

Commission to Recommend Methods for Preventing Deed Fraud in the State

Meeting Agenda

Monday, September 29, 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. Review of Commission Duties, Study Process and Freedom of Access Act

- Office of Policy and Legal Analysis Staff

3. Introduction to Deed Fraud

- J. Cliff McKinney, Esq., Chair, Uniform Law Commission's Deed Fraud Study Committee

4. Existing Laws and Practices in the State

*** The Commission will take a lunch break at an appropriate time during these presentations***

- Practices and duties of licensed realtors for verifying the identity of persons selling real property in the State
Hannah McMullen, Maine Association of Realtors &
Jane Towle, Real Estate Commission
- Role of title attorneys in validating title and scope of available title insurance products in the State
Carrie Cote, Esq., First American Title
- Recording of instruments affecting title to real property and the role of Maine's County Registers of Deeds
Nancy Hammond, York County Register of Deeds
- Requirements for the notarization of instruments affecting title to real property in the State, including requirements for remote notarization
Cathy Beaudoin, Director of Corporations, UCC and Commissions, Department of Secretary of State
- Existing civil remedies available to victims of deed fraud
Carrie Cote, Esq., First American Title
- Existing criminal penalties potentially applicable to perpetrators of deed fraud
Office of Policy & Legal Analysis Staff

5. Discussion and Planning for Next Meeting

Future Meetings

- Monday, October 20, 2025 — 10:00 a.m. (State House Room 438)
- Wednesday, November 5, 2025 – 10:00 a.m. (State House Room 438)
- Wednesday, December 3, 2025 – 10:00 a.m. (State House Room 438)

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

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

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
S.P. 139 - L.D. 353

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

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, deed fraud occurs when a person sells real property by falsely claiming to be the property owner and records a deed of the fraudulently induced sale in the registry of deeds, depriving the rightful owner of a significant asset without the owner's knowledge; and

Whereas, the process for the rightful owner of the property to nullify a fraudulently recorded deed is not only time-consuming and expensive but, if successful, can also leave the innocent purchaser of the property with neither the property nor the funds used to purchase the property from the perpetrator of the deed fraud; and

Whereas, this legislation establishes the Commission to Recommend Methods for Preventing Deed Fraud in the State to study options for both preventing deed fraud and recompensing the victims of deed fraud; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

Sec. 1. Commission established. Resolved: That the Commission to Recommend Methods for Preventing Deed Fraud in the State, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 13 members as follows:

1. Five members appointed by the President of the Senate as follows:

- A. Two members of the Senate, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;
 - B. One individual who is a register of deeds in this State;
 - C. One individual who is an experienced title attorney in this State; and
 - D. One individual who represents civil legal aid providers for residents of this State who are elderly;
2. Five members appointed by the Speaker of the House as follows:
- A. Two members of the House of Representatives, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;
 - B. One individual who represents the Department of Public Safety, Maine State Police computer crimes unit;
 - C. One individual who represents a statewide association of real estate brokers and who has experience in real estate transactions; and
 - D. One individual who represents banking institutions in this State;
3. The chair of the Real Estate Commission within the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation or the chair's designee;
4. The Secretary of State or the secretary's designee; and
5. The Attorney General or the Attorney General's designee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

Sec. 5. Duties. Resolved: That the commission shall:

- 1. Gather information on the practice and prevalence of deed fraud in the State, including information and data, if available, on the number and characteristics of incidents of deed fraud and unsuccessful attempts at deed fraud;
- 2. Examine the sufficiency of state laws and practices related to the following:
 - A. Identity verification for the sale of real property located in the State;
 - B. Notarization and recording of instruments affecting title to real property in the State, including the requirements for conducting remote notarization;

- C. Existing criminal penalties potentially applicable to perpetrators of deed fraud; and
- D. Civil remedies available to victims of deed fraud, including processes for nullifying fraudulently recorded deeds and returning ownership of the property to the rightful owners;

3. Gather and review any educational materials regarding the prevention of deed fraud that are currently available to property owners, real estate brokerage agencies, title insurance companies, real estate attorneys and other professionals involved in the sale of real property; examine the sufficiency of these materials; and consider the best methods for ensuring that appropriate educational materials are disseminated to property owners and relevant real estate professionals across the State;

4. Examine ways to mitigate the fraudulent listing of homes for rent by an individual who is not the legal homeowner; and

5. Examine ways in which deed fraud is being conducted through the Internet, including through the use of artificial intelligence technology.

Sec. 6. Staff assistance. Resolved: That the Legislative Council shall provide necessary staffing services to the commission, except that Legislative Council staff support is not authorized when the Legislature is in regular or special session.

Sec. 7. Report. Resolved: That, no later than December 3, 2025, the commission shall submit to the Joint Standing Committee on Judiciary a report that includes the commission's findings and recommendations for preventing deed fraud in the State, including recommendations for enhanced public awareness of deed fraud and any suggested legislation for preventing deed fraud, including, but not limited to, enhancing identity verification requirements for real estate transactions in the State and for improving the civil and criminal remedies available in the State. The joint standing committee is authorized to report out legislation related to the report to the Second Regular Session of the 132nd Legislature.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Commission to Recommend Methods for Preventing Deed Fraud in the State

Established by [Resolve 2025, Chapter 104](#)

Membership List - 2025

Name	Representation
Members appointed by the President of the Senate and the Speaker of the House	
Senator Henry Ingwersen	Senate Chair
Representative Adam Lee	House Chair
Senator Marianne Moore	Member of the Senate
Representative Thomas Lavigne	Member of the House
Nancy Hammond	Individual who is a register of deeds in this State
Carrie B. Cote, Esq.	Individual who is an experienced title attorney in this State
John Brautigam, Esq.	Representative of civil legal aid providers for residents of this State who are elderly
Lieutenant Jason Richards	Representative of the Department of Public Safety, Maine State Police computer crimes unit
Hannah McMullen, Esq.	Representative of a statewide association of real estate brokers who has experience in real estate transactions
Mark Samson	Representative of banking institutions in this State
Members designated by Resolve 2025, Chapter 104	
Jane B. Towle	Designee of the Chair of the Real Estate Commission within the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation
Cathy Beaudoin	Designee of the Secretary of State
Attorney General Aaron Frey	Attorney General

Draft 8/31/2025

**To: Scope and Program Committee
 Uniform Law Commission**

**From: Deed Fraud Study Committee
 Cliff McKinney, Chair
 Julie Forrester Rogers, Reporter**

Date: October __, 2025

Re: Report and Recommendations for Drafting Committee

Background

In October of 2024, the Joint Editorial Board for Uniform Real Property Act (JEBURPA) recommended the appointment of a study committee to consider the advisability and scope of a possible uniform or model act on the subject of deed fraud. In his letter to the Scope and Program Committee, Wilson Freyermuth, Executive Director of JEBURPA, described the problem as follows:

Deed fraud occurs when a person (the “fraudster”) executes and records a deed that purports to be a bona fide conveyance of real estate (typically a deed or a mortgage) by the record owner, but without having any authority from the record owner to do so.

Commonly, the victim of deed fraud will be the owner of undeveloped real property or real property that is developed but not owner-occupied. The fraudster may impersonate the record owner and execute and record a deed purporting to convey the property to a third-party buyer unaware of the fraudster’s true identity. [For this reason, deed fraud is often referred to as seller impersonation fraud.] Alternatively, the fraudster may forge and record a deed by which the record owner purports to convey the property to the fraudster, who in turn may act either to sell the property to an unsuspecting third party or to obtain a mortgage loan against the property from a bank or other lender (without having any intention to repay the loan). . . .

Existing common law in every American jurisdiction is clear that a forged or unauthorized deed or mortgage is void and passes no valid interest, and that such a deed is invalid even as against a subsequent good faith purchaser for value. Yet deed fraud remains a persistent problem, in part because there are practical reasons why it often works. Often victims are unadvised or poorly advised, and thus may be victimized by a family member that obtains a mortgage loan on the property. Such victims may incorrectly believe that the mortgage is valid and fail to contest it (either prior to a foreclosure sale or thereafter) until an action to contest it is legally

precluded. In other circumstances, the fraud may work because the fraud involves undeveloped land or land of which the rightful owner is not in possession. By the time that the rightful owner discovers the recording of the fraudulent deed, the fraudster has typically transferred some right in the property to a third party (who in turn may have made good faith improvements on the property that could give rise to equities in the third party's favor). In extreme cases, a victim's rightful ownership might eventually be extinguished by virtue of adverse possession.

Even a vigilant record owner who timely asserts his or her ownership still suffers potential victimization because the fraudulent deed creates a "cloud" on the owner's title. On the record, the fraudulent/unauthorized deed or mortgage will typically appear to be valid, and this may complicate the victim's ability to sell or mortgage the property until the cloud can be removed. However, removal of that cloud often necessitates an action to quiet title or for a declaratory judgment, which is time-consuming and can involve significant legal expense for the victim.

The impact of deed fraud extends beyond individual property owners, affecting title insurers, mortgage lenders, and the integrity of real estate records. Fraud often involves impersonation of a notary as well as impersonation of the property owner.

The American Land Title Association (ALTA) conducted a survey in May of 2024 to gain a better understanding of seller impersonation fraud (SIF). The survey garnered 783 responses from members of the title insurance community across the United States. Key findings of the survey are as follows:

1. SIF is a growing problem. 28% of title insurance companies experienced at least one SIF attempt last year; 19% faced attempts in April 2024 alone. Title companies work with law enforcement offices on investigations, which, in 2023, typically included the local police department (53%) or the FBI (41%). Of the companies that experienced attempted fraud in 2023 (successful or unsuccessful), 16% paid claims on transactions involving SIF.

2. Common characteristics of SIF included notarization issues and use of the property owner's legitimate non-public personal information. The most common notarization issues were fake notary credentials (43%) and use of real notary credentials without permission (31%). Use of nonpublic personal information, such as birth dates, driver's license numbers, and Social Security numbers were common in fraudulent transactions.

3. While not always considered unusual, some factors that can be SIF red flags include vacant land transactions, requests for use of an unknown notary, and all cash transactions. 85% of companies reported that SIF was at least somewhat common on vacant land transactions in 2023. Requests for all cash transactions and mail-away signings using an unknown notary call for heightened scrutiny because they carry a higher risk of fraud: 88% and 86% of companies identified these actions as at least somewhat common red flags, respectively.

4. In 2023, SIF was most often caught before the closing was completed. For SIF identified postclosing, buyers can be protected by title insurance; enhanced policies also cover forgery in the future. 46% of companies said it was at least somewhat common to identify and prevent fraudulent transactions before a real estate closing, compared to only 26% after closing. Title insurance offers SIF protections. Both the ALTA Owner's Policy and ATLA Homeowner's Policy cover buyers who fall victim to pre-purchase forgery. The ALTA Homeowner's Policy also protects against a third party who fraudulently transfers the owner's property in the future. For companies in the 46 states where regulators have approved these enhanced policies, 42% of customers, on average, chose policies that protect their property from forgery, including SIF, in the future.

5. The vast majority of title insurance companies have adopted tools and resources to fight SIF. Nearly all companies currently provide or plan to provide education and resources to train employees on fraud (91%); most utilize ALTA's resources (69%). These actions are critical to combating all types of fraud. In addition to SIF, title insurance companies also must address wire fraud, issues with heirs' property, and elder real estate fraud and financial exploitation.

ALTA Critical Issues Study: Seller Impersonation Fraud (July 2024).

Deed fraud, including mortgage fraud, is a growing concern across the United States, with fraud becoming more common as real property records have become available online. The ULC Executive Committee appointed a study committee in January 2025, and the committee began meeting in February of this year.

Statutory Solutions Considered

The Study Committee met monthly to consider various solutions to the problem of deed fraud for a total of seven online committee meetings. The Committee discussed the following potential solutions.

1. Known Filer System for Recorded Documents

A known filer system would allow parties who regularly record documents, such as attorneys, title agents, and financial institutions, to register with the state or county to receive a unique identifier. These known filers could submit documents electronically or in person with dual authentication. The state or county would maintain a secure database of known filers and would be updated regularly. Annual renewal of known filer status would insure continued eligibility.

Filers without a known filer number would be required to appear in person with valid government-issued identification. Additional confirmation of identity for in-person filers could be required.

Benefits:

- Prevents fraudulent filings by verifying the identity of parties submitting documents for recording.
- Reduces administrative burden on recorders by enabling streamlined verification processes.
- Provides accountability by ensuring a traceable record of all submitted documents.
- Enhances security in digital recording systems, reducing the risk of cyber-related document fraud.

Concerns:

- Fraudsters who forge deeds may also have false identity documentation.

2. Electronic Notification System for Landowners

Property owners would voluntarily register their contact information with the county recorder, or without a registration requirement, the county recorder would send notice to an address or email already known to the county recorder (such as the address for property tax bills). Notifications could include a link to the recorded document for review. Owners could then report unauthorized filings to the recorder's office or to law enforcement for expedited investigation. Recordors may be able to use existing government communication platforms to minimize costs. For a voluntary system, public awareness campaigns could encourage homeowners to register for notifications.

Benefits:

- Provides early detection of fraudulent recordings, allowing owners to take swift action.
- Creates an easily accessible and cost-effective mechanism for landowners to monitor their property records.
- Encourages transparency in the recording process.

Concerns:

- If registration is required, those most in need of the service are unlikely to register for notification.
- Notification occurs after the fact, with the fraudulent document already recorded.

3. Property Title Freeze

Property owners may request a title freeze through the county recorder's office, either in person or through a secure online portal. The freeze would prevent voluntary transfers but would still allow involuntary liens (e.g., tax liens, mechanics' liens, or judgments) to attach. Transfers could be authorized by the owner using multi-factor authentication or in-person verification. A simple online form or in-person request system could facilitate freezes with minimal delay. The system must consider transfers that would not be authorized by the owner such as probate, inheritance, foreclosure, or other court-ordered sales. The system would also need to consider other types of involuntary filings or notices, such as a lis pendens. Title insurers and lienholders could be notified of any title freezes.

Benefits:

- Acts as a preventative measure for vulnerable property owners, reducing fraud risk.
- Gives property owners greater control over their title security.
- Reduces litigation by preventing unauthorized transfers before they occur.

Concerns:

- Fraudster may be able to unlock title.
- Those most in need of the service may not take advantage of it.
- Must have a mechanism for unlocking title after the death of the owner.

4. Recorder Discretion to Flag Suspicious Filings

Recorders would be able to flag a filing when fraud indicators are present (e.g., suspicious notarization, grantor discrepancy, known sovereign citizen filer). This could be implemented in connection with a requirement for additional identity verification or property owner confirmation before recording.

A standardized review process would be implemented to determine the validity of a flagged document. Flagging would not disrupt priority of a recorded document if it is later determined to be valid but would give notice that the document is flagged as suspicious.

Recorders could be provided with guidelines to help distinguish between legitimate and fraudulent transactions, and recorders who act in good faith must have protection against liability for incorrectly flagging a document.

Benefits:

- Allows recorders to act as a first line of defense.
- Provides an additional safeguard for property owners while maintaining efficiency in the recording process.
- Prevents fraudulent filings before they become full-blown legal disputes.

Concerns:

- Recorders may not want this discretion and may be hesitant to flag transactions.
- Legitimate transactions may be incorrectly flagged.

5. Expedited Quiet Title Action for Fraud Victims

Victims of deed fraud would have a streamlined process for expedited quiet title actions. They would have the burden of proof to establish fraud by clear and convincing evidence. Title insurers and affected lenders could participate in the expedited process.

Benefits:

- Provides a fast and efficient legal remedy for fraud victims.
- Ensures that fraudulent conveyances do not cloud title for extended periods.
- Minimizes costs for affected landowners.

Concerns:

- Resolving title disputes may be complex litigation.
- Courts are already busy with important matters—why should these disputes receive special attention?
- An expedited process may not be appropriate for family disputes.

6. Electronic Notification System for Notaries

The county recorder would send notice to the notary when a document is filed. Notaries will be required to keep their contact information updated. The notification can include a link to the recorded document for review. Notaries will report unauthorized filings to the recorder's office and law enforcement for expedited investigation.

Benefits:

- Provides early detection of fraudulent recordings, allowing owners to take swift action.
- Allows a notary to take swift action if notary is impersonated.

Concerns

- Notification occurs after the fact, with the fraudulent document already recorded.

7. Dual Authentication for Notarial Acts

Before completing an acknowledgement, a notary would be required to go online to get a transaction specific bar code which goes on the document. The recorder must authenticate the bar code before recording the document.

Benefits:

- Makes notary impersonation more difficult.
- Prevents fraudulent filings before fraudulent documents are recorded.

Concerns:

- Party who impersonates a notary might gain access to the notary's account for getting the bar code.
- Notaries and county recorders may resist the extra step.

8. Limiting Internet Access to Real Property Records

Authorized parties, such as attorneys, title agents, surveyors, and financial institutions, register with the state or county to receive an account for online access to records. Other parties still have access in person in the county recorder's office to search real property records but do not have remote online access.

Benefits:

- Makes deed fraud more difficult for local fraudsters.
- Prevents deed fraud by international fraudsters.

Concerns:

- Fraudsters may still gain access by claiming to be a party entitled to online access.
- Concerns over rights to the information.
- Online access is the current method for searching title, not the traditional search of grantor/grantee indices in the recorder's office.
- Other parties have legitimate reasons to need the information—genealogists, judgment creditors, etc.

9. Enhanced Criminal Penalties for Deed Fraud

States can strengthen statutory penalties for fraudulent filings, making them felony offenses. Statutes may require restitution for victims. Statutes may establish a separate category for repeat offenders with enhanced sentencing. Statutes may provide incentives for law enforcement agencies to prioritize deed fraud investigations.

Benefits:

- Deters potential fraudsters by increasing criminal consequences.
- Provides compensation to victims for damages if fraudster has the funds.
- Encourages states to invest in specialized deed fraud prosecution units.

Concerns:

- Many states have already enacted enhanced criminal penalties.
- Criminal law is not typically covered by uniform acts.

Study Committee Conclusions

The Study Committee concluded that no one solution would solve the problem of deed fraud and that several solutions enacted at the same time would best address the problem. A uniform or model act could include several solutions or could provide options for states to adopt one or more of the solutions.

