a fraudster was able to bypass them.

With the rise of highly sophisticated forged documents and deepfake videos created with AI, identity verification has become increasingly complex. This recommendation would need to be paired with thorough identity verification training requirements for licensed real estate agents, including training for verifying the identities of remote or online clients.

Additional Research

Additional research should be conducted to determine the extent to which real estate agents reasonably should be held liable in the event of an inaccurate and/or negligent identity verification.

Model Legislation

In Virginia, notaries and electronic notaries, including those who perform remote online notarization (RON), are required to verify the identities of their clients in accordance with the methods and restrictions dictated by the Office of the Secretary of the Commonwealth of Virginia.

In the U.S., under the Bank Secrecy Act and the USA PATRIOT Act, banks and non-bank mortgage lenders are required to establish and maintain customer identification programs (CIP). These federal regulations obligate lenders to verify borrowers' identities through the collection and verification of identifying information (e.g., name, date of birth, address, taxpayer identification number) before opening an account (i.e., taking out a mortgage). Lenders are required to retain verification records and report suspicious activity. CIP compliance is monitored by the Financial Crimes Enforcement Network (FinCEN) and federal banking regulators (FDIC, Federal Reserve).

In Canada, the United Kingdom, and additional countries, real estate agents are legally required to verify the identities of their clients (under certain circumstances, including large cash, virtual, or suspicious transactions) as an effort to prevent fraud.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation. Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, land title and settlement agents, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

Some members express concern that real estate agents may not currently have access to the tools they need to comply with this proposed requirement. Members also express concern about the security and accuracy of the third-party identity verification tools that are currently on the market. Some members point to CIP for lenders as an example for such a requirement.

The only dissent comes from the perspective of real estate agents. These TAG members strongly emphasize that real estate agents currently lack the training and tools required to carry out identity verifications. Members express concern regarding the extent to which real estate agents may be held liable in the event of a diligently carried out yet inaccurate identity verification. Additionally, agents emphasize that while real estate licensees could be required to verify the identities of sellers, they could not be required to verify that an individual is indeed legally authorized to sell a property. Licensees are expected to carry out due diligence in confirming the seller's ownership or signing authority (e.g., confirming that the seller's name matches the owner's name on public property records, requesting documentation showing the signer's authority if a property is owned by an entity or held in a trust, or requesting power of attorney documentation), but they are not authorized to confirm with certainty that a seller has authority to sell a property, as that could be considered unauthorized practice of law.

Background

Seller Consent and Brokerage Agreements

Virginia law requires that a real estate licensee must obtain the property owner's consent through a written brokerage agreement before listing or marketing a property for sale. Under § 54.1-2131(A)(1)-(2)a of the Code of Virginia, a licensee "engaged by a seller" must perform in accordance with the terms of a brokerage agreement and may only conduct listing and marketing activities designated in that agreement. Without a brokerage agreement, a licensee is not "engaged by a seller," and has no authority to advertise, list, or act on behalf of an owner. Virginia Code § 54.1-2137 requires that all brokerage agreements be in writing.

Real Estate Agent Vulnerabilities

A 2025 National Association of REALTORS survey found that 63% of association executives, attorneys, and government affairs directors were aware of deed fraud occurring in their markets in the past year. Over half of real estate professionals surveyed by CertifID in 2023 reported experiencing at least one attempt at seller impersonation within the previous six months. Real estate agents represent one of many vulnerable points in the real estate transaction process.

1.1. Require real estate agents to verify a seller's identity prior to listing

Recommendation Details

See Recommendation 1.

This recommendation specifies the point at which real estate agents would be required to verify the identity of a seller. Requiring the identity verification to occur before the real estate agent lists the property (i.e., enters it into a multiple listing service (MLS) or advertises it to potential buyers) could prevent bad actors from ever fraudulently getting a property listed for sale.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, land title and settlement agents, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

Members express strong support for requiring real estate agents to confirm the identities of sellers prior to listing, stating that adding verification at this stage would help eliminate fraud.

The only dissent comes from the perspective of real estate agents. See concerns expressed in Recommendation 1.

Background

See Recommendation 1.

1.2. Require real estate agents to verify a seller's identity prior to real estate agent contract

Recommendation Details

See Recommendation 1.

This recommendation specifies the point at which real estate agents would be required to verify the identity of a seller. Requiring identity verification to occur before the real estate agent signs a contract with the seller could prevent agents from listing or otherwise acting on behalf of a fraudulent seller.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. From the perspective of some land title and settlement agents, the recommendation is endorsed but considered a low priority.

The only dissent comes from the perspective of real estate agents. See concerns expressed in Recommendation 1.

Background

See Recommendation 1.

2. Require real estate agents to check tax records and send written communication to the owner's recorded address

Recommendation Details

In instances of deed fraud, real estate agents may unknowingly be used by fraudsters to carry out fraudulent transactions. A fraudster may impersonate the rightful owner of a property but provide contact information, such as a mailing address, that does not match the one provided by the true owner in the property tax records. Requiring real estate agents to cross-reference tax records and send written communication verifying intent to sell to the true owner's recorded address could help detect and prevent deed fraud early in the transaction process.

This recommendation would need to be paired with training, resources, and protocols that equip real estate agents with the tools and information they need in order for this additional identity verification step to be feasible.

Additional Research

Currently, no states require real estate agents to send written communication to the owner's recorded address confirming intent to sell. Additional research is needed to evaluate the feasibility and effectiveness of this method for preventing deed fraud.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including notaries, clerks of court, land title and settlement agents, and home builders) consider the recommendation a high priority. Some members (representing title insurers and mortgage lenders) endorse the recommendation but consider it a low priority.

Some members express concern over the feasibility of this requirement for real estate agents. Members emphasize that this requirement would need to be paired with training, resources, and protocols that could help equip real estate agents with the tools they need to take these identity verification actions.

The only dissent comes from the perspective of real estate agents. These TAG members express concern that requiring agents to check tax records and send written communication to the owner's recorded address could be unnecessarily burdensome in some cases. One member proposes that such actions be suggested and included in training but not mandated.

Background

See Recommendation 1.

3. Require [strengthened] identity processes by notaries (Stated in SB1270,i)

Recommendation Details

Notaries play a crucial role in preventing fraud in the real estate transaction process. In many transactions, a notary may perform the first and only verification of the seller's identity. Therefore, it is crucial that the identity verification performed by notaries is thorough, accurate, and robust to handle modern threats of forgery and impersonation. Adding or strengthening requirements for identity verification by notaries may decrease instances of fraudulent actors deceiving notaries and "passing" these verification checks. Strengthened identity verification processes may take many forms, such as

- Credential analysis software capable of detecting forged identification documents

- Requirement for all credible witnesses to be United States citizens, as a fraudulent witness may otherwise be based in a country with which the United States does not have extradition agreements
- Biometric verification software for matching real-time facial scans with photo identification documents
- Deepfake audio and visual detection software for RON video calls

Model Legislation

In California, notaries are required to record signers' thumbprints in their journals when notarizing certain documents, including a power of attorney, deed, quitclaim deed, deed of trust, or any other document affecting real estate. Thumbprints are not currently used for identity verification, but instead for recordkeeping and as a method of disincentivizing fraud.

Additional Research

Additional research is necessary to evaluate the feasibility and effectiveness of potential strengthened identity verification processes. As AI and deepfake technology continues to evolve, ongoing research will be necessary to adapt identity verification processes to new threats of impersonation and forgery. Input from experts in cybersecurity, information technology, AI forgery, and deepfake technology is necessary to fully understand the implications of these issues and the policies that may address them.

Additional consideration must go into the potential selection and endorsement of third-party tools for identity verification and detection of forgery or deepfake media.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation, with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. One member (representing land title agents) considers the recommendation a low priority.

Members representing the perspective of notaries endorse this recommendation as written.

Background

Current Identity Verification Requirements

There are two authorized ways for Virginia notaries to establish proof of the signer's identity:[7]

- Identification document: Examination of a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a

[7] Office of the Secretary of the Commonwealth of Virginia (2024). A HANDBOOK FOR VIRGINIA NOTARIES PUBLIC.

foreign passport, an alien registration card with photograph, a state-issued driver's license, a state-issued identification card, or a United States military card

- Credible witness: Identification of the signer by a credible witness who personally knows both the notary and the signer or who personally knows the signer and presents one of the documents listed above

There are multiple ways for electronic notaries in Virginia to establish proof of the signer's identity:[8]

- Personal knowledge: The notary personally knows the signer.
- Credible witness: A credible witness identifies the signer and is either personally known to the notary or is identified by two of the following methods.

OR two of the following:

- Identification document: The signer presents a valid government-issued identification document containing a photograph and signature.
- Antecedent proofing: The signer's identity has previously been proven in-person by a trusted third party (e.g., employer, law firm, bank).
- Digital certificate: The signer's identity is verified by biometrics or a personal identity verification card (PIV or PIV-I).
- Knowledge-based authentication (KBA): The signer is required to answer personally specific questions generated by a third-party system using public records and credit history.

Deepfake Impersonation

Fraudsters may use AI-generated deepfake technology to appear "on-camera" as someone else during a RON signing. Deepfake technology has become increasingly prevalent over recent years. These manipulated video livestreams may be used to pass photo identification document checks, antecedent proofing, or personal knowledge and credible witness checks. Deepfakes can take multiple forms:

- "Face swap" deepfakes use AI technology to map a source image or video of the impersonator's target onto the impersonator's face. Combined with AI voice filtering technology, this method allows the fraudster to appear live "on-camera," speaking with the RON and moving naturally.
- Generated deepfakes use AI to generate videos either replicating an actual target's face or generating a completely fabricated face. These deepfakes do not use live mapping.
- Lip syncing and editing deepfakes use AI to edit real source videos of the target to make their mouth appear to say something fabricated.

Knowledge-Based Authentication Risks

Another threat to accurate identity verification is the fraudulent "passing" of Knowledge-Based Authentication (KBA) tests using breached personal data from the internet. KBA systems use an individual's credit history, financial information, and other personal information to generate questions

[8] Ibid.

that, in theory, only that individual would be able to correctly answer. KBA typically comes in the form of a quiz with a few questions and time limits. In the commonwealth, electronic notaries can use KBA to verify the identity of the signer.

KBA questions often refer to previous addresses, phone numbers, mortgage or other loan payments, and similar personal data collected and kept by credit agencies. The inherent vulnerability in the KBA system is that this type of data has historically been breached, sold, and distributed across the internet over recent decades. Moreover, information posted on social media could be used to deduce the answers to some of these questions (e.g., ZIP codes, area codes). Fraudsters may be able to buy or otherwise access all the data necessary to correctly answer KBA questions presented to them at the time of remote online notarization.

AI-Generated Forged Identification

Advancements in AI technology have made it easier than ever to produce realistic forged documents with virtually any computer. According to a 2024 study by Entrust Cybersecurity Institute, digital forgeries are outnumbering physical forgeries in document fraud cases for the first time ever (with digital forgeries at 57.46% of cases). This prevalence of digital forgery represents a 1,600% increase in cases since 2021.[9]

With AI image generation becoming increasingly accessible, the fabrication of identification documents like passports, driver's licenses, Social Security cards, and other government-issued documents has become a larger threat. Fraudsters may use publicly available data to create identification documents with, for example, the real name and birthdate of the rightful owner of a property to convince a notary, real estate agent, title insurer, or other party that they are that individual. Remote online notarization could be especially vulnerable to these kinds of forgeries, as the notary lacks the opportunity to hold and physically inspect the documents.

3.1. Establish strengthened protocols for traditional and RON notaries, including identity verification and journal record

Recommendation Details

See Recommendation 3.

Requiring both traditional notaries and electronic notaries to maintain a journal (paper or electronic) of their notarial acts would require the creation of records (such as signers' personal information and the identity verification methods used by the notary) that may be useful for law enforcement in suspected cases of deed fraud. Notarial journal entries should include the date, time, and type of official act; the signature of any individuals whose signatures are being notarized; identity verification details (e.g., credible witness signatures, paper identification document information); and, in

[9] Markey, J. & Horswell, S. (2024). Rise of Sophisticated Fraud and Deepfakes at Scale. Entrust Cybersecurity Institute.

the special case of notarizations pertaining to real estate transactions, the name of any lender and title company involved in the transaction.

Model Legislation

In California, notaries are required to keep a physical sequential journal detailing their notarial acts. According to the notary handbook published by the California Secretary of State (2024), each entry must include:

- Date, time and type of each official act
- Character of every instrument sworn to, affirmed, acknowledged, or proved
- The signature of each person whose signature is being notarized
- A statement that the identity of a person making an acknowledgment or taking an oath or affirmation was based on “satisfactory evidence” pursuant to Civil Code section 1185
    - For paper identification, the entry must include the document type, issuing agency, serial number, and expiration date.
    - For a single credible witness known to the notary, the entry must include the signature of that witness or the paper identification information listed previously.
    - For two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the entry must include the paper identification information listed previously.
- The fee charged for the notarial service
- If the document to be notarized is a deed, quitclaim deed, deed of trust, or other document affecting real property or a power of attorney document, the signer’s right thumbprint must be included in the entry.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. Two members (representing land title and settlement agents) consider the recommendation a low priority.

The California legislation referenced in this recommendation includes examples of what the Virginia General Assembly may require Virginia notaries to record in a mandatory notarial journal. However, notaries from within the TAG recommend that legislation in Virginia omit the following pieces of information:

- Character of every instrument sworn to, affirmed, acknowledged, or proved
- The fee charged for the notarial service

These TAG members state that the first item could produce an unnecessary burden of detail and that the second item is based on the individual notary’s profit margin determination.

Additionally, the TAG's notary members specifically suggest that journal entries be required to include the names of any lenders and title companies involved when the notarization is related to a real estate transaction.

Background

See Recommendation 3.

In Virginia, traditional notaries are not required to maintain any form of journal documenting their notarial acts.

Electronic notaries are required to maintain a journal (and a backup journal) documenting their remote online notarial acts. According to the notary handbook published by the Office of the Secretary of the Commonwealth (2024), journal entries are required to contain the following:

- Date and time of day of the notarial act
- Type of notarial act
- Type, title, or a description of the document or proceeding
- Printed name and address of each person seeking an electronic notarization
- Type of identification used to establish identity of each person seeking electronic notarization
- Fee, if any, charged for the electronic notarial act

3.2. Strengthen/modernize protocols for antecedent proofing

Recommendation Details

See Recommendation 3.

Antecedent proofing as a method of identity verification in remote online notarizations presents multiple potential weak points:

- A bad actor may have previously fraudulently passed the identity verification performed by the trusted third party.
- A bad actor may be impersonating an individual whose identity was previously verified by the trusted third party.

Currently, antecedent proofing is accepted when paired with identification document verification, a digital certificate, or a KBA test. As discussed in Recommendation 3, identification document verification and KBA tests in their currently required forms are not completely robust to fraud. Strengthening regulations around acceptable forms of antecedent proofing or requiring that it be paired with additional strong forms of identity verification, like AI forgery detection software for identification document verification or modernized KBA requirements, could reduce instances of fraudsters bypassing antecedent proofing.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

The only dissent comes from the perspective of land title and settlement agents.

Members representing the perspective of notaries endorse the recommendation as written.

Background

See Recommendation 3.

In Virginia, electronic notaries are permitted to use antecedent proofing, or reliance on the signer's identity being previously proven in-person by a trusted third party (e.g., an employer, law firm, or bank) in combination with one of three other identity verification methods (identification document, digital certificate, and KBA).

4. Require RON notarizations to be transferred, recorded, and preserved in a digital format

Recommendation Details

When RON notarizations are transferred, recorded, and stored, they must maintain their original digital format to preserve their digital certificates. The printing and physical filing of documents with digital certificates or the scanning and re-digitizing of printed documents with digital certificates "flattens" the certificates, removing validating information and effectively delegitimizing them.

Additional Research

Additional research and consideration are necessary to determine how best to address the lack of infrastructure or protocols at many accepting authorities to transfer, record, and preserve RON notarizations in a digital format.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. One member representing land title agencies considers the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

Often, accepting authorities will intake RON notarized documents after they have been printed. When a digitally notarized document is printed, the information on the digital certificate can no longer be accessed and verified, effectively delegitimizing the certificate. After the digitally notarized document is printed, scanned, and re-digitized, bad actors may cut and paste the image of a digital notary stamp (without the valid digital certificate) and use it to attempt fraud.

5. Require settlement agents to verify the identity of sellers in high-risk transactions (cash sales, vacant land)

Recommendation Details

Identity verification requirements for settlement agents could mirror processes used by notaries, customer identification protocols used by banks and non-bank mortgage lenders, or some other standardized identity verification procedure.

This recommendation would need to be paired with thorough identity verification training requirements for licensed settlement agents, including training for verifying the identities of remote or online clients.

If paired with a requirement for real estate agents to verify seller identities prior to listing agreements and contracts, this recommendation to require settlement agents to verify seller identities could be limited to listings without real estate agent involvement (i.e., properties listed “for sale by owner”).

Model Legislation

In the U.S., under the Bank Secrecy Act and the USA PATRIOT Act, banks and non-bank mortgage lenders are required to establish and maintain customer identification programs (CIP). These federal regulations obligate lenders to verify borrowers' identities through the collection and verification of identifying information (e.g., name, date of birth, address, taxpayer identification number) before opening an account (i.e., taking out a mortgage). Lenders are required to retain verification records and report suspicious activity. CIP compliance is monitored by the FinCEN and federal banking regulators (FDIC, Federal Reserve).

Geographic Targeting Orders (GTOs) issued by FinCEN are temporary, geographically based requirements for specified organizations (financial or not) to record and report certain high-risk transactions in order to flag and track potential fraud. In April 2025, FinCEN renewed a set of GTOs that apply to residential real estate transactions in specific counties and metropolitan areas across the country. These orders require title insurance companies to identify and report the individuals behind shell companies involved in cash residential real estate transactions greater than $300,000 (or $50,000 in some counties).

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. Some members representing land title agencies and bankers consider the recommendation a low priority.

Members emphasize the need to carefully define which transactions are “high-risk.” Some concern is expressed over maintaining compliance with the Fair Housing Act if special identity verification requirements apply only to some transactions.

Members emphasize the need to specifically define the extent to which settlement agents may be held liable for failure to comply with this requirement. Some members emphasize that settlement agents are already subject to regulations that place fiduciary obligations on them and suggest that there would be pushback against additional statutory liabilities being created.

Additionally, members suggest pairing this recommendation with a requirement for seller verification by real estate agents (detailed in Recommendations 1, 1.1, and 1.2) and then limiting this requirement for settlement agents to only those transactions where a real estate agent was not used (i.e., for properties that are listed “for sale by owner”).

Background

In real estate transactions, the first instance of seller identity verification typically occurs at the closing table during notarization. As impersonation and fraud techniques become more advanced, especially with the advent of deepfake technology and AI-generated forged documentation, strengthened identity verification is necessary to prevent deed fraud. Requiring additional agents in the real estate transaction process to perform identity verification could increase the likelihood of detecting fraud before closing.

Fraud detection, alerts, and reporting

6. Expand access to fraud identification services for all agents in the real estate transaction process (real estate agents, notaries, financing agents, and settlement agents)

Recommendation Details

All participants in the real estate transaction process need robust fraud identification capabilities to protect property owners and maintain transaction integrity. Currently, access to fraud detection tools varies significantly across different roles, creating vulnerabilities that fraudsters can exploit. Expanding and standardizing access to fraud identification services would ensure that real estate agents, notaries, financing agents, and settlement agents all have the necessary tools to detect and prevent fraudulent transactions.

Enhanced fraud identification services should be made available to all transaction participants through a combination of state-sponsored resources, industry partnerships, and technology integration. These services would include real-time access to fraud databases, advanced document authentication tools, and suspicious activity reporting systems that allow information sharing across all parties involved in a transaction.

Model Legislation

Several states have implemented comprehensive fraud prevention frameworks that Virginia could adapt. California's Homeowner Bill of Rights includes provisions for enhanced fraud detection tools and mandatory verification processes for all transaction participants.

Texas Property Code Chapter 5 establishes fraud prevention protocols and requires access to identity verification services for settlement agents and notaries. New York's Real Property Law Article 12-D mandates fraud detection training and provides access to state-sponsored fraud identification resources. Arizona's Title 33 Real Property Statutes creates a comprehensive fraud reporting system with shared access across all real estate transaction participants.

Relevant Advocacy Efforts

The American Land Title Association (ALTA) has developed best practices that provide a framework for fraud prevention including identity verification, document authentication, and suspicious activity reporting protocols. The National Association of REALTORS® (NAR) has created comprehensive fraud identification training programs and recommended technology tools for real estate agents.

The FBI's Internet Crime Complaint Center (IC3) offers a public-private partnership model for fraud information sharing and detection tool access. Additionally, the International Association of Financial Crimes Investigators (IAFCI) has established professional certification requirements and fraud detection methodologies applicable to real estate transactions.

Additional Research

Research on technology interoperability is needed to understand how different fraud detection systems can integrate across multiple platforms used by various transaction participants. Privacy and data security considerations require careful analysis of data sharing protocols, consumer privacy protections, and compliance with state and federal privacy regulations.

Effectiveness metrics should be developed to evaluate different fraud identification tools for success rates, false positive rates, and impact on transaction processing times. To ensure equitable availability of fraud identification services in areas with limited technology infrastructure or resources, rural and underserved market access should be given special attention. Finally, analysis of liability and insurance implications is necessary to understand how expanded fraud identification services affect professional liability, errors and omissions coverage, and title insurance requirements.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

The only dissent comes from the perspective of land title and settlement agents.

Background

Fraud identification capabilities vary significantly across different agents in the real estate transaction process. Real estate agents have limited access to comprehensive fraud detection tools, instead relying on visual document inspection and basic verification methods. Notaries use identity verification processes as outlined in existing regulations but lack advanced fraud detection capabilities beyond document examination.

Financing agents have access to credit reporting and some fraud detection services through lending institutions, but these tools may not be comprehensive for real estate-specific fraud schemes. Settlement agents use title insurance company resources and basic verification methods but may lack access to real-time fraud databases and advanced detection services.

The current system creates significant gaps, including inconsistent access to fraud identification services across all transaction participants, limited real-time fraud database access, and lack of standardized fraud detection protocols. These disparities create vulnerabilities that sophisticated fraudsters can exploit by targeting the weakest links in the transaction process.

7. Require real estate agents to notate on the listing agreement and contract whether a personal interview or phone interview was conducted, or other means of obtaining the listing

Recommendation Details

Real estate agents would be required to document on listing agreements and purchase contracts the method used for initial client contact and verification. This could include checkboxes or fields indicating whether the interview was conducted in-person, by phone, video conference, or other electronic means. This documentation would create an audit trail that could help identify patterns in fraudulent transactions where perpetrators typically avoid face-to-face contact.

The requirement would apply to all residential property transactions and become part of the standard documentation retained for the state-mandated three-year period. Agents would note the initial interview method alongside existing required information such as property descriptions, commission rates, and mandatory disclosures.

No Models from Other States

No other state currently mandates documentation of client interview methods on real estate agreements. Without existing models, the most likely legislative approach would amend Virginia Code Section § 54.1-2137 and the Virginia Real Estate Board's regulations (18 VAC 135-20) to include interview documentation among required elements of brokerage agreements. The legislation would need to define acceptable interview methods, establish documentation standards, and specify enforcement mechanisms.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a low priority. Members think that it would be easy to collect this information, but they do not see much utility in collecting it.

Members representing real estate agents and mortgage lenders do not endorse this recommendation. Mortgage lenders from within the TAG state that implementing this recommendation would have little to no impact on preventing deed fraud from occurring. Members emphasize the importance of vetting the identity of the seller before listing agreements or contracts are signed.

Members representing real estate agents similarly doubt the impact that this requirement would have on preventing deed fraud. Moreover, they express concern over the implications of such a requirement on compliance with the Fair Housing Act. Common reasons for a virtual meeting or over the phone (including disability status, military status, and national origin) are protected under the Fair Housing Act. If contracts stating that the initial contact with the seller did not take place in person are flagged or subject to additional inspection, this could prohibit access to real estate transactions for these protected groups.

Background

Current Regulatory Gap

Virginia's existing real estate regulations establish comprehensive documentation requirements but contain no provisions for recording client verification methods. The state's standard listing agreements focus on property information, commissions, and mandatory disclosures without addressing how agents initially verified client identity or conducted interviews.

One potentially relevant reform passed by the General Assembly in 2025 was HB1684/SB1309. This legislation now requires agents representing buyers to have a signed brokerage agreement prior to showing any property.

8. Strengthen safeguards to prevent fraudulent notaries (Stated in SB1270,ii)

Recommendation Details

To prevent uniformed commissioned notaries from unintentionally engaging in notary fraud:

- Create education, training, and/or testing requirements for becoming a commissioned notary public or remote online notary.
- Education should have a specific focus on identity verification processes, detailing acceptable forms of identification and introducing any third-party identity verification tools and services endorsed by the commonwealth.
- Education should have a specific focus on detecting, preventing, and reporting deed fraud. This training could clearly discuss red flags and high-risk characteristics commonly associated with deed fraud.

To prevent individuals from impersonating notaries:

- Make property deed images and other sensitive documents less accessible digitally to the public. The accessibility of signatures and notary stamps on these documents may make notary credentials more vulnerable to forgery, especially with the advancement of AI tools. See Recommendation 14.
- Create protocols for securing, voiding, and/or replacing the commission numbers of notaries who have had their stamps lost or stolen.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, home builders, bankers) consider the recommendation a high priority. Some members representing land title and settlement agencies consider the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

Virginia is one of 32 states that require no training, testing, or education to become a notary public. To qualify, a person must:

- Be at least 18 years old
- Be able to read and write English
- Be a legal resident of the U.S.
- Be a resident of or have a place of employment in the Commonwealth of Virginia

If a person is eligible, the process to become a notary public in the commonwealth includes

- Completing the application paperwork and paying a $45 application fee
- Having the application notarized by a Virginia notary
- Mailing the application to the Office of the Secretary of the Commonwealth
- Upon approval (generally issued within two to three weeks), taking the oath of office at the Circuit Court and paying the $10 court fee
- Obtaining a notary seal in accordance with the law:
  - The seal may be either an ink stamp or embosser and embosser inker.
  - The seal must be sharp, legible, permanent, and photographically reproducible.
  - The seal must include the notary's name, "Notary Public," and "Commonwealth of Virginia."

No education, exams, or other training is required to begin notarizing. Neither surety bonds nor insurance are required for Virginia notaries.

Additionally, there is no testing, training, or education required to become a remote electronic notary (eNotary) in Virginia. Any individual already commissioned as a notary public in the commonwealth can acquire an electronic seal, create an electronic signature through a RON technology vendor, submit the application and pay a $45 fee to the Secretary of the Commonwealth, and become a registered eNotary.

The lack of training required to become a notary public or eNotary in the commonwealth could leave notaries unprepared to identify bad actors and avoid notarizing fraudulent deed transfers. Without training that emphasizes the gravity of the consequences of notarization fraud or that spells out signs of fraud, notaries may not understand the potential risk. Moreover, they may not fully understand the requirements in legislation dictating their responsibilities, such as acceptable forms of identification from signers. The National Notary Association reports over 130,000 calls per year, many of which involve questions from commissioned notaries about basic requirements for carrying out notarizations. For example, according to the Secretary of State, two-thirds of notary misconduct cases in Colorado are related to notarizations occurring without the signer present.

8.1 Establish protocols for reporting and record modifications for lost or stolen stamps and tech devices

Recommendation Details

If a notary's credentials, stamp, or commission number are lost or stolen, bad actors may use them to fraudulently notarize real estate transactions. Currently, there is no protocol in place for voiding, securing, and/or replacing the commission numbers of notaries who have had their credentials lost or stolen.

The state should establish protocols for voiding stolen commission numbers and issuing replacement commission credentials.

Model Legislation

Multiple states, including California and Florida, require notaries to report stolen credentials to the Office of the Secretary of State. These regulations are primarily intended to protect notaries from being liable for any fraudulent notarizations that may be recorded using their lost or stolen credentials.

Nevada Revised Statutes § 240.045 requires that a notary must submit a request for an amended Certificate of Appointment to the Secretary of State within 10 days of losing their stamp and must present the amended Certificate to the stamp manufacturer to obtain a new stamp.

Washington Administrative Code § 308-30-090 requires that a notary must notify the Department of Licensing within 10 days of their stamp being stolen or lost. The notary must obtain a new stamp with an approved variance to distinguish its appearance from the lost or stolen stamp.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with mixed levels of prioritization.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, clerks of court, home builders, bankers) consider the recommendation a high priority. Some members representing land title agencies and title insurers consider the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

See Recommendation 8.

8.2 Establish searchable reports/records of attempted fraud and stolen notary credentials.

Recommendation Details

If a notary's credentials, stamp, or commission number are lost or stolen, bad actors may use them to fraudulently notarize real estate transactions. Currently, there is no protocol in place for voiding, securing, and/or replacing the commission numbers of notaries who have had their credentials lost or stolen.

Establishing a searchable report or record of notary credentials that have been lost, stolen, or used in attempted fraud could allow other agents in the real estate transaction process (including real estate agents, title agents, and clerks of court) to cross-reference credentials used in the notarization of transactions they oversee and more easily detect fraudulent notaries. The searchable records should include information such as the notary's name and voided commission number, the reason for reporting/voiding (e.g., credentials were lost, stolen, or involved in attempted fraud), and the reported date of the incident.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. Members representing some perspectives (including mortgage lenders and real estate agents) endorse the recommendation as a low priority.

The only dissent comes from the perspective of the Virginia Municipal League.

Members representing the perspective of notaries endorse the recommendation as written.

Background

See Recommendation 8.

9. Training for clerks of court – and authorization to refuse a doc set if the RON seal is not valid

Recommendation Details

Reversing or correcting fraudulent deeds that have been officially filed can be expensive and time-consuming. Allowing clerks of court the authority to refuse to file a document (or set of documents) if they have reasonable cause to believe that the RON seal or electronic notarial certificate on the submission is fraudulent, altered, expired, or otherwise invalid may reduce instances of fraudulent deeds being officially filed.

Reasonable cause for refusal may include:

- Evidence that the notarial seal or digital certificate metadata has been altered or duplicated
- A seal or digital certificate that fails electronic verification checks
- Notarization by an individual whose notary commission has expired, has been revoked, or cannot be verified
- Any other circumstances under which the clerk reasonably believes that the notarial act was forged or otherwise not lawfully performed

If enacted, this recommendation should be paired with an indemnification clause to protect clerks of court who act in good faith when delaying or refusing to process documents submitted for filing. Such a clause should protect the clerk from liability in any civil action for damages, costs, or fees arising out of a refusal to file a document, provided that the refusal was made in good faith and based upon reasonable cause as defined by the legislation.

Model Legislation

According to Ohio Revised Code § 2701.20, clerks of court are granted permission to refuse to file any document submitted for filing if the clerk has reasonable cause to believe that the document is materially false or fraudulent. The code specifies that clerks of court are not responsible for inspecting, evaluating, or investigating suspicious documents. If the submitter commences court action, it is the duty of the courts to determine the legitimacy of the document and provide an order for it to be filed by the clerk.

In Virginia, financial institutions are granted the authority to decline transactions for suspected fraud with liability protections in two areas of the Code of Virginia that could serve as templates for this recommendation:

- § 64.2-1618(B): Item 5 gives the third party (e.g., bank) the right to refuse acceptance of an acknowledged power of attorney (POA) if they in good faith believe that the POA is invalid or that the agent lacks authority. Item 6 gives the third party the right to refuse acceptance of an acknowledged POA if the third party reports or is aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of the principal by the agent.
- § 63.2-1606(L): This area of the Code gives the staff of financial institutions the right to delay or refuse a transaction if they believe in good faith that the transaction may involve, contribute to, result in, or facilitate the exploitation of an adult or if they report or are aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of an adult by the agent.

Additional Research

Additional consideration is required to develop training materials and tools for clerks of court to easily and accurately detect invalid or fraudulent RON seals.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, clerks of court, land title and settlement agents, bankers, and home builders) consider the recommendation a high priority. Members representing other perspectives (including the Virginia Municipal League and title insurers) consider the recommendation a low priority.

Dissent comes from the perspective of some clerks of court and real estate agents. Clerks of court from within the TAG show concern over the potential for inconsistent application of a “reasonable cause” right of refusal across the state. The 120 Circuit Court Clerk’s Offices in Virginia can vary significantly in regard to staffing and resources. Therefore, these TAG members express concern that some offices may utilize the right to refuse much more or less frequently than other offices, perhaps due to differences in bandwidth and resources for training, creating an uneven landscape of refusals. Some members emphasize that granting clerks statutory authority to refuse a submission is a significant responsibility that should involve extensive research and consideration before potential implementation.

Background

In Virginia, clerks of court do not have the authority to reject a document submitted for filing on the basis of suspected fraud. Even under suspicious circumstances, if the submission appears to contain all the required information for filing, the clerk must file the document.

Fraudulent and Invalid RON Seals

Valid RON seals or stamps are attached to a digital certificate authenticating the identity of the notary and the act of notarization. However, the RON seal can become invalid when digitally notarized documents are improperly transferred and stored (e.g., when digitally notarized documents are printed, screen captured, or otherwise stored in a file format that does not retain the data associated with the digital certificate of notarization). An image of a RON stamp, which is not sufficient proof of authenticity of notarization, may be fraudulently inserted into a document.

10. Grant local governments and circuit clerks authority with respect to suspected fraudulent documents (Stated in SB1270,v)

Recommendation Details

Circuit court clerks are often the first line of defense against fraudulent property documents, yet Virginia clerks currently lack clear statutory authority to refuse or delay suspicious filings. Granting clerks explicit power to identify and respond to potentially fraudulent documents would create a checkpoint in the recording process before fraudulent transfers enter the public record. This authority would need to be carefully structured with appropriate safeguards, consultation requirements, and appeal processes to balance fraud prevention with property owners' due process rights.

The recommended framework would allow clerks who suspect fraud in good faith to delay filing while seeking guidance from commonwealth's attorneys or local law enforcement. Clerks could request additional documentation from filers, such as proof of identity or authorization from property owners. If law enforcement confirms suspicion of fraud or if filers cannot provide requested verification, clerks would have authority to refuse the filing. This system would require clear protocols, training, and legal protections for clerks making these determinations.

If enacted, legislation dictating the obligations and liabilities of settlement agents (Code of Virginia § 55.1-903) should be updated to accommodate cases where an instrument is rejected for suspected fraud but later cleared through additional information provided and recorded so that the settlement agent is not out of compliance.

Model Legislation

Texas SB 647, effective Sept. 1, 2025, provides the most comprehensive framework for clerk authority over suspected fraudulent documents. The law allows clerks who believe in good faith that a document is fraudulent to delay filing while seeking assistance from county or district attorneys. Clerks must request additional information from filers, such as signatures from alleged owners or obligors. If attorneys determine the document is fraudulent or if filers fail to provide requested information, clerks have authority to refuse filing.

North Carolina General Statute § 161-14.1 takes a more discretionary approach, allowing but not mandating registers of deeds to refuse documents reasonably believed to be fraudulent. The statute requires consultation with the district attorney's office before refusal and provides legal immunity for good faith decisions. It includes provisions for appeal processes and override procedures to protect legitimate filers.

Colorado Revised Statutes § 38-35-109 creates a different framework focusing on mandatory suspicious activity reporting and coordination with law enforcement rather than outright refusal authority. This approach ensures law enforcement awareness while maintaining the recording process flow.

In Virginia, financial institutions are granted the authority to decline transactions for suspected fraud with liability protections in two areas of the Code of Virginia that could serve as templates for this recommendation:

- § 64.2-1618(B): Item 5 gives the third party (e.g., bank) the right to refuse acceptance of an acknowledged power of attorney (POA) if they in good faith believe that the POA is invalid or that the agent lacks authority. Item 6 gives the third party the right to refuse acceptance of an acknowledged POA if the third party reports or is aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of the principal by the agent.
- § 63.2-1606(L): This area of the Code gives the staff of financial institutions the right to delay or refuse a transaction if they believe in good faith that the transaction may involve, contribute to, result in, or facilitate the exploitation of an adult or if they report or are aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of an adult by the agent.

Additional Research

To ensure implementation consistency across Virginia's 120 clerk jurisdictions, the state should develop standardized training, procedures, and decision-making frameworks. Research should examine how to ensure uniform application while accommodating varying local resources and caseloads.

Resource allocation presents significant challenges, particularly for rural jurisdictions with limited budgets. Analysis is needed on costs for training, technology upgrades, and additional staff time required for fraud review processes. Funding mechanisms must be identified to avoid creating unfunded mandates.

Legal liability and immunity protections require careful consideration to protect clerks making good faith determinations. Research should examine appropriate safeguards, appeal processes, and override mechanisms that balance fraud prevention with property rights. Clear investigation and referral procedures must be developed for coordination with commonwealth's attorneys and law enforcement agencies.

A technology infrastructure needs assessment should evaluate tools for fraud detection, database access, and ongoing education requirements. Many clerks lack legal backgrounds and would need substantial support to make quasi-judicial determinations about document validity. Inter-jurisdictional coordination mechanisms are essential for information sharing between clerk offices and for ensuring consistency in cross-county property transactions.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, title insurers, bankers, and home builders) consider the recommendation a high priority. Members representing other perspectives (including real estate agents and land title agents) consider the recommendation a low priority.

Dissent comes from the perspective of clerks of court. Clerks from within the TAG express concern over the administrative burden or other effects of delaying or refusing a document submitted for filing. Additionally, members express concern over the potential for inconsistency across Virginia's 120 clerk jurisdictions, which could create variability in how this discretionary authority is exercised and lead to pushback from settlement agents, attorneys, and title companies who prefer uniform processes.

Rural jurisdictions face challenges regarding limited financial resources and bandwidth for implementing new requirements, emphasizing the importance of structuring expanded authorities as permissive rather than mandatory (following North Carolina's legislative model). Effective implementation would require comprehensive guidance, training, and structural support to ensure that clerks can make accurate determinations while preventing bias or prejudice from influencing decisions.

Background

Once a fraudulent deed transfer is filed in public records, restoring legal ownership to the rightful property owner becomes a lengthy, complex, and expensive legal process often requiring court intervention. Currently, local circuit court clerks in Virginia operate under a ministerial duty to file any document submission that meets basic technical requirements, regardless of whether the document appears suspicious or potentially fraudulent. This creates a significant vulnerability in the property records system where obviously fraudulent documents must be accepted and recorded, giving them the appearance of legitimacy and legal effect.

Granting clerks the discretionary authority to flag, delay, and investigate suspected fraudulent filings would provide a critical first line of defense against property fraud. This authority would need to be carefully structured with appropriate training, legal protections, and procedural safeguards to prevent abuse while enabling effective fraud prevention at the point of filing.

10.1 Training local clerks to assess the validity of RON notarizations and authorizing them to refuse a doc set if the RON seal is not valid (see Recommendation 9)

Recommendation Details

Local clerks serve as the gatekeepers for public records, yet many lack the technical expertise to verify remote online n(RON) documents. This recommendation would establish mandatory training programs for recording officials on RON authentication methods, including electronic seal validation, digital certificate verification, and audit trail review.

The training would cover technical aspects such as credential analysis software, electronic seal formats, and tamper-evident technology used in RON platforms. Clerks would learn to identify red flags including missing authentication certificates, improperly formatted electronic seals, and incomplete audit trails. This approach creates a checkpoint before fraudulent documents enter the public record system.

This recommendation pairs such training with the recommendation to grant clerks explicit statutory authority (with indemnification protections) to reject documents submitted for filing with reasonable cause to believe that they contain invalid RON seals or digital certificates. See Recommendation 9 for details and background on the refusal with reasonable cause aspect of this recommendation.

Model Legislation

Virginia already has a foundation for this recommendation in Code § 47.1-2, which establishes the state's RON framework. This existing statute could be expanded to include mandatory training requirements for recording officials and explicit authority to validate and potentially reject RON documents. The expansion would build on Virginia's current infrastructure while adding the crucial element of clerk verification authority.

Several states have implemented comprehensive RON validation requirements that Virginia could adapt. Texas Government Code Chapter 406 establishes RON standards and requires county clerks to verify electronic notary seals and signatures before accepting documents for filing. Florida Statutes

Chapter 117 mandates training for recording officials on RON document authentication and provides clear authority to reject improperly notarized electronic documents.

Nevada Revised Statutes Chapter 240 creates comprehensive validation requirements for county recorders, including specific seal verification protocols and rejection authority. Indiana Code Title 33-37 goes further by establishing mandatory RON authentication training with standardized certification requirements for all county clerks and recorders. These models demonstrate various approaches to implementing clerk training and validation authority.

Relevant Advocacy Efforts

The National Notary Association has developed comprehensive RON standards that include technical specifications for electronic seal validation and authentication protocols. The organization's best practices framework provides detailed guidance on document verification procedures that could inform clerk training curricula. MISMO, or the Mortgage Industry Standards Maintenance Organization, has established industry-wide technical standards for RON document formatting and seal requirements that are widely adopted by lenders and title companies.

The American Land Title Association has created guidelines for RON document acceptance and verification protocols that many title companies already follow. The National Association of Secretaries of State developed a RON Model Act that provides a comprehensive framework for implementation, including specific training requirements and document validation standards. The Property Records Industry Association has established technical specifications for electronic document acceptance that many recording offices reference when developing their procedures.

Additional Research

Developing a training curriculum requires careful consideration of Virginia's specific RON statute requirements and the varying technical capabilities of local clerks across the commonwealth. Research should focus on creating standardized programs that cover RON technology fundamentals, seal verification techniques, fraud detection methods, and legal requirements. The curriculum must be accessible to clerks with varying levels of technical expertise while remaining comprehensive enough to ensure effective validation.

Technology infrastructure presents significant challenges, particularly for rural jurisdictions with limited resources. Analysis is needed to determine the minimum software, hardware, and connectivity requirements for effective RON validation. This research should also address cost-effective solutions for smaller counties and potential state-level support systems.

Legal authority and liability issues require careful statutory language that grants clerks appropriate rejection authority while protecting against legal challenges. Research should examine how other states balance clerk discretion with due process rights and develop clear standards for document rejection. Additionally, appeals and override processes must be developed to handle disputed validity determinations and ensure coordination with notary regulatory authorities.

Cost-benefit analysis would help justify the investment in training and technology by quantifying the potential fraud prevention benefits. This should include evaluation of training costs, technology investments, and staff time requirements compared to the costs of fraudulent document acceptance. Integration with existing clerk workflows and document management systems also requires study to ensure that new validation procedures don't create undue burdens or processing delays.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, bankers, and builders) consider the recommendation a high priority.

Many other members (including both members representing clerks of court and those representing land title and settlement agents) do not endorse this recommendation. Clerks of court within the TAG believe it would be difficult to create and deliver accurate and effective training on the complex and constantly changing technology used in fraudulent remote online notarizations. Moreover, members express concern over inconsistencies across clerks' offices in bandwidths, abilities, or resources to use advanced software tools for detecting fraudulent RON seals or digital certificates.

See the Technical Advisory Group Input section of Recommendation 9 for details on the TAG's perspective toward refusal with reasonable cause.

Background

Remote online notarization (RON) has become increasingly prevalent in real estate transactions, particularly following pandemic-era adoption. While RON provides convenience and efficiency benefits, it also creates new vulnerabilities for document fraud if electronic seals and authentication processes are not properly validated at the point of recording. Currently, many local clerks lack the technical knowledge and authority to assess whether RON notarizations meet legal requirements before accepting documents for filing.

Invalid or fraudulent RON seals can give illegitimate documents the appearance of proper notarization, making them more difficult to challenge once recorded. Training clerks to recognize valid RON elements (including proper electronic seals, digital certificates, and authentication audit trails) would provide an additional layer of fraud prevention. Combined with clear authority to refuse documents with invalid RON components, this training would help ensure that only properly executed electronic notarizations are accepted into public records.

10.2 Requirement for clerks to check notarial commission number

Recommendation Details

This recommendation would require local clerks to verify notarial commission numbers against Virginia's state database before accepting any notarized document for recording. Clerks would check that the notary's commission is active, unexpired, and properly registered with the state. Documents with invalid, expired, or unverifiable commission numbers would be rejected at the point of filing, preventing fraudulent notarizations from entering the public record.

The verification process would integrate with Virginia's existing notary commission database, providing clerks with real-time access to commission status information. Each notarized document would undergo a simple check where the clerk enters the commission number into the system and receives immediate confirmation of validity. This creates a critical verification point that does not currently exist in many Virginia jurisdictions.

If enacted, this recommendation should be paired with an indemnification clause to protect clerks of court who act in good faith when delaying or refusing to process documents submitted for filing. Such a clause should protect the clerk from liability in any civil action for damages, costs, or fees arising out of a refusal to file a document, provided that the refusal was made in good faith and based upon reasonable cause as defined by the legislation.

Model Legislation

Several states have successfully implemented notary commission verification requirements that Virginia could adapt. California Government Code § 8205 requires county clerks to verify notary commission status and expiration dates before accepting documents for recording. Florida Statutes § 117.05 goes further by mandating that clerks verify commission numbers against the state database and reject documents from expired or invalid commissions.

New York Executive Law § 135-a establishes requirements for recording officers to check notary commission validity while providing access to a real-time commission database. Texas Government Code Chapter 406 creates mandatory verification protocols with standardized rejection procedures that ensure consistency across counties. Illinois's Notary Public Act requires clerks to authenticate both notary seals and commission numbers, while Pennsylvania Title 57 § 147 provides explicit legal authority for document rejection based on invalid commissions.

Relevant Advocacy Efforts

Professional organizations have developed standards that could inform Virginia's implementation. The National Notary Association has created verification standards that include best practices for database access protocols and validation procedures. The American Society of Notaries provides professional guidelines for commission tracking and validation systems that many states reference. The National Association of Secretaries of State has developed technical specifications for real-time notary commission verification systems that ensure interoperability across jurisdictions. These frameworks provide tested approaches that Virginia could adapt to its specific needs.

Additional Research

Implementation requires careful attention to database integration and workflow design. Research is needed on establishing real-time connections between clerk offices and Virginia's notary commission database, including technical requirements and associated costs. The verification process must integrate smoothly into existing document processing procedures without creating significant delays or bottlenecks.

Legal framework development is essential to grant clerks appropriate authority to reject documents with invalid commission numbers while protecting against liability. Research should examine statutory language that clearly defines rejection criteria and procedures. Additionally, exception and override procedures need development for handling edge cases, disputed verifications, and emergency situations where standard verification may not be possible.

Technical Advisory Group Input

The TAG generally endorses this as a lower-priority recommendation.

Members representing some perspectives across the real estate transaction process (including notaries and home builders) consider the recommendation a high priority. Members representing other perspectives (including mortgage lenders, real estate agents, bankers, land title agents, and clerks of court) consider the recommendation a low priority.

Dissent comes from one member representing land title and settlement agents and one member representing clerks of court. One member expresses concern over the feasibility of verifying every commission number, especially for documents submitted with notarizations by out-of-state notaries.

Background

Notaries public in Virginia must maintain valid commissions issued by the Secretary of the Commonwealth, with specific commission numbers and expiration dates. However, current practice does not require clerks to verify that notary commission numbers are valid and current before accepting notarized documents for recording. This creates a vulnerability where documents notarized by individuals with expired, suspended, or fraudulent commissions can be filed in public records.

Fraudulent actors may forge notary seals with fake commission numbers or use numbers from expired commissions to give illegitimate documents the appearance of proper notarization. Once these documents are recorded, they become part of the official record and are much more difficult to challenge. Requiring clerks to verify notary commission numbers against the state's official database would provide an automated check to ensure that only documents notarized by properly commissioned notaries are accepted for filing. This verification process would help prevent both intentional fraud and inadvertent acceptance of documents from expired notary commissions.

11. Alternative to increased clerk authority: recommend a certification/attestation be signed by the presenter at time of filing

Recommendation Details

This recommendation proposes requiring all deed presenters to sign a certification at the time of filing, attesting that they have verified the identity of the property owner shown on the deed. The attestation would explicitly acknowledge potential criminal liability under Virginia Code if the deed is later found to be fraudulent. This approach places responsibility on the document presenter rather than expanding clerk authority to reject suspicious filings.

The certification could read similarly to:

"By signing below, I hereby acknowledge and confirm that I have taken all steps prudent and necessary to confirm and authenticate the valid and legitimate identity of the owner of record shown on this Deed. I further understand and acknowledge that failure to do so may implicate me under VA Code ____ if the Deed is found to be fraudulent."

This creates a clear paper trail establishing who presented the document and their affirmative representation about identity verification.

Model Legislation

Several states have implemented presenter certification requirements that Virginia could adapt. Pennsylvania's Recording Act requires a sworn affidavit from document presenters attesting to their authority and the legitimacy of the filing, with specific penalties for false statements. This model creates both a procedural safeguard and a clear basis for prosecution if fraud is later discovered.

Ohio Revised Code § 317.32 mandates certification by document preparers acknowledging legal authority and accuracy, with criminal penalties for fraudulent attestations. Michigan Compiled Laws § 565.201 establishes affidavit requirements for real estate document filings that include identity verification and authority confirmations. These approaches demonstrate how attestation requirements can be integrated into existing filing procedures.

Illinois's Conveyances Act requires notarized certification from both grantors and preparers confirming document authenticity and legal authority. Colorado Revised Statutes § 38-35-109 goes further by establishing sworn statement requirements with enhanced penalties specifically for fraudulent certifications. These models show varying levels of formality and enforcement mechanisms that Virginia could consider.

Additional Research

Key research areas require careful examination before implementation. Analysis is needed on the effectiveness of certification requirements against determined fraudsters to determine whether attestations deter fraud or merely add procedural steps that sophisticated criminals will circumvent. Studies from states with existing requirements could provide valuable data on fraud reduction rates and prosecution success.

Implementation across different filer types presents practical challenges that need addressing. Research should examine how attestation requirements would apply to attorneys, real estate agents, title companies, individual property owners, and other document presenters. Each group may require different language or procedures based on their professional responsibilities and existing regulatory frameworks.

To understand the full impact of liability and insurance implications on transaction participants, analysts must examine the effects on professional liability coverage for attorneys and real estate professionals, errors and omissions insurance requirements, and potential changes to title insurance underwriting. The research should also address whether attestation requirements might discourage legitimate filers or create unintended barriers to property transfers.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (mortgage lenders, clerks of court, and the municipal league) consider the recommendation a high priority. Members representing other perspectives (including real estate agents, title insurers, clerks of court, bankers, and builders) consider the recommendation a low priority.

Dissent comes from some members representing land title and settlement agents and notaries. Some members express skepticism that a signed certification/attestation would not prevent fraudsters from filing; in other words, if an individual is willing to commit fraud, they might also be willing to sign a certification/attestation like this.

Some members express concern over the potential implications of placing statutory criminal or civil liability on the document submitter when the majority of deeds are submitted for recording by a third-party independent title examiner professional who has not necessarily interacted with the seller or buyer and therefore has little knowledge of the parties to base an attestation of authenticity on. Members propose that placing such liabilities on these third-party professionals may disincentivize them from offering deed recording services, which may impede closing processes.

Background

This recommendation presents an alternative approach to preventing fraudulent document filings without expanding clerk discretionary authority (as proposed in recommendation 10). Rather than requiring clerks to make subjective determinations about document legitimacy, this approach places the burden of verification and legal responsibility directly on the person presenting documents for filing.

Currently, individuals can file real estate documents with minimal accountability beyond basic notarization requirements. A mandatory certification/attestation would require document presenters to explicitly acknowledge that they have verified the identity and authority of all parties involved in the transaction and understand the legal consequences of filing fraudulent documents. This creates a clear paper trail of responsibility and potentially subjects fraudulent filers to enhanced criminal penalties.

The certification approach offers several advantages: it maintains clerks' ministerial filing duties while adding fraud prevention measures; creates legal accountability without requiring clerks to make complex fraud determinations; provides prosecutors with clear evidence of intent in fraud cases; and can be implemented uniformly across all jurisdictions without concerns about inconsistent application. However, critics argue that determined fraudsters may simply sign false attestations, making this measure ineffective against sophisticated fraud schemes while adding bureaucratic burden to legitimate transactions.

12. Establishing free property alert notification systems within local land record offices (Stated in SB1270,vi)

Recommendation Details

Virginia could require or incentivize all localities to establish property alert notification systems that allow owners to register for free automatic notifications when documents affecting their property are recorded. As of September 2025, just 21 localities offer these systems, leaving most Virginia property owners without access to this critical fraud detection tool.

Potential action by the General Assembly could include:

- Mandating local implementation by a certain date
- Setting aside funding in the budget for localities to assist with implementation
- Prohibiting localities from charging registration or subscription fees to ensure universal access
- List of required information fields to be tracked and included in alerts to property owners
- Additional provisions that determine how the platforms should be developed within each locality

These systems operate independently from existing Secure Remote Access (SRA) and electronic recording platforms, allowing property owners to register online with basic information including property address, parcel number, and preferred notification method. When any document affecting a registered property is recorded, such as a deed, deed of trust, or lien, the system would automatically send alerts via email, text, or phone within 24 hours. Owners can register multiple properties and designate additional recipients such as family members or attorneys to receive notifications.

The technology infrastructure already exists through vendors currently serving Virginia localities including Logan Systems, GovOS, DTS AlertMe, and Tyler Technologies. Based on estimates from existing Virginia implementations, costs range from $10,000 to $100,000 per locality for a two-year period. The state could negotiate master contracts with approved vendors to reduce costs and ensure consistent functionality across all jurisdictions.

Model Legislation

Illinois's recently passed SB 1523 provides the most comprehensive model for Virginia to follow. The law requires every county to establish and maintain a property fraud alert system with detailed requirements for registration forms, notification procedures, and liability protections. The statute includes provisions for real estate professionals to register properties on behalf of owners and allows designation of up to three additional alert recipients.

Arizona's SB 1110, enacted in 2023, offers a simpler approach with concise statutory language requiring recorders to provide notification systems by January 1, 2025. The law specifies that participation is voluntary for property owners, and notifications must be delivered promptly via email, text, or similar means. Arizona's experience shows implementation costs of approximately $50,000 in startup expenses and $20,000 in ongoing costs for larger counties.

North Carolina's currently proposed HB 431 includes important technical specifications that Virginia should consider, such as requiring notifications within 24 hours and including specific information in each alert. The bill also provides immunity from liability for registers of deeds regarding system operation, which would be crucial for encouraging Virginia clerk participation. Pennsylvania's proposed HB 2230 from 2024, though not enacted, emphasized the requirement that these services be free to property owners.

Additional Research

Implementation feasibility varies significantly across Virginia's localities, requiring research on how to support rural counties with limited technical infrastructure. Further assessments should examine whether the state can provide centralized technical support or funding assistance for smaller jurisdictions. Research should also address integration possibilities with existing systems like SRA to avoid duplicative infrastructure investments.

User adoption and effectiveness metrics need careful study to ensure systems achieve their fraud prevention goals. Research should examine registration rates in localities with existing systems, optimal notification methods for different demographics, and actual fraud prevention outcomes. Analysis of false positive rates and alert fatigue would help design systems that maintain user engagement without overwhelming registrants.

Legal framework development requires research on appropriate statutory language balancing mandatory implementation with local flexibility. Studies should address liability protection for clerks and vendors, requirements for system uptime and reliability, and procedures for handling system failures. Research should also examine privacy implications of maintaining registrant databases and appropriate data retention policies.

Cost optimization strategies need exploration, including potential for state-level procurement, shared services models for smaller localities, and integration with existing technology investments. Analysis should consider ongoing operational costs beyond initial implementation and sustainable funding models. Research should also examine whether fees could be charged for enhanced services while maintaining free basic access.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with mixed levels of prioritization.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, clerks of court, and bankers) consider the recommendation a high priority. Members representing other perspectives (including mortgage lenders, the municipal league, land title and settlement agents, title insurers, and builders) consider the recommendation a low priority.

Some members expressed concern about the cost of creating and implementing a system like this in every locality across the state. However, members representing clerks of court emphasize the importance of having consistency in this service across the state, as only a small portion of jurisdictions currently use this service, hosted by private vendors.

Background

Because Virginia localities currently have limited authority to identify and prevent deed fraud, these notification systems have become the most prevalent prevention strategy in use today. While this passive approach places responsibility on owners to act upon receiving alerts, it provides crucial early warning of potentially fraudulent activity.

The Supreme Court of Virginia's Secure Remote Access system, used by many Circuit Courts, currently lacks automatic alert functionality despite providing electronic access to land records. Similarly, electronic recording systems operated by vendors like Simplifile and CSC focus on document submission rather than owner notification. This gap in functionality has led localities to independently procure notification systems from various vendors, resulting in inconsistent availability across the commonwealth.

The piecework adoption of these systems has created an inequitable situation where property owners in 21 localities have access to fraud alerts while those in the remaining jurisdictions lack this protection. Recent increases in attempted deed fraud have prompted more localities to implement systems, but voluntary adoption remains slow and uneven as of late 2025.

13. Establishing an alert notification system to inform notaries when documents containing a notary's name or commission number are submitted for recording (Stated in SB1270,vii)

Recommendation Details

Establishing an alert notification system to inform notaries when documents containing a notary’s name, signature, stamp, or commission number are submitted for recording could allow cases of deed fraud to be more quickly identified and addressed. This notification system could take the form of email alerts, phone alerts, or mailed alerts. Each instance could trigger a unique notification, or instances could be listed in a single notification on a recurring basis (e.g., monthly).

Model Legislation

The City of Philadelphia Department of Records maintains a free email alert system to notify notaries when their signature or stamp is used on a document submitted to the Department. The alert allows notaries to view the submitted documents. When a notary identifies a fraudulent use of their signature or stamp on a deed, they can file a notary affidavit against the property stating that they did not notarize the deed.

Additional Research

Additional consideration is required to determine the most feasible and effective format for this notification system. Municipalities may lack the infrastructure and support required to set up and maintain such a system.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with mixed levels of prioritization.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, the municipal league, notaries, clerks of court, and land title and settlement agents) consider the recommendation a high priority. Other members representing some perspectives (including land title and settlement agents, title insurers, clerks of court, and bankers) consider the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

If a document is fraudulently notarized and submitted for filing, the notary whose name, signature, stamp, or commission number is fraudulently printed on it may never find out. A notification system alerting notaries each time their information appears on a document submitted for filing could help notaries identify fraudulent documents quickly, allowing the identification of deed fraud and its reversal process to happen more quickly as well.

Access and security of land records

14. Enhance security for public access to land records (Stated in SB1270,iii)

Recommendation Details

Over the past two decades Virginia jurisdictions have increased efficiency, developed record keeping resilience, and improved transparency by digitizing property records and increasingly making those records remotely accessible. Recommended actions discussed by TAG members include redacting/ obscuring elements of scanned and online documents such as signatures, notary commission numbers, and notary stamp images. Other suggested actions would offer measures to deter fraudsters from easily accessing electronic property records in mass (by imposing access fees), requiring identification verification to access property records, and other measures.

Security recommendations:

- Redact signatures, notary information, and other sensitive information.
- Require and record identity verification for individuals accessing property deeds and other sensitive documents.
- Allow partial access online (e.g., redacted documents or a database of names and parcel IDs) but require in-person viewing for full documents with signatures.
- Require a fee for viewing and downloading property deed images and other sensitive documents.
- Require a login to view property deed images and other sensitive documents, record users' access histories, and flag suspicious activity.

Recommendations 14.2, 14.3, and 14.4 detail some of these security recommendations.

Additional Research

Before any of these security measures are considered for implementation, further research is required on the potential effects that limiting access to public records may have on professionals and landowners who are acting in good faith.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, and bankers) consider the recommendation a high priority. Other members representing some perspectives (including the municipal league and land title and settlement agents) consider the recommendation a low priority.

Dissent comes from members representing the perspectives of mortgage lenders, land title agents, title insurers, and clerks of court. Some members emphasize the importance of public access and transparency, expecting some pushback against the restriction of access to these public records. Specifically, the perspective of mortgage lenders from within the TAG is that making these records more difficult or expensive to access could drive up borrowing costs for buyers, as vetting these records is required per lenders' quality control and compliance procedures. Clerks of court within the TAG also express concern over the loss of transparency of public records.

Title insurers within the TAG state that allowing signatures or any parts of a notarial seal or acknowledgement to be redacted could create problems for title professionals who need to validate these items to evaluate the marketability and insurability of a title. Restricting access to land records could pose statutory challenges and impede the transaction process.

Background

The information available in publicly accessible land records may be used by fraudsters to identify properties to target, impersonate property owners, or create forged signatures and notarizations. These records may be used to determine which properties are vacant, have owners that live out of state, or have recently deceased owners, which are characteristics of properties commonly targeted for deed fraud. Additionally, the name, signature, and mailing address of an owner may be duplicated or referenced by an impersonator. Similarly, the name, signature, seal, and commission number of a notary may be duplicated or referenced by someone attempting to commit notarization fraud.

Public records maintained by each county's clerk of court office may be accessed in person or remotely, either via Secure Remote Access (SRA) using the Commonwealth of Virginia Electronic Records System (COVERS) or via a locally determined and maintained online access system. SRA through COVERS requires an application, subscription, and fees, while unaffiliated local online access systems may have different requirements and/or fees.

14.1 Offer property title "freeze" system (similar to credit freeze system)

Recommendation Details

There is increasing discussion regarding the creation of systems that would allow real property owners to place a "freeze" on their property that would prevent the recording of a deed transaction without an additional, new owner verification process. The idea is analogous to an individual placing a freeze on their credit records that can effectively prevent new credit accounts from being opened. The recommendation, which requires legal study beyond this study exercise, would potentially operate in a manner similar to property transaction freezes imposed during legal proceedings.

Additional Research

Additional legal study is required to determine the form and details of the system described in this recommendation.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, notaries, and land title and settlement agents) consider the recommendation a high priority. Some members representing other perspectives (including real estate agents, title insurers, clerks of court, bankers, and home builders) consider the recommendation a low priority.

The only dissent comes from one member representing the perspective of clerks of court. This member expresses concern over the burden this recommendation could place on clerks of court depending on the form it takes. The member suggests some kind of alert that is attached to the land record system to avoid the clerk being required to consult an outside database to confirm whether a freeze has been placed on the property.

Background

The rise in awareness of deed fraud has resulted in the emergence of a new type of financial service commonly labeled as “title lock” services.

- Multiple private companies offer this service. The service does not actually prevent a transaction, but purports to offer a monitoring service that would trigger an alert to the subscriber if a filing is made with a jurisdiction, usually a county recorder's office, that would effectuate a change on property deeds, liens, mortgages, and other filings.
- This is a private offering for the same type of service discussed in **[insert item number from above].**

Security Recommendations

- Create the legal authority for counties to allow verified property owners to “lock” transactions related to their property.
- The recommendation does not specify a particular mechanism, technology, or service to manage a property freeze. Such choices need to be taken by jurisdictions based on their individual needs and resources with support for exploring emerging solutions.

14.2 Allow only verified/authorized entities (attorneys, title agents) to file remotely/electronically; all others must file in-person

Recommendation Details

This recommendation would restrict the use of electronic records submissions for recording actions on property deeds exclusively to authorized entities, such as:

- Licensed attorneys,
- Banks, savings and loan associations, savings banks, or credit unions doing business under the laws of Virginia,
- Federally charted lending institutions, a federal government sponsored entity, an instrumentality of the federal government, or a person approved as a mortgagee by the United States to make federally insured loans,
- People licensed to make regulated loans,
- Licensed title insurance companies or title insurance agents, or
- Entities of the Commonwealth of Virginia or of a political subdivision in the Commonwealth of Virginia.

Electronic recording services are facilitated by private vendors. This recommendation would place responsibility on the electronic recording service vendor to ensure that only authorized entities are permitted to submit documents for electronic recording, and those vendors would be liable for damages caused by any failure to comply with the requirement.

Model Legislation

The recommendation expressed above is closely modeled on Tennessee House Bill 1039 (SB 1230) which similarly restricts electronic filing of deeds to authorized entities only.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, land title and settlement agents, bankers, and builders) consider the recommendation a high priority. One member representing the perspective of mortgage lenders considers the recommendation a low priority.

Dissent comes from some members representing land title agents, title insurers, and clerks of court. Clerks of court question how this requirement would be enforced, specifically considering that e-recording service providers are private vendors. Title insurers find the concept of verified submitters to be problematic.

Background

Electronic recording, as opposed to in-person recording, of deeds may be more vulnerable to fraudulent activity including seller impersonation and forgery. In-person recording reduces anonymity, as the filer must interact with the clerk directly, leading to more accountability and the opportunity for the clerk to identify suspicious behavior.

14.3 Require a login to view property deed images and other sensitive documents, record users' access histories, and flag suspicious activity.

Recommendation Details

The recommendation is to require that jurisdictions place log-in requirements for anyone accessing electronic property deed images and transaction records that would capture and track viewers' login credentials as a way to identify suspicious behavior.

The digitization of property records and availability of those records through local government web portals enhances transparency and convenience for property owners and taxpayers. However, fraudulent actors may use this same accessibility to identify potential victims of deed fraud.

Several counties in Virginia require taxpayers to create digital accounts with traceable log-in credentials to gain access to tax bills and payment systems. Extending this approach to property records would create an electronic paper trail that could be used to identify potentially suspicious activity (e.g., an unusually high number of property record searches).

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including notaries, title insurers, and bankers) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders, real estate agents, the municipal league, land title agents, clerks of court, and home builders) consider the recommendation a low priority.

Dissent comes from some TAG members representing clerks of court and land title and settlement agents. Clerks of court express concern over a loss of transparency and access to public records. Additionally, clerks express concern over the cost and burden that could be placed on clerks' offices.

Background

The information available in publicly accessible land records may be used by fraudsters to identify properties to target, impersonate property owners, or create forged signatures and notarizations. These records may be used to determine which properties are vacant, have owners that live out of state, or have recently deceased owners, which are characteristics of properties commonly targeted for deed fraud. Additionally, the name, signature, and mailing address of an owner may be duplicated or referenced by an impersonator. Similarly, the name, signature, seal, and commission number of a notary may be duplicated or referenced by someone attempting to commit notarization fraud.

Public records maintained by each county's clerk of court office may be accessed in person or remotely, either via Secure Remote Access (SRA) using the Commonwealth of Virginia Electronic Records System (COVERS) or via a locally determined and maintained online access system. SRA through COVERS requires an application, subscription, and fees, while unaffiliated local online access systems may have different requirements and/or fees.

14.4 Redact signatures, notary information, and other sensitive information.

Recommendation Details

The recommendation would require localities to redact specific information and visual imagery on the electronic records of deeds and related property documents. The information required to be redacted should be specifically listed in the legislation to avoid subjectivity or compliance issues. Such information could include:

- Images of signatures
- Notary commission numbers or personal details of notaries
- Sensitive property owner details

This recommendation would need to be paired with training and resources for clerks of court offices across the state that would equip them to carry out redactions.

Additional Research

Additional research is required to determine which specific information to redact in order to:

- Maximize protection against deed fraud and
- Minimize obstruction of reasonable public access to land records

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including notaries and the municipal league) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders, real estate agents, land title agents, clerks of court, bankers, and builders) consider the recommendation a low priority.

Dissent comes from some members representing clerks of court, title insurers, and land title and settlement agents. Clerks of court express concern over the ability of some jurisdictions to afford and implement the software required to carry out redactions.

Background

The information available in publicly accessible land records may be used by fraudsters to identify properties to target, impersonate property owners, or create forged signatures and notarizations. These records may be used to determine which properties are vacant, have owners that live out of state, or have recently deceased owners, which are characteristics of properties commonly targeted for deed fraud. Additionally, the name, signature, and mailing address of an owner may be duplicated or referenced by an impersonator. Similarly, the name, signature, seal, and commission number of a notary may be duplicated or referenced by someone attempting to commit notarization fraud.

Public records maintained by each county's clerk of court office may be accessed in person or remotely, either via Secure Remote Access (SRA) using the Commonwealth of Virginia Electronic Records System (COVERS) or via a locally determined and maintained online access system. SRA through COVERS requires an application, subscription, and fees, while unaffiliated local online access systems may have different requirements and/or fees.

The recommendation extends current practices of shielding personal information of "protected individuals" from unrestricted public view.

15. Require the Treasurer to note in the public record the dates of all changes of address for the property owner; Disallow notice such as "name/address withheld upon request," except under certain protected circumstances.

Recommendation Details

In order to prevent legal notices of deed transfer or tax documents from being sent to the rightful property owner, a fraudster may file to change the property owner's name and mailing address on record with the Treasurer for a target property. Additionally, if local policies permit, a fraudster may request that the owner's name or mailing address be redacted from publicly accessible online records.

Requiring that the dates of owner name changes and mailing address changes be made publicly available may help property owners and title companies identify suspicious activity, such as recent or repeated updates to a specific parcel owner’s information. Disallowing notices such as “name/address withheld upon request,” except under certain circumstances (e.g., individuals protected by address-confidentiality programs) may prevent fraudsters from obscuring fraudulent changes made to a property’s recorded owner name or mailing address.

Additional Research

Requiring additional information, such as timestamps of property owner name and mailing address changes, to be recorded by local treasurers could involve new infrastructure and protocol development. Additional consideration is required to determine the best uniform structure for this additional reporting in municipalities across the state.

Protections for individuals with a statutorily authorized address confidentiality notice or a court-ordered nondisclosure requirement must be built into this recommendation. The purpose of disallowing notices such as “name/address withheld upon request,” except under certain circumstances, is to provide transparency and prevent bad actors from using such notices to obscure fraudulent changes made to a target property’s records. Additional research must be conducted to determine specific exceptions and protections to be built into any legislation, disallowing such notices.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including land title and settlement agents and title insurers) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders, real estate agents, the municipal league, clerks of court, bankers, and builders) consider the recommendation a low priority.

The only dissent comes from a member representing the perspective of notaries. The dissenting perspective emphasizes the importance of protecting property owners’ sensitive information, stating that change of address request dates should be made public but that the address data itself should remain protected with access reserved for authorized entities.

Background

The Code of Virginia requires local treasurers to keep a record of the names and mailing addresses of property owners. Currently, the dates of any changes made to a property owner’s name or mailing address are not recorded or publicly accessible.

Some municipalities across the state have local policies that allow for some level of redaction of property owner information from publicly accessible records. For example, Fairfax County allows property owners to submit a form requesting that their name be withheld from the county's online property records. The County maintains public access to that information, but it must be accessed in person or by special request, adding a layer of privacy.

Training, education, and professional standards

16. Provide consumer and professional education and awareness training (Stated in SB1270, iv)

Recommendation Details

Consumer Education

Property owners may be unaware of the threat of deed fraud and of how to monitor their property title to ensure that their property has not been targeted. State-mandated consumer education efforts may help both property owners and potential buyers gain awareness of this issue, understand how to identify it, and ultimately prevent themselves from becoming victims of deed fraud.

Consumer education efforts could take many forms, including:

- Public awareness campaigns on the prevalence, form, and red flags of deed fraud
- Annual educational materials sent to property owners' mailing addresses
- Public advertisement and enrollment education efforts for property alert notification systems, if developed
- Requirements for real estate agents, brokers, or other agents in the real estate transaction process to provide a mandatory disclosure to prospective buyers detailing the prevalence, form, and red flags of deed fraud with additional resources and guidance

Model Legislation

Legislation mandating other real estate-related disclosures for consumer protection (e.g., California's Natural Hazard Disclosure and New York's Property Condition Disclosure requirement alerting buyers of the presence of lead-based paint) could serve as models for an educational disclosure explaining the prevalence, form, and red flags of deed fraud.

Professional Education

See Recommendations 16.1 and 16.2 for specific training recommendations for professionals including real estate agents, notaries, and settlement agents.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, and bankers) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders and home builders) consider the recommendation a low priority.

Background

No thorough statewide consumer education on the prevalence, form, and red flags of deed fraud has been carried out in Virginia.

16.1 Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents

Recommendation Details

The detection and prevention of deed fraud require modern, detailed training for each agent involved in the real estate transaction process, including real estate agents, notaries, and settlement agents.

Real Estate Agents

Integrating required modules on deed fraud, seller impersonation, and digital security into Virginia's pre-licensing, post-licensing, and continuing education requirements would better equip real estate agents to identify and prevent deed fraud.

Arizona's CE requirements now include a specific hour on deed fraud, providing a precedent for Virginia. In Arizona, real estate agents must complete 24 hours (and brokers must complete 30 hours) of continuing education (CE) every two years in order to renew their licenses. As of 2025, agents are required to complete one hour of training specifically on deed fraud (identifying and preventing fraudulent real estate transactions) as part of their CE hours (Arizona Department of Real Estate).

Notaries

Requiring training for both traditional notaries and electronic notaries on deed fraud, seller impersonation, and digital security could make notaries better equipped to identify and prevent deed fraud.

Eighteen states and Washington, D.C., require training and/or testing for notaries. For example, in North Carolina, notaries are required to pass an approved course (approximately 6 hours) with an exam in order to become commissioned.

Settlement Agents

Requiring settlement agents with access to consumer or property data to complete regular training on deed and wire fraud prevention, data security, and document authentication could make settlement agents better equipped to identify and prevent deed fraud.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, mortgage lenders, and builders) consider the recommendation a high priority. One member representing the perspective of bankers considers the recommendation a low priority.

Background

Real Estate Agents

Virginia real estate agents lack training and tools specifically focused on fraud detection and prevention. In Virginia, agents must complete only 60 hours of pre-licensing education, a 30-hour post-licensing curriculum within the first year, and 16 hours of continuing education every two years. Mandatory topics cover ethics, contracts, agency, legal updates, and fair housing, but fraud detection and identity verification are not required. (Courses on wire fraud, data fraud, etc., are elective only.) If an agent were to suspect a seller of fraud, they may lack access to the data and tools needed to verify the seller's identity.

Notaries

Virginia is one of 32 states that require no training, testing, or education to become a notary public. The lack of training required to become a notary public or eNotary in the commonwealth could leave notaries unprepared to identify bad actors and avoid notarizing fraudulent deed transfers. Without training that emphasizes the gravity of the consequences of notarization fraud or that spells out the signs of fraud to watch out for, notaries may not understand the potential risk. Moreover, they may not fully understand the requirements in legislation dictating their responsibilities, such as acceptable forms of identification from signers. The National Notary Association reports over 130,000 calls per year, many of which are questions from commissioned notaries about basic requirements for carrying out notarizations. For example, according to the Secretary of State, two-thirds of notary misconduct cases in Colorado are related to notarizations occurring without the signer present.

Settlement Agents

Currently, no standards or requirements for deed fraud-related training exist in Virginia for settlement agents. However, their role in the real estate transaction process (i.e., verifying buyer and seller documents, preparing deeds, overseeing notarization) makes them uniquely positioned to identify and prevent deed fraud if given the proper training.

16.2 Require pre-appointment/licensure as well as continuing education require courses (and exams) on deed fraud prior to appointment/licensure and as continuing education for real estate agents and notaries

Recommendation Details

See Recommendation 16.1.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, land title and settlement agents, title insurers, clerks of court, bankers, and home builders) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders and the municipal league) consider the recommendation a low priority.