The Committee found the following solutions to be viable options for inclusion in a uniform or model act:

1. Known Filer System for Recorded Documents
2. Electronic Notification System for Landowners
3. Property Title Freeze
4. Recorder Discretion to Flag Suspicious Filings
5. Expedited Quiet Title Action for Fraud Victims
6. Electronic Notification System for Notaries
7. Dual Authentication for Notarial Act

More than one solution is needed. The notification systems for landowners and notaries provide notice only after the fact. But an expedited quiet title action in conjunction with notification systems would permit owners who learn of the deed fraud to have faster relief at a lesser expense. A known filer system would discourage deed fraud in the first place by making it more

difficult for fraudsters to record documents. A property title freeze system would likely prevent fraud against those who chose to use it. Giving recorders some discretion to flag certain transactions would prevent fraud in some transactions. And dual authentication of notarial acts would make it more difficult for fraudsters to impersonate notaries. A model or uniform act could be drafted with bracketed language or alternatives, allowing states to more easily tailor the solutions best suited to their specific situations.

The Committee did not favor including enhanced criminal penalties because deed fraud is already a crime in every jurisdiction and because many states have already adopted enhanced penalties. The Committee also decided not to recommend limiting access to real property records because many people have legitimate reasons to search the records and now do that online.

Recommendations of the Study Committee

The Study Committee recommends that a drafting committee be appointed to draft a uniform or model act to address the problem of deed fraud. The drafting committee should [consider/draft language for] the following solutions:

1. Known Filer System for Recorded Documents
2. Electronic Notification System for Landowners
3. Property Title Freeze
4. Recorder Discretion to Flag Suspicious Filings
5. Expedited Quiet Title Action for Fraud Victims
6. Electronic Notification System for Notaries
7. Dual Authentication for Notarial Act

Some solutions will discourage deed fraud while others will enable victims to learn of the fraud and address it early.

The Study Committee recommends that a drafting committee consider whether a uniform or model act should provide options for solutions or simply include all of the solutions as part of an act to be adopted in whole.

Deed fraud has become a serious problem, and a uniform or model act would provide a uniform solution for states to adopt. Because of the increase in deed fraud and recent attention to the problem, a uniform solution is needed and should be enactable. There is a need for uniformity since many transactions involving real estate cross state lines. There is also a need to move to drafting quickly because many states are developing homegrown solutions, leading to a patchwork of solutions with varying degrees of effectiveness.

Red Flags and Best Practices



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.



Commission Corner



Fraudsters Are Stealing Land Out from Under Owners

REPRINTED WITH THE PERMISSION OF THE FBI FIELD OFFICE - NEWARK, NJ

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 percent of the licensees respond and only around 5 percent 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 ID's, 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. [MR](#)

Deed Fraud Commission - September 29, 2025

Presented by: Carrie B. Cote, Esq.

Senior Underwriting Counsel, First American ME & NH

Chair, MSBA Real Estate Section & Title Standards Subcommittee

Topic: Maine Deed Fraud - Seller Impersonation Scams

Anatomy of the Scam

- Scammers are often part of organized criminal enterprises abroad or individuals hired cheaply.
- Targets include vacant land, no mortgage, elderly or out-of-state owners.
- Scammers impersonate owners, list property, forge documents, and complete fraudulent closings.

Process Breakdown

- Property Identification: Online search for vulnerable properties.
- Listing: Scammer poses as owner, contacts broker, signs documents electronically.
- Closing: Title company handles closing remotely; forged notarizations used.
- Recording & Disbursement: Fraudulent deed recorded; proceeds wired to scammer's account.
- Discovery: Real owner finds out via tax issues, sale attempts, or property activity.

Title Insurance Response

- Standard Policy: Covers pre-policy fraud (e.g., impersonation, forgery).
- Enhanced Policy: Adds post-policy forgery protection.
- Claims Process includes defending title, fixing title defect, and paying insured for loss (up to policy amount).

Examples

- Buyer pays \$60,000 for land from scammer -> Standard policy may reimburse full amount.
- Enhanced policy protects against fraud discovered after purchase.

Notes:

Notes

[illegible]

Deed Fraud Commission - September 29, 2025

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

Declaratory Judgment - Civil Remedies

Declaratory judgments in Maine are governed by:

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

Use in Real Estate Title Fraud

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

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

Process Breakdown

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

Process timeline and cost:

Factors Affecting Timeline

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

Deed Fraud Commission - September 29, 2025

Estimate of Costs

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

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

➤ Attorney Fees

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

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

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

CHAPTER 707

DECLARATORY JUDGMENTS ACT

§5951. Uniformity of interpretation; title

This chapter shall be so interpreted and construed as to effectuate their general purpose to make uniform the law of those states which enact them, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees; and may be cited as the "Uniform Declaratory Judgments Act."

§5952. Definitions

The word "person," wherever used in this chapter, shall be construed to mean any person, partnership, joint stock company, unincorporated association or society, or municipal or other corporation of any character whatsoever.

§5953. Scope

Courts of record within their respective jurisdictions shall have power to declare rights, status and other legal relations whether or not further relief is or could be claimed. No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The declaration may be either affirmative or negative in form and effect. Such declarations shall have the force and effect of a final judgment or decree.

* §5954. Construction and validity of statutes

Any person interested under a deed, will, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

§5955. Construction of contracts before or after breach

A contract may be construed either before or after there has been a breach thereof.

§5956. Rights of executor, fiduciaries and other interested persons

Any person interested as or through an executor, administrator, trustee, guardian or other fiduciary, creditor, devisee, legatee, heir, next of kin or cestui que trust in the administration of a trust, or of the estate of a decedent, an infant, a person who is legally incompetent or a person who is insolvent may have a declaration of rights or legal relations in respect thereto: [PL 2009, c. 299, Pt. A, §2 (AMD).]

1. Ascertain class of creditors, heirs, etc. To ascertain any class of creditors, devisees, legatees, heirs, next of kin or others; or

2. Direct fiduciary to do or not to do certain act. To direct the executors, administrators or trustees to do or abstain from doing any particular act in their fiduciary capacity; or

3. Determine questions. To determine any question arising in the administration of the estate or trust, including questions of construction of wills and other writings.

SECTION HISTORY

PL 2009, c. 299, Pt. A, §2 (AMD).

§5957. Extent of relief

The enumeration in sections 5954 to 5956 does not limit or restrict the exercise of the general powers conferred in section 5953 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

§5958. Discretion of court

The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding.

§5959. Review

All orders, judgments and decrees under this chapter may be reviewed as other orders, judgments and decrees.

§5960. Supplemental relief

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefor shall be by petition to a court having jurisdiction to grant the relief. If the application be deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree to show cause why further relief should not be granted forthwith.

§5961. Jury trial

When a proceeding under this chapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in the court in which the proceeding is pending.

§5962. Costs

In any proceeding under this chapter, the court may make such award of costs as may seem equitable and just.

§5963. Parties

When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General shall be served with a copy of the proceeding and be entitled to be heard.

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RULE 57. DECLARATORY JUDGMENTS

The procedure for obtaining a declaratory judgment pursuant to 14 M.R.S.A. §§ 5951-5963 shall be in accordance with these rules, and the right to trial by jury is preserved under the circumstances and in the manner provided in Rules 38 and 39. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate. The court may order a speedy hearing of an action for a declaratory judgment and may advance it on the calendar.

Explanation of Amendment (Jan. 1, 1967)

The amendment effective January 1, 1967, updates the statutory references.

Reporter's Notes December 1, 1959

This rule, which is substantially the same as Federal Rule 57, simply provides that actions under the declaratory judgment statute shall be in accordance with these rules.

A declaratory judgment action may be either legal or equitable in its nature. *Maine Broadcasting Co. v. Eastern Trust & Banking Co.*, 142 Me. 220, 49 A.2d 224. If it is legal in nature, the right to trial by jury is preserved.

Commission to Recommend Methods for Preventing Deed Fraud in the State

Criminal Penalties for Deed Fraud Overview

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

Aggravated Forgery - 17-A MRS §702

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

Suppressing a Recordable Instrument – 17-A MRS §706

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

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

1. A person is guilty of falsely filing a recordable instrument if, with intent to defraud, harass or intimidate, the person files or causes to be filed a will, deed, mortgage, security instrument or other writing for which the law provides public recording, knowing or believing the writing to be false or without legal authority.
2. Falsely filing a recordable instrument is a Class D crime.

Commission to Recommend Methods for Preventing Deed Fraud in the State

Theft by Deception – 17-A MRS §354

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

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

False Swearing - 17-A MRS §452

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

Commission to Recommend Methods for Preventing Deed Fraud in the State

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

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

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

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

3. False swearing is a Class D crime.

Unsworn Falsification – 17-A MRSA §453

1. A person is guilty of unsworn falsification if:

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

2. Unsworn falsification is a Class D Crime.

Commission to Recommend Methods for Preventing Deed Fraud in the State

Maine Criminal Code Background

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

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

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



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March 2, 2024

Senator Anne Carney, Chair
Representative Matthew Moonen, Chair
Joint Standing Committee on Judiciary
100 State House Station Room 436
Augusta, ME 04330

RE: LD 2240 -- An Act to Implement Protections Against Deed Fraud

Dear Senator Carney, Representative Moonen, and Members of the Joint Standing Committee on Judiciary:

MACDL opposes LD 2240.

First things first, there is little question that everyone agrees that deed fraud is a crime that should be addressed and addressed seriously. Those who file deeds that contain blatantly false information, especially when it is done with an eye to defrauding a buyer or seller, must face consequences.

But it is important to note that “deed fraud” is actually already fully and completely illegal in Maine. Under 17-A M.R.S. sec. 706-A a person who falsely files a deed with the registry with intent to defraud is guilty of a Class D crime and subject to a jail sentence of up to 364 days. Additionally, Maine’s Theft by Deception statute, 17-A M.R.S. 354 makes clear that if a person fraudulently obtains property (which includes real estate) then they can be convicted of up to a Class B felony that carries with it up to 10 years in prison. That level of felony crime is for property with a value of over \$10,000, a very low bar when it comes to real estate. For lesser thefts of between \$1,000 and \$10,000 the crime a Class C felony, which allow for a prison sentence of up to 5 years. Suffice to say that there is not only ample law here that covers the crime, but the consequences are already very serious.

So while this bill is laudable in its intentions, it just does not advance the fight against those who engage in illegal activity in the filing of false deeds. This action is already patently illegal. The general nature of the Theft statute is designed to capture all theft crimes so that there need not be a theft crime for specific items or actions. Without the already existing statute the Legislature would have to make individual crimes for car theft, money theft, phone theft, or candy bar theft. That is unnecessary, just like this bill.

There are other provisions in the bill that I am confident other groups will be concerned about.

Thank you as always for the opportunity to address this important bill.

Sincerely,

A handwritten signature in blue ink, appearing to read "Walter F. McKee". The signature is fluid and cursive, with the first name "Walter" being more prominent than the last name "McKee".

Walter F. McKee
Chair, Legislative Committee

CLAC MEMORANDUM/TESTIMONY
LD 2240 (Opposed—Section 3)

TO: Senator Anne Carney
Representative Matt Moonen
Joint Standing Committee on Judiciary

FR: Criminal Law Advisory Commission (CLAC)
c/o laura.yustak@maine.gov

RE: LD 2240, An Act to Implement Protections Against Deed Fraud

DA: March 10, 2024

The Criminal Law Advisory Commission (CLAC)* respectfully submits the following testimony opposed to Section 3 of LD 2240. CLAC is not offering testimony with respect to the remainder of LD 2240.

Section 3 of the bill would create new Class B crimes for fraudulent activities associated with recording deeds and similar instruments. The conduct described is covered by various crimes that are already part of the Criminal Code, including aggravated forgery, suppressing a recordable instrument, and falsely filing a recordable instrument. Depending on the facts, the conduct at issue may also fall within the crimes of unsworn falsification and false swearing. No information was available to CLAC regarding why a new crime is needed for conduct that can be prosecuted under existing laws. In some cases, the proposed Class B designation would be disproportionate as compared to the class of crime applicable to similar conduct under existing statutes. See 17-A MRS §§ 452, 453, 702, 706, 706-A.

CLAC noted two minor drafting issues: Drafting conventions generally call for the culpable mental state to be alleged in decreasing order of the level of intent, e.g., “intentionally or knowingly,” rather than “knowingly or intentionally” (as currently drafted). We also noted that the definition of the crime at proposed § 706-B(1)(A) includes an attempt. It is not necessary to include an attempt in the definition of the crime, as it is already subject to prosecution if the elements of attempt at 17-A MRS § 152 are met. An attempt crime is usually one class lower than the completed object crime. *Id.*

*CLAC is an advisory body established by the Legislature. 17-A M.R.S. §§ 1351-1357. It consists of 9 members appointed by the Attorney General. Our current members include current defense attorneys, prosecutors, Maine Bar Counsel, and a retired practitioner with experience as defense counsel, prosecutor and in court administration. In addition, three sitting judges and one retired practitioner, appointed by the Chief Justice of the Supreme Judicial Court, and, by statute, the Co-Chairs of the Legislature’s Committee on Criminal Justice and Public Safety, serve as consultants. The Supreme Judicial Court’s Criminal Process Manager serves as liaison from the Court to CLAC. CLAC advises the Legislature on matters relating to crimes in the Criminal Code and in other Titles, the Bail and Juvenile Codes, and with respect to other statutes related to criminal justice processes.

131ST MAINE LEGISLATURE, SECOND REGULAR SESSION

SEP 26, 2025

SP 960, LD 2240**Resolve, to Establish the Commission to Recommend Methods for Preventing Deed Fraud in the State**

(EMERGENCY) (CARRIED OVER) (TITLE CHANGE)

Fiscal Impact, 3-4-24**Amendment C-A (S-672)****Fiscal Impact**Change Title: **Resolve, to Establish the Commission to Recommend Methods for Preventing Deed Fraud in the State**House **Adopted**, 4-9-24; Senate **Adopted**, 4-9-24

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Presented By:

Senator Henry L. Ingwersen, D - York**Representative Matt Moonen**, D - Portland**Representative Wayne R. Parry**, R - Arundel**Senator Anne M. Carney**, D - Cumberland**Senator Stacy Brenner**, D - Cumberland**Senator Joseph Rafferty**, D - York**Representative Erin R. Sheehan**, D - Biddeford**Representative John E. Ducharme III**, R - Madison**Representative Marc G. Malon II**, D - Biddeford**Senator Michael Tipping**, D - Penobscot

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Committee ActionsReferred To: **Judiciary**, 2-28-24Latest: **Reported Out OTP-AM**, 4-9-24**Work Session Held**, 3-11-24**Voted, OTP-AM**, 3-11-24**Work Session Reconsidered**, 3-28-24**Voted, OTP-AM**, 3-28-24 on motion by Sen. Bailey, second by Rep. Poirier**Ought To Pass As Amended****Reported Out, OTP-AM**, 4-9-24**Action Summary**Final Disposition: **Died Upon Conclusion of the 131st**, 12-4-24Latest House Action: **Carried as Finally Passed**, 5-10-24Latest Senate Action: **Carried Over STUDY TABLE**, 5-10-24**Scheduled Committee Meetings**

There have been 3 committee meetings scheduled.

Start times for meetings are listed, not when this bill will be discussed.

Public Hearing 3-4-24, 1:00 pm**Work Session** 3-11-24, 10:30 am**Work Session** 3-28-24, 1:02 pm

Testimony

There are 31 testimony items.

<i>Maine Credit Union League</i>	3-4-24
Michael Allen <i>Department of Administrative and Financial Services</i>	3-4-24
Michael Allen <i>Department of Administrative and Financial Services</i>	3-4-24
Bill Anderson <i>National Notary Association</i>	3-4-24
Bill Anderson <i>National Notary Association</i>	3-4-24
Shenna Bellows <i>Department of the Secretary of State</i>	3-4-24
Elizabeth Boepple <i>Fryeburg</i>	3-4-24
Elizabeth Boepple <i>Murray Plumb and Murray</i>	3-4-24
Andy Cashman <i>Maine Association of Realtors</i>	3-4-24
Andy Cashman <i>Maine Association of REALTORS</i>	3-4-24
Robert Cornetta	3-4-24
Robert Cornetta <i>Licensed Maine Attorney</i>	3-4-24
Jack Ducharme <i>House District 71</i>	3-4-24
Elizabeth Frazier <i>Maine Real Estate and Development Association</i>	3-4-24
Elizabeth Frazier <i>MEREDA</i>	3-4-24
James Fulgenzi <i>Proof (formerly Notarize)</i>	3-4-24
Nancy Hammond <i>*Maine Register of Deeds Association</i>	3-4-24
Nancy Hammond <i>York County Register of Deeds</i>	3-4-24
Henry Ingwersen <i>Maine State Legislature</i>	3-4-24
William King <i>York County Sheriff's Office</i>	3-4-24
Walter McKee <i>MACDL</i>	3-4-24
Walter McKee <i>Maine Association of Criminal Defense Lawyers</i>	3-4-24
Matt Miller <i>California League of Independent Notaries</i>	3-4-24
Matt Miller <i>The California League of Independent Notaries</i>	3-4-24
Ellen Parent <i>Maine Credit Union League</i>	3-4-24
Catherine Pendergast <i>Department of Professional and Financial Regulation</i>	3-4-24
Catherine Pendergast <i>OPOR</i>	3-4-24
Timothy Reiniger <i>Cape Elizabeth</i>	3-4-24
Josh Steirman <i>Maine Bankers Association</i>	3-4-24
Robin Watts <i>Portland, Maine</i>	3-4-24
Laura Yustak <i>Criminal Law Advisory Commission</i>	3-4-24

House and Senate Stamps

There are 8 bill stamps.

2-28-24 10:42 am

Senate

Committee on JUDICIARY suggested and ordered printed **REFERENCE** to the Committee on **JUDICIARY** Ordered sent down forthwith for concurrence

2-28-24 11:50 am

House

The Bill was **REFERRED** to the Committee on **JUDICIARY**.
In concurrence. ORDERED SENT FORTHWITH.

4-9-24 12:52 pm

Senate

Report **READ** and **ACCEPTED**.

READ ONCE.

Committee Amendment "A" (S-672) **READ** and **ADOPTED**.

Under suspension of the Rules, **READ A SECOND TIME** and **PASSED TO BE ENGROSSED AS AMENDED BY Committee Amendment "A" (S-672)**.

Ordered sent down forthwith for concurrence.

4-9-24 9:54 pm

House

CONSENT CALENDAR - FIRST DAY

Under suspension of the rules CONSENT CALENDAR - SECOND DAY.

The Bill was **PASSED TO BE ENGROSSED as Amended by Committee Amendment "A" (S-672)**.

In concurrence. ORDERED SENT FORTHWITH.

4-10-24 5:56 pm

House

This being an emergency measure, a two-thirds vote of all the members elected to the House was necessary.