Background

See Recommendation 16.1.

17. Require notaries to purchase surety bonds as a condition of their commission, require a mandatory journal of notarial acts for traditional and electronic notaries, establish strengthened standards for standard and electronic notary seals, and establish civil liability for notaries

Recommendation Details

Require Bonds for Notaries

Requiring both traditional notaries and electronic notaries to purchase surety bonds as a condition of their appointment could provide a streamlined compensation mechanism for victims of deed fraud caused by notarial negligence.

Many states require notaries to hold surety bonds. For example, in California, notaries are required to purchase and maintain a surety bond at the value of $15,000 for the duration of their term.

Require a Journal of Notarial Acts

Requiring both traditional notaries and electronic notaries to maintain a journal (paper or electronic) of their notarial acts would result in the creation of records (such as signers' personal information and the identity verification methods used by the notary) that may be useful for law enforcement in suspected cases of deed fraud. Notarial journal entries should include the date, time, and type of official act; the signature of any individuals whose signatures are being notarized; identity verification details (e.g., credible witness signatures, paper identification document information); and, in the special case of notarizations pertaining to real estate transactions, the name of any lender and title company involved in the transaction.

Many states require notaries to maintain notarial journals. For example, in California, notaries are required to keep a physical sequential journal detailing their notarial acts. According to the notary handbook published by the California Secretary of State (2024), each entry must include:

- Date, time and type of each official act
- Character of every instrument sworn to, affirmed, acknowledged or proved
- The signature of each person whose signature is being notarized
- A statement that the identity of a person making an acknowledgment or taking an oath or affirmation was based on "satisfactory evidence" pursuant to Civil Code section 1185
    - For paper identification, the entry must include the document type, issuing agency, serial number, and expiration date.
    - For a single credible witness known to the notary, the entry must include the signature of that witness or the paper identification information listed previously.
    - For two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the entry must include the paper identification information listed previously.
- The fee charged for the notarial service.
- If the document to be notarized is a deed, quitclaim deed, deed of trust, or other document affecting real property or a power of attorney document, the signer's right thumbprint must be included in the entry.

Establish Strengthened Standards for Notary Seals

To strengthen standards for obtaining physical notary seals, the state could implement requirements for seal manufacturers to confirm the legitimacy of the buyer (i.e., confirm that the name and commission number they provide are those of an actively commissioned notary and confirm the identity of the buyer).

Multiple states have implemented similar regulations. In California, seal manufacturers are only permitted to create notary seals once presented with a certificate of authorization issued by the Secretary of State. The manufacturer must keep a copy of the certificate, and the original certificate, with an impression of the manufactured seal, must be sent to the Secretary of State for recordkeeping. Similar authorization processes and recordkeeping are required in Texas, Florida, Oregon, and Illinois.

Establish Civil Liability for Notaries, Bond Sureties, and/or Employers

In Virginia, notaries are liable for all damages caused by misconduct in their notarial acts. The recommendation to expand liability could include covering any employer, title company, settlement agent, or other entity that knowingly permits or fails to prevent unlawful or negligent acts by a notary employed or contracted by that entity. Combined with the recommendation to require that notaries hold surety bonds, liability would extend to the surety as well.

Expanding civil liability beyond just the notary (i.e., including bonding companies and employers) could strengthen accountability across the notarization process by incentivizing stronger training and oversight in identity verification protocols.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and builders) consider the recommendation a high priority. Members representing some other perspectives (including the municipal league, land title and settlement agents, and bankers) consider the recommendation a low priority.

The only dissent comes from a member representing the perspective of clerks of court.

The California legislation referenced in this recommendation includes examples of what the Virginia General Assembly may require Virginia notaries to record in a mandatory notarial journal. However, notaries within the TAG recommend that legislation in Virginia omit the following pieces of information:

- Character of every instrument sworn to, affirmed, acknowledged or proved
- The fee charged for the notarial service

Notaries within the TAG state that the first item could produce an unnecessary burden of detail and that the second item is based on the individual notary's profit margin determination. Additionally, these TAG members specifically suggest that journal entries be required to include the names of any lenders and title companies involved when the notarization is related to a real estate transaction.

Background

Require Bonds for Notaries

In Virginia, notaries are currently not required to purchase surety bonds as a condition of their appointment.

Require a Journal of Notarial Acts

In Virginia, traditional notaries are not required to maintain any form of journal documenting their notarial acts.

Electronic notaries are required to maintain a journal (and a backup journal) documenting their remote online notarial acts. According to the notary handbook published by the Office of the Secretary of the Commonwealth (2024), journal entries are required to contain the following:

- Date and time of day of the notarial act
- Type of notarial act
- Type, title, or a description of the document or proceeding
- Printed name and address of each person seeking an electronic notarization
- Type of identification used to establish identity of each person seeking electronic notarization
- Fee, if any, charged for the electronic notarial act

Establish Standards for Notary Seals

Obtaining a legitimate-looking physical notary seal or stamp is easy, and Virginia notaries are not required to prove the status of their commission in order to purchase one. Under these loose regulations, a fraudster may obtain a forged notary seal with which to commit notarization fraud.

Establish Civil Liability for Notaries, Bond Sureties, and/or Employers

Virginia Code § 47.1-7 states that notaries are liable for all damages caused by official misconduct. Currently, notaries in Virginia are not required to hold surety bonds.

Criminal enforcement

18. Felony classification with notable prison terms (3-10 years) with enhanced penalties for repeat offenders

Recommendation Details

This recommendation addresses potential changes in criminal code to enhance deterrence and punish perpetrators of deed fraud. Multiple goals include

- Creating a specific category of offences related to deed fraud
- Making the commission of deed fraud a felony (second degree)
- Punishing offenders with up to 10 years in prison and/or a substantial fine
- Including punishment enhancements for repeat offenders
- Making possession of a counterfeit deed a separate misdemeanor with appropriate prison/fine options

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, the municipal league, notaries, title insurers, clerks of court, bankers, and builders) consider the recommendation a high priority. Members representing some other perspectives (including real estate agents and land title and settlement agents) consider the recommendation a low priority.

The only dissent comes from a member representing the perspective of clerks of court.

Background

In most states, deed fraud is charged under general fraud statutes. Given the rise in the incidence of deed fraud, it is believed that having specific statutes that cover criminal actions related to deed fraud would help attract public attention that could result in property owners taking preventive measures against deed fraud. The potential financial loss to property owners and other victims of deed fraud warrants this type of crime be a felony with the potential for substantial jail time and/or fines. These actions have been taken by multiple states including but not limited to Maryland, Pennsylvania, and Michigan. Maryland has taken an additional step in seeding a deed fraud prevention grant fund that will get future support from state appropriations and fines associated with deed fraud offenses.

19. Broad coverage including fraudulent recording, forged documents, and deceptive conveyances

Recommendation Details

To provide property owners with better protection and to provide definitional tools to support law enforcement efforts, it is recommended that the legal/criminal definition of deed fraud cover a range of documents and activities including:

- Fraudulent deed recordings: Filing or causing to be filed any deed, lien, mortgage, or other instrument affecting title to real property without lawful authority or consent.
- Forged documents: Creating, altering, or submitting documents containing forged signatures, false information, or fabricated identities.
- Forged signatures: Signing the names of another person by physical, electronic, or other means on any document affecting real property without their consent or legal authority.
- Deceptive conveyances: Transferring or attempting to transfer ownership of real property through misrepresentation, impersonation, or concealment of material facts.
- Notary fraud: Falsifying notarial acts, using a notary seal without authorization, or impersonating a notary public.
- Owner or seller impersonation: Representing oneself as the lawful owner or seller of a property without legal right or title.
- Fraudulent lien filing: Recording liens or encumbrances against property without a valid legal basis.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, the municipal league, notaries, title insurers, clerks of court, and builders) consider the recommendation a high priority. Members representing some other perspectives (including real estate agents, title agents, and bankers) consider the recommendation a low priority.

Dissent comes from some members representing clerks of court and land title agents. One representative of clerks of court objects to making this recommendation without consulting and collaborating with commonwealth's attorneys.

Background

This recommendation expands on Recommendation 18, creating a specific set of actions constituting criminal deed fraud. Having separate detailed criminal code can help draw public awareness to the issue of deed fraud, allow better tracking of the incidence of deed fraud, identifying repeat offenders, and removing ambiguities about actions that constitute deed fraud.

20. Multi-jurisdictional prosecution authority

Recommendation Details

To enhance the timely resolution of deed fraud and convenience for victims and potential victims of deed fraud, legal filings related to deed fraud may be filed in jurisdictions for

- Place of the subject property
- Place where the fraudulent papers were filed
- Place of residence of the rightful (original) property owner

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, notaries, title insurers, clerks of court, bankers, and builders) consider the recommendation a high priority. Members representing some other perspectives (including real estate agents, the municipal league, and land title and settlement agents) consider the recommendation a low priority.

Dissent comes from one member representing the perspective of clerks of court. One representative of clerks of court objects to making this recommendation without consulting and collaborating with commonwealth's attorneys.

Background

Anecdotal evidence suggests that many instances of deed fraud occur when owners of real property do not reside near the targeted property. Allowing the victim to choose where to file legal complaints regarding deed fraud to any relevant jurisdiction, including the victim's place of residence, allows for the more timely identification of potential deed fraud, and prevents the imposition of unreasonable burdens on deed fraud victims related to seeking court or law enforcement intervention from distance.

Victim remedies

21. Expedited court procedures for title restoration and automatic stays during criminal proceedings

Recommendation Details

Upon a verified petition supported by sworn affidavit and documentary evidence, a judge in the appropriate court may issue *ex parte* orders to temporarily restrain or void the effects of a recorded deed lien or other instrument affecting real property if the court finds:

- Probable cause to believe the document was recorded fraudulently, included but not limited to
    - Forged signatures
    - Falsified notarial acts
    - Seller or owner impersonation
    - Deceptive conveyance or misrepresentation
- Relief may include but is not limited to
    - Temporary injunction against further transfer or encumbrance of the property
    - Order to suspend the legal effect of the recorded document
    - Order to the clerk of the court to flag the document as disputed in the land records system
    - Order for expedited hearings (within 14 days of issuance)

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, notaries, land title and settlement agents, title insurers, clerks of court, bankers, and builders) consider the recommendation a high priority. One member representing the perspective of the municipal league considers the recommendation a low priority.

Members emphasize the importance of informing and preparing judges for these expedited hearings.

Background

Once deed fraud is detected, delays in legal intervention reduce the chances a victim can be made whole. Providing for judicial intervention through an *ex parte* proceeding lowers the legal and financial burden of recovery for victims, can lessen the magnitude of financial loss, and increases opportunities for successful law enforcement. It also allows for qualified intervention that relieves legal and administrative burdens on county clerks.

22. Minimum statutory damages, attorney fee recovery for successful plaintiffs

Recommendation Details

For civil proceedings where suit is brought by victims of deed fraud, successful plaintiffs will be awarded statutory damages and legal cost recovery, including attorney fees.

Statutory Damages: Any person who is found liable in a civil action for committing deed fraud shall be subject to statutory damages in an amount not less than $25,000 per affected property, regardless of actual damages proven, in addition to:

- Restitution of title or interest in the affected property
- Compensation for lost use, rental value, or sales value of the property
- Punitive damages where the fraud was willful or malicious, subject to statutory caps

Legal Cost Recovery: In any civil action brought under this section, the court will award the prevailing plaintiff:

- Reasonable attorney fees
- Court costs
- Expert witness fees related to proving fraud or forgery.
- Other reasonable costs incurred by the plaintiff in bringing suit

Burden of Proof of Deed Fraud: The plaintiff must prove deed fraud by clear and convincing evidence including but not limited to:

- Forged signatures
- Falsified notarial acts
- Deceptive conveyances
- Unauthorized recordings

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, notaries, title insurers, clerks of court, and builders) consider the recommendation a high priority. Members representing some other perspectives (including land title and settlement agents, the municipal league, clerks of court, and bankers) consider the recommendation a low priority.

Objection comes from one member representing the perspective of real estate agents. Some members express concern about the feasibility of tracking down and charging the fraudster, suggesting that the rare or minimal impacts of this recommendation may not be worth the effort spent to implement it.

Background

This recommendation provides civil remedies specific to acts related to deed fraud. This addresses issues of victim restitution not included in the criminal code and is an important consideration, especially for economically vulnerable victims.

23. Streamlined petition processes with standardized forms

Recommendation Details

The purpose of this recommendation is to expedite and simplify the process by which victims of deed fraud may petition the court to challenge fraudulent recordings and seek relief.

Petition filing with Circuit Court Clerk:

- Create a standard form for a Verified Petition for Relief from Fraudulent Conveyance that may be filed in any relevant jurisdiction (see recommendation on multijurisdictional filings).
    - Petition will include
        - Sworn affidavit detailing the suspected fraud
        - Supporting documentation such as prior deeds, identification, title reports)
        - A request for temporary relief, if applicable
- Direct Court Clerk shall
    - Accept the petition without requiring a full civil complaint
    - Immediately forward the petition to the presiding judge for review
    - Flag the affected property record in the land records system of the appropriate jurisdiction as “Disputed-Pending Judicial Review”
- Victims of deed fraud shall be eligible for a waiver of filing fees.
- Clerks of court, upon presentation of an appropriately completed Verified Petition for Relief from Fraudulent Conveyance have the authority to
    - Flag suspicious documents for judicial review
    - Refer suspected fraud cases to the commonwealth’s attorney or local law enforcement
    - Notify property owners if the county has established a Property Notification System that notifies property owners when documents are recorded under their name.
    - This provision does not require clerks of court to take any other action, such as forwarding the Verified Petition for Relief from Fraudulent Conveyance. Any filing with the clerk of the court is the responsibility of the property owner, complainant, or their authorized representative.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, and builders) consider the recommendation a high priority. One member representing bankers considers the recommendation a low priority.

Dissent comes from members representing the perspectives of mortgage lenders and clerks of court. One representative of clerks of court emphasizes that circuit courts are not form driven, but rather most of their pleadings are drafted by attorneys. The member also emphasizes the importance of collaborating with the Office of the Executive Secretary, along with the Clerks Forms Committee, for the development of any forms that would be available statewide. Additionally, the member proposes that any waiver of filing fees be statutory.

Background

To better protect victims of deed fraud, and to limit the burden of initiating actions to protect one's property from fraudulent conveyance, having a streamlined process for notifying the courts and county clerks of suspected fraud is in the public interest. Having a standard form establishing factual indications of deed fraud eliminates any confusion and reduces errors inherent when petition documents are not standardized across jurisdictions. Having standardized petition documents also enhances efficiency in training of county clerks, clerks of the court, owner representatives, promotes transparency, and enhances public convenience and effectively lowers the cost of seeking legal recovery for victims.

24. Establish an expedited process for correcting fraudulent transfers that would be less expensive and time consuming than a court action (e.g., procedure before Clerk of Court or a Commissioner of Accounts or similar); establish requirements to prove or document fraud

Recommendation Details

This recommendation extends the previous recommendation for a standardized form by which victims of deed fraud may notify a county clerk of fraudulent recordings.

Petition filing with Clerk of Court:

- Create a standard form for a Verified Petition for Relief from Fraudulent Conveyance (same as above).
  - Petition will include
    - Sworn affidavit detailing the suspected fraud
    - Supporting documentation such as prior deeds, identification, title reports
    - A request for temporary relief, if applicable
- Clerks of court, upon presentation of an appropriately completed Verified Petition for Relief from Fraudulent Conveyance have the authority to
  - Flag suspicious documents for judicial review
  - Refer suspected fraud cases to the commonwealth's attorney or local law enforcement
  - Notify property owners if the county has established a Property Notification System that notifies property owners when documents are recorded under their name.
  - Correct property records to remove the effect of fraudulent documents or conveyances.
  - This provision does not require clerks of court to forward the Verified Petition for Relief from Fraudulent Conveyance. Any filing with the Clerk of the Court is the responsibility of the property owner, complainant, or their authorized representative.
  - Any related county filing fees associated with correcting property records will be waived.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, bankers, and builders) consider the recommendation a high priority. One member representing mortgage lenders considers the recommendation a low priority.

Dissent comes from members representing the perspectives of clerks of court. Members hold that any order affecting real estate should be directly court-ordered, not ordered by a clerk.

Some members emphasize the belief that any such action regarding real estate should be directly court ordered.

Background

Even with *ex parte* court proceedings as an option for hastening a resolution to a deed fraud for property owners, court filings and actions may be intimidating to elderly and other vulnerable individuals. Consideration was given for the creation of a process that would use sufficient evidence for a county clerk to be able to recognize a fraudulent conveyance has occurred and to offer a mechanism for immediate redress, when such redress is limited to correcting ownership records.

25. Allow recordation of a corrective deed re-establishing title in the rightful owner without requiring additional recording and transfer taxes be paid by the defrauded parties, or

Recommendation Details

Irrespective of any other recommendations that may be adopted into law or administrative practices, any corrections required by court order or county clerk determination to correct property records shall have any state or substate jurisdictional fees, transfer taxes, or other financial obligations of the rightful owner will be waived.

It is recommended that any fees or taxes paid by persons engaging in deed fraud as a part of a fraudulent property conveyance shall not be recoverable upon the cancellation of the conveyance or correction of the property record.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation as a high priority.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, bankers, and home builders) consider the recommendation a high priority.

Members emphasize that any waiver of fees or taxes must be statutory.

Appendices

Appendix A: Interdependent and Contradictory Recommendations

Interdependent Recommendations

- Recommendation 1 (Require real estate agents to verify seller's identity), Recommendation 1.1 (Require real estate agents to verify seller's identity prior to listing), and Recommendation 1.2 (Require real estate agents to verify seller's identity prior to real estate agent contract) must be paired with Recommendation 16.1 (Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents).
- Recommendation 2 (Require real estate agents to check tax records and send written communication to the owner's recorded address) must be paired with Recommendation 16.1 (Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents).
- Recommendation 5 (Require settlement agents to verify the identity of sellers in high-risk transactions) must be paired with Recommendation 16.1 (Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents).

Contradictory and Redundant Recommendations

- Recommendations 1, 1.1, and 1.2 are intentionally redundant. Only one of these three recommendations should be adopted.
- Recommendation 9 (Training for clerks of court – and authorization to refuse a doc set if the RON seal is not valid) and Recommendation 10.1 (Training local clerks to assess the validity of RON notarizations and authorizing them to refuse a doc set if the RON seal is not valid) are intentionally redundant. Recommendations 10.1 and 10.2 are presented as specific additions to Recommendation 10.

Appendix B: Prevalence and Form of Deed Fraud

Prevalence

Deed fraud appears to be particularly prevalent in the northeastern United States but occurs nationwide (NAR, 2025). In 2023, 28% of title insurers saw at least one seller impersonation fraud attempt, and in April 2024 alone, 19% of insurers saw at least one attempt (ALTA, 2024b). Fraud and forgery claims cost title insurers 5x more than other types of claims and have increased rapidly over recent years, accounting for an average of 19% of all title claims from 2013-2020, followed by 27% in 2021 and 44% in 2022. This pattern is consistent across states. In 2023, 21% of the money spent by title insurers went toward fraud and forgery claims (ALTA, 2024a).

The FBI reported 9,521 complaints of real estate fraud (all real estate fraud, including deed fraud) in 2023 amounting to $145,243,348 in associated losses. In 2022, the FBI reported 11,727 complaints with $396,932,821 in losses, and in 2021, it reported 11,578 complaints with $350,328,166 in losses (FBI, 2023).

Targeted Owners and Properties

In deed fraud situations where the real owner is unaware of the scam, victimized properties are more likely to be vacant or neglected than to be occupied in any capacity (NAR, 2025) (Sterk, 2023). Properties with recently deceased owners and properties with no mortgage also tend to be specifically targeted (Sterk, 2023; ALTA, 2023; New York State Attorney General, 2022).

In deed fraud situations where the real owner is scammed, victims tend to be in extreme financial distress, making them more vulnerable. In these cases, elderly homeowners also tend to be specifically targeted (OIG, 2022) (Chen, 2023).

Mechanisms and Qualities of Fraudulent Deed Transfers

- Fraudster requests cash sales (Sterk, 2023; FBI Newark, 2024; ALTA, 2024b).
- Property is listed below market value (FBI Newark, 2024).
- Signings and/or notarization are conducted remotely or online (ALTA, 2024b; FBI Newark, 2024).
- Notarization is fraudulent via fake or stolen notary credentials (ALTA, 2024b).
- Unknowing real estate agents and title agencies are utilized to conduct the fraud (ALTA, 2023).
- Public records are used to identify mortgage-free properties and their owners' identities (ALTA, 2023).
- Financially distressed homeowners are dishonestly convinced to transfer their deeds, believing they will be relieved of debt or signing agreements they do not know the details of (ALTA, 2023).
- Digitized deeds recorded and kept at the local level are used to identify victims (Sterk, 2023).
- A deed transferring the property to the fraudster is forged and recorded with the county, allowing the fraudster to sell the property (Sterk, 2023).

Various Presentations of Deed Fraud

Deed fraud can present in different ways. Cases tend to fall into these categories:

1. A high value, not regularly occupied home (e.g., second home, vacation home) is fraudulently sold for cash to an unknowing buyer. The home is identified to be mortgage-free via public records. The fraudster forges a deed transferring the property to themself, an accomplice, or an LLC and records it with the local authority. To execute the sale, the fraudster may use an unknowing real estate agency or list the property for sale by owner. Often, notarization is also fraudulent, with notary credentials either being stolen or forged. The fraudster may be operating in an organized ring with deep knowledge of the industry and processes. Throughout the process, the actual owner is completely unaware.
    a. In Queens, NYC, a five-member organized ring forged deeds for three homes collectively worth over $1 million owned by elderly homeowners. The fraudsters impersonated the owners and forged signatures on contracts to close "sales" on the properties (New York State Attorney General, 2022).
2. A vacant, rural property with no structures or abandoned structures is fraudulently sold for cash to an unknowing buyer. The property is identified to be vacant and mortgage-free via public records. The fraudster forges a deed transferring the property to themself, an accomplice, or an LLC and records it with the local authority. To execute the sale, the fraudster may use an unknowing real estate agency or list the property for sale by owner. Often, notarization is also fraudulent, with notary credentials either being stolen or forged. The property may be listed below market value, the sale may be rushed, and the fraudster may request remote, virtual signings and notarization. Throughout the process, the actual owner is completely unaware.
    a. In North Carolina, a title agency reported a $33,000 loss from a vacant-lot fraud situation (ALTA, 2023).
3. A homeowner in financial distress who may be at risk of default or foreclosure is approached by a fraudster who dishonestly offers to assist them. The fraudster may convince the homeowner that transferring the deed will release them of debt or may get the homeowner to sign away the deed under false pretenses (e.g., telling them they are signing some other financial document). When the deed is transferred to the fraudster, the mortgage debt is not, allowing the fraudster to rent out the property until it is foreclosed. In contrast to examples (1) and (2), the actual owner is involved in this form of a deed fraud scam.
    a. In Brooklyn and Queens, NYC, a disbarred lawyer preyed on vulnerable, financially distressed homeowners, dishonestly offering them a short sale in exchange for debt forgiveness. Owners unknowingly signed documents transferring the property to the fraudster without transferring their debt. The fraudster is accused of fraudulently obtaining some 40 properties through this method, many of which were rented out to unknowing tenants (Chen, 2023).

FBI Warnings

In 2024, the FBI Newark field office reported a trend of vacant lots getting wrapped up in deed fraud cases. Sometimes real estate agents are unknowingly involved, and sometimes the properties are listed as for-sale by owner. Either way, the "sellers" tend to accept below-market offers, demand virtual signings, and only accept all-cash offers (FBI Newark, 2024).

In April 2025, the FBI Boston field office issued a statement detailing rising counts of deed fraud in the Northeast. The FBI reports 58,141 victims and $1.3 billion in losses associated with real estate fraud (generally, including deed fraud) (FBI Boston, 2025).

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Appendix C: Deed Fraud and Notarization Vulnerabilities

Deed Fraud & Notarization Vulnerabilities: Literature Review

Key Discussion Points from Technical Advisory Group
Gaps in the Notarization Process

- *Virginia notaries are among the least regulated in the U.S. No training is required, yet they hold wide authority and can notarize documents in other states and countries.*
- *Notaries can be the "weakest link" in the process when it comes to deed fraud. Fraudsters exploit this by using fake IDs (easy to acquire) or stolen notarization credentials.*
- *Remote/Online Notarization: Strong support for online notarization using Knowledge-Based Authentication (KBA), which makes impersonation more difficult by requiring identity verification through personal history questions. Some note that it may be more difficult to forge an eNotary seal than a physical one.*
- *Anecdotes included stolen notary credentials still being listed as active, and the ease of acquiring fraudulent notary seals online.*
- *Notaries, agents, attorneys, and clerks all need to be involved in ensuring that the seller is who they say they are.*

Vulnerability 1: No training, testing, or education is required to become a notary public or eNotary in the commonwealth.

Requirements for notaries in the Commonwealth of Virginia

Virginia is one of 32 states that require no training, testing, or education to become a notary public (Thun, 2015). The requirements to qualify include:

- Be at least 18 years old
- Be able to read and write English
- Be a legal resident of the U.S.
- Be a resident of or have a place of employment in the Commonwealth of Virginia

(How to Become a Notary Public in Virginia, 2025).

If eligible, the process to become a notary public in the commonwealth is:

1. Complete the application paperwork and pay a $45 application fee.
2. Have the application notarized by a Virginia notary. Mail the application to the Office of the Secretary of the Commonwealth.
3. Notice of approval will be issued within two to three weeks. Upon approval, take the oath of office at the Circuit Court and pay the $10 court fee.
4. Obtain a notary seal in accordance with the law:
    a. The seal may be either an ink stamp or embosser and embosser inker
    b. The seal must be sharp, legible, permanent, and photographically reproducible

c. The seal must include the notary's name, "Notary Public," and "Commonwealth of Virginia"

No education, exams, or other training is required to begin notarizing. Neither surety bonds nor insurance are required for Virginia notaries.

There are two ways that notaries in Virginia are allowed to use to establish proof of the signer's identity (Office of the Secretary of the Commonwealth of Virginia, 2024):

1. Identification document: Examination of a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card
2. Credible witness: Identification of the signer by a credible witness who personally knows both the notary and the signer or who personally knows the signer and presents one of the documents listed in (1).

Requirements for eNotaries in the Commonwealth of Virginia

Additionally, there is no testing, training, or education required to become a remote electronic notary (eNotary) in Virginia. Any individual already commissioned as a notary public in the commonwealth can acquire an electronic seal, create an electronic signature through a RON technology vendor, submit the application and pay a $45 fee to the Secretary of the Commonwealth, and become a registered eNotary ("How to Become a Remote Electronic Notary in Virginia," 2022).

According to the law, RON must be completed via two-way live teleconference; in other words, all parties must be able to simultaneously see and speak to one another in real-time through a secure signal transmission. Electronic notaries in the commonwealth are required to keep a journal of their electronic notarizations.

There are multiple ways that eNotaries in Virginia are allowed to use to establish proof of the signer's identity (Office of the Secretary of the Commonwealth of Virginia, 2024):

1. Personal knowledge: The notary personally knows the signer.
2. Credible witness: A credible witness identifies the signer and is either personally known to the notary or is identified by two of the following methods.

OR two of the following:

3. Identification document: The signer presents a valid government issued identification document containing a photograph and signature.
4. Antecedent proofing: The signer's identity has previously been proven in-person by a trusted third party (e.g. employer, law firm, bank).
5. Digital certificate: The signer's identity is verified by biometrics or a Personal Identification Card (PIV or PIV-I).

6. Knowledge-based authentication (KBA): The signer is required to answer personally specific questions generated by a third-party system using public records and credit history.

Lack of Training Leaves Virginia Notaries Vulnerable to Fraud

The lack of training required to become a notary public or eNotary in the commonwealth could leave notaries unprepared to identify bad actors and avoid notarizing fraudulent deed transfers. Without training emphasizing the gravity of the consequences of notarization fraud or spelling out the signs of fraud to watch out for, notaries may not understand the potential risk. Moreover, they may not fully understand the requirements spelled out in the legislation dictating their responsibilities, such as acceptable forms of identification from signers. The National Notary Association reports over 130,000 calls per year, many of which are from licensed notaries asking questions about basic requirements for carrying out notarizations. For example, according to the Secretary of State, two thirds of the cases of notary misconduct in Colorado are related to notarizations occurring without the signer present (Thun, 205).

Social engineering is when bad actors trick or otherwise influence unknowing victims into performing actions or divulging secure information that they otherwise would not. In the notarization process, fraudsters may use social engineering to trick a notary into skipping parts of the identity verification process or otherwise bending the rules. Bad actors who engage in social engineering look for victims that will be easily manipulated into bypassing security measures (Steinmetz, 2020). These bad actors self-reportedly seek out victims who

- have access to something of value to the bad actor, like private information or the power to notarize a fraudulent document
- are uninformed or naive, lacking training and education that could make them robust to fraud
- are unconcerned, either because they do not feel invested in the security of their work or because they are simply too busy and overwhelmed to be concerned
- are friendly and helpful, eager to "help out" without suspicion

Social engineers self-report patterns that arise in successful manipulation attempts (Steinmetz, 2021):

- Research and planning: Fraudsters may spend significant time collecting information before engaging with the victim. In the case of deed fraud and notarization fraud, the bad actor may spend time collecting information on the homeowner they are impersonating in order to pass KBA tests, or they may spend time collecting information on the notary they are attempting to manipulate.
- Proximity: Fraudsters may attempt to build trust with the victim or choose victims that they already have rapport with. In the context of deed fraud and notarization fraud, this could look like bad actors taking advantage of notaries that they have an established personal relationship with (e.g. coworkers, family members, friends).

- Getting the victim to act: Social engineers self-report two strong methods for getting victims to act in their favor. One effective method is showing vulnerability by asking the victim for "help." In notarization fraud, this could look like the fraudster asking for a favor (e.g., because "their family member who signed the deed transfer is sick right now," etc.). The other method is offering some kind of incentive to the victim. In notarization fraud, this could look like directly paying off the notary, making them a knowing accomplice.
- Concealment: Social engineers self-report tactics for keeping their attacks concealed in order to minimize suspicion from victims. These include creating a sense of trust and authenticity with the victim and either keeping the interaction mundane and ordinary or making the interaction seem like a one-off urgent, unusual request. In deed fraud and notarization fraud, the former could look like impersonation of a homeowner complete with fraudulent identification and correct answers to KBA questions. In other words, the situation seems completely straightforward to the notary. The latter could look like the fraudster taking advantage of the notary's friendliness or willingness to help by asking for a favor or creating an intense sense of urgency to manipulate the victim to act quickly.

Common tactics used by fraudsters to trick notaries include (Lewis, 2024; Lewis, 2025):

- Urgency: The fraudster may communicate urgency and request a rushed notarization, possibly leading the notary to cut corners and not exercise due diligence in the identity verification procedure.
- Asking for a favor: If the fraudster and the notary have a standing friendship or other relationship (e.g. co-workers), the fraudster may take advantage of that relationship by asking for a favor (e.g. to notarize a deed transfer allegedly signed by a family member who is not present; a boss pressuring a notary to notarize company documents without the signer present).
- Charm, sympathy, social pressure: Even if the fraudster and the notary do not have a previous relationship, the fraudster may still take advantage of politeness, sympathy, and social norms to get the notary to cut corners in the notarization process (e.g. the fraudster may express emotional distress; the fraudster may be, or claim to be, in some position of authority).

The psychology behind social engineering scams is related to ("The Psychology Behind Scams," 2024; "Why do smart people fall for scams," 2025):

- Optimism bias: This cognitive bias can make people underestimate their own risk of being scammed.
- Confirmation bias: People tend to look for information that confirms what they already believe and ignore information that contradicts it.
- Urgency / Fear tactics: When people are put into a heightened emotional or stressful state, they may act irrationally and not carry out due diligence.
- Emotional manipulation: Fraudsters may take advantage of people's empathy and willingness to help others.

Vulnerability 2: The remote online notarization (RON) process is vulnerable to AI-generated deepfake impersonations.

Fraudsters may use AI deepfake technology to appear "on-camera" as somebody else during a fraudulent RON signing ("Digitally Disguised," 2024; Granfield, 2025; Levonick, 2025). Deepfakes are a relatively new threat, only becoming a significant fraud method in the past two or three years. These manipulated video livestreams and photos can be used to pass biometric checks that use facial recognition to compare a signer's face with the photos on their identification documents. Deepfakes account for an estimated 40% of video biometric identification fraud attempts, and this number will likely rise as AI technology becomes more advanced (Markey & Horswell, 2025). Deepfakes can take multiple forms (Markey & Horswell, 2025):

- "Face swap" deepfakes use AI technology to map a source image or video of the impersonator's target onto the impersonator's face. Combined with AI voice filtering technology, this method allows the fraudster to appear live "on-camera," speaking with the RON and moving naturally.
- Generated deepfakes use AI to generate videos either replicating an actual target's face or generating a completely new, not real face. These deepfakes do not use live mapping.
- Lip syncing/editing deepfakes use AI to edit real source videos of the target to make their mouth appear to say something fabricated.

To actually deploy deepfakes in the RON process, fraudsters may use injection attacks. This may take the form of a virtual camera, where software is used to stream deepfake footage in a way where the signal appears identical to real physical webcam footage on the video streaming platform being used by the eNotary to verify the signer's identity. A more sophisticated version of this is known as a network injection, where the fraudster uses code to directly insert the deepfake footage over the internet (Markey & Horswell, 2024).

Case study: A recent example of this happened in Hallandale Beach, Florida, when a fraudster used deepfake technology to disguise their identity in a RON video call (see Matter, 2024).

Vulnerability 3: Knowledge-based authentication (KBA) used in RON can be bypassed by bad actors pulling breached personal data from the internet.

Knowledge-based authentication (KBA) systems use an individual's credit history, financial information, and other personal information to generate questions that, in theory, only that individual would be able to correctly answer. KBA typically comes in the form of a quiz with a few questions and time limits (Thun, 2024; Hearn, 2023). In the commonwealth, eNotaries can use KBA to verify the identity of the signer.

KBA questions often refer to previous addresses, phone numbers, mortgage or other loan payments, and similar personal data collected and kept by credit agencies. The inherent vulnerability in the KBA system is that this type of data has historically been breached, sold, and distributed across the internet over recent decades (Fung, 2018; Krebs, 2013). Moreover, information posted on social media could be used to deduce the answers to some of these questions (e.g. ZIP codes, area codes). Fraudsters may be able to buy or otherwise access all the data necessary to correctly answer KBA questions presented to them at the time of RON (Hearn, 2024; Shultz, 2024).

Case study: A journalist shares KBA questions generated to verify his own identity and demonstrates how fast and straightforward it is to find all the necessary information on Google (see Hearn, 2023).

Vulnerability 4: AI has made it easier than ever for fraudsters to produce convincing forged personal identification, signatures, contracts, and other items.

Advancements in AI technology have made it easier than ever to produce realistic forged documents with virtually any computer (Markey & Horswell, 2024; Griffith, 2024). According to a 2024 study by Entrust Cybersecurity Institute, digital forgeries are outnumbering physical forgeries in document fraud cases for the first time ever (with digital forgeries at 57.46% of cases). This prevalence of digital forgery represents a 1,600% increase in cases since 2021 (Markey & Horswell, 2024).

In some reported cases, this takes the form of forged signatures on deed transfers or other contracts that may additionally be falsely notarized through forgery or stolen credentials (McLaughlin, 2024; Griffith, 2024; Mendoza, 2025). AI tools can reproduce an individual’s handwriting and signature with a small sample of training material (Granfield, 2025).

With AI image generation becoming increasingly accessible, the fabrication of identification documents like passports, driver’s licenses, Social Security cards, and other government-issued documents has become a larger threat (Thun, 2025; Kofsky & Morris, 2024). Fraudsters may use publicly available data to create identification documents with, for example, the real name and birthdate of the rightful owner of a property to convince a notary, real estate agent, title insurer, or other party that they are that individual. Remote online notarization could be especially vulnerable to these kinds of forgeries, as the notary lacks the opportunity to hold and physically inspect the documents.

Case study: A vacant New Jersey property was listed for sale by an unknowing real estate agent who was contacted over the phone by a fraudster claiming to own it. The fraudster fabricated driver’s licenses with the real names of the couple who actually owned the property, and the real estate agent listed the land for sale. When a high offer came in, the fraudster urged the agent to quickly accept and provided a deed transfer likely fraudulently notarized. The fraudster received half the buyer’s payment before the scam was realized (Kofsky & Morris, 2024).

Case study: In 2024, offshore scammers forged the signature of the late Lisa Marie Presley on a deed transferring ownership of Elvis Presley’s Graceland mansion in Memphis, Tennessee, and attempted to auction off the property before being caught (McLaughlin, 2024).

Case study: A community organizer in Detroit stole over 30 homes by forging quitclaim deed transfers to nonexistent entities and then "selling" them (Griffith, 2024). Quitclaim deeds are simple documents that do not contain any guarantees on the property, making them easy targets for forgery.

Case study: A real estate broker in Saratoga County, New York, was recently arrested for attempting to fraudulently sell a property to herself by forging the owner's signature on documents (Mendoza, 2025).

Vulnerability 5: Fraudsters may forge or steal notary and eNotary credentials to fraudulently notarize documents before registering them with the clerk.

Before widescale digitization of property records and other documents, forging a notary's seal and signature required physically pulling a deed from the county clerk's office and attempting to replicate it. Now, these records are widely available on the internet, and purchasing a fake notary stamp or forging a notary's seal on a rubber stamp is easy ("Notary theft," 2024). Further, these publicly available records can be used as reference material for AI-generated stamps and signatures used in forgeries.

Electronic notary credentials are more difficult to forge, as they use timestamped, encrypted digital certificates (Furey, 2024). The unique cryptographic seals attached to these digital certificates cannot be forged; a fraudster would need access to a notary's account with their third-party digital certificate provider.

Case study: The National Notary Association surveyed its members and reported dozens of anecdotal cases of notaries dealing with their credentials being stolen or forged (Browne, 2024).

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Appendix D: Deed Fraud and Real Estate Agent Vulnerabilities

Real Estate Agent Vulnerabilities and Recommendations

A 2025 National Association of REALTORS® survey found that 63% of association executives, attorneys, and government affairs directors were aware of deed fraud occurring in their markets in the past year. Over half of real estate professionals surveyed by CertifID in 2023 reported experiencing at least one attempt of seller impersonation within the previous six months. Real estate agents represent one of many vulnerable points in the real estate transaction process.

Vulnerability: Virginia real estate agents lack training and tools specifically focused on fraud detection and prevention.

In Virginia, agents must complete only 60 hours of pre-licensing education, a 30-hour post-licensing curriculum within the first year, and 16 hours of continuing education every two years. Mandatory topics cover ethics, contracts, agency, legal updates, and fair housing, but fraud detection and identity verification are not required. (Courses on wire fraud, data fraud, etc., are electives only.) If an agent were to suspect a seller of fraud, they may lack access to the data and tools needed to verify the seller's identity.

Possible solutions specifically regarding real estate agents identified in the literature and industry practice include:

1. Mandated early identity verification at the listing stage

In most transactions, the first identity verification happens at closing. Requiring agents to verify a seller's identity before accepting a listing agreement using third-party tools (Forewarn, CertifID, etc.) could prevent fraudulent actors from entering the transaction pipeline at all. This requirement could mirror the standard identity verification processes that notaries follow for signers.

In Canada, the United Kingdom, and other countries, real estate agents are legally required to verify the identities of their clients as an effort to prevent fraud.

2. Required fraud-specific training

The commonwealth could integrate required modules on deed fraud, seller impersonation, and digital security into Virginia's pre-licensing, post-licensing, and continuing education requirements. Arizona's continuing education (CE) requirements now include a specific hour on deed fraud, providing a precedent for Virginia.

In Arizona, real estate agents must complete 24 hours (and brokers must complete 30 hours) of CE every two years in order to renew their licenses. As of 2025, agents are required to complete one hour of training specifically on deed fraud (identifying and preventing fraudulent real estate transactions) as part of their CE hours (Arizona Department of Real Estate).

3. Centralized fraud reporting portals

Create a standardized, local or state-level online form where real estate agents can report suspicious "sellers." Reports could automatically notify clerks to flag the associated property file.

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- GTOs were first issued by FinCEN in 2016.
- Geographic targeting orders require title insurance companies to verify the identities of "individuals behind legal entities" involved in cash real estate purchases.
- CA, FL, HI, IL, MA, NV, NY, TX, WA have GTOs
- GTOs don't apply to real estate agents, but a similar policy structure could be used to require agents to verify the identities of potential clients early in the transaction process.

Proof (2024). To Prevent Seller Fraud, Verify Seller Identity Before Closing. https://www.proof.com/blog/prevent-seller-fraud-verify-seller-identity-before-closing

- Sellers' identities are not verified at the beginning of the listing process. Listing agents, who often work remotely with sellers (especially those who live in a different state or country), are not required to verify sellers' identities.
- Title companies may collect information about the buyer and seller but are not required (and often do not) verify the identities of the buyer and seller.
- Most often, the first verification of the seller's identity is by the notary or signing agent at closing.
- Fraudulent sellers really only have to "trick" one person (the notary) in the transaction process as it currently exists. Adding additional requirements for identity verification by independent parties (listing agent, title insurer, title company, notary) may allow for less fraudulent sellers to slip through the entire process.

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- Real estate agents should use identity verification as a first step when initiating a new sale in order to prevent fraud.
- GTOs require title companies to verify the identities of entities making cash real estate purchases greater than $300,000.

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- A CertifID survey (Oct 2023) states that 54% of real estate professionals have encountered a seller impersonation attempt within the past six months.

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- Survey of REALTOR® association executives, attorneys, and government affairs directors
- 63% of respondents are aware of deed fraud occuring in their markets within the past year. 59% of respondents from the South are aware of deed fraud occuring in their markets within the past year.
- REALTORS® most commonly report encountering fraud in central cities and urban areas (64%) and suburban areas (62%). In small towns, 40% of REALTORS® report encountering fraud.
- REALTORS® most commonly encounter fraud involving vacant land (62% of occurances). Instances involving owner-occupied land make up just 12% of occurances.
- The most common intervention reported by REALTORS® is a electronic notification system that notifies owners when documents are filed regarding thier property.
- Some REALTORS® report that their local recorders are allowed to use their discretion to flag and delay suspicious filings (in AZ, IN, MI, ND, SC, TN, WA).
- Some states have a property title freeze system similar to a credit freeze system (AZ, IN, ME, SC).
- Some states allow verified/authorized filers (attorneys, title agents) to file remotely while others are required to file in person (AZ, IN, MA, NV)
- Some states have begun creating expedited quiet title processes to investigate and resolve fraud (FL, NV)
- To REALTORS®, the perceived most effective solutions include
    - Electronic notification system (83% of respondents)
    - Property title freeze system (61%)
    - Local recorders ability to flag suspicious filings (60%)
    - Creating expedited quiet title process to investigate (39%)
    - Safe harbor for agents to mitigate fraud (35%)
    - Known filer system (34%)

Appendix E: Deed Fraud and Notary Fraud Targeting Spanish Speakers

Deed Fraud and Notary Fraud Targeting Spanish Speakers

An estimated 505,407 Virginians older than 18 speak Spanish as their primary language at home. Of those, an estimated 233,202 individuals speak English less than "very well" as designated by the Census Bureau (ACS 2023). These individuals are at risk of the types of title fraud targeting Spanish speakers detailed below.

Deed Fraud Targeting Spanish Speakers

The Hispanic community, especially native Spanish speakers, is especially vulnerable to real estate fraud. Common scams disproportionately affecting this group include:

- Predatory lending: Native Spanish speakers with limited English and young or poor credit may be especially vulnerable to predatory lending terms. These terms may include exorbitantly high interest rates, hidden fees, or misleading marketing (e.g., a lender may mislead the victim into thinking they are a government official).
- Foreclosure rescue scams: Families in financial distress who are at risk of foreclosure may be preyed on by fraudsters offering to buy the home and rent it back to the family only to pocket the money and let the home be foreclosed.
- Other loan modification scams: Bad actors may target native Spanish speakers in loan modification scams, falsely promising to lower their mortgage payments, charging high and useless fees, convincing them to redirect mortgage payments to the fraudster, and sometimes convincing them to sign away their home title.

The California Department of Real Estate has observed a pattern of real estate fraud targeting Hispanic communities. These schemes often involve fraudsters falsely offering loan modifications or foreclosure rescue and proceeding to charge exorbitant fees for their "services." Fraudsters may convince or trick victims into redirecting their mortgage payments or, in some instances, transferring their property deed to the fraudster (Bell, 2012).

Case study: The U.S. Department of Justice recently pressed charges against a group of fraudsters targeting Spanish-speaking homeowners in Florida. The scammers falsely advertised, in Spanish, loan modification services that would cut homeowners' mortgage payments in half. The group charged high fees and convinced victims to stop paying their real mortgage lenders, resulting in many families defaulting on their mortgages and losing their homes (U.S. Dept of Justice, 2025).

Case study: The U.S. Department of Justice and the U.S. Consumer Financial Protection Bureau recently pressed charges against a Texas land developer who targeted thousands of Spanish speakers in a real estate fraud scheme. The developer offered predatory loans for flood-prone properties without water or sewer connections, and when the properties were foreclosed, the developer resold them under the same misleading terms (Gillison, 2023).

Case study: Fraudulent “property investor” Michael O’Sullivan has engaged in deed fraud targeting at least 15 Hispanic families in and near East Hampton, New York, in recent years. His scams involve buying properties in foreclosure and “selling” them, collecting payments without ever actually transferring the title or applying the funds to the property. With O’Sullivan taking multiple mortgages out on these properties, the victims end up at risk of eviction with nothing to show for the hundreds of thousands or millions they paid to the fraudster. O’Sullivan and his accomplices (attorneys and title insurance companies) specifically target Hispanic immigrant families who are especially vulnerable (Gangemi, 2025; Dowding, 2025).

‘Notario’ Fraud Targeting Spanish Speakers

This phenomenon of deed fraud targeting Hispanic communities is different from ‘Notario’ fraud, which is a separate important issue.

‘Notario’ fraud is a scheme where notaries public in the U.S. take advantage of the Spanish language translation of their title: notario publico. In many Spanish-speaking countries, notarios publicos are trained legal professionals with the ability to provide legal advice and draft legal documents. As such, bad actors may advertise themselves using the term “notario publico” to charge Spanish speakers for phony legal services they are not legally entitled to provide. This fraud can result in victims losing large sums of money and, in some cases, having their immigration status placed in jeopardy (Cossman, 2023; Jany, 2025).

In 2014, the Virginia General Assembly passed legislation that prohibits Virginia notaries from advertising with the words "notario," "notario publico," and "licenciado" in order to discourage this type of fraud in the commonwealth.

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Appendix F: Technical Advisory Group Meeting Agendas

June 25, 2025; 10am-12pm

SB 1270 Deed Fraud Technical Advisory Group Agenda

Group Members

Virginia Bankers Association: **Bruce Whitehurst**, President & CEO; **Matthew Bruning**, EVP, Government & Member Relations; **Tristan Macdonald**, VBA Vice President, Government & Member Relations

Virginia Court Clerks Association**: Kelly L. Flannagan**, President; **Llezelle Dugger**, Legislative Committee

Community Associations Institute (CAI): **Dawn M. Bauman**, Executive Director/Chief Strategy Officer; **Phoebe Neseth**, Senior Director, Government & Public Affairs and CCAL Liaison

Virginia Association for Commercial Real Estate (VACRE): **Martha D. Marks**, Executive Vice President; **Sarah Thomas**, Manager, State and Federal Government Relations; **Phil Abraham**, Director and General Counsel

Home Builders Association of Virginia: **Craig Toalson**, CEO; **Andrew Clark**, Vice President of Government Affairs; **Melissa McPherson**, Safe Harbor Title Company President

Virginia Municipal League (VML): **Michelle Gowdy**, Executive Director; **Josette Bulova**, Policy Communications Coordinator

Virginia Association of Notaries: **Kimberly B. Wright**, Vice President/Interim President, **Juanita Little Lyons**, Board Member

Virginia Land Title Association: **Leigh Hubbard**, Executive Director; **Katherine Crawford**, Virginia State Counsel at First American Title

Virginia REALTORS®**: Rick Lugg**, CEO; **Erin Kormann**, SVP of Legal Operations & Legislative Counsel

Virginia Bar Association Real Estate Council**: Paul Fletcher,** Executive Director & Chief Executive Officer; **Kay Creasman**, Chair; **Whitney Jackson Levin**, Member

Virginia Mortgage Bankers Association: **Bill West**, President-Elect & VAMPAC Chair

Virginia Housing representatives

Fabrizio Fasulo, Director, Policy and Planning; **Matthew Steele**, Organizational Development Consultant, Policy and Planning; **Demas Boudreaux**, Government Relations Manager, Policy and Planning; **Jeff Quann**, Associate Deputy Counsel, Legal

DHCD representatives

Maggie Beal, Interim Director; **Trisha Lindsey**, Policy and Legislative Director; **Amy Fottrell**, Policy Analyst

Consultant team

Mel Jones, Co-Director, Virginia Center for Housing Research (VCHR) at Virginia Tech; **Ainsley Raymond**, Research Assistant, VCHR; **Michelle Carter**, Program Coordinator, Virginia Tech Continuing and Professional Education (CPE); **Lucas Kintz**, CPE; **Terry Clower**, Director, George Mason Center for

Regional Analysis (GMU CRA); **Jonathan Knopf**, Executive Director for Programs, HousingForward Virginia (HFV); **Maria Dougherty**, Senior Associate, HousingForward Virginia (HFV)

1. Technical Advisory Group Charge and Scope of Work

- Research team presentation
  - Responsibilities
  - Timeline
  - Reporting
- Group member questions for research team, Virginia Housing staff, DHCD staff

2. Group Member Introductions

- Name and organization
- Do you or your organization have experience with or knowledge of deed fraud or related fraudulent or negligent activities?
  - Specific experiences or events in Virginia
  - Specific experiences or events outside of Virginia
  - Professional reports
  - Data
- Are there experts in this area that you can refer us to?

3. Research team presentation, high-level review of deed fraud considerations identified thus far

July 22, 2025; 10am-12pm

SB 1270 Deed Fraud Technical Advisory Group Agenda

Group Members

Virginia Bankers Association: **Bruce Whitehurst**, President & CEO; **Matthew Bruning**, EVP, Government & Member Relations; **Tristan Macdonald**, VBA Vice President, Government & Member Relations

Virginia Court Clerks Association**: Kelly L. Flannagan**, President; **Llezelle Dugger**, Legislative Committee

Community Associations Institute (CAI): **Dawn M. Bauman**, Executive Director/Chief Strategy Officer; **Phoebe Neseth**, Senior Director, Government & Public Affairs and CCAL Liaison

Virginia Association for Commercial Real Estate (VACRE): **Martha D. Marks**, Executive Vice President; **Sarah Thomas**, Manager, State and Federal Government Relations; **Phil Abraham**, Director and General Counsel; **Stewart (Skip) Sacks**, Associate Senior Underwriter, Stewart Title Company**; Mary Long**, Senior Agency Sales Representative and VA State Underwriter, Stewart Title Company

Home Builders Association of Virginia: **Craig Toalson**, CEO; **Andrew Clark**, Vice President of Government Affairs; **Melissa McPherson**, Safe Harbor Title Company President

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Virginia Housing representatives

Fabrizio Fasulo, Director, Policy and Planning; **Matthew Steele**, Organizational Development Consultant, Policy and Planning; **Demas Boudreaux**, Government Relations Manager, Policy and Planning; **Jeff Quann**, Associate Deputy Counsel, Legal

DHCD representatives

Trisha Lindsey, Policy and Legislative Director; **Amy Fottrell**, Manager of Research and Data

Consultant team

Mel Jones, Co-Director, Virginia Center for Housing Research (VCHR) at Virginia Tech; **Ainsley Raymond**, Research Assistant, VCHR; **Michelle Carter**, Program Coordinator, Virginia Tech Continuing and Professional Education (CPE); **Lucas Kintz**, CPE; **Terry Clower**, Director, George Mason Center for Regional Analysis (GMU CRA); **Jonathan Knopf**, Executive Director for Programs, HousingForward Virginia (HFV); **Maria Dougherty**, Senior Associate, HousingForward Virginia (HFV)

Meeting Agenda

1. Data and information gathering update

- Research team presentation
    - Completed
    - Underway
- Member questions for consultants, Virginia Housing staff, DHCD staff

2. Attendance poll

3. Review of new findings: research team presentation & member discussion

- Deed fraud/title theft prevalence and form
- Virginia existing conditions
- Conditions/actions in other states

4. Review of property transaction process & discussion

5. Additional questions/discussion

August 25, 2025; 10am-12pm

SB 1270 Deed Fraud Technical Advisory Group Agenda

Group Members

Virginia Bankers Association: **Bruce Whitehurst**, President & CEO; **Matthew Bruning**, EVP, Government & Member Relations; **Tristan Macdonald**, VBA Vice President, Government & Member Relations

Virginia Court Clerks Association**: Kelly L. Flannagan**, President; **Llezelle Dugger**, Legislative Committee

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DHCD representatives

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Regional Analysis (GMU CRA); **Jonathan Knopf**, Executive Director for Programs, HousingForward Virginia (HFV); **Maria Dougherty**, Senior Associate, HousingForward Virginia (HFV)

Meeting Agenda

1. Data and information gathering update

- Research/information gathering update
- Member questions for consultants, Virginia Housing staff, DHCD staff

2. Timeline

3. Attendance poll

4. Review of new findings: research team presentation

- Real estate agent vulnerabilities
- Survey and interview preliminary results
- Conditions/actions in other states

5. Possible recommendations (please see outline/recommendations document) poll and discussion

6. Additional questions/discussion

Commission to Recommend Methods for Preventing Deed Fraud in the State

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<tr><td>9-10</td><td>“Seller Impersonation Fraud in Real Estate”</td><td>American Land Title Association</td><td>Watch for red flags (p. 9)
Consider heightened scrutiny or halt a transaction when a property…
Consider heightened scrutiny or halt a transaction when a seller…
Take precautions (p. 10)
Contact seller using independent sources
Manage the notarization
Verify the seller’s identity
Use the public record
Control the disbursement
File fraud reports
Fight fraud with industry partners</td></tr>
</table>

Audience: **REAL ESTATE PROFESSIONALS cont'd**			
Page #	***Title***	***Author***	***Topics Covered***
11-49	*Memorandum*: Maine Real Estate Commission licensee continuing education courses containing material on deed fraud	Catherine E. Pendergast, Director of Real Estate Commission	• The memo (p. 11) explains the documents on pages 12-49. Materials included represent currently approved continuing education courses containing material regarding deed fraud, available to licensees. ○ Avoid Closing Delays and Disasters Course (pp. 12-13) ○ Fraud and Cyber Crime in Real Estate Transactions (pp. 14-15) ○ Fraud and Cyber Crime in Real Estate: Today's Reality (pp. 16-17) ○ Hot Topics 2025: Fraud, Tax, Foreclosures, Revaluation (pp. 18-19) ○ Real Estate Fraud: Prevent, Detect, Respond (pp. 20-21) ○ 'Trust Me' Is Not a Strategy: How Title Insurance and Collaboration Can Dave Your Deals (pp. 22-23) ○ Unlocking Legal Insights and Tools: Lawyers, Legal Updates and More!, Greater Portland Board of REALTORS (pp. 24-25) ○ 2025 MAR Legal Updates and Forms Changes Outline (pp. 26-29) ○ Emerging Industry Issues (pp. 30-32) ○ Reasonable Care and Diligence Core Course (pp. 33-49)
50-51	August 2023 article submitted to Realtor Magazine: Fraud/Scam Alert	Maine Real Estate Commission	• More about communication • Fraud/scam alert • How to prevent
52-53	November 2023 article submitted to Realtor Magazine: Scam Alert	Maine Real Estate Commission	• Scam alert • Home security • Licensing requirements
54-55	February 2024 article submitted to Realtor Magazine: Due Diligence	Maine Real Estate Commission	• Due diligence • Notes from recent investigations
56-57	May 2025 article submitted to Realtor Magazine: Fraudsters are Stealing Land Out from Under Owners	Maine Real Estate Commission	• Fraudsters are stealing land out from under owners • How it works • How it gets discovered • Tips for the industry • How to report it

Audience: NOTARIES			
Page #	***Title***	***Author(s)***	***Topics Covered***

58-77	"Notary Public Course of Study"
	
	***** Note****: does not currently address deed fraud*
		Maine Secretary of State	• Role of the Secretary of State (p. 59)
			• What is a notary public? (p. 59)
			• Definitions (pp. 60)
			• Qualifications of a notary public (p. 61)
			• Grounds to deny, refuse to renew, revoke suspend or condition commission of notary public (pp. 61-62)
			• Jurisdiction (p. 62)
			• Conflict of interest (p. 63)
			• Avoiding prohibited acts (pp. 63-64
			• Acceptable forms of identification (p. 64)
			• Journal requirements (p. 65)
			• Notary public official stamp requirements (p. 66)
			• Reasons why a notary should not act (pp. 66-67)
			• Maine's authorized notarial acts (pp. 67-
			  ○ Acknowledgment (pp. 68-69)
			  ○ Verification on oath or affirmation (jurat) (pp. 69-70)
			  ○ Witnessing or attesting to a signature (pp. 71-72)
			  ○ Certifying or attesting a copy of a record (pp. 72-73)
			• Common notarial errors (p. 74)
			• Fees for notarial services (p. 74)
			• Electronic or remote notarizations requirements (p. 75)
			• Additional guidance (pp. 76)
			• What is an apostille or authentication? (p. 77)

78-79	"Tips for Checking State Identification Cards During an In-Person Notarization"	• American Land Title Association • National Notary Association	• Use tools of the trade (p. 78) • Know your state's ID (p. 78) • Handle the ID (p. 78) • Compare the physical description, photo and signature (p. 78) • Inspect the front (p. 79) • Inspect the back (p. 79) • Check for signs of tampering (p. 79) • Check the ID expiration (p. 79) • Ask questions (p. 79) • Look for signs of defect (p. 79)

AARP | ALTA American Land Title Association | MBA Mortgage Bankers Association | National Association of REALTORS® | National Notary Association | PRIA

What is Deed Fraud?

THE TERM "DEED FRAUD" APPLIES TO A VARIETY OF CRIMES where a criminal seeks financial gain through various schemes involving real property. Most of these schemes involve impersonating the actual owner and recording fake or forged documents in local land records. In other cases, property owners are deceived or convinced to sign documents related to their property that are not in their best interests. These crimes result in legal costs, reduction in equity or property value or even property loss. According to the FTC, fraud losses in 2023 were over $10 billion, with nearly $2.7 billion coming from impostor scams[1]. When it comes to real estate, there has been a significant uptick in Owner/Seller Impersonation Fraud. Criminals target the equity in property, so anyone can be a victim, including those in metro or rural areas. In addition to consumers, notaries and real estate professionals are impacted by these costly crimes. Our organizations are committed to providing education and offering solutions to combat these real estate scams.

What Is Owner/Seller Impersonation Fraud?

Criminals are impersonating actual property owners to illegally sell real property the perpetrator does not own. Because criminals are targeting properties that are not owner-occupied or developed, it can take months or years for the actual property owner to discover the fraud. There are two victims that are immediately impacted when these fraudulent transactions occur - the unsuspecting buyer and the legitimate property owner.

What Can Be Done?

Fraud is constantly evolving, and while spontaneous changes to the real estate transfer system are not practical or sustainable, steps can be taken to help combat these crimes without unintentionally harming innocent American property holders.

[1] https://www.ftc.gov/news-events/news/press-releases/2024/02/nationwide-fraud-losses-top-10-billion-2023-ftc-steps-efforts-protect-public

AARP | ALTA American Land Title Association | MBA Mortgage Bankers Association | National Association of Realtors® | National Notary Association | PRIA

Preventative Measures

▶ ID verification options for notarizations performed in the physical presence of the notary

State laws should be amended to explicitly allow notaries to utilize the latest identity proofing measures when performing notarizations in the physical presence of the notary and adjust the maximum fee notaries may charge to recover the cost of conducting identity proofing to align these transactions with consumer protections found in remote online notarizations.

▶ Public record access security

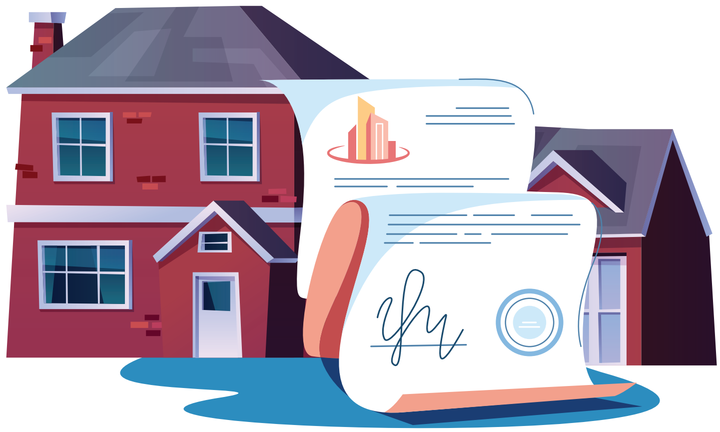
Public land records are essential to the real estate ownership transfer process in the United States and are the backbone of property rights. These records must be accessed and reviewed for any real estate transfer or financing. However, changes must be made to better protect taxpayer information as criminals are leveraging data from publicly accessible online land and tax records to perpetrate their crimes. While access to public records should be prioritized, measures must be put in place to prevent bad actors from using large-scale downloads of data to commit Owner/Seller Impersonation Fraud. These changes can better protect the integrity of the public record while still maintaining access for the public.

▶ General and professional education

In addition to consumer education efforts, professional continuing education for real estate professionals, title insurance and escrow professionals, as well as mandatory education for notaries, should include best practices to combat deed fraud.

▶ Protection of the public record

In various types of deed fraud, public officials charged with maintaining the local land records are presented with obviously fraudulent documents for recording, but often are required to record the documents anyway. Local government offices should have the option of reporting these suspected fraudulent documents to local law enforcement. If a document is rejected for recording, to protect property rights, a notice of rejection should be maintained to protect title integrity. Rejection of suspected fraudulent documents should be limited to unknown submitters (excluding trusted submitters such as eRecording vendors, title companies or lenders) and based on objective criteria outlined in state law[2].



Corrective Measures

▶ Free property recording notification systems

Local land record offices can offer systems that notify property owners if a document pertaining to their property is recorded. This allows property owners to identify a potentially fraudulent transaction and take swift action if there is fraud. These notification systems can work in tandem with judicial processes to cure a fraudulent transaction[3].

▶ Land record flags to identify fraud

Local land record offices can track information to help law enforcement more easily identify additional fraud victims. For example, indexing notaries or tracking document submitters can be useful for investigations.

▶ Increased law enforcement resources

Additional law enforcement resources on the local, state, and federal levels are needed to combat this growing threat to property owners. Statewide or federal taskforce coordination can help more easily identify and prosecute criminals. Lawmakers can review current statutory provisions regarding penalties for deed fraud to ensure there are adequate deterrents and property owner protections in state law.

▶ Establish remedies for victims

States can provide resources[4] and expedited processes for victims to unwind a fraudulent deed and reestablish title in the legitimate owner's name. Where necessary, states can create a judicial process for victims to seek damages and attorneys' fees.

[2] Colorado Revised Statutes 38-35-202, Nevada Revised Statutes 247.145, Ohio Revised Code 317.13, North Carolina General Statutes 14-118.6
[3] Arizona: https://apps.azleg.gov/BillStatus/BillOverview/78707 Florida: https://www.myfloridahouse.gov/Sections/Bills/billsdetail.aspx?BillId=78264 Utah: https://le.utah.gov/~2024/bills/static/SB0165.html
[4] https://www.rivcoacr.org/Real-Estate-Fraud

FRAUD ALERT

ALTA American Land Title Association

Combating Seller Impersonation Fraud & Benefits of ALTA's Homeowner's Policy of Title Insurance

FRAUDSTERS ARE INCREASINGLY IMPERSONATING PROPERTY OWNERS to illegally sell residential property they do not own. Because fraudsters are targeting properties that are not owner occupied, it can take months or years for the actual property owner to discover the fraud.

Red Flags for Real Estate Transactions

A fraudster might be impersonating a seller if:

- The property is a vacant lot or occupied by someone other than the actual owner, such as investment property, vacation property or rental property
- The property is for sale below market value
- The seller wants a quick sale, generally in less than three weeks, and may not negotiate fees
- The seller will only communicate by phone or email and won't meet in person

Consumer Tips

- If it is too good to be true, ask questions
- Where available, sign up for free property alert notifications from your county recorder's office
- When buying property, ask a title professional or real estate attorney about your title insurance coverage options
- Don't delay if you think you have been a victim! Contact local and state law enforcement immediately, including the state bureau of investigation and state attorney general. Additionally, contact your title professional, real estate attorney and/or title insurance policy underwriter.

Understanding Title Insurance Coverage Options

Both the ALTA Owner's Policy and the ALTA Homeowner's Policy of Title Insurance provide coverage for pre-purchase forgery. They would provide coverage for instances where the policy holder purchased the property from a person fraudulently claiming to own the property. However, only the ALTA Homeowner's Policy of Title Insurance provides protection for forgery occurring after the property purchase and further provides additional protection for the owner against a third party fraudulently transferring their property.

With deed fraud on the rise, homebuyers may want to ensure their property is protected both as a purchaser and into the future. Importantly, the ALTA Homeowner's Policy of Title Insurance covers certain risks that occur after the date of policy, including claims due to forgery or impersonation. While many states provide access to this beneficial policy, homeowners in all states should have access to these added protections, including the peace of mind knowing there is post-policy forgery protection. Notably, so called alternatives to title insurance do not protect buyers or actual property owners from seller impersonation fraud.

STOCK.ADOBE.COM / NASTUDIO

[1] The ALTA Homeowner's Policy of Title Insurance is not approved by regulators in all states. ALTA Homeowner's Policy of Title Insurance is only available for improved one to four family residential property. Ask your title company if your property qualifies for this coverage.

How ALTA Safeguards Homeowners: Fighting Seller Impersonation Fraud With Title Insurance

CRIMINALS HAVE DEVELOPED TACTICS to impersonate property owners and illegally sell their properties so they can steal the proceeds.

This is commonly referred to as ***seller impersonation fraud.***

Red Flags in Real Estate Transactions

- The property is occupied by someone other than the owner, or is investment, vacation or rental property.
- The property is listed for sale below market value.
- The seller insists on a quick sale.

Consumer Tips

- If it sounds too good to be true, ask questions.
- Talk to a title insurance professional or real estate attorney about your options for title insurance.
- If you suspect fraud or feel something is wrong, act immediately. Contact local law enforcement and file a report with the FBI at **IC3.gov**. You can also reach out to your title insurance professional or real estate attorney via phone.

To find a trusted title insurance professional near you, visit **homeclosing101.org**.

Understanding Title Insurance Coverage Options

With deed fraud on the rise, prospective and current homeowners may want to ensure their property is protected for the long haul. Since 1998, the ALTA Homeowner's Policy has offered these additional protections, and now the title industry is providing new endorsement options for future and existing homeowners.

Homeowners have two different options: The ALTA Homeowner's Policy offers enhanced protections, including coverage for fraud or forgery that happens after you purchase the property; consumers also have the option of purchasing a policy endorsement to the Owner's Policy, providing coverage specifically for future deed or mortgage forgery.

Current homeowners who have a basic Owner's Policy can request the addition of post-policy coverage for deed or mortgage forgery by reaching out to their title company.

* The ALTA Homeowner's Policy of Title Insurance is not approved by regulators in all states. ALTA Homeowner's Policy of Title Insurance is only available for improved one to four family residential property. Ask your title company if your property qualifies for this coverage.

Be a Savvy Consumer & Protect Yourself from Seller Impersonation Fraud

FRAUDSTERS ARE IMPERSONATING PROPERTY OWNERS to illegally sell residential property they do not own. Because fraudsters are targeting properties that are not owner occupied, it can take months or years for the actual property owner to discover the fraud. There are two victims that are immediately impacted when these fraudulent transactions occur: the unsuspecting buyer and the legitimate property owner.

Is It Too Good to be True? Ask Questions!

From romance to real estate, if it sounds too good to be true, it very well might be! Ask questions if:

- The property is a vacant lot or occupied by someone other than the actual owner, such as investment property, vacation property or rental property
- The property is for sale below market value
- The seller wants a quick sale, generally in less than three weeks, and may not negotiate fees
- The seller will only communicate by phone or email and won't meet in person

Contact Your County Recorder About FREE Property Alert Notifications

Where available, complimentary property alert notifications offered by county recorder's offices inform homeowners when any document is filed pertaining to their property. Before paying for any property monitoring service, homeowners should contact their local county recorder's office to ask about signing up for **FREE** property alert notifications.

Talk to a Title Professional or Real Estate Attorney

Savvy homebuyers should talk to a title professional or real estate attorney about available title insurance coverage options.

If you are a buyer, both the ALTA Owner's Policy and the ALTA Homeowner's Policy of Title Insurance provide coverages for pre-purchase forgery. However, only the ALTA Homeowner's Policy of Title Insurance provides protection for forgery occurring after the property purchase by providing protection for the owner against a third party fraudulently transferring their property.

With deed fraud on the rise, homebuyers may want to ensure their property is protected both as a purchaser and into the future. For post-policy forgery protection, ask a title professional or real estate attorney about the availability of the ALTA Homeowner's Policy of Title Insurance[1].

Think You're a Victim of Deed Fraud?

Don't delay, contact local and state law enforcement immediately, including the state bureau of investigation and state attorney general. Additionally, contact your title professional, real estate attorney and/or title insurance policy underwriter.

STOCK.ADOBE.COM / NASTUDIO

[1] The ALTA Homeowner's Policy of Title Insurance is not approved by regulators in all states. ALTA Homeowner's Policy of Title Insurance is only available for improved one to four family residential property. Ask your title company if your property qualifies for this coverage.

Vacant, often remote land, has proven to be at higher risk for potential fraud.

Sign Up for Fraud Alert Notifications

This service varies per Maine County. Please contact your county Registry of Deeds office for more information.

Helpful Tips if you Suspect Fraud

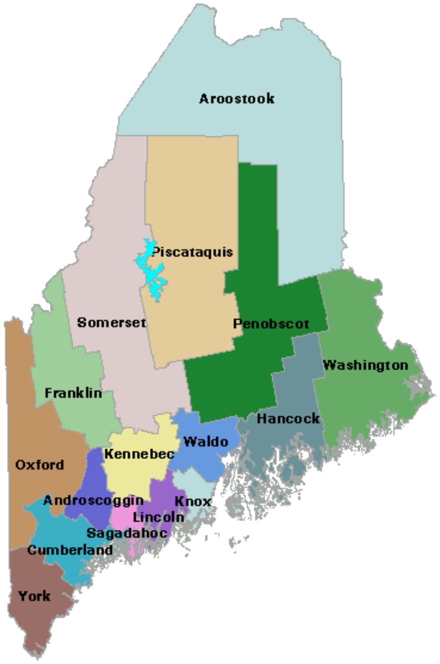
- File A Police Report
- File a Report with the FBI **@ ic3.gov**
- Contact your Municipal Tax Collector
- Close Unauthorized Accounts
- Contact Mortgage Lender
- Retain Theft-Related Records

Credit Bureau Contact Numbers:
Experian 1.800.397.3742
Transunion 1.800.680.7289
Equifax 1.800.766.0008

How Can I Protect My Investment?

- Keep Track of your Mail
  Are you receiving all your mail, or is there something missing? Someone could have changed your mailing address.
- Monitor Your Credit Report
  You're entitled to a FREE credit report annually from the three major reporting agencies.
- Be Cautious with your Personal Information
  Shred unwanted documents.
  Do NOT carry your SSN or Birth Certificate with you. And, do NOT share personal information over the phone or online unless you're positive of your interaction.
- Keep an Eye on your Property
  Look for suspicious activity such as strangers coming and going. Report suspicious activity to the police.
  Install security cameras.

Property unencumbered by liens has proven to be at higher risk of fraud.



MAINE REGISTERS OF DEEDS ASSOCIATION

Fraud Awareness & Alerts

Deed Fraud~ Do I Need To Worry?

Property Deeds

What is a Property Deed?
A property deed is a document that transfers ownership from one person to another. Your deed is recorded by the County Registry of Deeds office.

Whose Name is on a Deed?
If you own the property, it will be yours (and a joint owner if you have designated one).

How do I Protect My Deed?
It takes your signature to finalize the transfer of a property. Never sign any real estate paperwork under pressure. Take documents to a reputable lawyer to be sure of what you're signing.

Properties with Increased Risk
(Source: FBI-November 2024)

- Land Only
- Vacant Homes
- Investment/Vacation Homes
- Property Clear of a Mortgage
- Property Remotely Located

County Registries of Deeds are One of MANY Resources in the Awareness of Property Fraud

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Is My Property at Risk?
Pay Attention for:

- Notice of Open Accounts or Invoices you DID NOT Authorize
- Denial of Credit
- IRS Notice of Unpaid Taxes
- Calls from Debt Collectors you DO NOT Recognize
- Discovering your Home or Rental Property has been SOLD or Rented without your knowledge

PROTECT YOUR INVESTMENT

BE AWARE
EDUCATE YOURSELF
TAKE ACTION

Who We Are

The Maine Registers of Deeds Association is represented by 17 Registers of Deeds and our Deputy Registers across Maine's 16 counties.

A snapshot of our responsibilities:
- Stewards of County Land Records
- Meet Monthly to Provide Consistent Practice
- Uphold State Statute
- Adhere to National and State Archival Requirements and Guidelines
- Work with Maine Revenue to Collect Appropriate Transfer Tax

Contact Us
www.maineregistryofdeeds.com

Leadership Team 2025-2027

President
Jessica Spaulding, Cumberland County

Vice President
Tanya Belanger, Somerset County

Treasurer
Rebecca Wotton, Lincoln County

Secretary
Cherri L. Crockett, Oxford County

Advisory Past President
Susan Bulay, Penobscot County

Red Flags and Best Practices

Brought to you by

MAINE Listings

Given the growing number of agents working remotely and relying on email and text for client communications, it is crucial to verify the identity of potential clients promptly. Your brokerage's verification process must be uniformly applied to all clients without exception. Remaining vigilant and recognizing any questionable behavior from sellers is essential to protect both you and your clients from the increasing risk of seller impersonation fraud.

Watch for Red Flags

Absentee Owners

- Listing property that is non-owner occupied.
- Seller actively avoids any face-to-face or phone conversations, relying on text or email.

Low Priced or All-Cash Deals

- A prospective seller wants to list the property below market value and only wants offers from buyers willing to pay cash.

FSBO or Unknown Seller

- The property wasn't listed with a regular agent, but with a For-Sale-By-Owner website that shares the listing on public platforms.
- No one involved knows the seller or has even talked to the seller until a buyer wants to make an offer.