FINALLY PASSED.

Sent for concurrence. ORDERED SENT FORTHWITH.

4-11-24 4:52 pm

Senate

On motion by Senator DAUGHTRY of Cumberland **PLACED ON THE SPECIAL STUDY TABLE** pending **FINAL PASSAGE** -
Emergency - 2/3 Elected Required, in concurrence.

5-10-24 11:28 pm

Senate

CARRIED OVER, in the same posture, to any special session of the 131st Legislature, pursuant to Joint Order HP 1482.

11-20-24 9:49 am

Senate

Died in Possession of the Senate Upon Conclusion of the 131st Legislature and **PLACED IN THE LEGISLATIVE FILES. (DEAD)**



131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2240

S.P. 960

In Senate, February 28, 2024

An Act to Implement Protections Against Deed Fraud

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in dark ink, appearing to read "Darek M. Grant".

DAREK M. GRANT
Secretary of the Senate

Presented by Senator INGWERSEN of York.
Cosponsored by Representative MOONEN of Portland and
Senators: BRENNER of Cumberland, CARNEY of Cumberland, RAFFERTY of York,
TIPPING of Penobscot, Representatives: DUCHARME of Madison, MALON of Biddeford,
PARRY of Arundel, SHEEHAN of Biddeford.

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

2 Sec. 1. 5 MRSA §200-O is enacted to read:

3 **§200-O. Creation of notices and publications to warn public of risks posed by deed**
4 **fraud**

5 The Office of the Attorney General, referred to in this section as "the office," shall
6 create notices and publications designed to inform and educate the public regarding the
7 risks posed by deed fraud. The notices and publications must provide owners of real
8 property in this State with information concerning types of deed fraud, the risk associated
9 with deed fraud and information about resources for assistance available to property owners
10 affected by deed fraud. The office shall make the notices and publications available to
11 registers of deeds in the State to distribute pursuant to Title 33, section 612 and to the State
12 Tax Assessor for distribution pursuant to Title 36, section 301. For the purposes of this
13 section, "deed fraud" has the same meaning as in Title 33, section 612.

14 Sec. 2. 14 MRSA §6055 is enacted to read:

15 **§6055. Deed fraud**

16 The District Court or the Superior Court has jurisdiction to grant appropriate equitable
17 relief when the plaintiff has shown by a preponderance of the evidence that the defendant
18 has committed deed fraud within the meaning of Title 33, section 612. Equitable relief
19 may include, but is not limited to:

20 **1. Nullifying fraudulent instrument.** Ordering the immediate nullification of any
21 publicly recorded fraudulent instrument affecting title to real property;

22 **2. Damages.** Damages; and

23 **3. Attorney's fees and costs.** Attorney's fees and costs.

24 Sec. 3. 17-A MRSA §706-B is enacted to read:

25 **§706-B. Recording fraudulent instrument with register of deeds**

26 **1. A person is guilty of recording a fraudulent instrument with a register of deeds if:**

27 **A. The person knowingly or intentionally records or attempts to record with a register**
28 **of deeds a false deed, mortgage, lien or any other instrument for which the law provides**
29 **public recording;**

30 **B. In the process of recording with a register of deeds a deed, mortgage, lien or any**
31 **other instrument for which the law provides public recording, the person knowingly or**
32 **intentionally provides to a register of deeds false information in respect to a material**
33 **fact pertaining to the instrument the person seeks to record; or**

34 **C. In the process of recording with a register of deeds a deed, mortgage, lien or any**
35 **other instrument for which the law provides public recording, the person, who is not**
36 **the true owner of the real property affected by the instrument the person seeks to record**
37 **or the authorized agent of the true owner, knowingly or intentionally misrepresents the**
38 **person's identity in an attempt to impersonate the true owner or the true owner's**
39 **authorized agent.**

40 **2. Violation of this section is a Class B crime.**

1 **Sec. 4. 32 MRSA §13173, sub-§1**, as enacted by PL 1987, c. 395, Pt. A, §212, is
2 amended to read:

3 **1. Designated broker.** The owner or a duly authorized agency official shall hold a
4 Maine real estate broker license and be designated by the agency to act for it in the conduct
5 of real estate brokerage and shall secure, and maintain in force, the surety bond required
6 by section 13721-A.

7 **Sec. 5. 32 MRSA §13198, sub-§3**, as amended by PL 2017, c. 210, Pt. F, §6, is
8 further amended to read:

9 **3. Acts authorized.** Each broker license granted entitles the holder to perform all of
10 the acts contemplated under this chapter on behalf of an agency, including being designated
11 by the agency to act for it, except that a licensed real estate broker must secure and maintain
12 the surety bond required by section 13271-A before the real estate broker may act on behalf
13 of an agency.

14 **Sec. 6. 32 MRSA §13271, sub-§6**, as amended by PL 2005, c. 378, §13 and
15 affected by §29, is further amended to read:

16 **6. Designated broker.** "Designated broker" means a broker designated by a real estate
17 brokerage agency to act for the real estate brokerage agency in the conduct of real estate
18 brokerage. To qualify as a designated broker, the broker must satisfy the requirements of
19 section 13271-A.

20 **Sec. 7. 32 MRSA §13271-A** is enacted to read:

21 **§13271-A. Surety bond required for designated brokers**

22 To qualify as a designated broker within the meaning of this chapter, a real estate
23 broker shall secure and maintain in force as long as the broker remains a designated broker
24 a surety bond issued by a state-licensed insurer in the amount of \$25,000, in favor of the
25 Treasurer of State, for the benefit of the State and any person who relied on the professional
26 services of the designated broker or agency in a transaction for sale or purchase of real
27 estate that resulted in deed fraud that harmed that person when the designated broker's or
28 agency's conduct in respect to that transaction would subject the designated broker or
29 agency, or both, to disciplinary action under section 13067-A. For the purposes of this
30 section, "deed fraud" has the same meaning as in Title 33, section 612.

31 **Sec. 8. 33 MRSA §10** is enacted to read:

32 **§10. Sale of real estate by out-of-state seller**

33 If a seller who is not a resident of this State offers for sale real estate that is located in
34 this State, the seller shall pay to the real estate broker, associate real estate broker or real
35 estate agent a \$500 refundable fee at the time the offer to purchase is accepted by the seller
36 to be held in escrow. The fee must be returned to the seller at the time of closing as long as
37 the broker or agent certifies that the broker or agent has performed due diligence in
38 confirming the identity of the seller to ensure the seller is the true owner of the real estate.

39 **Sec. 9. 33 MRSA §203, last ¶**, as amended by PL 2021, c. 651, Pt. A, §7 and
40 affected by §8, is further amended to read:

41 Notwithstanding any of the requirements in this section, an instrument with an
42 acknowledgment conforming to the requirements of the Revised Uniform Law on Notarial

1 Acts must be accepted for recording purposes, except that any instrument affecting title to
2 real property and recorded with a register of deeds pursuant to this section must be
3 acknowledged before a person authorized to perform notarial acts in this State as described
4 in Title 4, section 1910.

5 **Sec. 10. 33 MRSA §612** is enacted to read:

6 **§612. Register authorized to distribute notices, publications and programs warning**
7 **public about deed fraud**

8 A register of deeds may distribute notices, publications and information about
9 programs to inform and educate the public about the risks of deed fraud and inform victims
10 of deed fraud of available resources for assistance. The notices, publications and
11 information about programs may also include instructions for a property owner to sign up
12 for a service, if available, to receive electronic notification of real estate transactions
13 involving the property owner's name or property. For the purposes of this section, "deed
14 fraud" means:

15 **1. Forgery.** Forgery within the meaning of Title 17-A, section 703 in respect to a
16 deed, mortgage, lien or other instrument affecting title to real property; or

17 **2. False recording.** Fraudulently recording, attempting to record or otherwise
18 knowingly or intentionally providing false information or misrepresenting one's identity to
19 a register of deeds in the process of recording a deed, mortgage, lien or other instrument
20 within the meaning of Title 17-A, section 706-B.

21 **Sec. 11. 36 MRSA §301**, as amended by PL 1975, c. 545, §4 and PL 1997, c. 526,
22 §14, is further amended by enacting at the end a new paragraph to read:

23 The State Tax Assessor shall direct all primary assessing areas and municipal assessing
24 units to include in real property tax bills a standard notice regarding the risks of deed fraud
25 and resources available to assist victims of deed fraud. "Deed fraud" has the same meaning
26 as in Title 33, section 612.

27 **SUMMARY**

28 This bill enacts new provisions and amends current provisions of law to protect
29 individuals from deed fraud. The bill makes it a Class B crime to record or attempt to record
30 with a register of deeds a false deed, mortgage, lien or other instrument for which the law
31 provides public recording or, in the process of recording a deed, mortgage, lien or other
32 instrument for which the law provides public recording, to provide to a register of deeds
33 false information in respect to a material fact pertaining to that instrument or impersonate
34 the true owner. The bill also provides for equitable relief for individuals who have been
35 impacted by a forged or fraudulently recorded instrument.

36 The bill requires that any instrument affecting title to real property and recorded with
37 a register of deeds must be acknowledged before a person authorized to perform notarial
38 acts in this State, rather than an out-of-state notarial officer.

39 The bill requires that sellers of real estate who are not residents of this State pay a \$500
40 refundable fee to the real estate broker or other transacting agent to be placed in escrow
41 and returned to the seller at the closing as long as the agent can certify that the agent has
42 performed due diligence in confirming the identity of the seller.

1 The bill requires a designated real estate broker to secure, and maintain thereafter, a
2 surety bond in the amount of \$25,000 for the benefit of the State and any person harmed
3 by deed fraud as a result of the broker's or agency's action.

4 The bill directs the Office of the Attorney General to create notices and publications
5 designed to inform and educate the public regarding the risks posed by deed fraud. The
6 bill requires the office to make these materials available to registers of deeds throughout
7 the State and to the State Tax Assessor. The bill authorizes registers of deeds to distribute
8 notices, publications and information about programs to educate the public about deed
9 fraud and directs the State Tax Assessor to require that all real property tax bills contain a
10 notice to property owners regarding the risks of deed fraud and resources available to
11 victims.

Date:

(Filing No. S-)

JUDICIARY

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 960, L.D. 2240, “An Act to Implement Protections Against Deed Fraud”

Amend the bill by striking out the title and substituting the following:

'Resolve, to Establish the Commission to Recommend Methods for Preventing Deed Fraud in the State'

Amend the bill by striking out everything after the title and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, deed fraud occurs when a person sells real property by falsely claiming to be the property owner and records a deed of the fraudulently induced sale in the registry of deeds, depriving the rightful owner of a significant asset without the owner's knowledge; and

Whereas, the process for the rightful owner of the property to nullify a fraudulently recorded deed is not only time-consuming and expensive but, if successful, can also leave the innocent purchaser of the property with neither the property nor the funds used to purchase the property from the perpetrator of the deed fraud; and

Whereas, this legislation establishes the Commission to Recommend Methods for Preventing Deed Fraud in the State to study options for both preventing deed fraud and recompensing the victims of deed fraud; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

1 **Sec. 1. Commission established. Resolved:** That the Commission to
2 Recommend Methods for Preventing Deed Fraud in the State, referred to in this resolve as
3 "the commission," is established.

4 **Sec. 2. Commission membership. Resolved:** That, notwithstanding Joint Rule
5 353, the commission consists of 13 members as follows:

6 1. Four members appointed by the President of the Senate as follows:

7 A. Two members of the Senate, including one member of the party holding the largest
8 number of seats in the Legislature and one member of the party holding the 2nd largest
9 number of seats in the Legislature;

10 B. One individual who is a register of deeds in this State; and

11 C. One individual who is an experienced title attorney in this State;

12 2. Six members appointed by the Speaker of the House as follows:

13 A. Three members of the House of Representatives, including 2 members of the party
14 holding the largest number of seats in the Legislature and one member of the party
15 holding the 2nd largest number of seats in the Legislature;

16 B. One individual who represents law enforcement interests;

17 C. One individual who represents a statewide association representing criminal defense
18 attorneys; and

19 D. One individual who represents a statewide association of real estate brokers;

20 3. The chair of the Real Estate Commission within the Department of Professional and
21 Financial Regulation, Office of Professional and Occupational Regulation or the chair's
22 designee;

23 4. The Secretary of State or the secretary's designee; and

24 5. The Attorney General or the Attorney General's designee.

25 **Sec. 3. Chairs. Resolved:** That the first-named Senate member is the Senate chair
26 and the first-named House of Representatives member is the House chair of the
27 commission.

28 **Sec. 4. Appointments; convening of commission. Resolved:** That all
29 appointments must be made no later than 30 days following the effective date of this
30 resolve. The appointing authorities shall notify the Executive Director of the Legislative
31 Council once all appointments have been completed. After appointment of all members,
32 the chairs shall call and convene the first meeting of the commission. If 30 days or more
33 after the effective date of this resolve a majority of but not all appointments have been
34 made, the chairs may request authority and the Legislative Council may grant authority for
35 the commission to meet and conduct its business.

36 **Sec. 5. Duties. Resolved:** That the commission shall:

37 1. Gather information on the practice and prevalence of deed fraud in the State,
38 including information and data, if available, on the number and characteristics of incidents
39 of deed fraud and unsuccessful attempts at deed fraud;

40 2. Examine the sufficiency of state laws and practices related to the following:

1 A. Identity verification for the sale of real property located in the State;

2 B. Notarization and recording of instruments affecting title to real property in the State,
3 including the requirements for conducting remote notarization;

4 C. Existing criminal penalties potentially applicable to perpetrators of deed fraud; and

5 D. Civil remedies available to victims of deed fraud, including processes for nullifying
6 fraudulently recorded deeds and returning ownership of the property to the rightful
7 owners; and

8 3. Gather and review any educational materials regarding the prevention of deed fraud
9 that are currently available to property owners, real estate brokerage agencies, title
10 insurance companies, real estate attorneys and other professionals involved in the sale of
11 real property; examine the sufficiency of these materials; and consider the best methods for
12 ensuring that appropriate educational materials are disseminated to property owners and
13 relevant real estate professionals across the State.

14 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
15 necessary staffing services to the commission, except that Legislative Council staff support
16 is not authorized when the Legislature is in regular or special session.

17 **Sec. 7. Report. Resolved:** That, no later than November 6, 2024, the commission
18 shall submit to the joint standing committee of the Legislature having jurisdiction over
19 judiciary matters a report that includes the commission's findings and recommendations for
20 preventing deed fraud in the State, including recommendations for enhanced public
21 awareness of deed fraud and any suggested legislation for preventing deed fraud, including,
22 but not limited to, enhancing identity verification requirements for real estate transactions
23 in the State and for improving the civil and criminal remedies available in the State. The
24 joint standing committee is authorized to report out legislation related to the report to the
25 132nd Legislature in 2025.

26 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
27 takes effect when approved.'

28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
29 number to read consecutively.

30 SUMMARY

31 This amendment replaces the bill with a resolve. The amendment establishes the
32 Commission to Recommend Methods for Preventing Deed Fraud in the State. The
33 commission must, no later than November 6, 2024, submit to the joint standing committee
34 of the Legislature having jurisdiction over judiciary matters a report that includes the
35 commission's findings and recommendations for preventing deed fraud in the State,
36 including recommendations for enhanced public awareness of deed fraud and any
37 suggested legislation for enhancing identity verification requirements for real estate
38 transactions in the State and for improving the civil and criminal remedies available in the
39 State. The joint standing committee is authorized to report out legislation related to the
40 report to the 132nd Legislature in 2025.

COMMITTEE AMENDMENT “ ” to S.P. 960, L.D. 2240

1 It also adds an emergency preamble and an emergency clause.

2 **FISCAL NOTE REQUIRED**

3 **(See attached)**



**Maine State Legislature
OFFICE OF POLICY AND LEGAL ANALYSIS**

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BILL ANALYSIS

TO: Joint Standing Committee on Judiciary
FROM: Janet Stocco, Legislative Analyst
DATE: March 11, 2024
RE: LD 2240, An Act to Implement Protections Against Deed Fraud (Sen. Ingwersen)

SUMMARY

This bill enacts new statutory provisions designed to protect individuals from “**deed fraud**.”

“**Deed Fraud**” is defined in **Sec. 10** of the bill to mean either:

- “Fraudulently recording, attempting to record” or “knowingly or intentionally providing false information or misrepresenting one’s identity to a register of deeds in the process of recording” — a deed, mortgage, lien or other instrument; or
- Forgery in respect to a deed, mortgage, lien or other instrument affecting title to real property. “Forgery” is defined in 17-A M.R.S. §703(1)(attached) as, with intent to defraud or deceive another person or government, either (a) falsely making, completing, endorsing or altering a written instrument or knowingly uttering or possessing an instrument; or (b) causing another, by deception, to sign or execute a written instrument.

Information for the public

- **Sec. 1** of the bill *directs* the Office of the Attorney General to create publications designed to inform and educate the public about the risks of deed fraud and to provide information about resources for assistance available to property owners affected by deed fraud. The OAG must make these publications available to registers of deeds and to the State Tax Assessor.
- **Sec. 10** of the bill *allows* a register of deeds to distribute information to inform and educate the public about the risks of deed fraud and to inform victims of deed fraud of available resources for assistance.
- **Sec. 11** of the bill *directs* the State Tax Assessor to *require* local governments to include in all real property tax bills a standard notice about the risks of deed fraud and resources available to assist victims of deed fraud.

Civil and criminal remedies for deed fraud

- **Sec. 2** of the bill authorizes a plaintiff to bring a civil action against a defendant who has committed deed fraud for the following remedies: (a) ordering “immediate” nullification of any publicly recorded fraudulent instrument affecting title to real property; (b) damages; (c) attorney’s fees and costs.
- **Sec. 3** of the bill makes it a Class B crime to *record a fraudulent instrument with a register of deeds* by:
 - Knowingly or intentionally recording (or attempting to record) a false deed, mortgage lien or any other recordable instrument;
 - Knowingly or intentionally providing to the register of deeds false information related to a material fact about the deed, mortgage, lien or any other recordable instrument; or
 - Knowingly or intentionally misrepresenting one’s identity as either the true owner or authorized agent of the true owner while recording a deed, mortgage, lien or any other recordable instrument.

Note: Class B crimes are punishable by up to 10 years' imprisonment a \$20,000 fine for individuals or a \$40,000 fine for organizations.

Monetary security against deed fraud.

➤ **Secs. 4 to 7** of the bill require the designated broker of each real estate brokerage agency to maintain a surety bond in the amount of \$25,000 for the benefit “of the State and any person who relied on the . . . agency in a transaction for sale or purchase of real estate that resulted in deed fraud that harmed that person” if the conduct of the agency or designated broker would subject that agency or broker to professional discipline from the Real Estate Commission. *See grounds for discipline in 32 M.R.S. §13067-A (attached).*

➤ **Sec. 8** of the bill requires a person who is not a Maine resident and is selling real estate in Maine to pay a \$500 fee to the real estate broker or agent *when they accept an offer to purchase* the property. This fee must be held in escrow and returned to the seller at the closing “as long as the broker or agent certifies that [they have] performed due diligence in confirming the identity of the seller [as the] true owner of the real estate.”

Notarization when recording instruments

➤ **Sec. 9** of the bill requires that, notwithstanding any provision of the Revised Uniform Law on Notarial Acts (RULONA in Title 4, chapter 39 of the Maine Revised Statutes) or other law to the contrary, the required acknowledgement of a deed or other written instrument that will be recorded in the registry of deeds must be taken before a person authorized to perform notarial acts in the State under 4 M.R.S. 1910 (attached) — these individuals include: (a) a notary public of this State; (b) a justice, judge, clerk or deputy clerk of a court of this State; (c) an attorney licensed to practice law in this State; or (d) any other individual authorized to perform the specific act by the laws of this State.

Fraud alert service

➤ **Sec. 10** of the bill *allows* a register of deeds to provide instructions for property owners to sign up for a service (if available) to receive electronic notification of real estate transactions involving the property owner’s name or property.

ISSUES FOR CONSIDERATION AND PROPOSED AMENDMENTS

1. New crime: recording fraudulent instrument with register of deeds (Sec. 3)

- a. The Maine Association of Criminal Defense Lawyers opposes the creation of this new Class B crime and observes that Maine law already establishes crimes for similar conduct, including:

Cite	Conduct prohibited - <i>See attached criminal statutes.</i>	Penalty
17-A M.R.S. §354	Theft by deception: obtaining or exercising control over property of another as a result of deception and with the intent to deprive the other person of the property	<ul style="list-style-type: none"> • Class B: if the property is worth > \$10,000 • Class C: if the property is worth > \$1,000 to \$10,000 • Class D: if the property is worth > \$500 to \$1,000
17-A M.R.S. §706-A	Falsely filing a recordable instrument: “with intent to defraud, harass or intimidate, the person files or cause 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.”	<ul style="list-style-type: none"> • Class D

- b. If a majority of the Committee votes in favor of a version of LD 2250 that creates a new crime, the proposal must be reviewed by the Criminal Justice and Public Safety Committee under Joint Ruel 319.

2. **Broker surety bond** (Sec. 7 of bill):

- a. The Maine Association of Realtors opposes this requirement, noting that it unfairly places the burden of preventing deed fraud on brokers without any similar liability for lenders, title companies, attorneys and other professionals involved in real estate transactions.

3. **\$500 fee from out-of-state seller** (Sec. 8 of bill):

- a. York County Sheriff Bill King proposed amending Sec. 8 of the bill to require that an out-of-state seller of Maine real estate post the \$500 refundable fee as soon as the seller lists the property, rather than only when the out-of-state seller accepts a purchase offer.
- b. The Maine Association of Realtors proposed striking this section of the bill, both because it unfairly targets non-resident sellers (fraud can also occur with resident sellers) and because it does not specify standards of due diligence for real estate brokers and agents to confirm a seller's identity.
- c. **Proposed amendment.** If the committee retains this requirement, the Maine Association of Realtors and the Department of Professional and Financial Regulation note that a seller's agreement to list property is with a real estate agency, not the broker or agent. The \$500 fee should thus be held by the agency.

4. **Required use of Maine Notary to acknowledge recorded instrument** (Sec. 9 of bill):

- a. **Proposed amendment:** The sponsor proposed adding an amendment to 4 M.R.S. §1915 (attached), the provision of RULONA authorizing notarial acts to be performed for a remotely located individual, to require that, if the notarial act involves the acknowledgment of an instrument affecting title to real property in Maine that will be recorded, the person performing the notarial act must be authorized to perform notarial acts in Maine. *See* 4 M.R.S. §1910 (attached and summarized above).
- b. By contrast, several groups, including the National Notary Association, Maine Bankers Association, Maine Association of Realtors, and Maine Real Estate and Development Association opposed the requirement for acknowledgment before a Maine notary if an instrument affecting title to real property in the State will be recorded in the registry of deeds. They observe that remote notarization is a common practice in the industry for individuals who cannot be physically present in the state for a closing, that this practice is important for allowing persons moving to Maine to purchase property, and that the Uniform Law Commission and 130th Legislature ensured that there are significant protections against fraud built into the remote notarization requirements of the Revised Uniform Law on Notarial Acts.
- c. The National Notary Association also suggested that notaries in some other states may be better qualified and trained to prevent deed fraud, noting that several states: (a) require notaries to post a surety bond that protects parties from deed fraud perpetrated by a complicit notary; (b) require notaries to take a course of instruction, continuing education, or both on performing notarial acts as a qualification to receive or retain their commission; and (c) require background screening of notaries to determine if they have been convicted of any offenses that would disqualify them from serving as a notary. By contrast, several other individuals providing testimony noted that, regardless of the notary's qualifications, notaries in other states may be subject to lower standards for signature verification than Maine notaries.

5. **Notice in tax bills** (Sec. 11)

- a. **Potential state mandate?** The new requirement that municipalities include information about deed fraud in property tax bills could potentially be interpreted as imposing a state mandate.

Legislation qualifies as imposing a state mandate if both of the following are satisfied: (a) the legislation requires a local unit of government to expand or modify its activities (b) so as to necessitate additional expenditures from local revenues. Article IX, Section 21 of the Constitution of Maine (adopted in 1992), prohibits the State from imposing a state mandate on a local unit of government unless:

- 1. The State annually provides 90% of the funding; or

2. The Legislature votes to establish an exemption by a 2/3 vote of the elected membership of each chamber.

As is expressly authorized by the Constitution, the Legislature enacted 30-A M.R.S. §5685 to implement Article IV, Section 21. Among other things, this statute clarifies that, “unless [legislation establishing a mandate is] funded or exempted from state funding,” a “local unit of government is not bound by any mandate” contained within that legislation.

- b. **Proposed Amendment:** The Department of Administrative and Financial Services noted that, instead of requiring the State Tax Assessor to direct local governments to include a notice about deed fraud in property tax bills, the requirement should be located within 36 M.R.S. §507 (attached), the provision of law enumerating the information that a municipality must include in a property tax bill.

6. Proposed amendment - stakeholder group.

- a. After the public hearing, the bill sponsor proposed striking the bill and replacing it with a resolve establishing a legislative study to examine the problem of deed fraud and make recommendations both for preventing deed fraud and for providing remedies to victims of deed fraud in the State.
- b. Representative Ducharme, the Maine Bankers Association and the Maine Association of Realtors similarly suggested creating a stakeholder group to examine the issue of deed fraud.

TECHNICAL AND DRAFTING ISSUES

1. **Civil action** (Sec. 2 of bill). The committee may wish to consider the following with respect to this provision of the bill, which creates a new civil cause of action: Who may bring the action; should it be limited to the former “true owner” of the property? What about the purchaser of the property, who may not want deed nullification but may wish to receive damages? The action requires proof of “deed fraud” as defined in 10 of the bill: What if a person recklessly or negligently provides false information when recording a deed, should that be grounds for a civil (as opposed to a criminal) action? What does it mean for a court to order “the immediate nullification” of a fraudulent recorded instrument; does this mean that the nullification order is issued immediately, before a trial on the merits, or perhaps that the action must be given priority on the docket? [Joint Rule 318 review required?] What types of damages should be allowed: are punitive damages included? Should attorney’s fees and costs only be awarded if the plaintiff prevails in the action? What if the defendant prevails, should the defendant be entitled to attorney’s fees and costs?
2. **Required use of Maine Notary to acknowledge recorded instrument** (Sec. 9 of bill). Although section 9 of the bill amends the last paragraph of 33 M.R.S. §203 to require that a recorded instrument be acknowledged “before a person authorized to perform notarial acts in this State as described in Title 4, section 1910,” under §1910(1)(D) “any ... individual authorized to perform the specific act by the laws of this State” is considered a person authorized to perform notarial acts in this State. The first paragraph of 33 M.R.S. §203 authorizes the acknowledgement of a recorded instrument to be taken before: a notary public of the State, an attorney licensed to practice law in this State; a commissioner [i.e., notary] authorized in the state where the acknowledgement is taken; or a minister, vice-consul or consul of the United States or notary public in any foreign country. See current law handout. Accordingly, the bill may not prohibit a notary of another state or country from taking an acknowledgment of an instrument that will be recorded in a Maine registry of deeds.

FISCAL INFORMATION

See preliminary fiscal impact statement (dated 3/4/24), which provides that this bill (a) creates a new Class B crime and noting the yearly cost to the Department of Corrections of incarcerating an individual; (b) may increase the number of civil suits filed in the court system, thus increasing judicial workloads and filing fees.

Deed Fraud Commission Meeting

September 29, 2025

Information provided by Cathy Beaudoin, Director of Corporations, UCC & Commissions
Department of Secretary of State

Notary Public Qualifications:

- Be at least 18 years of age;
- Be a resident of or have a place of employment or business practice in this State;
- Be able to read and write English;
- Have passed the examination administered by the Secretary of State, which is based on the course of study that we make available on our website in accordance with 4 M.R.S §1923;
- Not be disqualified to receive a commission for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public; and
- Not have had a notary public commission in another state revoked, suspended, conditioned or non-renewed for cause.

The application for a notary public commission assists in applicant screening by requiring the applicant to answer the following questions:

- If the applicant has ever been a notary public in another state, and had their commission revoked or suspended. If they answer yes, they must provide details.
- Asks the applicant if they have ever been convicted of a crime punishable by one year or more of imprisonment. If they answer yes, they must provide details.
- Asks the applicant if they have ever been convicted of a crime involving fraud, dishonesty or deceit. If they answer yes, they must provide details.
- Asks the applicant if they have ever been involved in any legal proceedings or disciplinary actions on alleged fraud, dishonesty or deceit that resulted in findings against them or their admission to liability.

In addition to a notary public, these officials (notarial officers) can also perform a notarial act under the laws of the State of Maine:

- A justice, judge, clerk, or deputy clerk of a Maine court.
- An attorney who is admitted to and eligible to practice law in Maine courts.
- Any other individual authorized to perform the specific act by the laws of this State.

Notarial officers are authorized to perform the following official notarial acts: acknowledgment of a signature on a document; taking of verbal oaths and affirmations; verifications on oath or affirmation for the signing of documents; witnessing or attesting signatures; certifying copies of documents that are not public records or otherwise prohibited from being copied. The requirements for all these notarial acts are detailed in Maine's Revised Uniform Law on Notarial Acts (Title 4, Chapter 39).

Pursuant to 33 M.R.S §203, an Acknowledgment is the required notarial act for deeds and other written instruments recorded with the registries of deeds.

As defined pursuant to 4 M.R.S §1902 (the Revised Uniform Law on Notarial Acts):

- "Acknowledgment" means 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.

In-Person Notarization Steps for Acknowledgment of a Tangible Document in Maine

1. **Personal Appearance:** The person signing must be physically present with the officiating notarial officer.
2. **Verification of Identity:** The notarial officer must verify the signer's identity, typically through personal knowledge or evidence of identity specified by 4 MRS §1907(2). Use of a credible witness is also permitted under the statute.
3. **Take an Acknowledgment:** The signer verbally declares to the notarial officer that they signed the document of their own free will for the purposed indicated in the document and were not coerced.
4. **Notarial Certificate:** The notarial officer must then complete the notarial certificate on the instrument, including their signature and seal, stating that the acknowledgment was performed in Maine.
5. **Journal Entry and Official Stamp:** Maine law does not require a notary to maintain a journal or use an official stamp for in-person tangible document notarizations. **However**, we highly encourage all notaries to maintain a journal and use an official stamp for **all notarizations**.

Remote Notarization

Remote notarization as authorized under 4 M.R.S §1905, means a notarial act performed by a notarial officer, approved by the Secretary of State, for a remotely located individual using communication technology approved by the Secretary of State.

Only a notarial officer who has submitted the notice to perform electronic and/or remote online notarizations to the Secretary of State's office and received approval may perform a remote electronic notarization.

The notarial officer may use only a communication technology provider that has been approved by the Secretary of State and must provide to the Secretary of State the name of the technology provider they are using. A notarial officer is required to complete training in the use of the approved provider's technology. No additional training is required with the Secretary of State.

In a remote notarization, the signer of a document (referred to as a remotely located individual) is not physically present with the notarial officer; rather, they are remotely present with the notary in real-time, using communication technology as defined in 4 M.R.S §1915. The notarization process is conducted using a

communication technology provider that has been approved by the Secretary of State so that a notarial officer and a remotely located individual are able to communicate with each other simultaneously by sight and sound.

The remotely located individual may be in another state or outside the United States. However, for a remotely located individual located outside the United States, the record must meet these requirements:

- It is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or
- It involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and
- The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

Remote Electronic Notarization Steps

1. **Ensure access to device and reliable internet connection to approved platform:** The notarial officer must ensure that they have real-time access to the communication technology provider's platform using a device with a camera and microphone. The notarial officer must also ensure that the remotely located individual has real-time access to a device with a camera and microphone, ensuring audiovisual communication can occur in real-time for the entire notarial act. The remotely located individual would upload the document to be notarized.
2. **Recite vital information of notarial proceeding:** At the commencement of the remote notarization the notarial officer is required to recite information sufficient to identify themselves, their authority to act, the type of notarial act indicated on the document presented for notarization, the name of the remotely located individual for whom the notarial act is being performed, and the date, time, and location of the notarial act. This location, called the venue, is the state and county where the authorized notarial officer is located and performing the remote online notarization. A Maine remote online notarial officer must always be physically located within the geographic boundaries of Maine; the principal may be located anywhere.
3. **Verification of Identity:** The notarial officer must verify the signer's identity by one or more of the following methods:
 1. The notarial officer's personal knowledge of the remotely located individual through dealings sufficient to provide reasonable certainty that the individual is the person they claim to be;
 2. Satisfactory evidence of the remotely located individual's identity provided by using at least 2 different types of identity proofing; (refer to page 19 of the notary rules provided for more information on identity proofing); and
 3. By verification on oath or affirmation of a credible witness appearing before the notarial officer who is known to the officer or whom the officer can identify using a least 2 different types of identity proofing.
4. **Witness the Electronic Signature:** If the remotely located signer hasn't already signed the electronic document, they will sign the document while the notarial officer witnesses the act via the live video

feed. Only documents requiring an acknowledgement notarial act may be signed prior to notarization; for the other authorized signature notarial acts the electronic document must be electronically signed in the remote notary's presence.

5. **Apply the Electronic Digital Notarial Certificate:** After performing the notarization ceremony, the notarial officer will complete the document's electronic notarial certificate in a tamper-evident manner. An official stamp **must** be attached to or logically associated with the electronic notarial certificate. Both the official stamp and the notary's official signature are applied electronically.
6. **Journal Required:** A notarial officer **must** maintain a journal for all electronic and remote notarizations. Most if not all approved remote notarization technologies include an electronic journal feature, accessible only to the individual notarial officer. An electronic journal must be retained for at least 10 years after performance of the last notarial act chronicled in it.
7. **Retention of recording:** The audiovisual recording of the remote notarization must be retained for a period of 10 years.

Currently, we have:

22,706 Active Commissioned Notaries Public

12 Approved Providers of Technology

70 Approved Notaries Public for Remote Notarization

For reference, I am providing copies of:

Revised Uniform Law on Notarial Acts

Rules Governing Notarial Acts

Application for Notary Public Commission

Application for Provider of Technology for Electronic or Remote Notarization

Notarial Officer's Notice to Perform Electronic or Remote Online Notarizations

CHAPTER 39

REVISED UNIFORM LAW ON NOTARIAL ACTS

§1901. Short title

This chapter may be known and cited as the Revised Uniform Law on 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).

§1902. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Acknowledgment. "Acknowledgment" means 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. [RR 2023, c. 2, Pt. A, §4 (COR).]

2. Electronic. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Electronic signature. "Electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. In a representative capacity. "In a representative capacity" means acting as:

A. An authorized officer, agent, partner, trustee or other representative of a person other than an individual; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A public officer, personal representative, guardian or other representative, in the capacity stated in a record; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. An agent or attorney-in-fact for a principal; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. An authorized representative of another in any other capacity. [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).]

5. Notarial act. "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. "Notarial act" includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument or loss in mercantile usage.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Notarial officer. "Notarial officer" means a notary public or other individual authorized to perform a notarial act.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Notary public. "Notary public" means an individual commissioned to perform a notarial act by the Secretary of State.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

8. Official stamp. "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.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

9. Person. "Person" means an individual, corporation, business trust, statutory trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

10. 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.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

11. Sign. "Sign" means, with present intent to authenticate or adopt a record:

A. To execute or adopt a tangible symbol; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. To attach to or logically associate with the record an electronic symbol, sound or process. [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).]

12. Signature. "Signature" means a tangible symbol or an electronic signature that evidences the signing of a record.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

13. Stamping device. "Stamping device" means:

A. A physical device capable of affixing to or embossing on a tangible record an official stamp; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. An electronic device or process capable of attaching to or logically associating with an electronic record an official stamp. [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).]

14. State. "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

15. Verification on oath or affirmation. "Verification on oath or affirmation" means a declaration made by an individual on oath or affirmation before a notarial officer that a statement in a record is true.

[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). RR 2023, c. 2, Pt. A, §4 (COR).

§1903. Applicability

This chapter applies to a notarial act performed on or after July 1, 2023. [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).

§1904. Authority to perform notarial act

1. Notarial acts authorized. A notarial officer may perform a notarial act authorized by this chapter or by a law of this State other than this chapter.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Certification of electronic records. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Conflict of interest. A notarial officer may not perform a notarial act with regard to which the notarial officer has a conflict of interest as set forth in this subsection.