Verification

- Always ask for an in-person or virtual face to face meeting.
- Do not strictly rely on photo identification as they are easily forged.

Rush to Close

- During negotiations with the buyers, the seller readily accepts almost all terms, prioritizing a quick cash transaction.
- They show no objections to proposed fees, cost allocations, commissions, or other terms.

Suspicious Wire Instructions

- The seller provides wiring instructions to a bank that is not near the property or the mailing address for the tax bill.

Refuses to Attend Closing

- The seller might suddenly become unavailable to go to the closing. However, they are still available to sign the documents with a notary, often in a different city or state.

Check FOREWARN

- When the seller's phone number is reverse searched, it shows as a completely unrelated name or as unknown.

SELLER IMPERSONATION FRAUD
IN REAL ESTATE

FRAUDSTERS are impersonating property owners to illegally sell commercial or residential property. Sophisticated fraudsters are using the real property owner's Social Security and driver's license numbers in the transaction, as well as legitimate notary credentials, which may be applied without the notary's knowledge.

Fraudsters prefer to use email and text messages to communicate, allowing them to mask themselves and commit crime from anywhere.

Due to the types of property being targeted, it can take months or years for the actual property owner to discover the fraud. Property monitoring services offered by county recorder's offices are helpful, especially if the fraud is discovered prior to the transfer of money.

Where approved by state regulators, consumers can purchase the American Land Title Association (ALTA) Homeowner's Policy of Title Insurance for additional fraud protection.

WATCH FOR RED FLAGS

CONSIDER HEIGHTENED SCRUTINY OR HALT A TRANSACTION WHEN A PROPERTY

- Is vacant or non-owner occupied, such as investment property, vacation property, or rental property
- Has a different address than the owner's address or tax mailing address
- Has no outstanding mortgage or liens
- Is for sale or sold below market value

CONSIDER HEIGHTENED SCRUTINY OR HALT A TRANSACTION WHEN A SELLER

- Wants a quick sale, generally in less than three weeks, and may not negotiate fees
- Wants a cash buyer
- Is refusing to attend the signing and claims to be out of state or country
- Is difficult to reach via phone and only wants to communicate by text or email, or refuses to meet via video call
- Demands proceeds be wired
- Refuses or is unable to complete multifactor authentication or identity verification
- Wants to use their own notary

SHUTTERSTOCK / TANYA ANTUSENOK

SELLER IMPERSONATION FRAUD

IN REAL ESTATE

AMERICAN LAND TITLE ASSOCIATION

TAKE PRECAUTIONS

CONTACT SELLER USING INDEPENDENT SOURCES

- Contact the seller directly at an independently discovered and validated phone number
- Mail the seller at the address on tax records, property address, and grantee address (if different)
- Ask the real estate agent if they have personal or verified knowledge of the seller's identity

MANAGE THE NOTARIZATION

- Require the notarization be performed by a vetted and approved remote online notary, if authorized in your state
- If remote online notarization is not available, the title company should select the notary. Examples include arranging for the seller to go to an attorney's office, title agency, or bank that utilizes a credential scanner or multifactor authentication to execute documents

VERIFY THE SELLER'S IDENTITY

- Send the seller a link to go through identity verification using a third-party service provider (credential analysis, KBA, etc.)
- Run the seller's email and phone number through a verification program
- Ask conversational questions to ascertain seller's knowledge of property information not readily available in public records
- Conduct additional due diligence as needed

USE THE PUBLIC RECORD

- Compare the seller's signature to previously recorded documents
- Compare the sales price to the appraisal, historical sales price, or tax appraisal value

CONTROL THE DISBURSEMENT

- Use a wire verification service or confirm wire instructions match account details on seller's disbursement authorization form
- Require a copy of a voided check with a disbursement authorization form
- Require that a check be sent for seller proceeds rather than a wire

FILE FRAUD REPORTS

- IC3.gov
- Local law enforcement
- State law enforcement, including the state bureau of investigation and state attorney general
- Secretary of state for notary violations

FIGHT FRAUD WITH INDUSTRY PARTNERS

- Educate real estate professionals in your community, such as country recorders, real estate agents, real estate listing platforms, banks, and lenders
- Host educational events at the local or state level
- Alert your title insurance underwriter of fraud attempts

SHUTTERSTOCK / TANYA ANTUSENOK

MAINE DEPARTMENT OF Professional & Financial Regulation

Office of Professional & Occupational Regulation

Real Estate Commission
Catherine E. Pendergast, Director

Phone: (207) 624-8518
Fax: (207) 624-8637
TTY USERS CALL MAINE RELAY 711
E-Mail: Catherine.Pendergast@maine.gov

MEMORANDUM

To:	Jane Towle, Real Estate Commission Member
From:	Catherine E. Pendergast, Director
Date:	October 30, 2025
Subject:	Deed Fraud Study Commission

Real Estate Commission staff reviewed currently approved continuing education courses containing material regarding deed fraud.

Review identified 30 current courses approved between April 2024 and September 2025 that include deed fraud subject matter.

The search was based on course title. Many courses cover numerous topics, so the deed fraud could be included in additional courses.

Some course are approved by multiple sponsors and offered through in-person classes and distance education available online 24/7.

All licensee are required to complete the current core course, which includes material on deed fraud, prior to renewing their license.

155C316
approved 2/2025

Avoid Closing Delays and Disasters Course

Program Outline, Learning Objectives and Timeline

Needs Assessment: This course lays the foundation for improvement when closing a transaction and recognizing potential issues from agency agreements through closing. In order to best serve the public, agents will identify more areas were they may improve their due diligence when working with clients.

Learning Objectives:

Outline scenarios ranging from fraud to missing client signatures on paperwork.

Identify potential title issues in estate sales, bankruptcy and foreclosure closings, and cash transactions.

Demonstrate that not all situations are alike and that challenges may be more complex than they initially appear.

Identify issues for sellers/buyers.

Compare Title Insurance to an Attorney Opinion Letter.

Role of the title company or attorney during the closing process.

Describe the agent's role in assisting sellers and buyers to close with fewer delays and complications.

Timeline for Course:

Introduction	10 minutes
Scenarios on Cash and Tax Transactions (3)	30 minutes
Scenarios on Title and Fraud Issues (9)	70 minutes
Scenarios with Lenders (4)	40 minutes
Review	10 minutes
Case Study	20 minutes

Promotional Material:

As agents, we collaborate with our lender and title partners to keep closings on track and avoid potential disasters. Learn to recognize warning signs of issues before they escalate and discover methods to resolve them before they jeopardize a contract. By investing time in thorough due diligence, you can better assist your buyers and sellers throughout the entire transaction. Join us to explore new strategies for addressing common issues and understand how emerging technology brings both new challenges and opportunities to enhance our due diligence practices.

approved 165C315
12/2024

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DEC 05 2024

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DEC 05 2024

350C001 (2hr)
approved 4/2024

Title/Topic:

Fraud & Cyber Crime in Real Estate Transactions

Course Overview, Learning Objectives & Timed Outline

Presented By: Forrest Peterson and/or Ashley Bourassa and/or Bill Walsh

Course Description/Overview:

Fraud in the title and real estate industry has increased significantly over the last few years and that's not going to change any time soon. Criminal organizations have realized the industry is vulnerable due to the amount of money that flows through escrow accounts, therefore getting more and more sophisticated in their fraudulent activities. With prices higher, the frequency of digital tools used, and the rate of human error, the industry is becoming an even bigger target. Not only can we expect more fraudsters on the hunt, but they will become more aggressive and plan coordinated attacks to make them feel authentic and therein more successful. Let's explore what you need to know, how to protect you and your clients, and how title insurance can be impacted but also help protect insureds.

Learning Objectives:

This course is designed to inform and educate Real Estate licensees in Maine of the numerous frauds and cyber crimes that are prevalent in the world today, especially in the real estate industry. Attendees of this course will learn about various cyber crimes with an emphasis on crimes that potentially impact people involved in real estate transactions, how the FBI handles these crimes, and gain practical knowledge and skills in order to spot these crimes and prevent them from happening. In addition, attendees will also learn about how the title insurance industry is reacting to fraud/cyber crime by providing new types of coverage for lenders and buyers of real estate.

Agenda/Timed Outline:

- Intro .... 2 Minutes
- Overview of Internet Crime & state specifics .... 5 Minutes
    - Complaints & Losses- 5-year history
    - Top Ten States
    - New England States
- Different types of Internet Crime .... 5 Minutes
    - Most common types by count and losses
- IC3 and RAT .... 5 Minutes
    - What is IC3?

- What is RAT?
- Stats & Successes

- BEC & Phishing .... 20 Minutes
  - What is it and how does it work?
  - Common Targets
  - Phishing, Smishing & Vishing
  - Email address spoofing
  - Common Trends
  - Vulnerable demographics
  - Examples
- Mortgage Payoff Fraud .... 5 Minutes
  - How its done
  - Email rules
  - Red flags
- Vacant Property Fraud .... 5 Minutes
  - What happens?
  - How to avoid
- Other Fraud .... 20 Minutes
  - Check ReIssue Fraud
  - Overpayment Fraud
  - Forged deeds
  - Appraisal fraud
- E-Closings .... 10 Minutes
  - Risk?
  - What to watch for
- Fraudulent IDs and how to spot .... 5 Minutes
- Tips for Prevention .... 10 Minutes
- Title Insurance .... 10 Minutes
  - When is there a risk?
  - Am I covered?
  - Claims and losses
  - Costs to resolve claims for fraud
- The New Reality .... 3 Minutes
  - Not if but when
  - Trust but verify
- Review- Knowledge Checks.. 15 Minutes
- Questions.. 5 Minutes

350C003 (3hr)
approved 5/2025

Title/Topic:

Fraud & Cyber Crime in Real Estate: Today's Reality

Course Overview, Learning Objectives & Timed Outline

Presented By: Forrest Peterson and/or Ashley Bourassa and/or Bill Walsh

Course Description/Overview:

Fraud in the title and real estate industry has increased significantly over the last few years and that's not going to change any time soon. Criminal organizations have realized the industry is vulnerable due to the amount of money that flows through escrow accounts, therefore getting more and more sophisticated in their fraudulent activities. With prices higher, the frequency of digital tools used, and the rate of human error, the industry is becoming an even bigger target. Not only can we expect more fraudsters on the hunt, but they will become more aggressive and plan coordinated attacks to make them feel authentic and therein more successful. Let's explore what you need to know, how to protect you and your clients, and how title insurance can also provide protection.

Learning Objectives:

This course is designed to inform and educate Real Estate licensees in Maine of the numerous frauds and cyber crimes that are prevalent in the world today, especially in the real estate industry. Attendees of this course will learn about various cybercrimes with an emphasis on crimes that potentially impact people involved in real estate transactions, how the FBI handles these crimes, and gain practical knowledge and skills in order to spot these crimes and prevent them from happening. In addition, attendees will also learn about how the title insurance industry is reacting to fraud/cybercrime by providing new types of coverage for lenders and buyers of real estate.

Agenda/Timed Outline:

- Intro .... 5 Minutes
- Overview of Internet Crime & state specifics .... 15 Minutes
  - Complaints & Losses- 5-year history
  - Top Ten States
  - New England States
  - Other Stats
- Different types of Internet Crime .... 5 Minutes
  - Most common types by count and losses
- IC3 and RAT .... 5 Minutes
  - What is IC3?
  - What is RAT?
  - Stats & Successes

MAY 21 2025

- BEC & Phishing .... 25 Minutes
    - What is it and how does it work?
    - Common Targets
    - Phishing, Smishing & Vishing
    - Email address spoofing
    - Common Trends
    - Vulnerable demographics
    - Examples
- Mortgage Payoff Fraud .... 5 Minutes
    - How its done
    - Email rules
    - Red flags
- Vacant Property Fraud /Seller Impersonation Fraud............ 10 Minutes
    - What happens?
    - How to avoid
- Other Fraud .... 20 Minutes
    - Check Re-Issue Fraud
    - Overpayment Fraud
    - Forged deeds
- E-Closings .... 10 Minutes
    - Risk?
    - What to watch for
- Fraudulent IDs and how to spot .... 10 Minutes
- Tips for Prevention .... 15 Minutes
- Homeowner Education & Resources .... 10 Minutes
    - Statistics
    - Resources
- Title Insurance .... 25 Minutes
    - When is there a risk?
    - Am I covered?
    - Enhanced vs. Basic policies
    - Claims and losses
    - Cost to resolve claims for fraud
- The New Reality .... 5 Minutes
    - Not if but when: what to do when it does
    - Contact information
- Review- Knowledge Checks............ 15 Minutes
- Questions............ 5 Minutes

MAY 21 2025

25C331
approved 9/2025

Hot Topics 2025: Fraud, Tax Foreclosure, Revaluation

LEARNING OBJECTIVES (FRAUD)

1. **Licensees will understand the organization structure and areas of focus of the Federal Bureau of Investigation in Maine and New England, including white collar crime.**

2. **Licensees will learn about the numerous types of fraud and how these schemes may impact real estate transactions.**

3. **Licensees will gain practical knowledge about how to protect their own ID and the ID's of their clients.**

4. **Licensees will learn where the real estate transaction process is vulnerable to cyberfraud, including the real estate licensee, the client, the title company, and closing agents.**

5. **Licensees will know cyber-safety strategies to protect themselves and their clients and how to communicate those safe practices to their clients and other parties working on the real estate transaction.**

PRESENTATION OUTLINE (Fraud)

Topic	Time (mins)
Introductions and Overview of FBI	10
Overview of IC3 and 2024 Statistics	10
Identity Protection and Cyber Safety	15
Business Email Compromise	10
HELOC and Quitclaim Deed Fraud	15
Money Laundering and Real Estate	10
Public Service Announcements and Liaison Information	15
Break	5
Total	90 mins

PRESENTER BIOS:

Michael Jankowiak
Special Agent – FBI Boston
Complex Financial Crimes

Amber Sullivan
Intelligence Analyst – FBI Boston
Complex Financial Crimes

SEP 25 2025

LEARNING OBJECTIVES (TAX FORECLOSURE, REVALUATION)

1.Understand the property tax lien and foreclosure process in Maine.

2.Understand the role and constitutional and statutory requirements for revaluations in Maine as well as how they affect taxes and municipal finances.

PRESENTATION OUTLINE (Tax Foreclosure, Revaluation)

Topic	Time (mins)
Class Break	5
Tax Liens and the Timeline	10
Foreclosure in Maine: Pre-*Hennepin*	5
The *Hennepin County* decision	10
L.D. 101 and the new process	20
Revaluations – types and method	10
Constitutional requirements	10
Statutory requirements	10
Calculating the tax and the effects of a revaluation	10
Total	90 mins

PRESENTER BIO:

Peter Lacy, Esq. started with Maine Revenue Services in 2008 as an auditor in the Sales, Fuel & Special Tax Division. He currently serves as the Director of Property Tax. During his time at MRS, Peter has also served as Associate Tax Policy Counsel in the Office of Tax Policy, Assistant General Counsel in the Office of General Counsel, and Deputy Director of the Sales, Fuel & Special Tax Division. Peter has a bachelor's degree in economics and has a J.D. from the University of Maine School of Law. He is a Maine licensed attorney as well as a Certified Maine Assessor.

228C018
approved 7/2024

Real Estate Fraud: Prevent, Detect, Respond

Learning Objectives

The following are the specific skills and knowledge that participants are expected to gain from completing this program:

1. Understand the different types of real estate fraud and their mechanisms.
2. Gain insight into the implications of fraudulent activities as they relate to real estate.
3. Identify red flags and employ preventive measures to combat fraud in real estate transactions.
4. Develop a response plan in the event of real estate fraud and know where to report fraudulent activities to appropriate authorities.

Course Description

Real estate fraud is a very real threat that requires constant vigilance as you navigate real estate transactions and conduct business. This class provides a comprehensive overview of real estate fraud, exploring various types, methods, and preventative measures. We'll review current trends, case studies, and the impact of fraud on the real estate market. Learn how to identify fraud, protect yourself and your clients, and how to appropriately report a fraudulent party or transaction.

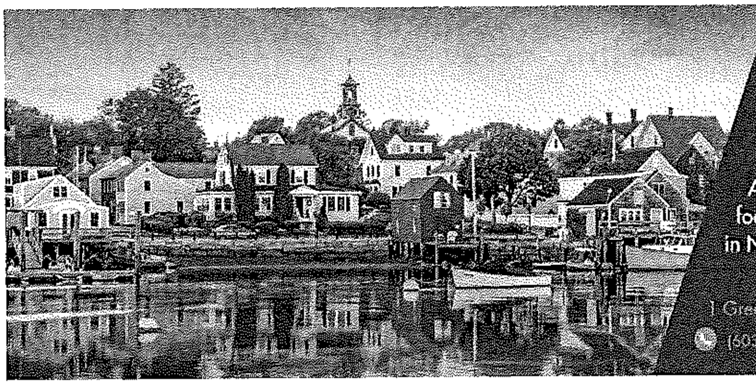
Program Outline

The following is a program outline that follows the learning objectives **(3 hours)**

1. **Current State of Cybercrime (15 minutes)**
    a. Current industry statistics
    b. Financial Impact
2. **Business Email Compromise (BEC) (30 minutes)**
    a. Common Strategies & Motivation
    b. Financial Impact
    c. Identifying Red Flags
    d. Preventing Business Email Compromise
    e. Other Online Attacks/Scams

3. **Wire Fraud & Misdirected Funds (35 minutes)**
    a. High Risk Transactions
    b. Wire Fraud/Misdirected Funds Statistics
    c. Identifying Red Flags and Preventing Wire Fraud
    d. Check Fraud
    e. Fax Fraud
    f. Payoff Fraud
4. **Impersonation Fraud & Other Schemes (35 minutes)**
    a. Seller Impersonation Fraud
    b. Buyer Pre-Qual Fraud
    c. Notary/ Closing Fraud
    d. Identification Documentation Fraud
    e. Artificial Intelligence and Deep Fakes
5. **Language Fingerprints (20 minutes)**
    a. Fraudster Lexicon
    b. Language Fingerprints
    c. Language & Grammar Red Flags
6. **Home Office Security (15 minutes)**
    a. Securing Devices
    b. Password Management
7. **Fighting Closing Fraud (20 mins)**
    a. Title Insurance
    b. Identity Verification Tools
    c. Remote Online Notarization
8. **Reporting Fraud Attempts (10 minutes)**
    a. Reporting Cybercrime
    b. Law Enforcement Resources

345C003
approved 2/2025



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CORNERSTONE TITLE, LLC

An independent, locally-owned, settlement service provider focusing on residential and commercial real estate transactions in New Hampshire and Maine.

1 Greenleaf Woods Dr, Suite 201, Portsmouth, NH 03801
(603) 766-8121 www.cornerstoneonline.net info@cornerstoneonline.net

Learning Objectives/Course Outline

'Trust Me' Is Not a Strategy: How Title Insurance & Collaboration Can Save Your Deals

Course #TBA, granting 3 elective New Hampshire CE credits

Presenters:

Atty Scott Kumpf, K.C. Costello, Kristen Peterson or Nate McQueen

Learning Objectives:

'Trust Me' Is Not a Strategy: How Title Insurance & Collaboration Can Save Your Deals will provide agents with a comprehensive understanding of the title and closing process, covering key areas like title searches, title insurance, and resolving common issues. The discussion will focus on how agents can effectively explain title insurance to buyers, handle title-related problems, and protect against real estate fraud. Additionally, agents will learn how to avoid title-related litigation and ensure a smooth closing process by collaborating with key stakeholders. Throughout, the class will reinforce the importance of guiding clients to ensure they feel informed, confident, and well-represented during the real estate transaction.

Learning Outcome:
Agents will reinforce their knowledge of title and real estate processes, preparing them to better guide and protect their clients.

Value to Buyers and Sellers:
Buyers and sellers will benefit from a agent who can set clear expectations, provide trustworthy information, and ensure a smooth transaction.

Section	Minutes
1. Understanding the Title and Closing Process • An overview of the complete process, explaining players, title searches, title insurance, and how title issues are resolved. (20) • Agents will learn how to prepare their clients and prevent common delays. (20) • Brief Q&A. (10)	50
2. Title Insurance: **What Agents Need to Know** (30) • Title Insurance Intelligence Quiz; How to explain title insurance to buyers.	30
Break (10)	10
Title Insurance, continued **Clearing Title: Common Issues and How to Resolve Them** (15) • Provide examples. **Avoiding Title-Related Litigation** (15) • How agents can protect themselves. **Real Estate Fraud and How Title Insurance Protects Your Clients** (15) • Examples of types of fraud with steps to protect buyers and sellers. • Brief Q&A. (10)	55
3. The Agent's Role in a Smooth Closing Process (20) • Focusing on how agents can collaborate with title companies, lenders and other stakeholders to ensure a seamless closing experience for their clients. This could include best practices and common pitfalls to avoid. Include how to prepare buyers and sellers for the closing table, and what to expect after the closing.	25
4. Q&A (15)	20
Total Class Time	180

627C018
approved 8/2025

Unlocking Legal Insights & Tools: Lawyers, Legal Updates and More!

Greater Portland Board of REALTORS®

Learning Objectives – Skills or knowledge you expect participants to gain through completion of this program.

- Explore the standard forms available, and learn how to use different forms, clauses and explain them to clients.
- Receive legal updates from the recent legislative session and rulemaking activity from the Maine Real Estate Commission.
- Gain insight into the types of legal challenges that make it to court and how disputes are resolved.

Program Outline – Outline shall be based on the learning objectives and be as detailed as necessary to adequately describe course content. Outline shall also include either the approximate time to be spent on each topic or a timeline stating the time each topic of the outline will begin and end.

10:15-11:15 – Panel: Unlocking the power of forms - Learn from experts and practitioners about clauses or forms that you might not have discovered on your own and receive examples of how to explain them to clients. **(Deep dive on standard real estate forms)**

Panelists: Raylene Estabrook, Ed Getty, Ed Gardner, Michael Navarro, Aaron Chadbourne (moderator)
NOTE: these panelists are tentative. If there are changes, they will be reported to the Maine Real Estate Commission.

- Review specific forms, clauses, how and when to use them. Each panelist has asked to select 2-3 examples that they would provide a deep dive in. Forms they will draw from include Listing Agreements, Buyer Representation Agreements, Purchase and Sale Agreements, Addendums and Clauses. Panelists have been asked not to focus on generic explanations of what the forms are but rather specific examples of how specific forms and clauses can be used to address specific situations to provide protection for clients, licensees, and serve the deals they are being used in.
- Each panelist will share stories from real situations and suggested scripts for how to explain forms to clients, as well as how to present terms related on those forms to other licensees.

11:15-12:15: Legal Updates arising from the 2025 Legislative Session and Rulemaking activity from the Maine Real Estate Commission

Single Speaker – Hannah McMullen

- This will be a one-hour presentation, excerpted from the 3 hour course that Hannah teaches each year detailing the legal updates and changes resulting from the 2025 Legislative Session and Rulemaking activity from the Maine Real Estate Commission.
- There will be PowerPoint slides that the presenter refers to.

AUG 18 2025

12:15-1:15: Legal practitioners panel

Panelists: Attorney Jason Howe, Attorney Adam Shub, Aaron Chadbourne (moderator)

- Panelists will provide case studies of recent and common real estate maters that resulted in court action/rulings
- Panelists will answer questions from audience about hot topics

__Instructor Biographies__

Raylene Estabrook: As a lifelong resident of Maine with over 23 years of experience in the ever-evolving real estate market, Raylene brings a wealth of field experience working with buyers and sellers as well as a long history of volunteer leadership in the local, state and national REALTOR Associations. Raylene is the chair of the Maine Association of REALTORS Contract Review Committee which is charged with annually reviewing and recommending changes to the standard forms that the association provides to its members which are widely utilized by real estate licensees. **Education, Designations & Certifications:** Pricing Strategy Adviser (PSA)®; Accredited Buyer's Representative (ABR)® At Home with Diversity (AHWD)®; REALTORS® Commitment to Excellence (C2EX) Endorsement®; USM Broker Course; Efficiency MAINE Real Estate Specialist; New Homes Specialist; Certified Negotiation Specialist

Ed Getty: Ed has been listing and selling real estate since 1983 in the Sebago Lakes Region and Greater Portland Maine area. Twice named REALTOR of the Year by Great Portland Board of REALTORS and past Maine Association of REALTORS State President 1992. Ed has been a highly regarded real estate instructor for over 30 years and a partner of the Real Estate Learning Group based in Maine. Instruction includes Maine pre-licensing classes and continuing education courses certified by the Maine Real Estate Commission.

Ed Gardner: Ed Gardner is the owner/broker of Gardner Real Estate Group, With over 35 years of real estate experience, he has spent decades connecting buyers with the right properties and sellers with the right transaction. Ed understands how unique each client is and how individual their needs are. This skill has been honed through hundreds of transactions from single family homes to condos to multi-family buildings to large development projects. Ed has served as the president of the Greater Portland Board of REALTORS in 2014 and the president of the Maine Association of REALTORS in 2016. In 2014, Ed was awarded Maine REALTOR of the Year and has served in leadership roles with the Friends of the Eastern Prom, Greater Portland Landmarks, Norway Savings Bank, and the Equality Community Center as a founding member.

Michael Navarro: Michael Navarro is co-owner of Elevate Maine Realty. He has been licensed to sell real estate since 2016, first in the Washington DC/Baltimore, Maryland area and in Maine since 2019. Michael has experience working with large real estate brokerages and now owning and running an independent, growing real estate brokerage. Michael serves on the Maine Association of REALTORS Contract Review Committee and chairs a committee focused on Fair Housing, Diversity, Equity and Inclusion for the Greater Portland Board of REALTORS.

Aaron Chadbourne: Aaron Chadbourne is President of the Greater Portland Board REALTORS and a Director of the Maine Association of Realtors and serves on the Legislative Committee of both bodies.

AUG 13 2025

25C329
approved 9/2025

2025 MAR Legal Updates and Forms Changes Outline

LEARNING OBJECTIVES:

1. Learn about State legislation that was added/changed in 2025 that impacts real estate and licensee's responsibilities to their clients;
2. Understand duties owed to clients through a review of MREC decisions and consent agreements;
3. Understand recent court cases and their impact on real estate;
4. Understand recent changes to the MAR Standard Forms.

COURSE OUTLINE:

180 minutes:

1. Review of bills that passed the Legislature in 2025 that impact real estate - 45 minutes and 15 minutes to answer questions* (Instructors: McMullen, Cashman)

2. Review of Maine regulatory action (MREC, others) impacting real estate – 25 minutes (Instructor: McMullen)

3. Break – 10 minutes

4. Review of court cases in 2024 and 2025 that impact real estate – 25 minutes (Instructor: McMullen)

5. Review changes to MAR Standard Forms for 2025, including education in areas that were not changed, but additional information is needed by members to best utilize the forms for their clients/customers protection – 45 minutes and 15 minutes to answer questions* (Instructor: McMullen)

*If there is extra time during the Q&A sessions listed above, the instructor will use the time to review additional court cases, regulatory action or legal topics commonly asked about MAR Standard Forms.

INSTRUCTORS: (full bio's enclosed)

Hannah McMullen, Esq. is the Legal and Government Affairs Counsel for the Maine Association of REALTORS®. She has knowledge of the topics and experience providing education on legal/legislative topics to REALTORS®.

J. Andrew Cashman, Esq. is the owner of Resolve Government Relations. He represents the Maine Association of REALTORS® at the Maine Legislature, the Executive Branch, and state agencies.

AUG 28 2025

approved 8620C0010 10|2025

2025 MAR Legal Updates and Forms Changes Outline

LEARNING OBJECTIVES:

1. Learn about State legislation that was added/changed in 2025 that impacts real estate and licensee's responsibilities to their clients;
2. Understand duties owed to clients through a review of MREC decisions and consent agreements;
3. Understand recent court cases and their impact on real estate;
4. Understand recent changes to the MAR Standard Forms.

COURSE OUTLINE:

180 minutes:

1. Review of bills that passed the Legislature in 2025 that impact real estate - 45 minutes and 15 minutes to answer questions*
2. Review of Maine regulatory action (MREC, others) impacting real estate – 25 minutes
3. Break – 10 minutes
4. Review of court cases in 2024 and 2025 that impact real estate – 25 minutes
5. Review changes to MAR Standard Forms for 2025, including education in areas that were not changed, but additional information is needed by members to best utilize the forms for their clients/customers protection – 45 minutes and 15 minutes to answer questions*

*If there is extra time during the Q&A sessions listed above, the instructor will use the time to review additional court cases, regulatory action or legal topics commonly asked about MAR Standard Forms.

INSTRUCTORS: (full bio enclosed)

Hannah McMullen, Esq. is the Legal and Government Affairs Counsel for the Maine Association of REALTORS®. She has knowledge of the topics and experience providing education on legal/legislative topics to REALTORS®.

OCT 21 2025

519C229
approved 8/2026

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Timed Program Outline (180 minutes) ONLINE

Topic	Content	Time
Orientation	Introductions, Policies, Housekeeping (MREC statement, cell phones etc.) Trigger Warning	5 min
Introduction	Crime Statistics and Demographics	21 mins
Personal Safety	Profiles in Harm: Understanding Threats in Real Estate	10 mins
	Understanding What's Behind it All	10 mins
	Elder Abuse	14 mins
	Red Flags	15 mins
Scenarios	Case Studies	13 mins
Strategies	Personal Safety Strategies	20 mins
Internet Safety	Cybersecurity	25 mins
	Social Engineering Risks & Threats	20 mins
	Fraud Issues	5 mins
	Digital Risk Management Strategies	15 mins
	Laws, Rules and Resources	5 mins
Wrap Up	The Aftermath	5 mins
Total		183 min

519C230
approved 8/2025

Timed Program Outline (180 minutes) LIVE

Topic	Content	Time
Orientation	Introductions Housekeeping (MREC statement, cell phones etc.) Trigger Warning	5 min
Introduction	Crime Statistics and Demographics	15 mins
Personal Safety	Profiles in Harm: Understanding Threats in Real Estate	10 mins
	Understanding What's Behind it All	10 mins
	Elder Abuse	15 mins
	Red Flags	15 mins
BREAK		10 mins
Scenarios	Case Studies	15 mins
Strategies	Personal Safety Strategies	15 mins
Internet Safety	Cybersecurity	15 mins
	Social Engineering Risks & Threats	10 mins
	Fraud Issues	10 mins
	Digital Risk Management Strategies	15 mins
	Laws, Rules and Resources	5 mins
Wrap Up	The Aftermath/Q&A	5 mins
Total		180 min

25C327
approved 9/2025

Emerging Industry Issues

Total Time: 180 minutes (includes one 10-minute break)

0:00 – 0:15 – Welcome, Course Objectives, and Industry Context

Description: Provide an overview of changes in the real estate landscape and the importance of compliance, ethics, and consumer protection in today's practice environment.

Learning Objectives:

- - Identify the primary goals of the session and participation expectations.
- - Explain the importance of adapting practices to legal, ethical, and technological changes.
- - Recognize how course topics apply to Maine real estate license law and NAR standards.

0:15 – 0:30 – The NAR Settlement & Sitzer/Burnett Case – Background

Description: Review the Sitzer/Burnett lawsuit, NAR's legal defense, and the terms of the settlement. Discuss the case's impact on commission structures and agent-client agreements.

Learning Objectives:

- - Summarize the facts and timeline of the Sitzer/Burnett case.
- - Describe the primary settlement terms and their implications for REALTORS®.
- - Compare pre- and post-settlement commission and representation practices.

0:30 – 0:45 – Post-Settlement Practice Changes

Description: Explore how settlement terms affect marketing, MLS participation, and buyer representation agreements. Review state and federal compliance considerations.

Learning Objectives:

- - Identify required changes to representation agreements and compensation disclosures.
- - Analyze the risks of non-compliance in Maine practice.
- - Apply best practices to align with post-settlement industry standards.

0:45 – 1:00 – Pocket Listings, Private Listings, Office Exclusives, and Non-MLS Listings

Description: Define alternative listing types and examine the ethical considerations. Evaluate fiduciary responsibilities when limiting market exposure.

Learning Objectives:

- - Define various off-MLS listing categories and their differences.
- - Evaluate how limited exposure impacts client representation and market value.

AUG 28 2025

- - Determine when such listings are permissible under Maine MLS rules.

1:00 – 1:15 – NAR Clear Cooperation Policy

Description: Discuss NAR's Clear Cooperation Policy established by the National Association of REALTORS®, that requires listing brokers to submit exclusive listings to the Multiple Listing Service (MLS) within one business day of publicly marketing the property. The policy promotes fair housing, transparency, and consumer access to the broadest market exposure, aiming to ensure that all buyers and sellers have comprehensive access to property information through the MLS.

Learning Objectives:

- - Explain the Clear Cooperation Policy
- - Identify allowable exceptions and scenarios for non-MLS marketing.
- - Interpret potential consequences of non-compliance with policy and MLS rules.

1:15 – 1:30 – Case Studies: Pocket Listings & Clear Cooperation in Action

Description: Analyze real-world violations and enforcement cases to identify patterns, mistakes, and preventive strategies.

Learning Objectives:

- - Review attendees' real-life situations
- - Assess the impact of on clients, and MLS data
- - Recommend corrective actions to prevent similar violations.

1:30 – 1:40 – Break – 10 Minutes

1:40 – 1:55 – Data Safety: Why Agents Are at Risk

Description: Discuss common vulnerabilities in real estate transactions, including emerging risks introduced by AI tools.

Learning Objectives:

- - Identify common points of data exposure in real estate practices.
- - Explain how AI use can increase legal and ethical risks.
- - Evaluate the potential consequences of data breaches for clients and licensees.

1:55 – 2:10 – AI & Data Safety Policy Requirements

Description: Highlight the importance of a written office policy for data protection, including AI-specific guidelines. Provide examples of policy language and implementation strategies.

Learning Objectives:

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- - Develop key components of an office-wide written data safety policy.
- - Incorporate AI-specific security considerations into policy language.
- - Apply data safety measures in compliance with legal and ethical obligations.

2:10 – 2:25 – Wire Fraud in Real Estate Transactions

Description: Review the latest wire fraud schemes, prevention techniques, and client communication strategies.

Learning Objectives:

- - Recognize common fraud tactics targeting real estate transactions.
- - Implement procedures to reduce the risk of wire fraud.
- - Demonstrate how to communicate fraud prevention strategies to clients effectively.

2:25 – 2:40 – Code of Ethics – High-Risk Areas for Agents

Description: Examine specific NAR Code of Ethics Articles most frequently violated, especially in the context of post-settlement industry changes.

Learning Objectives:

- - Identify Articles of the Code most relevant to current industry risks.
- - Compare common practices to potential Code of Ethics violations.

2:40 – 2:55 – Code of Ethics and daily practice

Description: Study real-world practices and discuss alternative approaches.

Learning Objectives:

- - Assess how common practices can present problems for those we represent
- - Recommend strategies to avoid consumer complaints.

2:55 – 3:00 – Wrap-Up & Q&A

Description: Recap course content, answer questions, and provide resources.

Learning Objectives:

- - Summarize the key takeaways from each major topic.
- - Identify resources for ongoing compliance and ethics education.
- - Apply learned concepts to improve the professionalism of real estate practice in Maine.

AUG 28 2025

17 Approvals

Reasonable Care and Diligence Core Course *(5 min)*

The Real Estate Brokerage License Act and Commission Rules set forth the *minimum* standards of practice for licensees. Are you meeting minimum standards? Are those standards different when you are representing a client or working with a customer? This course is designed to assist you with meeting minimum standards and perhaps provide you with ideas to exceed minimum standards, when appropriate.

What does it mean to have a client relationship? How is a client relationship with a consumer different than a customer relationship? In a client relationship you are an agent representing a buyer or seller, or in some cases, both. Clients are owed fiduciary duties as set forth in 32 M.R.S. § 13272:

> *A real estate brokerage agency that provides services through a brokerage agreement for a client is bound by the duties of loyalty, obedience, disclosure, confidentiality,* ***reasonable care, diligence*** *and accounting as set forth in this chapter. Such a real estate brokerage agency may be a seller agent, a buyer agent, a subagent or a disclosed dual agent.*

Licensees have fiduciary duties to clients but that does not mean they have no responsibilities to customers. When acting as a transaction broker, licensees are responsible for obtaining and providing property disclosure information including known material defects of which they have actual notice or knowledge; complying with Real Estate Commission laws and rules; complying with federal, state and local laws related to real estate brokerage; and treating all parties honestly and not knowingly giving false information.

This course will focus on the reasonable care and diligence that licensees exercise for clients and customers. It is broken into four sections:

1. Definitions and Discussion Points
2. Buyer, Seller & Property Identification
3. Property Disclosure
4. Explaining and Discussing Documents

Course Objectives: Licensees completing this course will be able to:

- Understand the importance of reasonable care and diligence in transactions
- Create smoother transactions
- Understand your role and manage the expectations of consumers
- Avoid complaints, civil suits and E&O issues

Section 1 – Definitions And Discussion Points *(15 min)*

Reasonable Care: The degree of caution and concern that an ordinarily prudent and rational person would take in similar circumstances; the degree of care shown by a person who is responsible and trustworthy.

Diligence: Steady, determined and careful effort; such a measure of cautious activity as is to be expected from, and ordinarily exercised by, a reasonable and prudent person under the particular circumstances.

Diligence is commonly associated with the inspections a buyer might conduct in the process of purchasing a home to gain assurance it meets their standards for safety, soundness, and value. For real estate licensees, however, it has a much broader application

In order to protect the interests of a client, and the licensee and agency, reasonable care and diligence should begin at the initial meetings with a prospective client and continue until the buyer or seller client successfully closes a transaction.