A. A notarial officer may not perform any notarial act for any person if that person is the officer's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative of the officer. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A notarial officer may not perform any notarial act with respect to a record to which the notarial officer or the officer's spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative of the officer is a party or in which any of them has a direct beneficial interest. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Notwithstanding paragraphs A and B, a notarial officer authorized by Title 19-A, section 655 to solemnize marriages may solemnize the marriage of a parent, sibling or child or an in-law or a step or half relative of the 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. Acts of notarial officer who is interested in corporation. Any notarial officer who is a stockholder, director, officer or employee of a bank or other corporation may take the acknowledgment of any party to any written instrument executed to or by the bank or corporation, may administer an oath to any other stockholder, director, officer, employee or agent of the bank or corporation or may protest for nonacceptance or nonpayment bills of exchange, drafts, checks, notes and other negotiable instruments that may be owned or held for collection by the bank or other corporation. It is unlawful for any notarial officer to take the acknowledgment 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 or as a representative of the bank or other corporation, or to protest any negotiable instrument owned or held for collection by the bank or other corporation, when the notarial officer is individually a party to the instrument.

[RR 2023, c. 2, Pt. A, §5 (COR).]

5. Direct initiative or people's veto referendum. A notarial officer may not administer an oath or affirmation to a circulator of a petition for a direct initiative or people's veto referendum under Title 21-A, section 902 if the notarial officer also provides services that are not notarial acts to initiate or promote that direct initiative or people's veto referendum.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Voidable notarial acts. A notarial act performed in violation of subsection 3, 4 or 5 is voidable. [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). RR 2023, c. 2, Pt. A, §5 (COR).

§1905. Requirements for certain notarial acts

1. Acknowledgment of a 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.

[RR 2023, c. 2, Pt. A, §6 (COR).]

2. Statement of oath or affirmation. 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.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Witnessing or attesting to a signature. A notarial officer who witnesses or attests to a signature shall determine, from personal knowledge or satisfactory evidence of the identity of the individual, that the individual appearing before the officer and signing the record has the identity claimed.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Certifying or attesting copy of record. A notarial officer who certifies or attests a copy of a record or an item that was copied shall determine that the copy is a full, true and accurate transcription or reproduction of the record or item.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Protest of negotiable instrument. A notarial officer who makes or notes a protest of a negotiable instrument shall determine the matters set forth in Title 11, section 3-1505, subsection (1), paragraph (b).

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Protests of losses; record and copies. When requested, a notarial officer shall enter on record all losses or damages sustained or apprehended by sea or land and all averages and such other matters as, by mercantile usage, appertain to the notarial officer's office and shall grant warrants of survey on vessels; all facts, extracts from documents and circumstances so noted must be signed and sworn to by all the persons appearing to protest. The notarial officer shall note, extend and record the protest so made and grant authenticated copies thereof under the notarial officer's signature and, in the case of a notary public, notarial stamp to those who request and pay for them.

[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). RR 2023, c. 2, Pt. A, §6 (COR).

§1906. Personal appearance required

If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer. [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).

§1907. Identification of individual

1. Personal knowledge of identity. A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Evidence of identity. A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

A. By means of:

- (1) A passport, driver's license or government-issued nondriver identification card; or
- (2) 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 [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. 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 on the basis of a passport, driver's license or government-issued nondriver identification card. [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. Additional information or credentials. A notarial officer may require an individual to provide additional information or identification credentials necessary to assure the officer of the identity of the individual.

[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).

§1908. Authority to refuse to perform notarial act

1. Basis to refuse. A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

A. The individual executing the record is competent or has the capacity to execute the record; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. The individual's signature is knowingly and voluntarily made. [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. Refusal permitted unless otherwise required. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by a law other than this chapter.

[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).

§1909. Signature if individual unable to sign

If an individual is physically unable to sign a record due to a disability, the individual may direct an individual other than the notarial officer to sign the individual's name on the record. The notarial officer shall insert "Signature affixed by (name of other individual) at the direction of (name of individual)" or words of similar import. [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).

§1910. Notarial act in this State

1. Persons authorized to perform notarial acts. A notarial act may be performed in this State by:

- A. A notary public of this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
 - B. A justice, judge, clerk or deputy clerk of a court of this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
 - C. An attorney-at-law duly admitted and eligible to practice in the courts of this State; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]
 - D. Any other individual authorized to perform the specific act by the laws of this State. [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 this 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, 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).]

4. Laws on notaries public apply to notarial officers. If a provision of law other than a provision in this chapter specifies that an act may be performed by a notary public, such act may be performed by any of the notarial officers described in subsection 1, paragraph A, B or C unless the law expressly provides otherwise.

[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).

§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).

§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).

§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).

§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).

§1915. Notarial act performed for remotely located individual

1. Definitions. As used in this section, the following terms have the following meanings.

A. "Communication technology" means an electronic device or process that allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound. When necessary and consistent with other applicable laws, "communication technology" includes an electronic device or process that facilitates communication with a remotely located individual who has a vision, hearing or speech impairment. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. "Foreign state" means a jurisdiction 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).]

C. "Identity proofing" means a process or service by which a 3rd person provides a notarial officer with a means to verify the identity of a remotely located individual by a review of personal

information from public or private data sources. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. "Outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. "Remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under subsection 3. [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. Personal appearance by communication technology authorized. Except as provided in subsection 16, a remotely located individual may comply with section 1906 by using communication technology to appear before a notarial officer.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Remote notarization authorized. Except as provided in subsection 16, a notarial officer located in this State may use communication technology to perform a notarial act for a remotely located individual if:

A. The notarial officer:

- (1) Has personal knowledge under section 1907, subsection 1 of the identity of the remotely located individual;
- (2) Has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notarial officer under section 1907, subsection 2 or this section; or
- (3) Has obtained satisfactory evidence of the identity of the remotely located individual by using at least 2 different types of identity proofing; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. The notarial officer is able reasonably to confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the individual executed a signature; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The notarial officer, or a person acting on behalf of the notarial officer, creates an audiovisual recording of the performance of the notarial act; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. For a remotely located individual located outside the United States:

(1) The record:

- (a) Is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or
- (b) Involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States; and

(2) The act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located. [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. Remote acknowledgment of tangible record. A notarial officer located in this State may use communication technology under subsection 3 to take an acknowledgment of a signature on a tangible

record physically present before the notarial officer if the record is displayed to and identified by the remotely located individual during the audiovisual recording under subsection 3, paragraph C.
[RR 2023, c. 2, Pt. A, §7 (COR).]

5. Declaration required. The requirement under subsection 3, paragraph B for the performance of a notarial act with respect to a tangible record not physically present before the notarial officer is satisfied if:

A. The remotely located individual:

(1) During the audiovisual recording under subsection 3, paragraph C, signs:

(a) The record; and

(b) A declaration, in substantially the following form, that is part of or securely attached to the record:

I declare under penalty of perjury that the record of which this declaration is a part or to which it is attached is the same record on which (name of notarial officer), a notarial officer, performed a notarial act and before whom I appeared by means of communication technology on (date).

.....

(Signature of remotely located individual)

.....

(Printed name of remotely located individual); and

(2) Sends the record and declaration to the notarial officer not later than 4 days after the notarial act was performed; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. The notarial officer:

(1) In the audiovisual recording under subsection 3, paragraph C, records the individual signing the record and declaration; and

(2) After receipt of the record and declaration from the individual, executes a certificate of notarial act under section 1916, which must include a statement in substantially the following form:

I (name of notarial officer) witnessed, by means of communication technology, (name of remotely located individual) sign the attached record and declaration on (date). [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).]

6. Notarial act deemed contemporaneous. A notarial act performed in compliance with subsection 5 complies with section 1916, subsection 1, paragraph A and is effective on the date the remotely located individual signed the declaration under subsection 5, paragraph A, subparagraph (1), division (b).

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Other procedures not precluded. Subsection 5 does not preclude use of another procedure to satisfy subsection 3, paragraph B for a notarial act performed with respect to a tangible record.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

8. Remote oaths authorized. A notarial officer located in this State may use communication technology under subsection 3 to administer an oath or affirmation to a remotely located individual if, except as otherwise provided by other laws of this State, the notarial officer:

A. Identifies the individual under subsection 3, paragraph A; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Creates or causes the creation under subsection 3, paragraph C of an audiovisual recording of the individual taking the oath or affirmation; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Retains or causes the retention under subsection 11 of the recording. [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).]

9. Certificate must indicate use of communication technology. If a notarial act is performed under this section, the certificate of notarial act under section 1916 and the short form certificate under section 1917 must indicate that the notarial act was performed using communication technology. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

10. Form of short form certificate. A short form certificate under section 1917 for a notarial act subject to this section is sufficient if it:

A. Complies with rules adopted under subsection 13, paragraph A; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Complies with section 1917 and contains a statement in substantially the following form:

This notarial act involved the use of communication technology. [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).]

11. Retention of recording. A notarial officer, a guardian, conservator or agent of a notarial officer or a personal representative of a deceased notarial officer shall retain the audiovisual recording created under subsection 3, paragraph C or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted under subsection 13, paragraph D, the recording must be retained for at least 10 years. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

12. Notice to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act under this section, the notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the Secretary of State has established by rule standards under subsection 13 and section 1928 for approval of communication technology or identity proofing, the communication technology and identity proofing must conform to the standards. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

13. Rules. In addition to adopting rules under section 1928, the Secretary of State may adopt rules regarding performance of a notarial act under this section. The rules may:

A. Prescribe the means of performing a notarial act involving a remotely located individual using communication technology; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Establish standards for communication technology and identity proofing; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Establish requirements or procedures to approve providers of communication technology and the process of identity proofing; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Establish standards and a period for the retention of an audiovisual recording under subsection 3, paragraph C; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Prescribe methods for a notarial officer to confirm under subsections 4 and 5 the identity of a tangible record. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

Rules adopted pursuant to this subsection 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).]

14. Rulemaking considerations. Before adopting, amending or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the Secretary of State shall consider:

A. The most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of 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 have laws substantially similar to this section; 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).]

15. Service of process. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audiovisual recording under subsection 3, paragraph C, the provider of the communication technology, identity proofing or storage appoints the Secretary of State as the provider's agent for service of process in any civil action in this State related to the notarial act. The Secretary of State may specify by rule a reasonable fee for accepting service of process under this subsection.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

16. Certain remote notarial acts prohibited. Notwithstanding any provision of this chapter to the contrary, a notarial officer may not perform the following notarial acts for a remotely located individual:

A. Witnessing the marking and sealing of an absentee ballot pursuant to Title 21-A, section 754-A; [RR 2021, c. 2, Pt. A, §3 (COR).]

B. Administering an oath or affirmation to a candidate for office under Title 21-A, section 336 or 355; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Administering an oath or affirmation to the circulator of a candidate petition under Title 21-A, section 335 or 354; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Witnessing the signing of an application for a people's veto referendum or the direct initiative of legislation under Title 21-A, section 901; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Administering an oath or affirmation to the circulator of a people's veto referendum or the direct initiative of legislation under Title 21-A, section 902. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

[RR 2021, c. 2, Pt. A, §3 (COR).]

17. Solemnization of marriage remotely prohibited. A notarial officer may not solemnize a marriage pursuant to Title 19-A, section 655 for a remotely located individual.

[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). RR 2021, c. 2, Pt. A, §3 (COR). RR 2023, c. 2, Pt. A, §7 (COR).

§1916. Certificate of notarial act

1. Certificate required. A notarial act must be evidenced by a certificate. The certificate must:

A. Be executed contemporaneously with the performance of the notarial act; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Be signed and dated by the notarial officer and, if the notarial officer is a notary public, be signed in the same manner as on file with the Secretary of State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Identify the jurisdiction in which the notarial act is performed; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Contain the title of office of the notarial officer; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. If the notarial officer is a notary public, indicate the date of expiration of the officer's commission; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. Contain the legibly printed or typed name of 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).]

2. Stamp requirements. If a notarial act regarding a tangible record is performed by a notarial officer, an official stamp may be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notary public and the certificate contains the information specified in subsection 1, paragraphs B, C and D, an official stamp must be attached to or logically associated with the certificate.

[PL 2023, c. 304, Pt. B, §1 (AMD); PL 2023, c. 304, Pt. B, §7 (AFF).]

3. Sufficiency of certificate. A certificate of a notarial act is sufficient if it meets the requirements of subsections 1 and 2 and:

A. Is in a short form set forth in section 1917; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Is in a form otherwise permitted by the laws of this State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Is in a form permitted by the law applicable in the jurisdiction in which the notarial act was performed; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Sets forth the actions of the notarial officer and the actions are sufficient to meet the requirements of the notarial act as provided in sections 1905, 1906 and 1907 or a law of this State other than this chapter. [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. Execution of certificate certifies compliance. By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in sections 1904, 1905 and 1906.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Notarial act to precede signature. A notarial officer may not affix the officer's signature to, or logically associate it with, a certificate until the notarial act has been performed.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Certificate to be attached. If a notarial act is performed regarding a tangible record, a certificate must be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate must be affixed to, or logically associated with, the electronic record. If the Secretary of State has established standards by rule pursuant to section 1928 for attaching, affixing or logically associating the certificate, the process must conform to the standards.

[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). PL 2023, c. 304, Pt. B, §1 (AMD). PL 2023, c. 304, Pt. B, §7 (AFF).

§1917. Short form certificates

The following short form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by section 1916, subsections 1 and 2. [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Individual capacity. For an acknowledgment in an individual capacity:

State of

County of

This record was acknowledged before me on by

Date Name(s) of individual(s)

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Representative capacity. For an acknowledgment in a representative capacity:

State of

County of

This record was acknowledged before me on by

Date Name(s) of individual(s)

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Oath or affirmation. For a verification on oath or affirmation:

State of

County of

Signed and sworn to (or affirmed) before me on by

Date Name(s) of individual(s)
making statement

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Signature. For witnessing or attesting a signature:

State of

County of

Signed [or attested] before me on by

Date Name(s) of individual(s)

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Copy of a record. For certifying a copy of a record:

State of

County of

I certify that this is a true and correct copy of a record in the possession
of

Dated

.....

Signature of notarial officer

Stamp or printed name

[.....]

Title of office

[My commission expires:]

[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).

§1918. Official stamp

A notary public may keep an official stamp, which must: [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Information included. Include the notary public's name, jurisdiction, commission expiration date and other information required by the Secretary of State; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Capable of being copied. Be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated. [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).

§1919. Stamping device

1. Notary public's responsibility. A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, the notary public's commission or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Lost or stolen stamping device. If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall promptly notify the Secretary of State on discovering that the device is lost or stolen.

[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).

§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).

§1921. Notification regarding performance of notarial act on electronic record; selection of technology; acceptance of tangible copy of electronic record

1. Selection of technology. A notarial officer may select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect to an electronic record with a technology that the notarial officer has not selected.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Notification to Secretary of State. Before a notarial officer performs the notarial officer's initial notarial act with respect to an electronic record, the notarial officer shall notify the Secretary of State that the notarial officer will be performing notarial acts with respect to electronic records and identify the technology the notarial officer intends to use. If the Secretary of State has established by rule standards for approval of technology pursuant to section 1928, the technology must conform to the rules. The Secretary of State shall determine whether the technology proposed by the notarial officer is approved for use in this State.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Tangible copy of electronic record. A register of deeds may accept for recording a tangible copy of an electronic record containing a notarial certificate as satisfying any requirement that a record accepted for recording be an original if the notarial officer executing the notarial certificate certifies that the tangible copy is an accurate copy of the electronic record.

[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).

§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).

§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).

§1924. Grounds to deny, refuse to renew, revoke, suspend or condition commission of notary public

1. Grounds. The Secretary of State may deny, refuse to renew, revoke, suspend or impose a condition on a notary public commission for any act or omission that demonstrates the individual lacks the honesty, integrity, competence or reliability to act as a notary public, including:

A. Failure to comply with this chapter; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. A fraudulent, dishonest or deceitful statement or omission in the application for a notary public commission submitted to the Secretary of State; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. A conviction of the applicant or notary public of any crime punishable by one year or more imprisonment or a crime involving fraud, dishonesty or deceit; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. A finding against, or admission of liability by, the applicant or notary public in any legal proceeding or disciplinary action based on the applicant's or notary public's fraud, dishonesty or deceit; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

E. Failure by the notary public to discharge any duty required of a notary public, whether by this chapter, rules of the Secretary of State or any federal or state law; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

F. Use of false or misleading advertising or representation by the notary public representing that the notary public has a duty, right or privilege that the notary public does not have; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

G. Violation by the notary public of a rule of the Secretary of State regarding a notary public; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

H. Denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

I. Violation of Title 21-A, section 903-E. [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. Right to hearing. If the Secretary of State denies, refuses to renew, revokes, suspends or imposes conditions on a notary public commission, the applicant or notary public is entitled to timely notice and hearing in accordance with Title 5, chapter 375, subchapter 4.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Remedies preserved. The authority of the Secretary of State to deny, refuse to renew, suspend, revoke or impose conditions on a notary public commission does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law.
[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).

§1925. Database of notaries public

The Secretary of State shall maintain an electronic database of notaries public: [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

1. Verification. Through which a person may verify the authority of a notary public to perform notarial acts; and
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

2. Electronic records; remote notarization. That indicates whether a notary public has notified the Secretary of State that the notary public will be performing notarial acts on electronic records or remotely.
[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).

§1926. Prohibited acts

1. Acts not authorized. A notary public commission does not authorize an individual to:

A. Assist persons in drafting legal records, give legal advice or otherwise practice law; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. Act as an immigration consultant or an expert on immigration matters; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. Represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

D. Receive compensation for performing any of the activities listed in this subsection. [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. False or deceptive advertising prohibited. A notary public may not engage in false or deceptive advertising.
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

3. Restricted titles. A notary public who is not an attorney licensed to practice law in this State may not use the title "notario" or "notario publico."
[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

4. Advertising requirements. A notary public who is not an attorney licensed to practice law in this State may not advertise or represent that the notary public may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notary public who is not an attorney licensed to practice law in this State in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the Internet, the notary public shall include the following statement, or an alternate statement authorized or required by the Secretary of State, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "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." If the form of advertisement or representation is not broadcast media, print media or the Internet and does not permit inclusion of the statement required by this subsection because of size, the statement must be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

5. Access to original records. Except as otherwise allowed by law, a notary public may not withhold access to or possession of an original record provided by a person who seeks performance of a notarial act by the notary public.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

6. Civil violation. Any violation of this section constitutes a civil violation for which a fine of not more than \$5,000 may be adjudged.

[PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

7. Civil action. In addition to any other remedy that may be available, a person who is aggrieved by a violation of this section may initiate a civil action in the Superior Court against the violator for injunctive relief or damages or both. If a court finds a violation of this section, the court may award to the person:

A. An amount equal to actual damages sustained by the person as a result of the violation; [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

B. An amount equal to 3 times the actual damages; and [PL 2021, c. 651, Pt. A, §4 (NEW); PL 2021, c. 651, Pt. A, §8 (AFF).]

C. The costs of the action together with reasonable attorney's fees as determined by the court. [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).]

8. Attorney General action. If the Attorney General has reason to believe that a person in the State has engaged in or is engaging in activities that violate this section, the Attorney General may initiate an action in the Superior Court to enforce this section.

[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).

§1927. Validity of notarial acts

Except as otherwise provided in section 1904, subsection 6, the failure of a notarial officer to perform a duty or meet a requirement specified in this chapter does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under this chapter does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on the laws of this State other than this chapter or the laws of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts. This section does not limit the authority of

the Secretary of State to reject candidate or initiative or referendum petitions under Title 21-A on the basis of improper notarizations. [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).

§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).

§1929. Notary public commission in effect

A notary public commission in effect on July 1, 2023 continues until its date of expiration. A notary public who applies to renew a notary public commission on or after July 1, 2023 is subject to and shall comply with this chapter. A notary public, in performing notarial acts after July 1, 2023, shall comply with this chapter. [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).

§1930. Savings clause

This chapter does not affect the validity or effect of a notarial act performed before July 1, 2023. [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).

§1931. Uniformity of application and construction

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it. [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).

§1932. Relation to federal Electronic Signatures in Global and National Commerce Act

This chapter modifies, limits and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 United States Code, Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that Act, 15 United States Code, Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 United States Code, Section 7003(b). [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).

§1933. Effective date

This chapter takes effect July 1, 2023. [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).

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**Chapter 700: RULES GOVERNING NOTARIES PUBLIC, NOTARIAL
OFFICERS, NOTARIAL ACTS AND THE PROCEDURES FOR
ELECTRONIC AND REMOTE NOTARIZATION**

SUMMARY: This rule replaces Chapter 700 and governs the appointment and commissioning of notaries public and establishes the standards and procedures for electronic and remote notarization by notarial officers.

SECTION 1: DEFINITIONS

1. **Credible witness.** “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.
2. **Direct beneficial interest.** “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.
3. **Electronic notarization.** “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.
4. **Electronic record.** “Electronic record” means a record created, generated, sent, communicated, received, or stored by electronic means.
5. **Notarial officer.** “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.
6. **Principal.** “Principal” means a person whose signature is notarized, or a person other than a credible witness taking an oath or affirmation before a notarial officer.

7. **Remotely located individual.** "Remotely located individual" means an individual who is not in the physical presence of the notarial officer who is performing a notarial act and appears before the notarial officer using communication technology.
8. **Remote notarization.** "Remote notarization" means a notarial act performed in compliance with 4 M.R.S. Chapter 39, by a notarial officer for a remotely located individual using communication technology approved by the Secretary of State.
9. **Residence and resident.** "Residence" for purposes of this rule means the place where the individual has established a fixed and principal home to which the individual, whenever absent, intends to return. "Resident" means having a place where the individual has established a fixed and principal home to which the individual, whenever absent, intends to return.
10. **Secretary of State.** "Secretary of State" as used in this rule includes the Secretary of State, Deputy Secretary of State for Corporations, Elections and Commissions, and the Division Director and staff of the Division of Corporations, UCC & Commissions within the Department of the Secretary of State.
11. **Tamper-evident.** "Tamper-evident" means that any change to a record displays evidence of the change.
12. **Tamper-evident technology.** "Tamper-evident technology" means a set of applications, programs, hardware, software, or other technologies designed to enable a notarial officer to perform notarial acts with respect to electronic records or for remotely located individuals which display evidence of any changes made to an electronic record.

SECTION 2: APPOINTMENT OF NOTARY PUBLIC

1. **Criteria for appointment as a notary public**

To qualify for appointment as a notary public, the applicant must meet the following criteria:

- A. **Age eligibility.** An applicant must be at least 18 years of age at the time of submitting the application;
- B. **Residency or place of employment or business in Maine.** An applicant must demonstrate:

- (1) Is a Maine resident; or
- (2) Has a place of employment located in Maine; or
- (3) Has a business located in Maine;

C. **Language proficiency.** An applicant must demonstrate an ability to read and write the English language;

D. **Trustworthiness.** An applicant must be worthy of the public trust. This means, at a minimum, that the applicant must:

- (1) Not have been convicted of any crime punishable by one year or more of imprisonment;
- (2) Not have been convicted of any crime involving fraud, dishonesty or deceit;
- (3) Not have received a finding or have made any admission of liability in any legal proceeding or disciplinary action against the applicant based on the applicant's fraud, dishonesty or deceit;
- (4) Not have made any false, fraudulent, dishonest or deceitful statements in the application for a notary commission; and
- (5) Not have had a notary public commission in another state revoked, suspended, conditioned, or not renewed for cause.

A crime involving fraud, dishonesty or deceit includes, but is not limited to, any crime involving false swearing, unsworn falsification, perjury, tampering with public records, impersonation, bribery, forgery, identity theft, negotiating a worthless instrument, misuse of information, theft, larceny, robbery, extortion, counterfeiting, unauthorized transfer of property, misappropriation, embezzlement, and deceptive practices; and

E. **Examination.** An applicant must pass an examination administered by the Secretary of State to demonstrate an understanding of the laws, rules, procedures and ethics relevant to performing notarial acts. The examination will be administered by the Secretary of State and based on a course of study offered regularly by the Secretary of State in accordance with 4 M.R.S. § 1923.

2. **Application process.**

- A. **Application.** The applicant for a notary public commission must file an application using the latest form issued by the Secretary of State, which must require submission of the following information, at a minimum:
- (1) The applicant's legal name;
 - (2) The applicant's date of birth;
 - (3) The applicant's residence address;
 - (4) The applicant's mailing address, if different from the physical residence address;
 - (5) The applicant's email address and contact telephone number;
 - (6) A list of any crimes punishable by one year or more of imprisonment for which the applicant has been convicted in Maine or in any other jurisdiction;
 - (7) A list of any crimes involving fraud, dishonesty or deceit for which the applicant has been convicted in Maine or in any other jurisdiction;
 - (8) Disclosure of any legal proceedings in any jurisdiction that resulted in findings against the applicant or admissions of liability by the applicant;
 - (9) If the applicant is not a resident of Maine but is eligible to apply based on having a place of employment in Maine, the application must include the address of the applicant's place of employment and a signed statement by the applicant's employer verifying the applicant's employment status;
 - (10) If the applicant is not a resident of Maine but is eligible to apply based on having a business in Maine, the application must include the legal name, and the physical and mailing addresses of that business; and
 - (11) A declaration signed by the applicant that all information provided in the application is true and correct.

B. Additional information required for electronic or remote notarization.

- (1) **Notice of intent to perform electronic notarization.** If the applicant intends to perform notarial acts with respect to electronic records using an electronic signature, the applicant must submit the notice form prescribed by the Secretary of State that contains the information required by section 5, subsection 6 of this rule pertaining to electronic notarization.
- (2) **Notice of intent to perform remote notarization.** If the applicant intends to perform notarial acts for remotely located individuals, the applicant must submit the notice form prescribed by the Secretary of State that contains the information required by section 6, subsection 8 of this rule pertaining to remote notarization.

- C. Application Fee.** Every application for a notary public commission must be accompanied by payment of a fee prescribed by 5 M.R.S. § 87, submitted to the Secretary of State and made payable to the Treasurer, State of Maine.

3. Term of appointment

If the Secretary of State determines that the applicant has satisfied all the criteria for appointment, the Secretary shall issue a notary public commission to the applicant for a term of 7 years from the date of issuance.

4. Issuance of certificate and qualifications

- A. Process of Qualifying.** Upon approval of an application, a certificate of commission will be mailed to the applicant who then has 30 calendar days to appear before a Dedimus Justice to take the oath prescribed by 4 M.R.S. § 1922(3), and 45 calendar days from the date of appointment to return the completed certificate of qualification to the Secretary of State. If the Secretary of State does not receive the certificate within the 45 calendar days or the certificate demonstrates that the applicant was not sworn into office within 30 calendar days of appointment, the Secretary will notify the applicant of the failure to qualify. From the date of that notice, the applicant has 90 calendar days to request a reappointment by the Secretary of State. From the date of reappointment, the applicant has 30 calendar days to be sworn into office by a Dedimus Justice. If the applicant does not request reappointment within 90 calendar days from the date of notification of a failure to qualify, the applicant must reapply in order to be appointed as a notary public.

- B. **Authority to perform electronic or remote notarial acts.** A notary public who has been issued a commission is not authorized to perform electronic or remote notarizations unless and until a notice meeting all the requirements described in section 5, subsection 6, and section 6, subsection 8 of this rule has been submitted to the Secretary of State and accepted in accordance with 4 M.R.S. Chapter 39 and this rule.
- C. **Authority to solemnize marriages.** A notary public who has been issued a commission by the Secretary of State is not authorized to solemnize marriages in Maine unless the notary has also been issued a marriage officiant license by the Secretary of State pursuant to 5 M.R.S. § 90-G and Chapter 720, Rules Governing the Licensing of Marriage Officiants Who Are Authorized to Solemnize Marriages in Maine.

5. **Change of information or status of commissioned notary public**

- A. Within 30 calendar days of the occurrence of any of the following changes to the notary's status or information previously submitted, a notary public must submit written notice to the Secretary of State regarding the change(s) in a manner prescribed by the Secretary:
 - (1) A change of the notary's name by court order or marriage;
 - (2) A change of the notary's residence or mailing address;
 - (3) A change of the notary's email address or telephone number;
 - (4) A change in the notary's place of employment if the notary's eligibility for a commission was based on having a place of employment in Maine;
 - (5) A change in the location of the notary's business if the notary's eligibility for a commission was based on having a business in Maine;
 - (6) A change to the information previously submitted in writing notifying the Secretary of State that the notary public will be performing notarial acts with respect to electronic records or remotely located individuals;
 - (7) A conviction of a crime punishable by one year or more of imprisonment or of a crime involving fraud, dishonesty or deceit, as described in section 2, subsection 1, paragraph D of this rule; or

- (8) A finding against, or admission of liability by, the notary in any legal proceeding or disciplinary action based on the applicant's or notary's fraud, dishonesty or deceit.
- B. **Effect of name change.** A notary public who notifies the Secretary of State of a name change as required by section 2, subsection 5, paragraph A of this rule shall use the new name in performing notarial acts only after:
 - (1) The notary has delivered the notice required by section 2, subsection 5, paragraph A of this rule;
 - (2) The new name has been updated in the Secretary of State's notary public database; and
 - (3) The notary, if using a stamping device or official stamp, has made the change to their device bearing the new name.
- C. **Issuance of amended commission.** An amended certificate of commission will be issued by the Secretary of State upon receipt of notice of a name change or change of residence to a new municipality by the notary.
- D. **Resignation.** A notary public may resign their commission at any time by submitting written notice to the Secretary of State of the intent to resign. The resignation shall be deemed effective as of the date of the written notice. Upon resignation, a notary public shall return their certificate of commission to the Secretary of State.
- E. **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. The notary public must obtain the individual's consent to any fee to be charged prior to performing the notarial act.

SECTION 3: RENEWAL OF NOTARY PUBLIC COMMISSION

- 1. **Notice of expiration.** The Secretary of State shall send written notification to a notary public, no less than 30 calendar days prior to the expiration of the notary's commission. Notice will be sent to the email address recorded on the Secretary of State's database. If the notary public does not have an email address, the notice will be sent by U.S. Postal Service, regular first-class mail. Failure to receive the notice does not delay or suspend the expiration of the commission.

2. **Application for renewal.** An application for renewal of a notary public commission must include the following information:
 - A. The name under which the current notary public commission was issued;
 - B. The legal name of the notary public seeking renewal of the commission (if changed since issuance of the commission that is expiring);
 - C. The date of expiration of the commission;
 - D. The physical address of the applicant's residence and the applicant's mailing address;
 - E. The applicant's email address and contact telephone number;
 - F. The physical address of a place of employment or location of the notary public's business in Maine if the notary is not a resident of Maine;
 - G. A list of any crimes for which the notary public has been convicted since the date of issuance of the commission that is expiring;
 - H. Disclosure of any legal proceedings in any jurisdiction that resulted in findings against the applicant or admissions of liability by the applicant; and
 - I. A declaration signed by the notary that all information provided in the application is true and correct.
3. **Deadline for filing.** If the notary fails to file a renewal application before the expiration date of the current commission, the notary public is not authorized to perform any notarial acts until the commission has been renewed or a new commission has been issued and the applicant has taken the oath of office before a Dedimus Justice. If the application for renewal is not received by the Secretary of State within 90 calendar days after the expiration date of the commission, the notary public must apply for a new commission.
4. **Examination.** An applicant for renewal must pass an examination administered by the Secretary of State to demonstrate an understanding of the laws, rules, procedures and ethics relevant to performing notarial acts.
5. **Application Fee.** Every application for renewal of a notary public commission, or a new commission, must be accompanied by payment of a fee prescribed by 5 M.R.S. § 87, submitted to the Secretary of State and made payable to the Treasurer, State of Maine.

SECTION 4: DENIAL, NON-RENEWAL, SUSPENSION OR REVOCATION OF A NOTARY PUBLIC COMMISSION; COMPLAINTS

1. **Complaints.** A person may file a complaint with the Secretary of State regarding the performance of a notary public. The complaint should include the complainant's contact information and a detailed statement describing the basis for the complaint and attaching any relevant records.
2. **Investigation.** The Secretary of State may, on its own initiative or in response to a complaint, make such investigation as it determines to be reasonable and necessary to determine whether a person has violated, is violating or is about to violate any provision of 4 M.R.S. chapter 39 or this rule. The Secretary of State may require the filing of statements by the alleged violator or others with knowledge of the allegations and require production of records that the Secretary of State deems relevant to the investigation.
3. **Denial, non-renewal, suspension, revocation or imposition of conditions on a notary public commission.**
 - A. **Grounds.** The Secretary of State may deny, refuse to renew, suspend, revoke or impose a condition on the commission of a notary public for any act or omission that demonstrates the individual lacks the competence, reliability, or integrity to act as a notary public, including any of the following:
 - (1) **Conflicts of interest.** Performance of a notarial act with regard to which the notary has a conflict of interest as defined in 4 M.R.S. § 1904 (3), or performing an acknowledgment prohibited pursuant to 4 M.R.S. § 1904(4);
 - (2) **Prohibited acts.** Performance of a notarial act prohibited by 4 M.R.S. § 1904, subsection 5, or section 1915, subsection 16 or 17, or any acts prohibited by 4 M.R.S. § 1926;
 - (3) **Change of name without notice.** Performance of a notarial act using a different name than the name on the notary commission without having notified the Secretary of State of the name change.
 - (4) **Fraud, deceit or dishonesty.** Committing an act of fraud, deceit or dishonesty;
 - (5) **Criminal convictions.** Conviction of a crime punishable by one year or more of imprisonment or a crime involving fraud, dishonesty or deceit;

- (6) **False or misleading advertising.** Use of false or misleading advertising or otherwise engaging in a method, act, or practice that is unfair or deceptive, including any untrue or misleading statement or omission of a material fact relating to a duty or responsibility of a notary public;
 - (7) **False or misleading statements in notary application.** An untrue or misleading statement or omission of a material fact in any application or filing with the Secretary of State required by law;
 - (8) **Noncompliance with information requests.** Failure to comply with any reasonable information request made by the Secretary of State for the purpose of evaluating the notary's status or application for a commission or renewal of a commission or any request by the Secretary of State for production of records under section 4 subsection 2; or
 - (9) **Failure to comply with notary statute and rules.** Failure to comply with any other provision of 4 M.R.S. chapter 39 or this rule.
- B. **Right to a hearing.** If the Secretary of State denies an application for a notary public commission, imposes a condition on a commission, refuses to renew, suspends, or revokes a notary public commission, the applicant or notary public has a right to a hearing in accordance with the Maine Administrative Procedure Act, 5 M.R.S. chapter 375, subchapter 4. The applicant or notary public must be notified in writing of the action taken by the Secretary and of their right to a hearing.
- C. **Decision by Secretary of State.** After hearing, the Secretary shall issue a written decision which may be appealed to Superior Court pursuant to 5 M.R.S. chapter 375, subchapter 7.

SECTION 5: ELECTRONIC NOTARIZATION

1. **Provider application for approval of technology for electronic notarization**

A provider of technology to be used for electronic notarization may request approval from the Secretary of State by submitting an application that contains the following information:

- A. A certification that the provider's technology is designed to ensure that notarial acts performed by notarial officers with respect to electronic records using electronic signatures will comply with the requirements of 4 M.R.S. chapter 39 and this rule;

- B. A certification that the provider is currently registered to do business in Maine and is in good standing with the Secretary of State;
- C. A list of all jurisdictions in which the provider's technology has been approved for the performance of electronic notarization, and the month and year in which the provider received the most recent approval from each jurisdiction;
- D. Disclosure of any complaints, official warnings, or disciplinary actions taken against the provider in any jurisdiction;
- E. Any pending, threatened or adjudicated legal actions against the provider relating in any way to the performance of electronic notarial acts using the provider's technology in any jurisdiction;
- F. The name and contact information of a representative of the applicant with knowledge of the provider's technology and with authority to make binding representations; and
- G. Any other information sufficient to demonstrate that the provider's technology meets or exceeds the standards set forth in subsection 2 below.
- H. The provider must submit the application fee to the Secretary of State, made payable to Treasurer, State of Maine, prescribed by 5 M.R.S. § 86.

2. Criteria and standards for technology used for electronic notarization

To obtain approval, a technology provider must demonstrate that the technology to be used for electronic notarization in this State:

- A. Restricts access to the provider's technology only to notarial officers whose written notice to the Secretary of State of their intent to perform electronic notarization has been accepted, in accordance with the requirements of this rule;
- B. Requires a password or other secure means of authentication to access the provider's technology;
- C. Requires a notarial officer to present a valid Maine notary commission or other evidence of the notarial officer's qualification to perform notarial acts prior to receiving an authorized digital or electronic stamp and signature;

- D. Includes a method to ensure that a notarial officer enrolled to use the technology has been trained and has the requisite knowledge to use it to perform notarial acts in compliance with 4 M.R.S. chapter 39 and this rule;
- E. Enables a notarial officer to retain their authorized digital or electronic signature under the notarial officer's sole control and to affix their electronic signature in a manner that attributes the signature to the notarial officer, is capable of independent verification, and is tamper-evident;
- F. Enables a notarial officer to attach or logically associate a certificate of notarial act to the electronic record in a tamper-evident manner; and
- G. Uses tamper-evident technology sufficient to ensure that the electronic signature on an electronic record is authentic.