Reasonable care/diligence is more than waiting for a client to ask a question. Do clients know what questions to ask? Property disclosure information, transaction documents and company data sheets are prepared by real estate professionals. **Clients are not real estate professionals; do not expect them to know what questions to ask or how to interpret information given to them.**

Discussion Points
You have a client interested in securing a property to be used as an Airbnb. What are some of the relevant issues that might be considered? o *Does the property have any rental restrictions?* o *Is the property properly zoned for rentals?* o *Does the booking app/business need to be registered with the City?* o *Does the City/Town require a rental license?* o *Does the City have a required Hotel Tax? If so, will it need to be paid?* o *How many bedrooms is the septic system designed for?* o *Have any deposits been made for future bookings?* o *What else?* **What if you are working with a customer interested in an Airbnb?** Are your duties different? *Yes. You would be responsible for making sure they received required property disclosure information and the customer would research whether or not the property worked for their purpose.* **You are listing a property with a private septic system. What may be some of your reasonable care/diligence considerations?** o *Is the septic system permit signed off by the Town?* o *Was the septic system design filed with the Town, or was it installed?* o *Is the septic design built for a 3BR, and your seller wants you to advertise it as a 4 BR? Chapter 410 Section 1(7) Advertising must be* ***free from deception*** *and* ***shall not misrepresent*** *the condition of the real estate, terms of the sale or purchase, real estate brokerage agency policies, or real estate brokerage services.* o *Has a replacement system been installed?* o *Do you advise your Seller to have a septic inspection in advance?* o *When was the system most recently serviced?* o *What else?*

Does it matter that the seller is your customer or client? Yes. For example, you would not advise a seller customer to have a septic system inspection.

<u>Section 2 – Buyer, Seller & Property Identification</u> *(60 min)*

Title fraud is on the rise and something every licensee should be aware of and do their due diligence to prevent. What is title fraud? It is when scammers pretend to be a property owner and forge the owner's name on a deed transferring title without the property owner knowing it. Often the properties are vacant land or homes owned by non-residents and free of mortgages/liens. **THIS IS HAPPENING IN MAINE.**

Fraudsters contact licensees to try to get them to list property they do not own. Often, they present a reason that the property must be sold quickly. Fake passports and driver licenses are being presented that include correct information with the exception of the photo.

Do you remember the saying about something that sounds too good to be true? It should be a red flag to remind you to use reasonable care and diligence to ensure that the person you are dealing with is who they say they are!

Fraud is not only an issue for listing licensees. Selling licensees also need to be wary of fraudulent buyers. All licensees should verify who they are working with regardless of their relationship. Would you agree this would be reasonable care?

What are some potential methods of verifying the identity of buyers and sellers? You could:

- Request a copy of the buyer or seller's photo identification.
- Request a virtual online meeting if buyer/seller is unable to meet in person.
- Request mailing address information. You could mail a letter to the address on a seller's property/tax card and ask them to confirm receipt via email or text to verify ownership.
- Verify that the sellers' names match the deed.
- Have you verified the authorizing signor for an LLC, corporation, trust?
- What have you used to verify the identity of buyers and sellers?

Remember – using the same intake process for ALL buyers and sellers could reduce the chance of a Fair Housing violation accusation.

The following scenario is based on an actual Real Estate Commission complaint.

Fiancée Fiasco

While acting as the agent on duty, licensee met Buyer for the first time when he came into the office and expressed interest in purchasing property in the area for his fiancée. Buyer represented that he was not in need of financing as he was prepared to pay cash for properties up to $1,000,000 in price. Buyer informed Agent that he would be providing the funds necessary to purchase a property, but that he wanted all necessary paperwork to be in Fiancée's name. Agent accepted that Buyer was owner of a successful construction/development company but took no steps to further verify his veracity or financial solvency.

Several days later, Agent drafted an offer for Fiancée to purchase Property with a 7-day closing. The offer indicated that the buyer "had delivered" an earnest money deposit of $50,000 and was not made subject to inspections or financing.

Agent emailed Fiancée's offer to Seller Agent and communicated that she would be sending copies of the EMD and proof of funds for the transaction

Agent later wrote in an email to Seller Agent that she could not yet provide proof of funds to complete the purchase, but she was working on it.

Sellers sold the entire contents of their home via a yard sale in order to close on the requested date.

The day before closing, the closing company informed the Seller Agent that they had not received proof of funds. Agent explained she did not have any proof of funds, but she was confident the Buyer's attorney would deliver funds at the closing the next day.

On the scheduled closing date, neither Buyer, Fiancée nor their attorney appeared at the title company. The transaction did not close.

Do you think any violations were found in this case? If so, what are they?
Violations are listed at the end of the course.

What could the selling licensee have done to verify the identity and legitimacy of the buyer, fiancée or attorney?

- *Internet search of the company name provided by Buyer*
- *Internet search of commercial construction company owned or operated by Buyer*
- *Internet search of Bar Association/Board of Overseers records*
- *Letter from bank verifying financial assets sufficient to close*
- *What else?*

Property Identification & Public Record Research

What steps are you taking to identify properties that you are listing or selling?

Where are you gathering information?

What sort of information might you need?

Information on liens, outstanding taxes, building permits or lack thereof, and property restrictions are a few things that come to mind. As you learned in real estate 101, every property is unique. The information you will obtain and provide is dependent upon the property. So, where might you go for property information?

- Registry of Deeds – Here you can find deeds, plans and information on covenants and restrictions. The deed outlines the terms and conditions of ownership. It is a formal, legal document that transfers ownership rights and may include items such as covenants, easements, rights-of-way, restrictions, and private road maintenance agreements. What issues might you uncover for your buyer or seller client by reviewing a deed?
    - Property ownership could be different. Perhaps a property may need to go through probate before listing. Are there several owners of the property that need to sign documentation?
    - Is the property being sold as part of a larger parcel? If so, that should be clear on all listing documents and a purchase agreement.
    - Discrepancy in acreage may be discovered. Information from the town can be compared to the acreage documented in the Deed.

- City/Town Office – This is another important resource for gathering property information. Do you make a point to physically go to the town office to research property files or do you rely on what is available online? Is all property information available online? No. You will most likely be able to get the general property data card, tax information, and tax maps, but you may not find other important information such as permits (e.g. occupancy, building), violations and code enforcement or tax assessor notes (e.g. tree growth or conservation easements) and septic designs.

- Other resources - property management companies, homeowner associations, condominium associations (by-laws, rules and regulations).

Are you taking adequate steps to identify sellers, buyers and properties

The following scenario is based on an actual Real Estate Commission complaint.

Diligence Disaster

The asset manager representing the bank conducting a property foreclosure sale entered into a listing agreement with an agency. The asset manager provided little information to the seller agent regarding the property. Seller agent went to the town office where he obtained the current tax record information which indicated that the property was a 3-bedroom, 1 bathroom residence on a 5.65-acre lot. Seller agent also obtained from the town office a copy of a deed which described the parcel to have dimensions of 320' x 770', or 5.65 acres.

Seller agent did not check the County Registry of Deeds for information relevant to the foreclosure and did not confirm the size of the lot with the asset manager. Seller agent advertised the property as a three-bedroom, one bathroom residence on 5.65 acres.

Seller agent met with buyers who had contacted him regarding the property and provided them with the Real Estate Brokerage Relationships Form, written property information and 2002 deed he had obtained at the town office. Buyers did not sign a written agreement for representation.

Buyers submitted an offer to purchase to the asset manager via an internet website. The seller agent was notified that there were multiple offers and buyers should submit their best offer.

Seller agent and the buyers reviewed a purchase and sale agreement form provided by the asset manager. Attached to the agreement as "Exhibit A" was a legal description of the property which indicated that only a portion of the 5.65-acre parcel had been foreclosed upon, and the property to be sold was only 220' x 300' (1.5 acres).

The agreement provided in the paragraph entitled "DESCRIPTION OF PROPERTY" that "[b]uyer acknowledges that he has reviewed the legal description prior to signing this Agreement and acknowledges that a copy has been provided and attached by initialing below."

Seller agent did not review Exhibit A or inform the buyers that the lot dimensions differed from those he had advertised.

Seller agent signed the agreement as the agent representing the buyers and submitted their second offer.

The buyers' offer to purchase was accepted by the asset manager and the transaction eventually closed successfully. A signed agreement for representation and written consent to disclosed dual agency were dated the day of closing.

The deed conveying the property to the buyers contained the same property description as Exhibit A to the purchase and sale agreement, indicating dimensions of 220' x 300'. Seller agent did not review the deed, or notice the discrepancy, prior to the closing on the property.

At some point after purchasing the property, the buyers had a new well and septic system installed.

Several years later, the buyers learned that the parcel they purchased was only 1.5 acres and that their new well and septic system had been installed on an abutting parcel that they did not own.

Do you think any violations were found in this case? If so, what are they?
Violations are listed at the end of the course.

What could the licensee have done to verify the size of the property?

- *Review documents on file at the Registry of Deeds*
- *Review documents from the asset management company*
- *Request asset manager to provide additional clarifying documentation*
- *Read the deed*
- *Do the math!*

Personal Safety:

You received an email from someone who wants to meet you at your new listing tonight at 6:30 PM after they get out of work. They are interested and said that this property seems to be exactly what they have been looking for! What do you do? Hopefully you stop for a moment to take some steps to ensure your personal safety. What steps might you take?

- Properly vet buyers and sellers before meeting them in the field
- Encourage buyers and sellers to come into the office to meet
- Download a safety app to your mobile device
- Let someone know who you are meeting and where
- Consider bringing someone with you
- Require proof of funds or a prequalification letter before working with Buyers
- Other examples?

Does it matter whether you are an agent or transaction broker when it comes to identifying buyers and sellers; property identification and personal safety? No.

DB DISCUSSION POINT

What are Designated Brokers doing to help affiliated licensees with buyer/seller identification and personal safety?

- ✓ **Does your Policy & Procedure Manual address these issues? When was the last time you reviewed your manual?**
- ✓ **Do you have an open-door policy for affiliated licensees to report safety concerns?**
- ✓ **Do you suggest, or make available, mobile apps that allow them to share their location during Open Houses, Showings or when meeting clients alone?**
- ✓ **Do you offer buyer/seller identification and personal safety training?**

Suggested 15-minute break

Section 3 – Property Disclosure *(65 min)*

All licensees have a duty to obtain and provide WRITTEN property disclosure information including disclosure of material defects pertaining to the physical condition of the property, regardless of whether they are working with a client or customer. Accurate property disclosures are important for a variety of reasons. They are important to sellers as they allow sellers the ability to be transparent about the condition of a property which may avoid negotiations down the road for issues discovered in an inspection. They assist buyers in making informed decisions about a property as they call out aspects of the property that may need further research or inspection.

Licensees must provide property disclosure information as set forth in Chapter 410 Section 15 – 18 of Commission Rules in the categories of Private Water Supply; Private Wastewater Disposal System, Public or Quasi Public System, Heating System, and Hazardous Materials. In addition to specific information required, "any other information pertinent" for each category is required.

A **material defect** is a physical condition of a property that is significantly adverse. (This term is not defined in the Maine Real Estate Brokerage Act.).

Material defect disclosure is required of ALL licensees, but the responsibility is different depending on whether a licensee is working with a client or customer. Licensee representing a buyer or seller must disclose material defects that they have knowledge of, or acting in a reasonable manner should have known, to their client. Transaction brokers working with customers are required to disclose material defects of which they have *actual* notice or knowledge.

Does your buyer client understand what the form discloses and what it may not disclose? Does your client understand that there could be latent defects, which are hidden or concealed defects, that could not be discovered through customary observation or inspection?

Does your buyer client understand the potential risks of proceeding without benefit of inspections?

The Maine Real Estate Commission does not mandate that a specific form be used to provide property disclosure information. The Commission does require that WHATEVER form you use contain the property disclosure information required by law or rule, and that all areas of the form are complete and accurate *throughout the transaction.*

Material fact. "Material fact" means a fact that relates to the transaction and is so substantial and important as to influence the client to whom it is imparted. [32 M.R.S. § 13271(8)]:

- What are some examples of material facts? Death in house or on property (murder, suicide, natural causes – does the cause of death make a difference? Maybe), proposed changes in use of nearby properties (commercial building, highway), zoning changes, flood insurance changes, registered sex offender.

- Material facts extend past the property line. Material facts are not owed to customers but they are owed to your client(s). Be aware that some states do this differently. How does this affect Disclosed Dual Agency? Material facts must be disclosed to all parties if you are a **disclosed dual agent**. If the Seller does not want the licensee to disclose a material fact you cannot be a disclosed dual agent as you are required to disclose.

- Written Property Disclosure Information is not limited to residential property. Commercial property (with no residential component) requires disclosure of material defects and known hazardous materials [Chapter 410 Section 18(2)]

Misrepresentation - 32 M.R.S. § 13067-A(4):

> ***Substantial misrepresentation.*** *Making any substantial misrepresentation by omission or commission, but not including innocent misrepresentation;*

Misrepresentation by **omission:**
- Providing fuel consumption information for one heat source when two sources are used
- Foreclosure property disclosure with "N/A" on each page

Misrepresentation by **commission**:
- Promoting a home as having 4 bedrooms when the septic system is designed for 3 bedrooms without disclosing the septic system is designed for 3 bedrooms.

What are some of the risks of not exercising reasonable care/diligence when it comes to property disclosure information?

- ❖ **Real Estate Commission Authority 32 M.R.S § 13068 - Fines, license suspension/revocation**

- ❖ **Civil liability** (at least 6 years) for both licensee and seller.

- ❖ **Damage to business reputation**

When are licensees required to provide buyers with property disclosure information? Prior to or during preparation of an offer.

Are a licensee's responsibilities different for a foreclosure property? No.

Is there a difference in the responsibility of the listing and selling licensee to provide written property disclosure information? The listing licensee is responsible for obtaining information necessary to make disclosures and conveying the information to the selling licensee. The selling licensee is responsible for obtaining the information from listing licensee ***and making sure disclosures are provided to buyers.***

What if the listing licensee provides a partially completed disclosure or one with inaccurate information? Does the selling licensee have further obligations?
Yes. The selling licensee must obtain and provide the property disclosure information if unable to obtain from listing licensee.

What if the buyer is purchasing a FSBO?
The selling licensee (whether transaction broker or buyer agent) is responsible for obtaining and providing property disclosure information to buyer. For example, licensee may have to go to a town office or contact septic servicing companies to obtain information on a septic system. Chapter 410 Section 14(3)

Does the addition of "sold as-is" relieve the licensee of responsibility/liability from information on the disclosure? No.

How/where is information gathered?

Is the licensee's disclosure responsibility complete by asking the seller for information?
No. The seller is one source of information. Commission rules require that the listing licensee ask the seller for specific information and further require all licensees to convey that information "and any other information pertinent" to the disclosure to all buyers (clients and customers). Providing thorough and accurate information may involve several other sources of information.

Real estate licensees are hired as professionals and expected to be aware of the disclosure process, recognize red flags and take the appropriate steps to obtain and make necessary disclosures. Property Disclosure Information is a representation of the seller's property; licensee often may need to contact other sources for information (e.g. town office, well driller, fuel company, septic tank service company, insurance company). Verification of information by more than one source is good practice, when possible. Ask licensees to identify other sources.

The seller may or may not be able to provide the information *(inheritance, foreclosure, etc.)* and other sources may need to be contacted for the information. A seller may provide information they believe to be true, but may not be correct.
Examples:

- *Seller states the location of the well is unknown but states "it must be an artesian well" are you confident the information is accurate? Does the seller understand what an artesian well is?*
- *Seller believes furnace was installed in 2007. While viewing the basement you notice a service tag hanging on the furnace. Should you review the tag for more info? If information conflicts with information provided by seller should you call servicing company to verify info?*

When is "unknown" or "N/A" an appropriate response on a property disclosure form? Is there a difference?
Some information may not be known either by the seller, visual observation of licensee or other sources. For example, a seller may not know when the furnace was installed; licensee checks with area businesses in the industry but has no luck finding the information. Is the correct response "unknown" or "N/A"? Unknown. "N/A" is a term used for "not applicable" (if a furnace exists **N/A** is not an appropriate response). In this scenario is it reasonable to assume the furnace was not installed during the seller's ownership of the property or that the seller may not know or remember this information?

What are some examples of "other information" that may be pertinent to the areas of disclosure?

- Private Water Supply: seasonal water; well shared with neighbor; more than one well
- Heating System: two fuel sources attached to one chimney, unsleeved or buried fuel line, unlined chimney; supplemental heat sources such as space heaters;
- Wastewater Disposal System: shoreland zoning, overboard discharge;
- Known Hazardous Materials: pesticides, recognized hazardous waste disposal sites

In gathering information to complete the written disclosures it is important that the licensee listens carefully to the seller. Deferred maintenance issues that the seller dismisses as insignificant may become an undisclosed material defect for the buyer after closing. Pay attention to red flags that may require additional discussion or investigation and ask the seller if they are aware of anything licensee has *not* asked about the property that may be important.

Other disclosures that may be required:

- **Arsenic** 33 M.R.S. § 173-A

  Seller of residential property must provide buyer with information developed by DHHS regarding what homeowners should know about arsenic in water supplies and treated wood.

- **Radon Testing (rental properties)** 14 M.R.S. § 6030-D – Beginning March 1, 2014 residential rental properties are required to be tested for radon air quality (unless a radon mitigation system has been installed). There are exceptions, restrictions on who can do the testing, etc. Tip sheets and information are available at the State of Maine Division of Environmental Health.

- **Transfer of Shoreland Property** 30-A M.R.S. § 4216 – The transfer of any property with a subsurface wastewater disposal system located withing a shoreland area requires the seller to provide a written statement as to whether or not the system has malfunctioned within the 180 days previous to transfer and testing and potential replacement of the system. A buyer purchasing a property located in the shoreland zone with a subsurface wastewater disposal system is required to have the system inspected. See statute for details and exceptions.

- **Methamphetamine** – (33 M.R.S. §173, sub-§4E) This law requires disclosure at the sale or transfer of the presence or prior removal of hazardous materials or elements including methamphetamine.

- **Public Way** – (33 M.R.S. § 173 (6))(Access to property by a public way) "Public way", means a way, owned and maintained by the State, a county or municipality, over which the general public has a right to pass. (29 M.R.S §101, sub-§59)

- **Disclosure of Flood Risk** (33 M.R.S. §173, sub7; §193, sub-§4; and §194) This is a new law effective August 9, 2024 required for all properties. It requires that sellers provide information to buyers regarding potential flood risks, including whether the property is

located wholly or partially in an area of special flood hazard mapped on the effective flood insurance rate map, with a copy of the relevant panel of the flood rate map prior to or at the time of an offer.
Disclosure must also include whether during the seller's ownership:

1. Any flood events affected the property or a structure on the property;
2. Any flood-related damage to a structure occurred on the property;
3. Any flood insurance claims filed for a structure on the property with dates of claims; and
4. Any past disaster-related aid provided related to the property or a structure on the property from federal, state or local sources for the purpose of flood recovery and the dates of any payments.

The law includes a definition of "flood" as:

(1) A general and temporary condition of partial or complete inundation of normally dry areas from:

(a) The overflow of inland or tidal waters; or

(b) The unusual and rapid accumulation or runoff of surface waters from any source; or

(2) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event that results in flooding as described in subparagraph (1), division (a).

Are buyers and sellers required to sign written property disclosure information? Not according to licensee law and rule but agency policy may require or recommend signature. Can an agency require another agency to comply with their policy to require the seller and buyer to sign the disclosure? No.

Does the seller's signature relieve the licensee of responsibility/liability from information on the disclosure? No.

Can property disclosure information change? Yes! Property disclosure information should be reviewed, updated (dates/source) and kept current (wherever available) throughout the listing period (including while under contract) and prior to re-listing.

How might a buyer perceive the fact that a disclosure is dated six months ago? Might they wonder if any maintenance has been done to the property (e.g. furnace serviced, septic tank pumped)? What else has not been maintained?

Sellers may not think to inform licensee of things that changed and should be updated on the property disclosure (install heat pump, replace well pump, etc.).

Remind the seller to keep you informed of changes. Do you have a system in place to periodically check in with seller regarding property disclosure information?
Ask students to share their system.

Scenarios:

1. **Selling licensee notifies listing licensee that the results of the building inspection are unacceptable and buyer has decided not to purchase the property because all of the sills must be replaced. Should the property disclosure information be amended to reflect this defect?** *Maybe. Steps need to be taken to verify information. Is the source of information reliable? If the defect is determined to be true, the disclosure must be amended.*

2. **You are listing a property and the seller tells you that she has lived at the property for 10+ years but has never had the septic system serviced. Is that important? Would you ask more questions?**
Would you suggest having the septic system serviced (pumped, clean filter, check baffles; check distribution box, etc.)? Check town records to determine if system was approved by the Code Enforcement Officer and that there is a plan on file? (lack of maintenance may suggest that the system is not properly functioning; the seller may not know if there is a septic tank or leach field).

3. **Seller mentions to their listing licensee that they spray around the foundation of the house on an annual basis "to stop ants from entering the home." The licensee advises seller that such maintenance of the property is not a required disclosure. A buyer subsequently purchases the property and, shortly thereafter is confronted with a significant infestation problem. Was the licensee's advice correct?**
No. It would have been prudent for the listing agent to disclose any seasonal or routine maintenance required for the property. In this instance, spraying required to prevent an infestation should have been disclosed.

4. **You are listing a property, and your Seller client has told you that they have a long history of conflict with the neighbors over their "loud" recreational vehicles that run at all hours. Does this information need to be disclosed?** *Material facts must be disclosed to clients but are not owed to customers.*

Remember – as a transaction broker your disclosure responsibilities are similar to a licensee with a client except that you only disclose material defects you have *actual* notice or knowledge of and you do not disclose material facts.

DB DISCUSSION POINT

- Are you reviewing, or delegating review, of property disclosure information for accuracy and completeness?
- Are you keeping affiliated licensees informed of law changes?

Section 4 – Explaining And Discussing Documents *(20 min)*

Technology has drastically changed the way real estate transactions are conducted. Digital, paperless transactions are becoming commonplace. While technology may have changed the way you are doing business, it has not changed your responsibilities to clients and customers.

A common denominator discovered in investigations against real estate licensees is that the consumer did not understand their relationship with the licensee or documents they signed. It is imperative that licensees take time to EXPLAIN and DISCUSS the various documents used throughout a transaction.

Do you remember when you first started out as a real estate licensee? You took a course to learn about real estate transactions including forms and disclosures required. You are usually working with buyers and sellers that do not have the knowledge you possessed when you were first licensed!

Clearly you cannot look into the mind of another to know if they understood a document they signed but you can dig in a bit to look for confirmation of understanding. If they did not agree to sign an agreement for representation after you provided and discussed the Real Estate Brokerage Relationships Form ask them a question such as – "I just want to confirm that you understand that as a customer I am not required to keep any information you give to me confidential or work in your best interest, correct?" If they were not paying attention before that may capture their attention!

Remember - *<u>you</u>* are the professional with real estate brokerage experience. Are you taking time to explain documents and set expectations with clients and customers?

Competency in Explaining Forms and Obtaining Informed Written Consent

Are you using a software program (e.g. DocuSign) that skips to the placeholders where the client must initial or affix their signature?

Do your customers and clients understand what they are signing? What steps are you taking to ensure that they do?

- Have you paraphrased all the documents?
- Send a copy of documents for review before sending the electronic signature version.
- Are all parties to the contract present for review and explanation?

How confident are you in your understanding of the documents and ability to explain them?
- When is the last time you thoroughly read all of the documents you use in transactions?
- Are you using the most updated versions required by your company?

What documents might buyers and sellers have trouble understanding without your assistance?
- ✓ Real Estate Brokerage Relationships Form – do they understand how choosing between being a customer or client affects them?
- ✓ Buyer Representation Agreements – do they understand the terms they are agreeing to? Do you? Do they understand how you will be compensated?
- ✓ Listing Agreements – do they understand the terms of the compensation?
- ✓ Appointed Agency Authorization – have you explained how appointed agency works? Do they know that the agreement is between them and the agency – not you?
- ✓ Disclosed Dual Agency Authorization – do they understand that they have agreed to limited representation, and in that situation, you would be the agent for two clients with adverse interests?
- ✓ Purchase and Sale Agreements & Amendments – do they understand every section of the agreement – not just the sections with blanks that need to be filled in?
- ✓ Earnest Money Deposits – do they understand the risk of losing the deposit or disputed earnest money?

Recordkeeping

As a licensee, you will quickly discover that reasonable care and diligence run parallel, regardless of which side of the transaction you are on. How are you documenting the transaction to protect your client, your designated broker and yourself?
- Notetaking: use extensive details
- Phone calls: keep a detailed log/notes or recap conversation(s) in an email to that individual.
- Text messages
- Emails: keep all records pertinent to the transaction

Documentation could help you in the case of a complaint or lawsuit.

Wrap Up

Your responsibility around reasonable care and diligence covers a wide variety of topics that may be different depending on whether you are working with a client or a customer. All licensees have responsibilities around buyer/seller identification; property identification; personal safety; property disclosure information; and document review and explanation.

Taking the time to perform reasonable care and diligence will help set expectations with buyers and sellers and may avoid complaints, civil suits and E&O issues.

Scenario Violations

Fiancée Fiasco Violations

- ✓ *Agent acknowledges that she failed to act in a reasonably prudent manner to avoid error when she told Buyer and Fiancée that she was acting as their buyer agent; and when she provided them with advice and conducted an investigation relevant to the Property, prior to entering into a written buyer representation agreement, which constitutes a violation of 10 M.R.S. § 8003(5-A)(A)(4); and 32 M.R.S. §§ 13177-A(2), 13282, and 13283(3).*

- ✓ *Agent acknowledges that she failed to act in a reasonably prudent manner in order to avoid error when she represented that Buyer would be prepared to close on the purchase of Property in less than10 days without benefit of mortgage financing but had not taken steps to qualify his ability to do so, which constitutes a violation of 10 M.R.S. § 8003(5-A)(A)(4) and 32 M.R.S. § 13067-A(6).*

- ✓ *Agent acknowledges that she made substantial misrepresentations of her buyer client and that buyer client's ability to purchase Property without benefit of financing, when she had no reasonable basis for doing so, which constitutes a violation of 10 M.R.S. §8003(5-A)(A)(4) and 32 M.R.S. § 13067-A(4).*

Diligence Disaster Violations

- ✓ *failure to act in a reasonably prudent manner in order to avoid error when listing "the property" for sale when he failed to verify the description of the property which had been foreclosed upon, which constitutes a violation of 32 M.R.S. § 13067-A(6) and is grounds for imposing discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(4).*

- ✓ *failure to act in a reasonably prudent manner in order to avoid error when he advertised a description of "the property" which misrepresented the size of the lot to be conveyed, which constitutes a violation of 32 M.R.S. § 13067-A(6) and is grounds for imposing discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(4).*

- ✓ *failure to act in a reasonably prudent manner in order to avoid error when he did not enter into a written buyer representation agreement with "the buyers" but continued to provide client level services to them, which constitutes a violation of 32 M.R.S. § 13067-A(6) and is grounds for imposing discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(4).*

- ✓ *failure to act in a reasonably prudent manner in order to avoid error when he did not obtain written consent from "the buyers" to act as a disclosed dual agent, which constitutes a violation of 32 M.R.S. §§ 13067-A(6) and 13275(1) and Chapter 410 Section 7 of the Maine Real Estate Commission Rules and is grounds for imposing discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(4) and (5).*
- ✓ *failure to act in a reasonably prudent manner in order to avoid error when he did not review the property description included as Exhibit A to the purchase and sale agreement and did not advise "the buyers" that the property description was significantly different from that which had previously been provided to them, which constitutes a violation of 32 M.R.S. § 13067-A(6) and is grounds for imposing discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(4).*

- ✓ *failure to act in a reasonably prudent manner in order to avoid error when he did not review the property description contained in the deed of conveyance and did not advise "the buyers" that the property description was significantly different from that which had previously been provided to them, which constitutes a violation of 32 M.R.S. § 13067-A(6) and is grounds for imposing discipline pursuant to 10 M.R.S. § 8003(5-A)(A)(4).*

August 2023 Article submitted by the Real Estate Commission to Realtor Magazine

MORE ABOUT **COMMUNICATION…**

Real Estate Commission staff receive numerous daily telephone calls and emails from consumers, as well as from licensees, asking questions about real estate brokerage requirements in Maine. Most of these communications are "general" in nature or simply informational. Following are common topics raised with Commission staff:

"My agent promised that I would get my earnest money deposit back…." Did you correctly advise the buyer about their EMD? Do you fully understand what is necessary in order to make disbursement of an EMD, or what the procedure is for dealing with a dispute regarding disbursement? See Chapter 400 of the Commission rules and speak with your designated broker if uncertain. Buyers, and sellers, need to understand the process and the risks.

Recently, many buyers in transactions have elected to purchase without conducting due diligence inspections of the properties. After closing, when latent defects in the property are found (pet stains, ants, mice, minor plumbing leaks, etc.) these buyers become upset because that they did not fully understand disclosure requirements and their own obligation to assess the property's physical condition. Buyers must understand the risks in order to make sound, informed decisions.

- Does the client really understand what they are signing/what you are telling them? Take the time to find out.
- Do you really understand what your client is signing/what you are telling them?
- Don't assume that the client/customer has knowledge that they may not.
- You are the professional. Explain, educate and set reasonable expectations.
- When a problem or conflict arises - don't ignore it. Be proactive, not reactive. Address problems in a timely manner by effectively communicating and negotiating solutions before they escalate.

Important take-aways from recent investigations which resulted in licensees being disciplined: Access to property listed for sale (i.e. lockbox information, etc.) should not be provided without the express permission of the seller or listing agent. The safety and security of property that has been listed for sale should be paramount to licensees, whether acting as a seller or a buyer agent. Home security/surveillance systems are prevalent. Act responsibly and advise buyer clients that confidential information should not be discussed openly while touring property.

FRAUD/SCAM ALERT

The FBI and the U.S. Secret Service have observed a sharp increase in reports of real estate fraud. This type of fraud is happening here in Maine and across the country. Criminals are posing as real property owners and through a series of impersonations are negotiating the sale of properties. The criminal searches public records to identify real estate, often vacant lots or rental property that is free of mortgage or other liens, and the identity of the property owner.

The criminal, then posing as the property owner, contacts a real estate agent to list the targeted property for sale, requesting that it be listed below current market value in order to generate immediate interest. The criminal will likely also demonstrate preference for a cash buyer. All communication is electronic or by telephone, not in person.

The criminal is "unable," or refuses, to sign documents in person and after accepting an offer, requests a remote notary signing. The criminal (or co-conspirator) also impersonates the notary and provides falsified documents to the title company or closing attorney.

How to prevent:

- Independently research the identity of the property seller utilizing internet search engines or other resources. Verify telephone numbers or email addresses provided by the prospective "seller." Recent pictures or contact information may be helpful.
- Request an in-person or virtual meeting. Request to see their driver's license or other government issued identification.
- Be on alert when a seller quickly accepts an offer below market value for payment in cash and/or closing quickly.
- Do not allow a seller to arrange their own notary closing. Use trusted title companies and attorneys for closings and exchange of funds.

If you believe that you have been contacted by a fraudster, or fallen victim to some other type of cybercrime, file a complaint with local law enforcement and the FBI's Internet Crime Complaint Center (IC3) (https://www.ic3.gov/). Your information may be invaluable to helping bring cybercriminals to justice.

November 2023 Article submitted by the Real Estate Commission to Realtor Magazine

SCAM ALERT: Real estate related scams are becoming more common in Maine and are increasingly sophisticated. By far, the most common real estate crime is wire fraud. What usually happens is a real estate agent or title company's email gets hacked, revealing transaction information and closing details. The scammer will then impersonate a party to the transaction, or will mimic the title company's letterhead or email, in an attempt to have funds transferred to the scammer's account.

There have also been incidents of deed or title fraud which is the transfer and recording of a real estate deed without the knowledge or consent of the actual property owner. Thieves contact and convince a real estate agent that they are the rightful owner of a property (often a vacant parcel of land, seasonal camp or foreclosure property) and has the property listed for sale by the trusting agent. Often the "seller" tells the agent they live in some far distant place so all communication must be done via telephone, email or text. The "seller" may direct that the property be listed for sale for much less than the estimated market price in order to generate offers. The property is fraudently sold to the unsuspecting buyers and the thieves pocket the money. The costs to undo a fraudulent deed can be high.

Licensees must be careful to practice due diligence when contacted by prospective sellers who are not available for in-person meetings. Ask for proof of identity (drivers license or other picture ID)... Review the property deed... Conduct an internet search… Review other public records relative to the property or seller. If you find yourself the target or victim of a scam, stop all contact immediately, report any transfer of funds to the financial institution and call the FBI hotline at 202-324-3000 or use the website at ***https://tips.fbi.gov***.

HOME SECURITY: Home security systems are prevalent. Many are inexpensive and easily installed by homeowners. Use of these surveillance systems does not require advance notice to visitors. Several recent consumer complaints have included video evidence of licensees providing access to seller properties without appropriate supervision or permission. In other instances, licensees were recorded while engaged in conversations with their buyer customer/client. Licensees should be mindful of this potential when touring property with clients and limit discussion of confidential information, negotiation strategy, or other sensitive information. Whether cameras are present or not, a seller's property should always be treated with respect. The safety of customers and clients, and the security of property that has been listed for sale, should be paramount to licensees.

LICENSING REQUIREMENTS:

License renewal applications ask about a licensee's eligibility for renewal. One section of the renewal application states, "Your license requires 21 hours of continuing education for renewal which includes the required core course… please indicate whether you have met the requirements. ***Please note that a YES answer to this question means that at the time that you submit this renewal application online, that you have already successfully completed the 21 hours.***" [emphasis added] By answering "yes" to that question, you are attesting that you have, at that moment in time, successfully completed 21 hours of CE including the currently required Core Course. If a licensee only completed 18 hours of CE prior to submitting the renewal application but then several days later completed the Core Course, and then is selected for audit, disciplinary action will result.

As a result of random audits in the first nine months of 2023, approximately 40 licensees were identified as having failed to meet CE requirements when they submitted a license renewal application. Disciplinary action included fines ranging from $750 (the minimum) to $3,000 and, in some cases, suspension of up to 90 days. If you are unsure about your licensing requirements, speak to your designated broker or contact Commission staff **before** you renew!!!

PLEASE NOTE !! You are required to keep track of your CE completion certificates. Print/file each certificate AS SOON AS you complete the course. If you lose a certificate, you can contact the course provider for a replacement. Verify that each certificate reflects the correct completion date and that the course was approved for credit by the Maine REC.

February 2024 Article submitted by the Real Estate Commission to Realtor Magazine

Due Diligence

> *32 MRS §13272: Scope of agency*
>
> *A real estate brokerage agency that provides services through a brokerage agreement for a client is bound by the duties of loyalty, obedience, disclosure, confidentiality, reasonable care, diligence and accounting as set forth in this chapter. Such a real estate brokerage agency may be a seller agent, a buyer agent, a subagent or a disclosed dual agent.*

The Merriam-Webster dictionary defines "***diligence***" as "steady, earnest, and energetic effort; devoted and painstaking work and application to accomplish an undertaking." That same resource defines "***due diligence***" as "the care that a reasonable person exercises to avoid harm to other persons or their property" or "research and analysis of a company or organization done in preparation for a business transaction."

While "due diligence" is commonly associated with the inspections that a buyer might conduct when in the process of purchasing a home to gain assurance that it meets their standards for safety, soundness and value, the term has a much broader application for real estate licensees.

"Diligence" is one of the duties owed to clients upon entry into a written agreement for representation. But a licensee's personal "due diligence" should begin at the initial meetings with a prospective client, and continue until the buyer or seller client successfully closes on a transaction. When practiced, due diligence will serve to protect the client's interests, as well as the licensee's and the agency's.

Safety first!! When meeting a new client/customer…ask for identification; use available resources to verify their address and ownership… meet in the agency offices or a public space. Have a meaningful discussion of the Real Estate Brokerage Relationships Form. Does the new buyer or seller really understand the process? Ask questions. Listen and take notes.

Fraudsters are posing as real property owners and through a series of impersonations are negotiating the sale of properties. Confirm the identity and information provided by the seller. Review and discuss the listing agreement with the seller. Do they really understand the terms of the agreement? Review property records in the town office. READ the deed. Confirm written property disclosure information is complete and accurate.

There are frauds being perpetrated by dishonest persons acting as prospective buyers. Confirm the identity and information provided by the buyer. Does your buyer understand the representation agreement… how their earnest money deposit will be administered and the circumstances which could affect its disbursement… inspections… timeframes… your compensation ?

Disclosed dual agency requires "***informed written consent***"… Do your clients understand what DDA is? If not, their consent is not "informed." Do you understand your role as a disclosed dual agent?

…NOTES FROM RECENT INVESTIGATIONS…

Licensees demonstrated poor judgement when they disclosed lockbox combinations to sellers' properties and allowed unsupervised access. The safety of customers and clients, and the security of property that has been listed for sale, should be paramount to licensees.

A designated broker failed to effectively review, manage and oversee a transaction as required by Commission rules. Designated brokers are reminded of the importance of regular and effective communication with all affiliated licensees, as well as agency clients, to monitor compliance and to prevent misunderstandings.

Licensee was found to have been inattentive during visits to the subject property and, as a result, doors that should have been locked, according to the seller's direction, were not properly secured. Licensee exercised poor judgment when, having been put on notice by the client about the importance they placed on locked doors and lights being turned off, licensee chose to leave before the appraiser had finished.