3. **Approval process**

Upon review of an application from a technology provider, the Secretary of State may:

- A. Return the application as incomplete with a written notice of the deficiencies;
- B. Require the applicant to supplement the application with additional explanations, information or evidence of its ability to ensure compliance with state law;
- C. Deny the application; or
- D. Approve the application with or without conditions.

If the Secretary determines upon review of a completed application that the provider has met the standards set forth in this rule and in 4 M.R.S. chapter 39, the Secretary shall notify the provider of its approval and add the name of the provider to the list of providers of technology approved for electronic notarizations. The Secretary of State's approval is valid for one year from the date of issuance and may be renewed in accordance with section 5, subsection 4, paragraph D of this rule.

4. **Ongoing obligations of providers of technology for electronic notarization**

- A. **Notice regarding users of the technology.** The provider must notify the Secretary of State within 5 business days when any notary public commissioned by the Secretary of State or other notarial officer in Maine

has been accepted or approved to use the provider's technology to perform electronic notarizations in the State.

- B. **Suspension or termination.** The provider must suspend or terminate access to its electronic notarization technology for any notary public whose commission has been suspended or revoked by the Secretary of State or whose commission has expired, within 5 business days of being notified by the Secretary of State or the notary public of such action.
 - C. **Binding representations; notification of material changes.** All representations, promises and assurances of performance made by a provider or its authorized representative to the Secretary of State are binding on the provider. If facts or circumstances change such that any material statement, representation or explanation made by the provider in its application for approval is no longer accurate or complete, the provider must inform the Secretary of State of the change, explain the reasons for the change and provide evidence sufficient to demonstrate that the technology for use in electronic notarization remains in compliance with the standards set forth in this rule. If, upon review of the new information, the Secretary determines that the technology no longer meets the standards set forth in this rule, the Secretary may suspend or terminate approval in accordance with section 5, subsection 5 of this rule.
 - D. **Annual renewal.** The technology provider must file a renewal application on or before the expiration of the Secretary's initial approval and each year thereafter on a form prescribed by the Secretary of State. The application must be accompanied by payment of the application fee prescribed by 5 M.R.S. § 86.
 - E. **Notice of security breach.** If a provider of technology for electronic notarizations becomes aware of a possible security breach involving its data, the provider must give written notice to the Secretary of State and to each notarial officer using the provider's services for electronic notarizations. Such notice must be provided as expediently as possible and no later than 15 business days after the date on which the provider has determined that the security breach occurred. The notice must include the steps the provider has taken or will take to mitigate the breach as well as a general description of the data that was or is reasonably believed to have been compromised.
5. **Denial, non-renewal, suspension, termination or revocation of approval for a technology provider; complaints**
- A. **Complaints.** A notarial officer or other person using or relying upon an electronic notarization technology may file a complaint with the Secretary of State if they believe the technology provided does not comply with the

standards set forth in 4 M.R.S. chapter 39 or this rule. The complaint must include the complainant's contact information and a detailed statement describing the basis for the complaint and attaching any relevant records.

- B. **Investigation.** The Secretary of State may, on its own initiative or in response to a complaint, make such investigation as it determines to be reasonable and necessary to determine whether a technology provider has violated, is violating or is about to violate any provision of 4 M.R.S. chapter 39 or this rule. The Secretary of State may require the filing of statements by the provider or others with knowledge of the allegations and require production of records that the Secretary of State deems relevant to the investigation.
- C. **Grounds for denial, non-renewal, suspension, termination or revocation of approval.** The Secretary may deny, refuse to renew, suspend, terminate or revoke approval of a provider of technology used for electronic notarization in the State if the Secretary of State determines that the technology provider:
- (1) has violated 4 M.R.S. chapter 39 or this rule;
 - (2) has made a false or misleading statement or omission of material fact to the Secretary of State;
 - (3) has failed to carry out its obligations in accordance with section 5, subsection 4 of this rule;
 - (4) has been subject to administrative or judicial action involving a violation of laws pertaining to electronic notarization in any other jurisdiction;
 - (5) is no longer authorized to do business in the State or is not in good standing with the Secretary of State; or
 - (6) is no longer able to meet its obligations and ensure compliance with 4 M.R.S. chapter 39 or this rule;
 - (7) Has failed to cooperate with any investigation pursuant section 5, subsection 5, paragraph B of this rule.

D. **Procedure**

Prior to taking any action described in section 5, subsection 5, paragraph C of this rule, the Secretary of State must provide written notice of the proposed action to the provider and offer the provider an opportunity to respond in writing within 30 business days. The Secretary of State shall review the information submitted by the provider and issue a final

decision, which shall be appealable to Superior Court pursuant to 5 M.R.S. chapter 375, subchapter 7.

Upon the Secretary of State's denial, non-renewal, suspension, termination or revocation of the technology provider's approval, the provider shall not deny any notarial officer registered with the provider access to the notarial officer's electronic signature, official seal and records stored by the technology provider on behalf of the notarial officer.

6. **Notice by Notarial Officer of intent to perform electronic notarization**

A. **Contents of notice.** Before performing a notarial act with respect to an electronic document or using an electronic signature for the first time, a notarial officer must notify the Secretary of State by providing the following information in a format prescribed by the Secretary of State:

- (1) The name(s) of the provider(s) of technology approved by the Secretary of State that the notarial officer intends to use in attaching or logically associating an electronic notarial signature, stamp and certificate to an electronic record;
- (2) Certification from each provider of technology the notarial officer intends to use, confirming that the notarial officer has received training in the use of that technology for electronic notarization and has been approved as a user of that technology;
- (3) A certification by the notarial officer that the officer has read and understands the requirements of 4 M.R.S. chapter 39 and this rule regarding electronic notarization; and
- (4) An example of the notarial officer's electronic signature and official electronic stamp.

If the notice is deemed insufficient by the Secretary of State, the notarial officer shall be notified of the deficiencies and shall have the opportunity to resubmit it. The notice is not valid until it is accepted as complete by the Secretary of State.

B. **Authority to perform electronic notarization.** In addition to submitting the notice described in section 5, subsection 6, paragraph A of this rule and accepted by the Secretary of State, a notary public who wishes to perform electronic notarizations must have a valid notary public commission, and an attorney-at-law must be duly admitted and eligible to practice law in the courts of this State.

- C. **Amending the notice.** After submitting written notice under section 5, subsection 6 of this rule to the Secretary of State, a notarial officer must amend the notice to include any change in the technology providers including but not limited to identifying any new or additional technology providers. Such amended notice must be submitted to the Secretary of State within ten 10 business days of making the change.
- D. **Termination of authority.** A notarial officer's authority to perform electronic notarizations automatically expires upon the occurrence of any of the following:
 - (1) The notarial officer is a notary public and the notary public's commission expires, is revoked, suspended or terminated by the Secretary of State;
 - (2) The notarial officer is a notary public and the notary public resigns their commission;
 - (3) The notarial officer is a notary public and the notary public no longer has a place of employment, a business or residence in this State;
 - (4) The notarial officer is an attorney, upon suspension or termination of that attorney's authority to practice law in this State; or
 - (5) The Secretary of State has revoked or terminated approval of the technology provider whose technology the notarial officer is using to perform electronic notarization unless the notarial officer is approved to use another technology provider.

7. **Requirements for performing electronic notarization**

- A. **Procedure.** When performing a notarial act with respect to electronic records, or affixing an electronic signature, the notarial officer must:
 - (1) Require the principal to appear in person before the notarial officer at the time of the electronic notarization if the principal is making a statement or executing a signature on a record, pursuant to 4 M.R.S. § 1906;
 - (2) Identify the principal who is physically present in accordance with 4 M.R.S. § 1907;
 - (3) Verify that the principal has adopted an electronic signature that complies with 10 M.R.S. chapter 1051, if the record is to be signed electronically;

- (4) Complete an electronic notarial certificate and attach it to or logically associate it with the notarial officer's electronic signature and official stamp in a tamper-evident manner and
- (5) Use an electronic signature in combination with the electronic notary stamp only for the purpose of performing electronic notarizations.

B. **Journal required.** A notarial officer must maintain a journal in which all electronic notarizations are recorded. Entries in the journal must be made contemporaneously with the notarial act and must comply with all the requirements set forth in 4 M.R.S. § 1920 (2) and (3).

SECTION 6. REMOTE NOTARIZATION

1. **Provider application for approval of communication technology and identity proofing to be used in remote notarization**

A provider of communication technology to be used for remote notarization may request approval from the Secretary of State by submitting an application on a form provided by the Secretary of State that contains the following information:

- A. A certification that the provider's communication technology is designed to ensure that remote notarizations using the provider's technology will comply with the requirements of 4 M.R.S. chapter 39 and this rule;
- B. A certification that the provider is currently registered to do business in Maine and is in good standing with the Secretary of State;
- C. A list of all jurisdictions in which the provider's communication technology has been approved for the performance of notarial acts remotely, and the month and year in which the provider received its most recent approval;
- D. Disclosure of any complaints, official warnings, or disciplinary actions taken against the provider in any jurisdiction;
- E. Any pending, threatened or adjudicated legal actions against the provider relating in any way to the performance of notarial acts using the provider's communication technology in any jurisdiction;
- F. The name and contact information of a representative of the applicant with knowledge of the provider's communication technology and with authority to make binding representations; and

- G. Any other information sufficient to demonstrate that the provider's communication technology and identity proofing methods meet or exceed the criteria and standards set forth in section 6, subsection 2 of this rule.
- H. The provider must submit the application fee to the Secretary of State, made payable to Treasurer, State of Maine, prescribed by 5 M.R.S. § 86.

2. **Criteria and standards for communication technology and identity proofing used for remote notarization**

To obtain approval, a provider must demonstrate that the communication technology to be used for remote notarization in this state:

- A. Restricts access to notarial officers whose written notice to the Secretary of State of intent to perform remote notarization has been accepted, in accordance with the requirements of this rule;
- B. Requires a password or other secure means of authentication to access the provider's technology;
- C. Requires a notarial officer to present a valid Maine notary public commission or other evidence of the notarial officer's qualification to perform notarial acts in order to access or utilize the communication technology to perform remote notarizations;
- D. Includes a method to ensure that a notarial officer enrolled to use the technology has the requisite knowledge to use it to perform notarial acts in compliance with 4 M.R.S. chapter 39 and this rule;
- E. Enables a notarial officer to verify the identity of the principal and any required witness in compliance with 4 M.R.S. chapter 39 and this rule;
- F. For remote notarization of electronic records, enables a notarial officer to affix their electronic signature to an electronic notarial certificate in a manner that attributes the signature to the notarial officer and is tamper-evident;
- G. For remote notarization of electronic records, enables a notarial officer to attach or logically associate a certificate of notarial act to the electronic record in a tamper-evident manner;
- H. Provides continuous, synchronous audio-visual feeds that allow the remotely located individual and the notarial officer to see and speak to one another simultaneously through live, real time transmission;
- I. Captures images with sufficient resolution to enable analysis of the remote individual's credentials;

- J. Includes at least two (2) of the following methods of identity proofing:
 - (1) A credential that is validated by a government or third party;
 - (2) A biometric identifier, including a retina or iris scan, fingerprint, voiceprint, scan of hand or face geometry, or any other physiological, biological or behavioral characteristic used to identify an individual;
 - (3) A public key certificate; or
 - (4) An identity assessment based on a set of questions formulated from public or private data sources for which the principal has not provided a prior answer;
- K. For remote notarization of electronic records, provides a secure method of document upload and transfer;
- L. Records the audio-visual communication in real time and associates that recording with the notarial officer's electronic record;
- M. Provides reasonable security measures to prevent unauthorized access to:
 - (1) The live communication between the notarial officer and the remotely located individual;
 - (2) The recording of the audio-visual communication;
 - (3) The verification methods and credentials used to verify the identity of the remotely located individual; and
 - (4) Electronic records presented for remote notarization, if applicable;
- N. Is capable of securely creating, storing, accessing and reproducing a copy of an electronic recording of the remote notarial act. and
- O. For remote notarization of electronic records, provides an electronic verification or audit trail of the electronically notarized document that is accessible to all parties involved in a notarial act that is performed remotely.

3. Approval process for communication technology providers

The process for review and approval of applications by communication technology providers is the same as described in section 5, subsection 3 of this rule for providers of electronic notarization technology.

4. Ongoing obligations of communication technology providers

Providers of communication technology for remote notarization have the same ongoing obligations as those specified in section 5, subsection 4 of this rule for providers of technology for electronic notarization.

5. **Denial, non-renewal, suspension, termination or revocation of approval for a communication technology provider**

The filing of complaints, handling of investigations, and the grounds upon which the Secretary of State may deny, refuse to renew, suspend, terminate, or revoke approval of a provider of communication technology for remote notarization in the State are the same as described in section 5, subsection 5 of this rule for providers of technology for electronic notarization.

After the Secretary of State's denial, non-renewal, suspension, termination or revocation of a technology provider's approval, the provider shall not deny any notarial officer registered with the provider access to the notarial officer's electronic signature, official seal and records stored by the technology provider on behalf of the notarial officer.

6. **Service of process fee**

By making its communication technology or identity proofing available for use in remote notarization in this State, and by providing storage for audio-visual recordings of remote notarizations, a technology provider appoints the Secretary of State as the provider's agent for service of process in any civil action in this State related to a remote notarization pursuant to 4 M.R.S. § 1915(15). The fee for the Secretary of State to accept service of process shall be twenty dollars (\$20).

7. **Notice by Notarial Officer of intent to perform remote notarization**

A. **Contents of notice.** Before performing a remote notarization for the first time, a notarial officer must submit written notice to the Secretary of State in a format prescribed by the Secretary of State and must include the following information:

- (1) The name of the provider(s) of communication technology approved by the Secretary of State that the notarial officer intends to use for remote notarization;
- (2) Certification from the communication technology provider the notarial officer intends to use, confirming that the notarial officer has received training on the use of that technology for remote notarization and has been approved as a user of that technology; and
- (3) A declaration by the notarial officer that the officer has read and understands the requirements of 4 M.R.S. chapter 39 and this rule regarding remote notarization.

If the notice is deemed incomplete by the Secretary of State, the notarial officer shall be notified of the deficiencies and have the opportunity to resubmit it. The notice is not valid until it is accepted by the Secretary of State.

- B. **Authority to perform remote notarization.** In addition to submitting written notice to the Secretary of State in accordance with section 6, subsection 8, paragraph A of this rule and accepted by the Secretary of State, a notary public applying to perform remote notarizations must have a valid notary public commission, and an attorney-at-law must be duly admitted and eligible to practice law in the courts of this state.
- C. **Amending the notice.** After submitting written notice under section 6, subsection 8, paragraph A to the Secretary of State, a notarial officer must amend the notice to include any change in communication technology providers, including but not limited to identifying any new or additional technology providers. Such amended notice must be submitted to the Secretary of State within 10 business days of making the change.
- D. **Termination of authority.** The notarial officer's authority to perform remote notarizations automatically expires upon the occurrence of any of the following:
 - (1) The notarial officer is a notary public and the notary public's commission expires, is revoked, suspended or terminated by the Secretary of State;
 - (2) The notarial officer is a notary public and the notary public resigns their commission;
 - (3) The notarial officer is a notary public and the notary public is no longer a Maine resident and no longer has a place of employment or a business in this State;
 - (4) The notarial officer is no longer authorized to perform notarial acts pursuant to 4 M.R.S. § 1910; or
 - (5) The Secretary of State revokes or terminates approval of the technology provider whose technology the notarial officer is using to perform remote notarization unless the notarial officer is approved to use another technology provider.
- E. **Exemptions.** The requirements for remote notarization in this rule do not apply to a judge, justice, clerk or deputy clerk of any court in Maine who is performing a notarial act for a remotely located individual in the course of performing exclusively judicial functions pursuant to statute, or rules or administrative orders adopted by the Maine Supreme Judicial Court. The

requirements for remote notarization in this rule also do not apply to a court reporter in Maine administering the oath to a witness in a deposition conducted pursuant to the rules of procedure adopted by the Maine Supreme Judicial Court or the federal courts.

8. Requirements for performing remote notarization

A. General procedure. When performing a remote notarization, the notarial officer must:

- (1) Use a device with a camera and microphone and ensure that the remotely located individual is also using a device with a camera and microphone so that real-time audiovisual communication is occurring;
- (2) Use only a communication technology provider and identity proofing method approved by the Secretary of State and identified in the notice provided by the notarial officer to the Secretary of State;
- (3) Proceed with the remote notarization only if the notarial officer determines that they have a reliable internet connection with the remotely located individual to enable the notarial officer to perform the remote notarization in compliance with 4 M.R.S. Chapter 39 and these rules;
- (4) Recite information sufficient to identify the notarial officer, the officer's authority to act, the type of notarial act to be performed, the name of the remotely located individual for whom the notarial act is being performed, and the date, time, and location of the notarial act at the commencement of the notarial proceeding;
- (5) Reasonably identify the remotely located individual by one or more of the following methods:
 - (a) The notarial officer's personal knowledge of the remotely located individual through dealings sufficient to provide reasonable certainty that the individual is the person they claim to be;
 - (b) Satisfactory evidence of the remotely located individual's identity provided by using at least 2 different types of identity proofing as described in this rule; and

- (c) By verification on oath or affirmation of a credible witness appearing before the notarial officer who is known to the officer or whom the officer can identify using at least 2 different types of identity proofing as described in this rule;
- (6) Cease the remote notarization procedure and restart it from the beginning if:
 - (a) the remotely located individual, any required witness or the notarial officer exits or disconnects from the communication technology before completion of the notarial act;
 - (b) the audio or visual feed is interrupted or terminated for any reason; or
 - (c) the notarial officer believes the process has been compromised and cannot be completed in accordance with applicable legal requirements;
- (7) Create an audiovisual recording of the remote notarization, including in the recording the statements required in section 6, subsection 9, paragraph A, subparagraph 4 of this rule, a statement by the notarial officer explaining the methods by which the officer has identified the remotely located individual for whom the notarial act is being performed pursuant to section 6, subsection 9, paragraph A, subparagraph 5 of this rule, and, with respect to a tangible record not physically present before the notarial officer, record the individual signing the record and the written declaration required pursuant to 4 M.R.S. § 1915(5);

B. **Acknowledgment of a tangible record.** When a notarial act involves taking an acknowledgment of a remotely located individual's signature on a tangible record, the notarial officer must adhere to the following procedures:

- (1) If the tangible record is physically present before the notarial officer, the officer must display the record to the remotely located individual and have the individual identify the record during the audiovisual recording;
- (2) If the tangible record is not physically present before the notarial officer, the remotely located individual must make the declaration described in 4 M.R.S. § 1915(5); and

- (3) If the remotely located individual is located outside the territorial boundaries of the United States, the record may be acknowledged only if it meets the requirements of 4 M.R.S. §1915(3)(D).