Two licensees were fined $1,500 each when they failed to act in a reasonably prudent manner in order to avoid error, exaggeration or concealment of pertinent information and failed to act in a reasonably prudent manner in order to protect and promote the interests of their clients.

Continuing Education… the ***minimum*** fine for failing to have the required number of approved CE hours when renewing a license is $750. Audits have recently resulted in licensees being fined up to $3,000 and suspended up to 90 days.

Do it Right! Keep a file of your continuing education course certificates. In addition to the course certificates, keep a list of the courses you've completed including name of the sponsor, course title and date of completion. If you misplace a certificate, you can contact the sponsor for a replacement. For more information, review the Commission website or contact Commission staff.

https://www.maine.gov/pfr/professionallicensing/professions/real-estate-commission

May 2025 Article submitted by the Real Estate Commission to Realtor Magazine for publication

Article produced and distributed by Amy Thoreson of the FBI Field Office – Newark, NJ

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Fraudsters Are Stealing Land Out from Under Owners

It begins when a real estate agent gets a solicitation from a fake property owner wanting to sell their vacant lot in a rural community. A for sale sign goes up on the land. The seller asks for an all-cash sale and a quick closing. Within weeks, the deal can be done. Meanwhile, the real property owner has no idea their land has just been sold out from under them. It's vacant land fraud, and it's happening at an alarming pace all around the country.

It boils down to property owner impersonation. These bad actors are able to use electronic communications to convince everyone at every level of a property sale that they are the rightful owner of the property and, therefore, the rightful recipient of the sale proceeds. But they don't own the property.

How It Works

The fraud scheme usually begins when criminals send out solicitations to dozens of licensees who are listed on the internet, or they attempt to list the property themselves as *"for sale by owner."*

When a licensee responds, the criminal has a fake id, fake documents, with the address of the real owner. They may even use fake notary stamps and seals to fraudulently execute settlement documents. If even around 25% of the licensees respond and only around 5% of those result in an actual sale, the fraudsters can net anywhere from $10,000 to over $1,000,000. The losses can add up quickly.

It's not as odd as it may seem for this type of fraud to take place. The criminals executing this type of fraud know the process for selling a home or land. Sellers don't have to do much in the way of paperwork. The land itself is vacant, so there's no way to go ring someone's doorbell and ask questions. It's also an all-cash deal, so there aren't as many eyeballs on the transaction as there are when mortgage companies and associated underwriting is involved.

Also, COVID-19 changed the way business was and continues to be conducted. Everyone has grown accustomed to doing transactions and deals through email and over the phone. The remote nature of a sale is still commonplace, which benefits the scammers.

There are several things that should stand out as red flags to anyone taking on a client interested in selling a vacant parcel of land. The fake seller will ask for a quick sale, even accepting offers way below market price. They will also have a pretext to speed up the sale. The fake seller will always have an excuse for not being able to appear in person or on video, like they're traveling abroad, don't have a smart phone, or they're in the hospital. They want to do everything online, to include electronic signatures.

How It Gets Discovered

These bad actors are pretty good at faking their identities if there's just a preliminary look by anyone attempting to verify who they are. They have fake ids, copies of the deeds, and they can answer most questions about the property that they found by doing a simple online search.

Title companies have started picking up on the scams, but when they push back, the bad actors change tactics. They have started employing money mules. If wire transfers are rejected because the property owner's name doesn't match the bank accounts, scammers use domestically based accomplices to set up limited liability companies.

As more licensees, title companies, and others are becoming aware of the fraud—and taking steps to stop it—criminals are shifting their attention to abandoned properties and rental homes.

Tips for the Industry

- ✓ Avoid remote closings, if at all possible.
- ✓ Ask for in-person identity checks. If this is not possible, ask for other video confirmation of identity.
- ✓ Ask for a copy of the most recent tax bill or other piece of mail, in addition to an ID.
- ✓ Look up the phone number by reverse search or through the phone carrier.
- ✓ Check the email addresses and names. Fraudsters have been known to recycle them.
- ✓ Pay attention to the age of the seller, accents, excuses.
- ✓ Send a certified letter to the address of record on the tax bill.

How to Report It

You can report it to **1-800-CALL-FBI**, or online at ***tips.fbi.gov***.

You can also report it to ***www.ic3.gov***, the FBI Internet Crime Complaint Center.

Maine Secretary of State

Notary Public Course of Study

Course of Study Objectives

- To help you better understand your role as a Maine Notarial Officer.

- To help you understand how to perform a traditional in-person notarization vs. remote or electronic notarizations.

- To increase your knowledge of the new Revised Uniform Law on Notarial Acts (RULONA) which was adopted on July 1, 2023.

Role of the Secretary of State

- The Secretary of State cannot provide legal advice.
- The role of the Secretary of State is limited to the appointment and commissioning of notaries public.
- The Secretary of State cannot determine the validity of a notarized document.

What is a Notary Public?

A Notary Public is an official of integrity commissioned by the Secretary of State to serve the public as an **impartial witness** to the identity, comprehension, and intent of a person requesting a notarial act.

Definitions

- "Notary public" means an individual commissioned to perform a notarial act by the Secretary of State.
- "Notarial officer" means a notary public commissioned by the Secretary of State; a judge, justice, clerk or deputy clerk of a court of this State; or an attorney-at-law duly admitted and eligible to practice in the courts of this State; and any other individual authorized by the laws of this State to perform a specific notarial act.
- "Electronic notarization" means a Maine notarial officer's performance of a notarial act with respect to an electronic record, using an electronic signature and an electronic official stamp.
- "Remote notarization" means a notarial act performed by a notarial officer for a remotely located individual using communication technology approved by the Secretary of State.
- "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- "Credible witness" means an honest, reliable, and impartial person who personally knows an individual appearing before a notarial officer and takes an oath or affirmation before the notarial officer to vouch for that individual's identity.

Definitions Continued

- "Notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the laws of this State.
- "Official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal.
- "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.
- "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- "Stamping device" means a physical device capable of affixing to or embossing on a tangible record an official stamp or an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp.
- "Direct beneficial interest" for purposes of defining a conflict of interest under 4 M.R.S. § 1904(3)(B), means a fee other than the customary fee for performance of the notarial act, or any advantage, right, title, interest, cash, property or other consideration received in connection with the record.
- "Dedimus Justice" is an officer who performs a single function of swearing in various public officials, including Notaries Public in Maine.

Qualifications of a Notary Public

- Be at least 18 years of age;
- Be a resident of or have a place of employment or practice in this State;
- Be able to read and write English;
- Have passed the examination administered by the Secretary of State; and
- Not be disqualified to receive a commission under 4 M.R.S section 1924;

Grounds to Deny, Refuse to Renew, Revoke, Suspend or Condition Commission of Notary Public

- Failure to comply with RULONA;
- Making a fraudulent, dishonest or deceitful statement or omission in the application for a notary public commission submitted to the Secretary of State;
- A conviction of any crime punishable by one year or more of imprisonment or a crime involving fraud, dishonesty or deceit;
- 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;
- Failure to discharge any duty required of a notary public, by law or rules of the Secretary of State or any federal or state law;
- Use of false or misleading advertising or representing that the notary public has a duty, right or privilege that the notary public does not have;
- Violation of a rule of the Secretary of State regarding a notary public;
- Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state; or
- Violation of Title 21-A, section 903-E. (Notary public providing services for initiative petition of people's veto in addition to notarial acts)

Jurisdiction

Maine notaries public may perform notarial acts **anywhere** within the boundaries of the State of Maine.

Maine notaries may **not** perform notarial acts outside of Maine.

Reminder: Even when a notarial officer is approved by the Secretary of State to do electronic and remote notarizations, the notarial officer must always be in the State of Maine when the transaction occurs.

Conflict of Interest

A notary public may not perform a notarial act:

- For any person if that person is the notary's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative.
- For a record to which the notary or the notary's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative is a party or in which any of them has a direct beneficial interest.

Avoiding Prohibited Acts

- Do not draft any legal documents or provide legal advice unless you are an Attorney.
- Do not act as an immigration consultant or an expert on immigration matters.
- Do not advertise your services using the title "notario" or "notario publico"
- If you are advertising your services as a notary public, you must include this statement:

  "I am not an attorney licensed to practice law in this State. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities."
- Do not notarize any record or document without personal appearance.
- Do not perform any notarial act for a spouse, domestic partner, parent, sibling or child or an in-law or step or half relative.

Avoiding Prohibited Acts Continued

- Do not perform any notarial act with respect to a record to which the notarial officer or spouse, domestic partner, parent, sibling or child or an in-law or step or half relative is a party or in which any of them has direct beneficial interest.
- Do not take the acknowledgement of an instrument by or to a bank or other corporation of which the notarial officer is a stockholder, director, officer or employee when the notarial officer is a party to the instrument, either individually of as a representative of the bank or other corporation.
- Do not administer an oath or affirmation to a circulator of a **petition for a direct initiative or people's veto referendum** if the notarial officer also provides other services to initiate or promote the initiative or people's veto.
- Do not make or note a protest of a negotiable instrument unless the notarial officer is an employee of a financial institution acting in the course and scope of the notarial officer's employment with the financial institution.

Acceptable Forms of Identification

1. Personal Knowledge - The notarial officer has personal knowledge of the identity of the individual appearing before them.

2. Evidence of Identity - The notarial officer has satisfactory evidence of the identity of the individual appearing before the officer if the officer can identify the individual by:

- A passport, driver's license or government-issued nondriver identification card; or
- Another form of government identification issued to an individual that contains the signature or a photograph of the individual and is satisfactory to the notarial officer; or

3. Credible Witness - By 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 based on a passport, driver's license or government-issued nondriver identification card.

Keep in mind that a notarial officer may require an individual to provide additional identification credentials necessary to assure the officer of the identity of the individual.

Journal Requirements

A notarial officer MUST maintain a journal for all electronic and remote notarizations.

A journal is not required for in-person paper notarizations. However, the Secretary of State strongly suggests that you maintain a journal for of all notarial acts.

A journal may be created in a permanent, bound register which contains page numbers or in an electronic format, which must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.

For all in-person paper notarizations: You may only keep one journal at any one time.

For all remote and electronic notarizations: You are permitted to keep more than one journal at the same time.

Additional Journal Requirements

The entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- The date and time of the notarial act;
- A description of the record, if any, and type of notarial act;
- The full name and address of each individual for whom the notarial act is performed;
- If the identity of the individual is based on personal knowledge, a statement to that effect;
- If the identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the dates of issuance and expiration of any identification credential; and
- The fee, if any, charged by the notarial officer.

Journals must be retained for 10 years after the performance of the last notarial act recorded in the journal.

Notary Public Official Stamp Requirements

A notarial act regarding an in-person paper record does not require the use of a notary public stamp. However, the Secretary of State strongly suggests that a notary stamp be used on all notarizations, unless the use of the stamp is prohibited.

However, use of a notary public stamp **is required** on all electronic or remote notarizations.

A notary public's official notary stamp must include:

- The Notary Public's name as it appears on their commission
- The words "Notary Public" and "State of Maine" or "Maine"
- The Notary Public's commission expiration date

The notary stamp must be **capable of being copied** together with the record to which it is affixed or attached or logically associated.

Reasons Why a Notary Should Not Act

- The signer is not in your presence.
- You cannot identify the signer through accepted forms of identification or if they are not personally known to you.
- There is reason to believe that the signer does not understand the consequences of the transaction or record being notarized.
- The signer is not acting of their free will.
- The record presented for copy certification is a vital record, public record or a publicly recorded document that is available as a certified copy from an official source other than a notary public.
- You are a party to or are named in the record except for the sole purpose of receiving notices relating to the document.
- The signer is an immediate family member of the notary public.
- The record or notarial certificate contains information known by the notary to be false.

You Should Not Refuse To Act Because...

- Of your feelings about a person's race, age, gender, sexual orientation, religion, national origin, health or disability.
- The document that is presented to you is in a language you do not understand.
- You do not have time to perform the notarization, or you just do not want to.

Remember, you can offer your services at a different time if you cannot perform the notarization at the time it is requested.

Maine's Authorized Notarial Acts

Acknowledgement

A declaration by an individual before a notarial officer that the individual has signed a record for the purpose stated in the record and if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record.

A notarial officer who takes an acknowledgment of a record shall 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 the signature on the record is the signature of the individual.

Reminder: Even though for an acknowledgment the individual may sign the record before notarization or during it, **Personal Appearance** before the notary is still required!

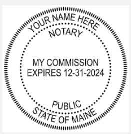
Steps for an Acknowledgment:

1. Require personal appearance of the person acknowledging their signature.
2. Verify the identity of the individual, if not personally known to you.
3. Review the individual’s signature if the record is already signed; or require the individual to sign the record in your presence if the record is not yet signed.
4. Take the individual’s acknowledgement by asking, “Do you acknowledge signing this record willingly, for the purposes stated in it?”
5. Complete the notarial certificate.
6. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

ACKNOWLEDGMENT

State of Maine
County of ____________________

This record was acknowledged before me this _______day of__________, 20_____ by (Name(s) of Person(s) Acknowledging).



Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: ___________

Verification on Oath or Affirmation (Jurat)

A declaration made by an individual on oath or affirmation before a notarial officer that a statement in a record is true.

A notarial officer who takes a verification of a statement on oath or affirmation shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and making the verification has the identity claimed and that the signature on the statement verified is the signature of the individual.

The difference between an oath or an affirmation is the nature of the individual's spoken pledge, which should be left up to the individual:

- An oath is a spoken pledge to God or to a higher power.
- An affirmation is a spoken pledge made on the individual's personal honor.

Steps for a Verification on Oath or Affirmation:

1. Require personal appearance of the person swearing the oath or making the affirmation.
2. Verify the identity of the individual, if not personally known to you.
3. Require the individual to sign the record in your presence. If the record is already signed, it must be signed again in your presence.
4. Ask the individual to raise their right hand, to emphasize the seriousness of the process.
5. Administer the oath or affirmation by asking the individual to swear to or affirm the truthfulness of their statement. For an oath, ask "Do you solemnly swear the contents of this document are true, so help you God?" For an affirmation, ask "Do you affirm the contents of this document are true?"
6. Complete the notarial certificate.
7. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

OATH OR AFFIRMATION (JURAT)

State of Maine
County of ____________________

Sworn to (or affirmed) and subscribed before me this _______day of__________, 20_____ by (Name of Person Making Statement).

Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: ___________

Witnessing or Attesting to a Signature

A notary public who witnesses or attests to a signature determines, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the notary and signing the record has the identity claimed. No verbal ceremony is necessary for witnessing or attesting to a signature.

Steps for Witnessing or Attesting to a Signature:

1. Require personal appearance of the person signing the record.
2. Verify the identity of the individual, if not personally known to you.
3. Require the individual to sign the record in your presence. If the record is already signed, it must be signed again in your presence.
4. Complete the notarial certificate.
5. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

WITNESSING OR ATTESTING TO A SIGNATURE

State of Maine
County of _____________________

Signed (or attested) before me this _______day of__________, 20_____ by (Name of Person Making Signing).

Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: __________

Certifying or Attesting a Copy of a Record

A notary public who certifies or attests a copy of a record or an item that was copied determines that the copy is full, true and an accurate transcription or reproduction of the record or item.

Please note: The notary public **is not** guaranteeing the authenticity of the record presented for copying, its contents, or it effects. Nor is the notary public taking an oath or affirmation or making an acknowledgement. Instead, the notary public is simply stating in the notarial certificate that the notary made, or witnessed being made, a "true" copy of the record that was presented (or carefully compared a copy to the original and found it to be full, true and accurate).

A notary public **is not authorized** to make any certified or attested copies of **public records** or **vital records.** A notarial officer may not certify a copy of any record that states on its face that it is illegal to make copies of the document.

Steps for certifying or attesting a copy of record:

1. Verify the record custodian's identity, if not personally known to you.
2. Observe whether the record is an original. (Must not be a public record or vital record).
3. Personally make the copy or witness the making of the photocopy.
4. Complete, sign and securely attach the notarial certificate to the photocopy using a staple, which would leave some indication of tampering if removed.
5. Record the notarial act in your journal. Although using a journal is not required on all notarizations in Maine, we strongly suggest that you record the details of all notarial acts requested.

CERTIFYING OR ATTESTING A COPY OF RECORD

State of Maine
County of ___________________

On this ______day of __________, 20___, I certify that the attached record is a true, exact, complete, and unaltered photocopy made by me of (Description of Record), presented to me by the document's custodian (Person Presenting Record), and, to the best of my knowledge, that the original record is neither a vital or public record.

Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: ___________

CERTIFYING OR ATTESTING A COPY OF RECORD

State of Maine
County of ___________________

On this ______day of __________, 20___, I certify that I carefully compared the attached copy of (Description of Record) with the original presented to me by the document's custodian (Person Presenting Record), and it is an exact, complete, unaltered copy of the original record.

Signature of Notarial Officer
Stamped or Printed Name of Notarial Officer
Title of Notarial Officer, State of Maine
My commission expires: ___________

Common Notarial Errors

- The signer did not personally appear before the notary.
- The notary did not properly identify the signer.
- The notary did not screen for willingness and competency of the signer.
- The notary failed to perform the verbal oath or affirmation.
- The notary did not attach a notarial certificate.
- The notarial certificate was left incomplete.

Fees For Notarial Services

The State of Maine does not statutorily set fees for notarial services. Any fee to be charged by a commissioned notary public for performing a notarial act must be disclosed in writing to the individual requesting the services of the notary public before the notarial act is performed **and** the notary public must obtain the individual's agreement to any fee to be charged prior to performing the notarial act.

Secretary of State suggests that notaries adopt a fee schedule to be provided when notarial services are requested.

Electronic Or Remote Notarizations Requirements

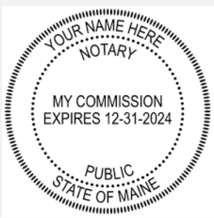
Before a notarial officer can perform a **remote notarization** or a notarial act with respect to an **electronic document** or using an **electronic signature**, the notarial officer **must** complete and submit the "Notice to Perform Electronic and/or Remote Online Notarizations" form to the Secretary of State and must receive **approval** by the Secretary of State.

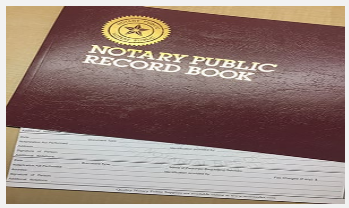
Additional Requirements for Approval By Secretary of State To Do Electronic or Remote Notarizations

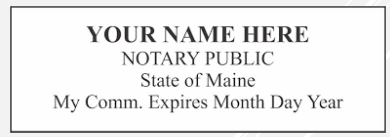
- The name(s) of the provider(s) of technology **APPROVED** by the **Secretary of State** that the notarial officer has selected to use;
- A certification from each provider of technology confirming that the notarial officer has received **training** in the use of that technology and has been **approved** as a user of that technology;
- A certification by the notarial officer that the officer has read and understands the requirements of 4 M.R.S. chapter 39 and the administrative rules; and
- An example of the notarial officer's **electronic signature** and **official electronic stamp**.

Your Notary Public commission, any notary stamp or journal belongs to you, not to your employer, even if your employer has paid for these!

If a notary stamp or journal is lost or stolen, the officer must promptly notify the Secretary of State!







Should A Notary Public Act As Both A Witness and a Notary Public on a Document?

As a general guideline, the office of the attorney general has advised the Secretary of State that a notary public should not act as both a witness and as a notary public for the same transaction.

WHAT IS AN APOSTILLE OR AUTHENTICATION?

These are certifications issued by the Secretary of State that authenticate the authority of the Notary Public who notarized the document or the public official who certified the document.

The difference between an Apostille and an Authentication is determined by the country who is the recipient of the document:

- The Hague Convention established a system that allows Secretaries of State to process these special certifications for documents that are going to certain countries which are party to the Hague Convention. This special certification is called an **Apostille**.

- Requests for certifications for documents that are going to countries which are not party to the Hague Convention receive a certification called an **Authentication**.

Thank you for making the time to take the Secretary of State's Course of Study to enhance your knowledge of the duties and responsibilities of notaries public in Maine!

Have Questions?

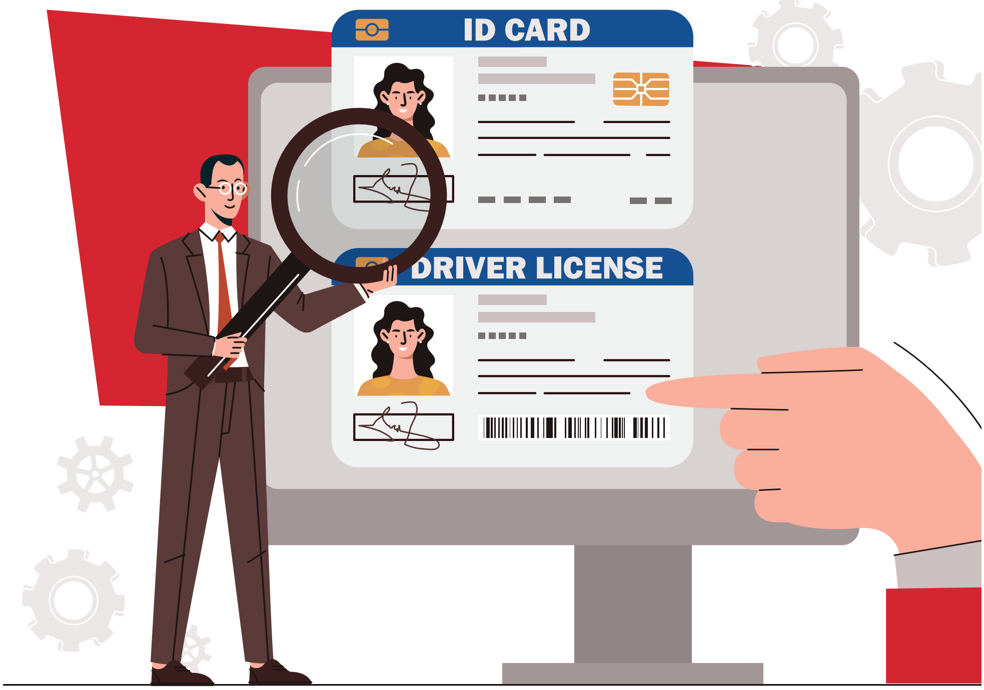
Call us: (207) 624-7752
Email us: cec.notaries@maine.gov

Tips for Checking State Identification Cards During an In-Person Notarization

Tips for Checking State Identification Cards During an In-Person Notarization

1. Use tools of the trade

- **Magnifying glass for microprint:** Many state driver's licenses and IDs have microprinting as a security feature, but you will need a magnifying glass to read it.
- **UV light for holograms:** Many IDs have holographic images that you can see only with a "blue" (UV) light.
- **ID Checking Guide:** Has pictures and information on drivers' licenses and state IDs of all 50 states. Use it to master your state's IDs and also to verify an out-of-state ID that is presented to you.



2. Know your state's IDs

- Most notarizations you will perform will involve state residents who present your state's driver's license or state ID to verify their identity.
- Know the versions of IDs that are currently valid in your state.
  - Real ID.
  - Non-Real ID.
  - Current but no longer issued versions.
- Know the security features of your state IDs, including: Ghost photos, microprinting, holograms, laser perforations and tactile security features.

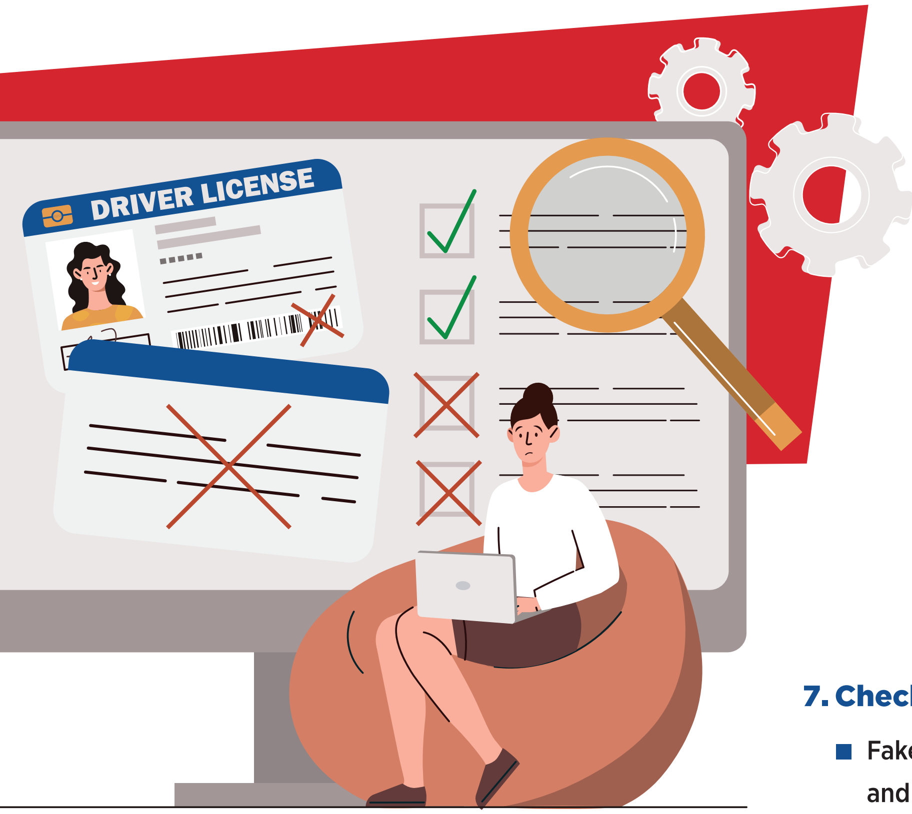
3. Handle the ID

Ask the signer to take the ID out of their wallet or from behind the "ID window" of their wallet so you can handle it. To check the physical attributes of an ID, you must inspect the ID up close and touch it.

While handling the ID, check for tell-tale signs that the lamination is fake (ragged edges, peeling, air pockets underneath, creasing, etc.)

4. Compare the physical description, photo and signature

- The physical description of the person on the ID should reasonably match the appearance of the individual who appears before you.
- While a person may change their hair color, length or style, certain facial elements such as the position of the eyes, eyebrows, ears, nose and chin usually will not change. Focus on these elements in the photo and the person before you.
- Does the signature on the ID reasonably resemble the signature on the document being notarized and in the journal of notarial acts?



5. Inspect the front

- Physical attributes of the ID.
  - Thickness.
  - Rounded and smooth corners (a state DL or ID that does not have rounded corners is likely a fake).
  - Smoothness of photo: A "bump" could indicate an altered photo was placed on top.
- Design elements: For example, the current California driver's license has a fine-line state map, mountains, orchards, gold prospector, sailboats and California poppies on the front of the license.
- Fonts and color of fonts (mismatched and miscolored fonts are evidence of a fake ID).
- License number should reflect the proper type and number of characters. For example, in California, the first character is a letter followed by seven unspaced digits.
- Photo and ghost photo.
- Holograms and visual security features (laser perforations that require you to hold the ID at a certain angle or up to the light to see).
- Tactile security features such raised lettering that you can feel by touch.
- Overlapping elements and printing.
- License or ID term length.
- Does the signature on the ID reasonably resemble the signature on the document being notarized and in the journal of notarial acts?

6. Inspect the back.

- Fake IDs may compellingly reproduce the front of the ID but not the reverse side.
- Check the back side for the inclusion of all elements that should appear such as a magnetic swipe strip, barcode, and design and security elements (The ID Checking Guide will identify these elements).

7. Check for signs of tampering.

- Fake IDs may tamper with the signature, photo and typed information.
- If the ID contains overlapping type as a feature, the absence of overlapping type could be a sign of tampering.

8. Check the ID expiration date

9. Ask questions

- Ask the cardholder to verify personal data on the card. If they can't, it is a red flag.
- Ask the cardholder what the middle initial in their name stands for.
- Purposely mispronounce their name or misstate their middle initial to see if the cardholder instinctively gives the correct information.

10. Look for signs of deceit

- Nervousness.
- Lack of eye contact.
- Hesitation when answering questions.
- Eyes tracking upward (as a sign they may be trying to remember or make something up).

Commission to Recommend Methods for Preventing Deed Fraud in the State

Recommendations Proposed by Commission Members
(through November 5, 2025)

Notary Requirements	Suggested by
Licensure requirements: 1. Reduce the term of a notary public's commission — perhaps to 4 years. *Compare* 4 M.R.S. §1922(4) (current 7-year term of commission).	Rep. Lavigne; Cathy Beaudoin
2. Require renewal applicants to re-take the notary public examination. *Compare* 4 M.R.S. §1923(1) (examination only required on initial application).	Cathy Beaudoin
3. Require notaries public to take continuing education courses on deed fraud. *Sample issues to consider*: ➢ How many hours of deed fraud continuing education should be required and how frequently (every year? once per term?)? ➢ What topics must be covered in the course? ➢ Must the course be approved by the Secretary of State? ➢ Should any of these details be addressed by the Secretary of State through rulemaking? *See* 4 M.R.S. §1928 (rulemaking authority).	Rep. Lavigne
4. Require notaries public to use an embossed stamp that indicates the expiration date of their commission. *Sample issues to consider*: ➢ Would a version of this requirement apply to all notarial officers (including judges and attorneys) or only notaries public?	Rep. Lavigne; Sen. Moore
5. Require all "foreign applicants" (for a notary public commission?) who reside outside of the State to secure a resident agent "to allow for focused research and accountability and validity of applicants." [***Note: staff may have misinterpreted this recommendation, it may instead relate to identify verification.***] *Sample issues to consider*: ➢ 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* 4 M.R.S. §1911; §1912; §1913; §1914. ➢ Should RULONA be amended to require a Maine-authorized notarial officer to perform notarial acts on instruments that will be recorded in a registry of deeds? Are there any constitutional concerns?	Rep. Lavigne; Sen. Moore
Journal requirements: (*see considerations on next page*) 6. Require notaries to keep a journal for all notarizations. *Compare* RULONA, 4 M.R.S. §1920 (requiring a journal only for remote and electronic notarizations).	Cathy Beaudoin; Nancy Hammond; Rep. Lavigne; Sen. Moore
7. 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.	Rep. Lavigne; Sen. Moore; MarK Samson

Sample issues to consider for journal requirements: ➢ Would the journal requirement apply to all notarial officers (including judges and attorneys) or only notaries public? ➢ What information must be included in the journal; how long should the journal be retained? *Compare* RULONA, 4 M.R.S. §1920 (detailed journal requirement for remote and electronic notarizations). ➢ Privacy concerns related to notary retention of IDs and DOBs?	
Identity Verification	
8. Require 2 forms of identification for all real estate transactions. *Sample issues to consider*: ➢ Whose identity is subject to dual identification? Seller? Purchaser? Mortgagee? *Rep. Lavigne proposed all parties be covered.* ➢ Which transactions are included? *Rep. Lavigne proposed including all transactions, even those that do not trigger the real estate transfer tax. See* 36 M.R.S. §4641-C (real estate transfer tax exemptions). ➢ Assuming a government-issued ID is the first form of identification, what type of identification is acceptable as a second form? *Rep. Lavigne proposed creating a list of 5 or 6 test questions, based on research about the person or property. Compare recs. below.*	Cathy Beaudoin; Rep. Lavigne
9. Establish a state-approved identify verification form and require a notary to verify the seller's intent and identity using this form by at a minimum physical verification of a government-issued ID. 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. The completed form must be presented to the Registry of Deeds at the time the conveyance instruments are recorded. *Sample issues to consider:* ➢ Who should be charged with creating the form and what specific identity verification processes must the form require? ➢ Should this be a statutory duty for real estate professionals? ➢ Must a copy of the form be recorded in the registry?	Mark Samson
10. Require enhanced identify verification for electronic-only transactions — *i.e.*, electronic-only listings and closings — using an approved service such as CertifID, Authenticate, or ForeWarn. Allow the notary to charge a fee for performing this service. It may make sense to require that the service be approved by the State to ensure standardized reports and to negotiate the price. *Sample issues to consider:* ➢ Should the Secretary of State be charged with approving the service and adopting rules to specify the details of this requirement? ➢ Should this be a statutory duty for real estate professionals?	Mark Samson
11. Require enhanced identification checks for the sellers of real property if a transaction contains "red flags" such as a cash transaction, no encumbrances on the property, the seller is located outside of Maine, the entire transaction is completed electronically. *Sample issues to consider:*	Sen. Ingwersen

- Is this intended to be a duty of the notary or a duty of a real estate professional who lists a property for sale?
- Which specific "red flags" should trigger this requirement?
- What specific type of enhanced identity check must be performed?
- What are the consequences of failure to use the system (inability to record the transaction in the registry of deeds? professional discipline, for the notary or real estate professional? other?)

<u>**Fraud Alert / Notification System**</u>	<u>**Suggested by**</u>
12. Provide an electronic notification system for property owners. If there is an attempt to record a title in the future, the property owner would be notified immediately. *Sample issues to consider:* ➢ Will registers of deeds be required to adopt these systems? (mandate?) ➢ Jane Towle suggested including an opt-out feature at closing, how would that work? Would the system be operated by real estate professionals or title agents? *Compare recommendation below.*	Jane Towle; Cathy Beaudoin
13. Create an electronic notification system that will notify a property owner ***prior to closing*** if a transaction contains "red flags" such as a cash transaction, no encumbrances on the property, the seller is located outside of Maine, the entire transaction is completed electronically. *Sample issues to consider:* ➢ Who is responsible for creating and implementing the system? ➢ What are the consequences of failure to use the system (inability to record the transaction in the registry of deeds? professional discipline, if use of the system is a duty of a particular professional? other?)	Sen. Ingwersen

<u>**Registry Processes**</u>	<u>**Suggested by**</u>
14. Require regular (annual or biennial) updating of property owner contact information in the registry of deeds. *Sample issues to consider:* ➢ What steps would be required of the registry? ➢ Is this recommendation applicable only if a fraud alert system is adopted?	Sen. Ingwersen
<u>Property Freeze</u> 15. Establish a process for owners to freeze title to their property in the registry. o Jane Towle suggests that property owners could trigger a freeze using an online request form and two-factor identity authentication. o Mark Samson suggests creation of a state-approved affidavit form to be used to prohibit recording of property transfers without contacting and verifying the transfer with the owner of record; this process would not apply to recording of verified legal judgments or government filings. o Sen. Ingwersen and Sen. Moore propose adopting the ULC Deed Fraud Study Committee's recommendation—property owners may request a freeze in person or online; freeze applies only to voluntary transfers; title	Cathy Beaudoin; Jane Towle; Sen. Moore; Sen. Ingwersen; Mark Samson

insurers and lienholders would be notified of the title freeze; specific future transfers can be authorized by the property owner through in-person or multi-factor authentication.

Sample issues to consider:

- If a state-approved form is required, who creates/approves the form?
- What type of identity verification is required (a) to freeze the property and (b) later to un-freeze the property?
- Should the specific types of recordings not covered by the freeze (tax liens, court judgments, mechanic's liens, etc.) be specified in the law?
- Are registries required to make this process available? Are they also required to notify specific persons when a property's title is frozen (mortgagees, title insurers, etc.)? (state mandate?)
- What procedures apply if the property owner dies?

<u>Property Owner Recordings when fraud may have occurred</u>

Cathy Beaudoin; John Brautigam

16. Provide a method for property owners to submit a filing to be recorded in the registry of deeds indicating that they believe fraud has occurred or that they dispute the validity of a certain recorded instrument.

Sample issues to consider:

- Must this be a sworn affidavit? What information must be included?
- What is the legal effect of this recording?

<u>Register Discretion to flag potentially fraudulent documents</u>

Hannah McMullen

17. Grant Registers of Deeds discretion to flag documents submitted for recording that appear to be fraudulent and, if a document is flagged, require the register to notify law enforcement or the Attorney General's Office to investigate. The process could mirror the process in P.L. 2025, ch. 215 (LD 1445) for financial institutions to flag requests for disbursement that the institution "reasonably believes may result in financial exploitation of an eligible adult."

Sample issues to consider: Compare Illinois, Texas (and Montana) laws.

- What criteria may justify the flagging of a document by the register? (Consider resources needed for registers to make these determinations)
- In addition to law enforcement, who else must the register notify if a document is flagged (property owner of record, mortgagee, others)?
- Should the flagged document be recorded pending the investigation?
- How long does the flag last? How is the flag removed?
- If an investigation reveals that fraud occurred, does law enforcement seek a court order that the document is void and record that order?

Real Estate Professionals

See the list of proposed recommendations above related to notaries; some of these recommendations may also or may instead be meant to impose specific duties on real estate professionals.

Civil Remedies	Suggested by
18. Develop a process to rescind and eliminate fraudulent recordings. *Sample issues to consider:* ➢ Would this process require a court action or a different, administrative process (decisions by the register of deeds or someone else)? ➢ If this proposal involves a court process, see issues listed below.	Mark Samson
19. Create an expedited and low-cost process to clear title and void forged deeds. o Cathy Beaudoin suggested expediting investigations of deed fraud by the Attorney General's Office while Carrie Cote & John Brautigam suggested creation of an expedited court process to clear title and void forged deeds. o John Brautigam suggested that there be a presumption in favor of awarding attorney's fees to the prevailing party. *Sample issues to consider — Compare TX action on fraudulent conveyance* ➢ What must the plaintiff prove to obtain this expedited relief? ➢ How would the proceeding be expedited? ➢ Would claims for damages be part of the action or a separate action? ➢ What would be the legal effect of the expedited court order (prevent future good faith purchaser for value? ignore void deed when researching title for future title insurance? any binding effect on future proceedings between the parties, for example, for damages)?	Cathy Boudoin; Carrie Cote; John Brautigam; Nancy Hammond

Educational Materials	Suggested by
20. Provide educational resources for **members of the public**. o Carrie Cote and Nancy Hammond suggested the materials cover 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 attempt). o Hannah McMullen suggested making these educational resources at the Registry of Deeds, Secretary of State's Office and any other state or local entity that wishes to provide educational materials *Sample issues to consider:* ➢ Who should be charged with developing these materials? ➢ Does the commission agree with suggestions above regarding the topics to be covered and the ways to distribute these materials? ➢ Should development of these materials be mandated by law or should the commission write letters to certain entities requesting they create and/or distribute these educational materials?	Hannah McMullen; Carrie Cote
21. Provide educational resources for and/or require training for **industry professionals** to prevent deed fraud. *Sample issues to consider:* ➢ Which industry professionals should receive this education (all notaries or only notaries involved in closings, real estate professionals, title insurers, registers of deeds, lenders, others?) ➢ Should resources merely be created or should training be mandatory? ➢ Who should be charged with developing these materials?	Carrie Cote; John Brautigam; Nancy Hammond

Criminal Penalties	**Suggested by**
22. Create a new crime specific to the knowing recording of forged or false real property deeds. *Sample issues to consider:* ➢ How would this crime differ from the existing crime of falsely filing a recordable instrument in 17-A M.R.S. §706-A? ➢ What penalty should be imposed? Note: §706-A is a Class D crime.	John Brautigam
23. Increase penalties for those found to be attempting a fraudulent transaction. *Sample issues to consider:* ➢ 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 — *e.g.*, attempting to falsely filing a recordable instrument under §706-A is a Class E crime. *See* 17-A M.R.S. §152. ➢ 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.	Rep. Lavigne; Sen. Moore

Miscellaneous	**Suggested by**
Refundable Seller Deposit 24. Require a refundable deposit of $100 from the seller upon the listing of property for sale. *Sample issues to consider:* ➢ Is collection of the deposit a duty of the real estate professional? ➢ What is the penalty for failing to pay (or collect) the deposit? ➢ When (under what conditions) is the deposit returned? ➢ Under what conditions is the deposit forfeited, and to whom?	John Brautigam
Data Collection 25. Require certain professionals (realtors, title attorneys, law enforcement, etc.) to report incidents of deed fraud to a central location for data collection purposes. *Sample issues to consider:* ➢ Who is required to submit a report? In what circumstances? ➢ What info. must be included in the report (type of property, etc.)? ➢ Who must accept these reports and maintain this information? ➢ What confidentiality protections (if any) apply to these reports?	Sen. Ingwersen; Nancy Hammond

Proposals against certain types of recommendations

- Carrie Cote expressed concern with amending RULONA's requirements for becoming a notarial officer or taking acknowledgements for several reasons, including the extensive study of RULONA by the Secretary of State before its adoption by the Legislature and the fact that deed fraud seen in Maine to date has not involved misconduct by Maine notaries.
- Hannah McMullen suggested waiting for the Uniform Law Commission to release its model law on deed fraud before deciding whether Maine should adopt any of the ULC's proposed statutory changes.

[related to proposed recommendation 1]

§1922. Notary public commission; qualifications; no immunity or benefit

1. Application. An individual qualified under subsection 2 may apply to the Secretary of State for a notary public commission. The applicant shall comply with and provide the information required by rules established by the Secretary of State and pay any application fee.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Qualifications. An applicant for a notary public commission must:

A. Be at least 18 years of age; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Be a resident of or have a place of employment or practice in this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Be able to read and write English; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Not be disqualified to receive a commission under section 1924; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Have passed the examination required under section 1923, subsection 1. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Oath required. Before issuance of a notary public commission, an applicant for the commission shall take and subscribe the following oath or affirmation before a dedimus justice: "I, (name), do swear that I will support the United States Constitution and the Constitution of Maine, so help me God. I, (name), do swear that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as a notary public according to the Constitution of Maine and the laws of this State, so help me God."

When a person is conscientiously scrupulous of taking an oath, the word "affirm" may be substituted for the word "swear" and the words "this I do under penalty of perjury" may be substituted for the words "so help me God."
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

* **4. Commission issued.** The Secretary of State shall issue to an applicant who has complied with this section a notary public commission valid for a term of 7 years. *
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. No immunity or benefit. A commission issued under subsection 4 authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by the laws of this State on public officials or employees.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation 2.

§1923. Examination of notary public

*

1. Examination required. An applicant for a notary public commission who at the time of application does not hold a commission in this State must pass an examination administered by the Secretary of State or an entity approved by the Secretary of State. The examination must be based on the course of study described in subsection 2. *

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Course of study. The Secretary of State or an entity approved by the Secretary of State shall offer regularly a course of study to applicants for notary public commissions in this State. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

[related to proposed recommendation 3]

§1928. Rules

1. Rules. The Secretary of State may adopt rules to implement this chapter. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

A. Prescribe the manner of performing notarial acts regarding tangible and electronic records; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Include provisions to ensure integrity in the creation, transmittal, storage and authentication of electronic records or signatures; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Prescribe the process of granting, renewing, conditioning, denying, suspending or revoking a notary public commission and assuring the trustworthiness of an individual holding a notary public commission; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Include provisions to prevent fraud or mistake in the performance of notarial acts; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. Provide for the administration of the examination under section 1923, subsection 1 and the course of study under section 1923, subsection 2. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Rulemaking considerations. In adopting, amending or repealing rules about notarial acts with respect to electronic records, the Secretary of State shall consider, so far as is consistent with this chapter:

A. The most recent standards regarding electronic records promulgated by national bodies, such as a national association of secretaries of state; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Standards, practices and customs of other jurisdictions that enact provisions substantially similar to this chapter; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The views of governmental officials and entities and other interested persons. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Routine technical rules. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation. 5

§1911. Notarial act in another state

1. Notarial acts in other states recognized. A notarial act performed in another state has the same effect under the laws of this State as if performed by a notarial officer of this State, if the act performed in that state is performed by:

A. A notary public of that state; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A judge, clerk or deputy clerk of a court of that state; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Any other individual authorized by the laws of that state to perform the notarial act. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Prima facie evidence. The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Signature and title conclusive. The signature and title of a notarial officer described in subsection 1, paragraph A or B conclusively establish the authority of the officer to perform the notarial act.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation 5

§1912. Notarial act under authority of federally recognized Indian tribe

1. Notarial acts under authority of federally recognized Indian tribes recognized. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian tribe has the same effect as if performed by a notarial officer of this State, if the act performed in the jurisdiction of the tribe is performed by:

A. A notary public of the tribe; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A judge, clerk or deputy clerk of a court of the tribe; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Any other individual authorized by the laws of the tribe to perform the notarial act. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Prima facie evidence. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian tribe are prima facie evidence that the signature is genuine and that the individual holds the designated title.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Signature and title conclusive. The signature and title of a notarial officer described in subsection 1, paragraph A or B conclusively establish the authority of the officer to perform the notarial act.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation 5

§1913. Notarial act under federal authority

1. Notarial act under federal authority recognized. A notarial act performed under federal law has the same effect under the laws of this State as if performed by a notarial officer of this State, if the act performed under federal law is performed by:

A. A judge, clerk or deputy clerk of a federal court; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. An individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. An individual designated a notarizing officer by the United States Department of State for performing notarial acts overseas; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Any other individual authorized by federal law to perform the notarial act. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Prima facie evidence. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Signature and title conclusive. The signature and title of an officer described in subsection 1, paragraph A, B or C conclusively establish the authority of the officer to perform the notarial act.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation 5

§1914. Foreign notarial act

1. Foreign state. As used in this section, "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Foreign notarial acts recognized. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of a foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the laws of this State as if performed by a notarial officer of this State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Digest or list conclusive. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Prima facie evidence. The signature and official stamp of an individual holding an office described in subsection 3 are prima facie evidence that the signature is genuine and the individual holds the designated title.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Hague Convention. An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the Convention conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Consular authentication. A consular authentication issued by an individual designated by the United States Department of State as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation 7

§1920. Journal

1. Journal required. A notarial officer shall maintain a journal for all electronic and remote notarizations. A notarial officer may maintain a journal for all tangible notarizations. The notarial officer shall retain the journal for 10 years after the performance of the last notarial act chronicled in the journal.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Tangible medium or electronic format permitted. A journal under this section may be created on a tangible medium or in an electronic format. A notarial officer shall maintain only one journal at a time to chronicle all notarial acts performed regarding tangible records and one or more journals to chronicle all notarial acts performed regarding electronic records. If the journal is maintained on a tangible medium, it must be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Requirements. An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

A. The date and time of the notarial act; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A description of the record, if any, and type of notarial act; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The full name and address of each individual for whom the notarial act is performed; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. If identity of the individual is based on personal knowledge, a statement to that effect; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. If identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the dates of issuance and expiration of any identification credential; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. The fee, if any, charged by the notarial officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Lost or stolen journal. If a notarial officer's journal is lost or stolen, the officer shall promptly notify the Secretary of State on discovering that the journal is lost or stolen.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Retention. On resignation from, or the revocation or suspension of, a notary public's commission, the former notary public shall retain the former notary public's journal in accordance with subsection 1 and inform the Secretary of State where the journal is located.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Alternative to retention. Instead of retaining a journal as provided in subsection 5, a former notary public may transmit the journal to the Secretary of State or a repository approved by the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Death or incompetency of notary public. On the death or adjudication of incompetency of a current or former notary public, the notary public's personal representative or guardian or any other

person knowingly in possession of the journal shall transmit it to the Secretary of State or a repository approved by the Secretary of State.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

SECTION HISTORY

PL 2021, c. 651, Pt. A, §4 (NEW). PL 2021, c. 651, Pt. A, §8 (AFF).

related to proposed recommendation 8

§4641-C. Exemptions

(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)

The following are exempt from the tax imposed by this chapter: [PL 2001, c. 559, Pt. I, §5 (AMD); PL 2001, c. 559, Pt. I, §15 (AFF).]

1. Governmental entities. Deeds to property transferred to or by the United States, the State of Maine or any of their instrumentalities, agencies or subdivisions. For the purposes of this subsection, only the United States, the State of Maine and their instrumentalities, agencies and subdivisions are exempt from the tax imposed by section 4641-A; except that real property transferred to the Department of Transportation or the Maine Turnpike Authority for transportation purposes; gifts of real property to governmental entities; and deeds transferring real property to governmental entities from a bona fide nonprofit land conservation organization are exempt from the tax;
[PL 1997, c. 504, §10 (AMD).]

2. Mortgage deeds, deeds of foreclosure and deeds in lieu of foreclosure. Mortgage deeds, discharges of mortgage deeds and partial releases of mortgage deeds.

A. For the purposes of this subsection, only the mortgagor is exempt from the tax imposed for a deed in lieu of foreclosure. [PL 2013, c. 521, Pt. A, §3 (NEW).]

B. In the event of a transfer, by deed, assignment or otherwise, to a 3rd party at a public sale held pursuant to Title 14, section 6323, the tax imposed upon the grantor by section 4641-A applies only to that portion of the proceeds of the sale that exceeds the sums required to satisfy in full the claims of the mortgagee and all junior claimants originally made parties in interest in the proceedings or having subsequently intervened in the proceedings as established by the judgment of foreclosure and sale. The tax must be deducted from the excess proceeds. [PL 2013, c. 521, Pt. A, §3 (NEW).]

C. In the event of a transfer, by deed, assignment or otherwise, from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the mortgagee or its servicer if the servicer is the selling entity is considered to be both the grantor and grantee for purposes of section 4641-A. [PL 2013, c. 521, Pt. A, §3 (NEW).]

D. In the event of a deed in lieu of foreclosure and a deed from a mortgagee or its servicer to the mortgagee or its servicer or to the owner of the mortgage debt at a public sale held pursuant to Title 14, section 6323, the tax applies to the value of the property. [PL 2013, c. 521, Pt. A, §3 (NEW).]

For the purposes of this subsection, "servicer" means a person or entity that acts on behalf of the owner of a mortgage debt to provide services related to the mortgage debt, including accepting and crediting payments from the mortgagor, issuing statements and notices to the mortgagor, enforcing rights of the owner of a mortgage debt and initiating and pursuing foreclosure proceedings;
[PL 2013, c. 521, Pt. A, §3 (RPR).]

3. Deeds affecting a previous deed. Deeds that, without additional consideration and without changing ownership or ownership interest, confirm, correct, modify or supplement a deed previously recorded;
[PL 1997, c. 504, §11 (AMD).]

4. Deeds between certain family members. Deeds between spouses, parent and child or grandparent and grandchild, without actual consideration for the deed, and deeds between spouses in divorce proceedings;
[PL 2017, c. 288, Pt. B, §8 (AMD).]

5. Tax deeds. Tax deeds;
[PL 1977, c. 318, §1 (NEW).]

6. Deeds of partition. Deeds of partition when the interest conveyed is without consideration. However, if any of the parties take shares greater in value than their undivided interest, a tax is due on the difference between their proportional undivided interest and the greater value, computed at the rate set forth in section 4641-A;
[PL 1993, c. 398, §4 (AMD).]

7. Deeds pursuant to mergers or consolidations. Deeds made pursuant to mergers or consolidations of business entities, from which no gain or loss is recognized under the Code. For purposes of this subsection, "business entity" means an association or legal entity organized to conduct business, including, without limitation, a domestic or foreign corporation, a limited partnership, a general partnership, a limited liability partnership, a limited liability company, a joint venture, a joint stock company or a business trust;
[PL 2009, c. 361, §26 (AMD); PL 2009, c. 361, §37 (AFF).]

8. Deeds by subsidiary corporation. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock;
[PL 1981, c. 148, §1 (AMD).]

9. Deeds prior to October 1, 1975. Deeds dated or acknowledged prior to October 1, 1975, and offered for recording subsequent to that date;
[PL 1993, c. 398, §4 (AMD).]

10. Deeds by parent corporation. Deeds made by a parent corporation to its subsidiary corporation for no consideration other than shares of stock of the subsidiary corporation;
[PL 1993, c. 398, §4 (AMD).]

11. Deeds of distribution. Deeds of distribution made pursuant to Title 18-B or Title 18-C;
[PL 2017, c. 402, Pt. C, §106 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

12. Deeds executed by public officials. Deeds executed by public officials in the performance of their official duties;
[PL 1993, c. 398, §4 (NEW).]

13. Deeds of foreclosure and in lieu of foreclosure.
[PL 2009, c. 402, §23 (RP).]

14. Deeds given pursuant to the United States Bankruptcy Code. Deeds given pursuant to the United States Bankruptcy Code;
[PL 1993, c. 398, §4 (NEW).]

15. Deeds; trustee, nominee or straw party. Any deeds:

A. To a trustee, nominee or straw party for the grantor as beneficial owner; [PL 1993, c. 398, §4 (NEW).]

B. To a trustee, nominee or straw party for the beneficial ownership of a person other than the grantor when, if that person were the grantee, a tax would not be imposed upon the conveyance pursuant to this chapter; or [PL 2023, c. 360, Pt. A, §10 (AMD).]

C. From a trustee, nominee or straw party to the beneficial owner; [PL 1993, c. 647, §2 (AMD); PL 1993, c. 718, Pt. B, §10 (AMD).]

[PL 2023, c. 360, Pt. A, §10 (AMD).]

16. Certain corporate, partnership and limited liability company deeds. Deeds between a family corporation, partnership, limited partnership or limited liability company and its stockholders, partners or members for the purpose of transferring real property in the organization, dissolution or liquidation of the corporation, partnership, limited partnership or limited liability company under the laws of this State, if the deeds are given for no actual consideration other than shares, interests or debt securities of the corporation, partnership, limited partnership or limited liability company. For purposes

related to proposed recommendation 8

of this subsection a family corporation, partnership, limited partnership or limited liability company is a corporation, partnership, limited partnership or limited liability company in which the majority of the voting stock of the corporation, or of the interests in the partnership, limited partnership or limited liability company is held by and the majority of the stockholders, partners or members are persons related to each other, including by adoption, as descendants or as spouses of descendants of a common ancestor who was also a transferor of the real property involved, or persons acting in a fiduciary capacity for persons so related;
[PL 1995, c. 462, Pt. A, §69 (RPR).]

17. Deeds to charitable conservation organizations. Deeds for gifts of land or interests in land granted to bona fide nonprofit institutions, organizations or charitable trusts under state law or charter, a similar law or charter of any other state or the Federal Government that meet the conservation purposes requirements of Title 33, section 476, subsection 2, paragraph B without actual consideration for the deeds;
[PL 1999, c. 638, §45 (AMD).]

18. Limited liability company deeds. Deeds to a limited liability company from a corporation, a general or limited partnership or another limited liability company, when the grantor or grantee owns an interest in the limited liability company in the same proportion as the grantor's or grantee's interest in or ownership of the real estate being conveyed;
[PL 2001, c. 559, Pt. I, §6 (AMD); PL 2001, c. 559, Pt. I, §15 (AFF).]

19. Change in identity or form of ownership. Any transfer of real property, whether accomplished by deed, conversion, merger, consolidation or otherwise, if it consists of a mere change in identity or form of ownership of an entity. This exemption is limited to those transfers when no change in beneficial ownership is made and may include transfers involving corporations, partnerships, limited liability companies, trusts, estates, associations and other entities;
[PL 2017, c. 402, Pt. E, §2 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

20. Controlling interests. Transfers of controlling interests in an entity with a fee interest in real property if the transfer of the real property would qualify for exemption if accomplished by deed of the real property between the parties to the transfer of the controlling interest;
[PL 2025, c. 388, Pt. V, §7 (AMD); PL 2025, c. 388, Pt. V, §10 (AFF); PL 2025, c. 484, §3 (AMD).]

21. Transfers pursuant to transfer on death deed. Any transfer of real property effectuated by a transfer on death deed pursuant to Title 18-C, Article 6, Part 4;
[RR 2025, c. 1, Pt. A, §51 (COR).]

22. (TEXT EFFECTIVE 11/01/25) Purchases by first-time home buyers participating in certain mortgage loan programs. Deeds to property to purchasers who receive financial assistance through the Maine State Housing Authority's first-time home-buyer mortgage loan programs. The exemption under this subsection applies to both the buyer and the seller; and
[RR 2025, c. 1, Pt. A, §52 (COR); RR 2025, c. 1, Pt. A, §54 (AFF).]

REVISOR'S NOTE: (Subsection 22 as enacted by PL 2025, c. 485, §5 is REALLOCATED TO TITLE 36, SECTION 4641-C, SUBSECTION 23)

23. (REALLOCATED FROM T. 36, §4641-C, sub-§22) Certain deeds of mobile home park. Deeds conveying ownership of a mobile home park from its owner to a majority of residents of the park at the time of conveyance who are residents of the State or a mobile home owners' association of the mobile home park organized in this State when the conveyance is made pursuant to Title 10, section 9094-A.
[PL 2025, c. 485, §1 (NEW); RR 2025, c. 1, Pt. A, §53 (RAL).]

SECTION HISTORY

PL 1975, c. 572, §1 (NEW). PL 1975, c. 655, §1 (AMD). PL 1977, c. 318, §1 (RPR). PL 1977, c. 394 (AMD). PL 1981, c. 148, §§1-3 (AMD). PL 1985, c. 691, §32 (AMD). PL 1993, c. 373, §5 (AMD). PL 1993, c. 398, §4 (AMD). PL 1993, c. 647, §§1-4 (AMD). PL 1993, c. 680, §A31 (AMD). PL 1993, c. 718, §§B10-12 (AMD). PL 1995, c. 462, §§A69-71 (AMD). PL 1995, c. 479, §1 (AMD). PL 1995, c. 479, §2 (AFF). PL 1997, c. 504, §§10-12 (AMD). PL 1999, c. 638, §§44-47 (AMD). PL 2001, c. 559, §§I5-8 (AMD). PL 2001, c. 559, §I15 (AFF). PL 2003, c. 344, §D26 (AMD). PL 2005, c. 397, §C21 (AMD). PL 2005, c. 397, §C22 (AFF). PL 2005, c. 519, §SSS1 (AMD). PL 2005, c. 519, §SSS2 (AFF). PL 2009, c. 361, §26 (AMD). PL 2009, c. 361, §37 (AFF). PL 2009, c. 402, §§22, 23 (AMD). PL 2013, c. 521, Pt. A, §3 (AMD). PL 2017, c. 288, Pt. B, §8 (AMD). PL 2017, c. 402, Pt. C, §106 (AMD). PL 2017, c. 402, Pt. E, §§2-4 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2023, c. 360, Pt. A, §10 (AMD). PL 2025, c. 388, Pt. V, §§7-9 (AMD). PL 2025, c. 388, Pt. V, §10 (AFF). PL 2025, c. 484, §§3-5 (AMD). RR 2025, c. 1, Pt. A, §§51-53 (COR). RR 2025, c. 1, Pt. A, §54 (AFF).

related to proposed recommendation 22

§706-A. Falsely filing a recordable instrument

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.
[PL 2007, c. 228, §2 (NEW).]

2. Falsely filing a recordable instrument is a Class D crime.
[PL 2007, c. 228, §2 (NEW).]

SECTION HISTORY

PL 2007, c. 228, §2 (NEW).

related to proposed recommendation 23

§152. Criminal attempt

1. A person is guilty of criminal attempt if, acting with the kind of culpability required for the commission of the crime, and with the intent to complete the commission of the crime, the person engages in conduct that in fact constitutes a substantial step toward its commission and the crime is:

A. Murder. Violation of this paragraph is a Class A crime; [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

B. A Class A crime. Violation of this paragraph is a Class B crime; [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

C. A Class B crime. Violation of this paragraph is a Class C crime; [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

D. A Class C crime. Violation of this paragraph is a Class D crime; or [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

E. A Class D crime or Class E crime. Violation of this paragraph is a Class E crime. [PL 2001, c. 383, §6 (NEW); PL 2001, c. 383, §156 (AFF).]

A substantial step is any conduct that goes beyond mere preparation and is strongly corroborative of the firmness of the actor's intent to complete the commission of the crime.
[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

2. It is not a defense to a prosecution under this section that it was impossible to commit the crime that the person attempted, provided that it would have been committed had the factual and legal attendant circumstances specified in the definition of the crime been as the person believed them to be.
[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

3. A person who engages in conduct intending to aid another to commit a crime is guilty of criminal attempt if the conduct would establish the person's complicity under section 57 were the crime committed by the other person, even if the other person is not guilty of committing or attempting the crime.
[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

3-A. An indictment, information or complaint, or count thereof, charging the commission of a crime under chapters 9 through 45, or a crime outside this code is deemed to charge the commission of the attempt to commit that crime and may not be deemed duplicitous thereby.
[PL 2001, c. 383, §6 (AMD); PL 2001, c. 383, §156 (AFF).]

4.

[PL 2001, c. 667, Pt. D, §1 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

5.

[PL 2001, c. 667, Pt. D, §2 (RP); PL 2001, c. 667, Pt. D, §36 (AFF).]

SECTION HISTORY

PL 1975, c. 499, §1 (NEW). PL 1975, c. 740, §36 (AMD). PL 1977, c. 510, §§32-34 (AMD). PL 1995, c. 422, §1 (AMD). PL 2001, c. 383, §6 (AMD). PL 2001, c. 383, §156 (AFF). PL 2001, c. 413, §1 (AMD). PL 2001, c. 667, §§D1,2 (AMD). PL 2001, c. 667, §D36 (AFF).

provided by
Cathy Beaudoin

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES
Part 1: STATE DEPARTMENTS
Chapter 5: SECRETARY OF STATE
Subchapter 1: GENERAL PROVISIONS

§90-E. Expedited review and determination of the authorization of financing statement records filed under the Uniform Commercial Code; criminal penalties; civil penalties and injunctive relief

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorized," when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in Title 11, sections 9-1509 (../11/title11sec9-1509.html) and 9-1708 (../11/title11sec9-1708.html). [PL 2007, c. 228, §1 (NEW).]

B. "Court" means the Kennebec County Superior Court. [PL 2007, c. 228, §1 (NEW).]

C. "Debtor" means a natural person whose name was provided in a financing statement record as:

(1) An individual debtor; or

(2) One of the types of persons listed in Title 11, section 9-1505, subsection 1 (../11/title11sec9-1505.html). [PL 2007, c. 228, §1 (NEW).]

D. "Filing office" or "filing officer" means the appropriate office or officer where or to whom a financing statement record is to be filed as provided by Title 11, section 9-1501 (../11/title11sec9-1501.html). [PL 2007, c. 228, §1 (NEW).]

E. "Financing statement record" means:

(1) An initial financing statement;

(2) An amendment that adds collateral covered by a financing statement; or

(3) An amendment that adds a debtor to a financing statement.

For purposes of this paragraph, "collateral," "debtor" and "financing statement" have the same meanings as defined in Title 11, section 9-1102 (../11/title11sec9-1102.html). [PL 2007, c. 228, §1 (NEW).]

F. "Movant" means the person filing the motion. [PL 2007, c. 228, §1 (NEW).]

[PL 2007, c. 228, §1 (NEW).]

2. Expedited process to review and determine authorization of filing of financing statement records. This subsection governs the procedure for disputing the authorization for a filing of a financing statement.

A. Any individual who asserts that the filing of a financing statement record that provides that individual's name as a debtor is not an authorized filing may file, at any time, a motion for a judicial declaration that the financing statement record is not an authorized filing under Title 11, section 9-1509 and thus is not effective with respect to that individual under Title 11, section 9-1510 (../11/title11sec9-1510.html). This motion must be filed with the Kennebec County Superior Court. The motion must be supported by the affidavit of the movant setting forth a concise statement of the facts upon which the claim for relief is based. The motion must be in the form that follows:

MISC. DOCKET No. ....

In Re: A Purported

Financing Statement In the Kennebec County Superior Court

Against................In and For ....

(Name of Movant)...Kennebec County, State of Maine

Motion for Judicial Review of the Authorization of a Financing Statement Record Filed Under the Uniform Commercial Code, the Maine Revised Statutes, Title 11, Article 9-A

Now Comes

....

(name)

(movant) and files this motion requesting a judicial determination of whether the financing statement record filed in the filing office, a copy of which is attached hereto, is not an authorized filing with respect to the movant under the Uniform Commercial Code, Title 11, section 9-1509 (../11/title11sec9-1509.html) or 9-1708 (../11/title11sec9-1708.html) and in support of the motion would show the court as follows:

I.

(Name), movant, herein is an individual whose name was provided as an individual debtor in a financing statement record filed under the Uniform Commercial Code, Title 11, Article 9-A (../11/title11ch9-Asec0.html), a copy of which is attached hereto.

II.

On (date), in the exercise of the filing officer's official duties as (Secretary of State or Register of Deeds), the filing officer received and indexed the financing statement providing the movant's name as an individual debtor and assigned the following file number, ... to the record, bearing the following date of filing, ...

III.

Movant alleges that the financing statement record is not an authorized filing with respect to movant and that this court should declare the financing statement record ineffective with respect to movant for that reason.

IV.

Movant attests that assertions herein are true and correct.

V.

Movant does not request the court to make a finding as to any underlying claim of any person and asserts that this motion does not seek review of an effective financing statement record. Movant acknowledges that movant may be subject to sanctions if this motion is determined to be frivolous or intentionally wrongful.

PRAYER

Movant requests the court to review the attached documentation and enter an order finding that said financing statement record was filed by a person not authorized to do so with respect to movant and is for that reason not an authorized filing with respect to movant and, therefore, has no effect with respect to movant, together with such other findings as the court deems appropriate.

Respectfully submitted,

....

(Signature and typed name and address)

[PL 2007, c. 228, §1 (NEW).]

B. The completed form for ordinary certificate of acknowledgment must be as follows:

AFFIDAVIT

STATE OF MAINE

COUNTY OF ....

BEFORE ME, the undersigned authority, personally appeared .... who, being by me duly sworn, deposed as follows:

"My name is.. I am over 18 years of age, of sound mind, with personal knowledge of the following facts, and fully competent to testify. I further attest that the assertions contained in the accompanying motion are true and correct."

Further affiant sayeth not.

SUBSCRIBED and SWORN TO before me, this .... day of ...., ...

NOTARY PUBLIC, State of Maine

Notary's signature: ....

Notary's printed name: ....

My commission expires: ....

[PL 2007, c. 228, §1 (NEW).]

C. The clerk of the court may not collect a filing fee for filing a motion as provided in this subsection. [PL 2007, c. 228, §1 (NEW).]

D. The court's finding may be made solely on a review of the documentation attached to the motion and the responses, if any, of the person named as a secured party in the financing statement record and without hearing any oral testimony if none is offered by the secured party. The court's review may be made only upon not less than 20 days' notice to each person named as a secured party in the financing statement record. Notice must be given to each secured party. Notice may be given to each secured party at the address given in the financing statement record as an address of that secured party by mail or personal service as provided in the Maine Rules of Civil Procedure. Each person named as a secured party in the financing statement record may respond to the motion based on pleadings, depositions, admissions and affidavits. The court's review of the pleadings, depositions, admissions and affidavits must be made on an expedited basis. [PL 2007, c. 228, §1 (NEW).]

E. The court shall enter judgment in favor of the movant only if the pleadings, depositions, admissions and affidavits on file show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. [PL 2007, c. 228, §1 (NEW).]

F. After review, the court shall enter an appropriate finding of fact and conclusion of law in a form as provided in paragraph G (../5/title5sec90-E.html) regarding the financing statement record, an attested copy of which must be filed and indexed under the movant's name in the filing office where the original financing statement record was filed. The filing office may not collect a filing fee for filing the court's finding of fact and conclusion of law as provided in this section. A copy of the finding of fact and conclusion of law must be sent by the court to the movant, to each person named as a secured party in the financing statement record at the address of each person set forth in the financing statement and to the filing office. The copy must be sent within 7 days following the date that the finding of fact and conclusion of law are issued by the court. The secured party may appeal the finding of fact and conclusion of law as provided in the Maine Rules of Appellate Procedure. In addition to the notice requirements of those rules, the secured party shall give notice of the appeal to the filing office. [PL 2007, c. 228, §1 (NEW).]

G. The finding of fact and conclusion of law must be in substantially the following form:

MISC. DOCKET No. ....

In Re: A Purported
Financing Statement In the Kennebec County Superior Court
Against .... In and For ....
(Name of Movant) ....
Kennebec County, State of Maine

Judicial Finding of Fact and Conclusion of Law Regarding the Authorization of a Financing Statement Record Filed Under the Uniform Commercial Code

On the (number) day of (month), (year), in the above entitled and numbered cause, this court reviewed a motion, verified by affidavit, of (name), the documentation attached thereto, and the pleadings, depositions, admissions and affidavits submitted by the secured party, if any. Notice was given to each person named as a secured party in the financing statement record as provided by law to the secured party's address as provided in the Uniform Commercial Code, the Maine Revised Statutes, Title 11, Article 9-A (../11/title11ch9-Asec0.html). No oral testimony was taken from any party, the court having made the determination that a decision could be made solely on review of the documentation provided hereunto.

The court finds as follows (only an item initialed is a valid court ruling):

.......The financing statement record providing movant's name as an individual debtor attached to the motion IS an authorized filing as to movant under the Uniform Commercial Code, Title 11, section 9-1509 or 9-1708.

.......The financing statement record providing movant's name as an individual debtor attached to the motion IS NOT an authorized filing as to movant under the Uniform Commercial Code, Title 11, section 9-1509 or 9-1708 and, therefore, is not effective with respect to movant.

This court makes no finding as to any underlying claims of the parties involved and expressly limits its finding of fact and conclusion of law to the review of whether authorization for the filing exists. Insofar as it affects movant, the filing officer shall remove the subject financing statement record from the index so that the record is not reflected in or obtained as a result of any search, standard or otherwise, conducted of the records of the filing office under the movant's name upon the occurrence of both of the following:

A. Receipt of a finding of fact and conclusion of law that the documentation attached to the motion IS NOT an authorized financing statement naming movant as an individual debtor under the Uniform Commercial Code, Title 11, section 9-1509 (../11/title11sec9-1509.html) or 9-1708 (../11/title11sec9-1708.html) and, therefore, is not effective with respect to movant; and

B. The earlier of:

(i) The lapse of any period for appeal without an appeal having been taken; and

(ii) The decision becoming final following any appeal.

The filing office shall retain the subject financing statement record and this finding of fact and conclusion of law in the filing office for the duration of the period for which they would have otherwise been retained. This finding of fact and conclusion of law, but not the financing statement record, shall be indexed under the movant's name.

SIGNED ON THIS THE ....DAY OF..................................

....Justice, Maine Superior Court

[PL 2007, c. 228, §1 (NEW).]

H. This subsection is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document. [PL 2007, c. 228, §1 (NEW).]

[PL 2007, c. 228, §1 (NEW).]

3. Criminal penalty. A violation of this section is governed by Title 17-A, section 706-A (../17-A/title17-Asec706-A.html).

[PL 2007, c. 228, §1 (NEW).]

4. Civil penalty and injunction. A person who violates this subsection is subject to civil penalties and other relief as provided in this subsection.

A. A person may not knowingly cause to be presented for filing in a filing office or promote the filing in a filing office of a financing statement record that the person knows:

(1) Is not authorized under Title 11, section 9-1509 (../11/title11sec9-1509.html) or 9-1708 (../11/title11sec9-1708.html) by the natural person whose name was provided as an individual debtor in the financing statement record;

(2) Was filed or presented for filing with the intent that the financing statement record be used to harass or hinder the natural person whose name was provided as an individual debtor in the financing statement record without that person's authorization; or

(3) Was filed or presented for filing with the intent that the financing statement record be used to defraud any person. [PL 2007, c. 228, §1 (NEW).]

B. A person who violates this subsection is liable to each debtor under paragraph A (../5/title5sec90-E.html) for:

(1) The greater of:

(a) $10,000; and

(b) The actual damages caused by the violation;

(2) Court costs;

(3) Reasonable attorney's fees;

(4) Related expenses of bringing the action, including investigative expenses; and

(5) Punitive damages in the amount determined by the court. [PL 2007, c. 228, §1 (NEW).]

C. The following persons may bring an action to enjoin a violation of this subsection or to recover damages under this subsection:

(1) The natural person whose name was provided as an individual debtor in the financing statement record filed without that person's authorization under Title 11, section 9-1509 (../11/title11sec9-1509.html) or 9-1708 (../11/title11sec9-1708.html) or any guardian, conservator, executor, administrator or other legal representative of that person, a person who owns an interest in the collateral described or indicated in the financing statement record or a person directly harmed by the filing of the financing statement record; and

(2) The Attorney General. [PL 2007, c. 1, §1 (COR).]

D. A filing officer may refer a matter to the Attorney General for filing the legal actions under this subsection. [PL 2007, c. 228, §1 (NEW).]

E. An action under this subsection may be brought in any court in Kennebec County or in a county where any of the persons named in the cause of action under this subsection resides. [PL 2007, c. 228, §1 (NEW).]

F. The fee for filing an action under this subsection is $25. The plaintiff must pay the fee to the clerk of the court in which the action is filed. The plaintiff may not be assessed any other fee, cost, charge or expense by the clerk of the court. [PL 2007, c. 228, §1 (NEW).]

G. A plaintiff who is unable to pay the filing fee and fee for service of notice may follow the court procedures to waive such fees. [PL 2007, c. 228, §1 (NEW).]

H. If the fee imposed under paragraph F is less than the filing fee the court imposes for filing other similar actions and the plaintiff prevails in the action, the court may order a defendant to pay to the court the difference between the fee paid under paragraph F (../5/title5sec90-E.html) and the filing fee the court imposes for filing other similar actions. [PL 2007, c. 228, §1 (NEW).]

I. This subsection is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document. This subsection is not intended to be an exclusive remedy. [PL 2007, c. 228, §1 (NEW).]

[RR 2007, c. 1, §1 (COR).]

SECTION HISTORY

RR 2007, c. 1, §1 (COR). PL 2007, c. 228, §1 (NEW).

provided by Cathy Beaudoin
during meeting

Title 5: ADMINISTRATIVE PROCEDURES AND SERVICES
Part 1: STATE DEPARTMENTS
Chapter 5: SECRETARY OF STATE
Subchapter 1: GENERAL PROVISIONS

§90-F. Refusal of records for filing or recording; removal of filed or recorded records

1. Refusal. Notwithstanding any other provision of law, if a person presents a record to the Secretary of State for filing or recording, the Secretary of State may refuse to accept the record for filing or recording if the record is not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe the record is materially false or fraudulent. This subsection does not create a duty upon the Secretary of State to inspect, evaluate or investigate a record that is presented for filing or recording.

[PL 2015, c. 180, §1 (NEW).]

2. Removal. The Secretary of State may remove a record that has been filed or recorded with the Secretary of State if the Secretary of State determines that the record was filed or recorded erroneously because the record was not required or authorized to be filed or recorded with the Secretary of State or the Secretary of State has reasonable cause to believe that the record is materially false or fraudulent. If the Secretary of State removes a record that was filed or recorded, the Secretary of State shall immediately notify the person who presented the record for filing or recording.

[PL 2015, c. 180, §1 (NEW).]

3. Action after refusal or removal. If the Secretary of State, pursuant to subsection 1 (../5/title5sec90-F.html), refuses to accept a record for filing or recording, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to accept the record for filing or recording. If the Secretary of State, pursuant to subsection 2 (../5/title5sec90-F.html), removes a record that was filed or recorded, the person who presented the record to the Secretary of State may commence an action in or apply for an order from the Superior Court to require the Secretary of State to reinstate the filing or recording from the original date of filing or recording. If the court determines that the record is appropriate for filing or recording, it shall order the Secretary of State to accept the record for that purpose or require the Secretary of State to reinstate the record from the original date of filing or recording.

[PL 2015, c. 180, §1 (NEW).]

SECTION HISTORY
PL 2015, c. 180, §1 (NEW).