Any tangible record signed and notarized remotely must include a statement that the notarial act was performed remotely using communication technology approved by the Secretary of State.

- C. **Administration of an oath.** The notarial officer may administer an oath or affirmation to a remotely located individual in accordance with 4 M.R.S. § 1915(8).
- D. **Retention of recording.** The audiovisual recording of the remote notarization required under section 6 of this rule must be retained for a period of at least 10 years.
- E. **Notarial certificate for electronic record.** If a remote notarization involves an electronic record, a notarial certificate must be attached to or logically associated with that electronic record in a tamper-evident manner in accordance with 4 M.R.S. § 1916(6).
- F. **Journal required.** The notarial officer must record each remote notarization in the notarial officer's journal, which must be retained under the notarial officer's sole control. A journal in an electronic format must be tamper-evident, backed up in a secure manner, and only accessible through the use of passwords or other secure means of authentication under the control of the notarial officer.

SECTION 7: REQUIREMENTS FOR OFFICIAL NOTARY PUBLIC STAMP

When a notary stamp is to be used by a notary public commissioned by the Secretary of State, the stamp must be a rectangular or circular stamp and contain the notary public's name as it appears on their commission, the words "Notary Public" and "State of Maine" or "Maine" and the commission expiration date. The stamp must be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated, pursuant to 4 M.R.S. § 1918(2).

SECTION 8: CERTIFIED COPIES

A notarial officer 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 document that states on its face that it is illegal to make copies of the document.

SECTION 9: PROTESTS OF NEGOTIABLE INSTRUMENTS

A notarial officer shall 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.

STATUTORY AUTHORITY:

Title 4 Section 1928; Title 4 Section 1915(13) (Revised Uniform Law on Notarial Acts)

EFFECTIVE DATE:

July 5, 2023 – filing 2023-101 (*Emergency*)

October 2, 2023 – filing 2023-184

NONSUBSTANTIVE CORRECTION:

December 12, 2024



State of Maine
Office of the Secretary of State

**Application for a
Notary Public Commission**

OFFICE USE ONLY

Notary Public #:

Commission issued:

Please read these instructions carefully before completing this application. The applicant must complete this entire application, and all questions must be answered completely.

☐ **Maine Resident Applicant**

☐ **Nonresident Applicant**

Legal Name of applicant (first, middle, last, suffix) _____
(Type or print legal name)

Address of applicant:

Home Address

(Physical location - street, city/town, state, and zip code):

Mailing Address (if different)

Date of Birth: _____

Contact Information:

E-mail address: _____

Contact Telephone: (____) - _____

Work Telephone: (____) - _____

Other language fluency: _____

If you have ever been or are currently a notary public in another state or jurisdiction, has your commission ever been revoked or suspended?

- ☐ No
- ☐ Yes – please name the state or jurisdiction and give the date and reason for revocation or suspension. Please use additional sheets, if needed.

Have you ever been convicted of a crime punishable by one year or more of imprisonment in this state or elsewhere?

- ☐ No
- ☐ Yes – please provide details, including state or jurisdiction, date of conviction, name of court, docket/case number, and the crime(s) for which you were convicted. Please use additional sheets, if needed.

Have you ever been convicted of a crime involving fraud, dishonesty or deceit in this state or elsewhere?

- ☐ No
 - ☐ Yes – please provide details, including state or jurisdiction, date of conviction, name of court, docket/case number, and the crime(s) for which you were convicted. Please use additional sheets, if needed.
-

Have you ever been involved in any legal proceedings or disciplinary actions in this state or elsewhere based on alleged fraud, dishonesty or deceit that resulted in findings against you or your admission of liability?

- ☐ No
 - ☐ Yes – please provide details, including state or jurisdiction, court or other body before which the proceedings occurred, nature of the proceedings, and nature and date of findings or admission. Please use additional sheets, if needed.
-

Notary Public Examination

1. To qualify for appointment as a notary public in Maine, the applicant must:
 - ☐ Be at least 18 years of age.
 - ☐ Be a resident of Maine or a resident of another state with a business or place of employment in the State of Maine.
 - ☐ Be able to pass an examination administered by the Secretary of State.
 - ☐ All of the above
2. When is it acceptable to perform a notarial act without identification of the signer? (check all that apply)
 - ☐ When the signer says they forgot their identification.
 - ☐ When the signer is personally known to the notary public.
 - ☐ When your employer asks you to.
 - ☐ None of the above
3. What is required when certifying a copy of a record or document? (check all that apply)
 - ☐ The signature of the person who is listed on the document or record.
 - ☐ A written statement from the person listed on the document or record that it is a true copy.
 - ☐ A written statement by the notary public that the copy is full, true and accurate.
4. A notary public may perform a marriage for a family member.
 - ☐ True
 - ☐ False
5. Before a notary public can perform any remote or electronic notarization: (check all that apply)
 - ☐ The notary must select a technology provider that has been approved by the Secretary of State.
 - ☐ The notary must complete and submit the written notification form to the Secretary of State.
 - ☐ The notary is not required to do anything if they use 2-way audio-visual communication technology and keep a video recording of the transaction.
 - ☐ The notary must receive acceptance by the Secretary of State to perform remote or electronic notarizations.
6. A certificate of notarial act is required for all notarial acts.
 - ☐ True
 - ☐ False

7. A person requesting a notarization must personally appear before the notary public for all notarial transactions.
- ☐ True
☐ False
8. A journal is required:
- ☐ For all notarial transactions.
☐ For no notarial transactions.
☐ For all electronic or remote notarizations.
9. If you are presented with a document in a language that you do not understand, you are able to notarize the document as long as the notarial certificate is in a language that you can read and understand.
- ☐ True
☐ False
10. How many days does a notary public have to notify the Secretary of State of any changes to their name or contact information?
- ☐ 14 days
☐ 30 days
☐ 45 days
☐ 60 days
11. It is considered a conflict of interest to perform a notarial act for a spouse, domestic partner, parent, sibling or child or an in-law or a step or half relative.
- ☐ True
☐ False
12. What is acceptable evidence of identity for the person appearing before a notary public? (check all that apply)
- ☐ Passport
☐ A credible witness if the signer has no identification
☐ Military ID
☐ Birth certificate
13. How many days from the date of appointment does a notary public have to appear before a Dedimus Justice?
- ☐ 14 days
☐ 30 days
☐ 45 days
☐ 60 days
14. What steps must a notary public take when there is no notarial certificate on a tangible record?
- ☐ Ask the signer what notarial act they want you to perform and affix that certificate.
☐ Refuse to perform the notarization as the notarial certificate is not on the record.
☐ Decide what notarial certificate to affix.
☐ None of the above.
15. An official stamp (with seal) is required:
- ☐ For all notarial transactions.
☐ For all tangible (paper) transactions.
☐ For all electronic or remote notarizations.
☐ None of the above

DEFINITIONS (*Match the words with the correct definition by entering the letter assigned to the word in the appropriate blank field below*):

- | | | | |
|-------------------------------|------------------------|----------------------------|---------------------|
| A. direct beneficial interest | B. remote notarization | C. electronic notarization | D. jurat |
| E. certified or attested copy | F. acknowledgement | G. credible witness | H. notarial officer |

- | | |
|---------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| _____ A copy that is a full, true and accurate transcription or reproduction of a record or item. | _____ 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. |
| _____ A notary public or other individual authorized to perform a notarial act. | _____ A notarial act performed with a remotely located individual using communication technology approved by the Secretary of State. |
| _____ A statement on an affidavit of when, where and before whom it was sworn or affirmed. | _____ A declaration by an individual before a notarial officer that the individual has signed a record with proper authority and as the act of the individual or entity identified in the record. |
| _____ A notarial act performed on an electronic record using an electronic signature. | _____ A fee other than the customary fee for performance of a notarial act, or any advantage right, title, interest, cash, property or other consideration received in connection with the record. |

Nonresident Eligibility (*this section must be completed if you are not a Maine resident*) – select one box and provide the information.

☐ **Applicant has a business in the State of Maine** (*to be completed by the applicant*)

Legal business name:

(business name)

Physical business address: _____

(street, city/town, state, and zip code)

Mailing business address: _____

(street, city/town, state, and zip code)

☐ **Applicant is employed in the State of Maine** (*to be completed by the employer of the applicant*)

I certify that the applicant who is named above is regularly employed by:

(business name)

with the location of _____

(physical address)

Signature of Employer: _____

Printed name and title: _____
(printed name and official title)

Marriage Officiant License – Maine Residents Only

Effective July 1, 2023, a notary public no longer has the authority to solemnize marriages as a notary public in Maine. However, all Maine notaries public who are Maine residents are eligible to receive a separate marriage officiant license at no additional cost, unless you wish to opt out or decline to be licensed as marriage officiant. You must have a license as a marriage officiant to solemnize marriages after July 1, 2023. Once a marriage officiant license has been issued, the licensee's name, city or town of residence, contact telephone number and email address will be posted on the Secretary of State's publicly accessible web site for the public to search for marriage officiants in Maine. If you wish to opt out of being issued a marriage officiant license, please mark the "opt out" checkbox below. If you do not mark the "opt out" checkbox, you will automatically be issued a marriage officiant license if you are issued a notary public commission. If you opt out of being issued a marriage officiant license, you will not be able to opt back in. Instead, if you later decide you want to be authorized to solemnize marriages, you will be required to submit a separate marriage officiant license application and pay the \$25 application fee.

☐ Do not issue a marriage officiant license to me (opt out)

Approval Required for Electronic and/or Remote Online Notarization

Before you can perform any electronic or remote online notarization, you must submit a completed electronic or remote online notification form to the Secretary of State's office. You must receive approval by the Secretary of State before performing your first electronic or remote online notarization. The electronic and/or remote online notification form is available on our website at www.maine.gov/sos/cec/notary/notaries.html.

Signature of Applicant

I declare that the information contained in this application is true and correct; that the answers to the questions are complete to the best of my knowledge; that I understand that a fraudulent, dishonest, or deceitful statement or omission on this application could result in denial of my application or revocation or suspension of any notary public commission I receive; that I have read the notary public laws set forth in 4 M.R.S. Chapter 39 and the Secretary of State's Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization, Chapter 700 and that I am:

- ☐ A Maine resident at least 18 years of age, or
☐ A nonresident of Maine at least 18 years of age, with a business or place of employment located in Maine.

Signature of Applicant _____ Date: _____

Printed Name of Applicant _____

Please remit the **\$50 application** fee made payable to the Treasurer, State of Maine and submit this application to:

Secretary of State
Division of Corporations, UCC and Commissions
101 State House Station, Augusta, ME 04333-0101
Telephone Inquiries: (207) 624-7752
Email Inquiries: CEC.Notaries@Maine.gov



State of Maine
Office of the Secretary of State

OFFICE USE ONLY

**Application for Provider of Technology for
Electronic or Remote Notarization**

The applicant must complete this entire application and all questions must be answered completely.

Please select the type of application: ☐ Initial Application ☐ Annual Renewal

Please select the type of notarization for which you are seeking approval: (select one or both)

☐ Electronic Notarization Approval ☐ Remote Notarization Approval

Legal Name of Applicant: _____
(Type or print name)

Name of the current version of your electronic or remote notarization solution:

Address of applicant:	Name of Authorized Representative for the Applicant:
Physical location (street, city/town, state, and zip code):	_____
_____	(Type or print name)
_____	Contact E-mail address:
Mailing Address (if different)	_____
_____	Public Contact Telephone: (____) - _____
_____	Website URL for the applicant:

1. List all jurisdictions in which the applicant's technology has been approved for use and the month and year that the applicant received the most recent approval in each jurisdiction:

2. If the applicant has received any complaints, official warnings, or has been the subject of any disciplinary actions taken by any jurisdiction, please provide detailed information related to each complaint, warning or action:

3. If there are any pending, threatened or adjudicated legal actions against the applicant relating in any way to the performance of electronic or remote notarial acts using the provider's technology in any jurisdiction, please provide detailed information related to each action:

4. The applicant certifies that the applicant's technology is designed to ensure that notarial acts performed by notarial officers comply with each of the following requirements of 4 M.R.S. chapter 39 and the *Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization*. **Check each requirement that applies and use the space below each requirement to describe how the applicant's technology complies with the requirement.**

☐ Restricts access to the provider's technology only to notarial officers whose written notice to the Secretary of State of their intent to perform electronic notarization has been accepted. **Compliance description:**

☐ Requires a password or other secure means of authentication to access the provider's technology. **Compliance description:**

☐ Requires a notarial officer to present a valid Maine notary commission or other evidence of the notarial officer's qualification to perform notarial acts prior to receiving an authorized digital or electronic stamp and signature.

Compliance description:

☐ Includes a method to ensure that a notarial officer enrolled to use the technology has been trained and has the requisite knowledge to use it to perform notarial acts in compliance with 4 M.R.S. chapter 39 and this rule.

Compliance description:

☐ Enables a notarial officer to retain their authorized digital or electronic signature under the notarial officer's sole control and to affix their electronic signature in a manner that attributes the signature to the notarial officer, is capable of independent verification, and is tamper-evident. **Compliance description:**

☐ Uses tamper-evident technology sufficient to ensure that the electronic signature on an electronic record is authentic. **Compliance description:**

☐ Enables a notarial officer to attach or logically associate a certificate of notarial act to the electronic record in a tamper-evident manner. **Compliance description:**

I certify that the information contained in this application is true and correct. I understand that a false or misleading statement or omission of material fact on this application its grounds for denial of this application or non-renewal, suspension, termination, or revocation of any approval.

I further certify that:

- ☐ I have read the notary public laws set forth in 4 M.R.S. Chapter 39 and the Secretary of State's Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization, Chapter 700.
- ☐ The applicant is currently registered to do business in the State of Maine and is in good standing with the Secretary of State.
- ☐ The applicant will, within 5 business days, provide notice to the Secretary of State of any notarial officer that has been accepted or approved to use the applicant's solution.
- ☐ The applicant will suspend or terminate access to its technology for any notary public whose commission has been suspended or revoked by the Maine Secretary of State or whose commission has expired within 5 business days of being notified of the action.
- ☐ The applicant will inform the Secretary of State of any facts or circumstances that have changed such that any material statement, representation, or explanation made in this application for approval is no longer accurate or complete.
- ☐ The applicant will file any renewal application on or before the expiration of the Secretary of State's most recent approval.
- ☐ The applicant will give written notice to the Secretary of State of a possible security breach no later than 15 days after the date on which the provider determined that the security breach occurred.
- ☐ The signer of this application has the knowledge of the provider's technology and has the authority to bind the applicant.

Signature of Authorized Representative for the Applicant:

(Signature)

Date: _____

(Printed Name)

Application Fee: \$250.00

Please remit your payment made payable to the Treasurer, State of Maine and submit this application to:

Secretary of State
Division of Corporations, UCC and Commissions
101 State House Station
Augusta, ME 04333-0101
Telephone Inquiries: (207) 624-7752
Email Inquiries: CEC.Notaries@Maine.gov



State of Maine
Office of the Secretary of State

OFFICE USE ONLY

**Notarial Officer's Notice to Perform
Electronic and/or Remote Online Notarizations**

On July 1, 2023, the Revised Uniform Law on Notarial Acts ("RULONA"), Public Law 2021, chapter 651, took effect, allowing a notarial officer who receives approval by the Secretary of State to perform electronic and remote notarizations.

Before any notarial officer can perform an electronic or remote notarization, they must first submit a notice to the Secretary of State and have that notice accepted as complete in accordance with the requirements set forth in RULONA and in the Secretary of State's rules. Please complete this entire form and answer all the questions completely.

Please select the type of notarization you are seeking approval to perform: (select one or both)

☐ Electronic Notarization Approval

☐ Remote Notarization Approval

I am applying as a:

☐ Notary Public

☐ Other Notarial Officer

Commission expiration date: _____

Title of Notarial Officer: _____

Legal Name of Notarial Officer (first, middle, last, suffix) _____
(Type or print legal name)

Home Address:

(Physical location - street, city/town, state, and zip code):

Mailing Address (if different):

Contact Information:

Contact E-mail address:

Public Contact Telephone: (____) - _____

1. Name(s) of the technology provider(s) approved by the Secretary of State that you intend to use:

Please complete the following:

I hereby declare that the information contained in this notice is true and correct. I understand that an untrue or misleading statement or omission of a material fact in this notice could subject me to discipline, including the non-renewal, suspension, or revocation of any notary public commission I might hold.

I further certify that:

- ☐ I have read and understand the notary public laws set forth in 4 M.R.S. Chapter 39 and the Secretary of State's Rules Governing Notaries Public, Notarial Officers, Notarial Acts and the Procedures for Electronic and Remote Notarization, Chapter 700 regarding electronic and remote notarization.
- ☐ I have included with this notice the required certification from each technology provider that I intend to use, confirming that I have received the required training on the use of the technology and that I have been approved as a user of that technology.
- ☐ I have included with this notice an example of my electronic signature and official electronic stamp.
- ☐ I will not perform any electronic or remote online notarization until I have received approval by the Secretary of State.
- ☐ I will provide written notice to the Secretary of State of any change in technology providers and any changes to the information provided in this notice within 10 business days of making the change.

Signature of Notarial Officer:

(Signature)

Date: _____

(Printed Name)

Please submit this completed notice to:

Secretary of State
Division of Corporations, UCC and Commissions
101 State House Station
Augusta, ME 04333-0101
Telephone Inquiries: (207) 624-7752
Email Inquiries: CEC.Notaries@Maine.gov

Provided by Nancy Hammond

Source: Weaver Law Group, Fraudulent and Forged Deeds (2022 February 18)

<https://www.weaverlawyers.com/blog/2022/02/fraudulent-and-forged-deeds/>

Fraudulent and Forged Deeds

On Behalf of The Weaver Law Firm | Feb 18, 2022 | Real Estate |

How do you know if your deed is valid? Determining whether your deed is void or voidable is a must at the time of the conveyance of the property. A void deed would not convey any rights to ownership and would not have any legal implications or obligations. If a deed is voidable, it will remain enforceable until the party with the right to void the contract acts upon it.

The validity of the deeds is brought into question when deeds are revealed to be fraudulently obtained or forged. Not all fraudulent deeds are disregarded, as deed fraud does not result in an automatic nullification. Texas law states a clear distinction between forged deeds and fraudulent deeds. Forged deeds are declared as void, passes no title, and are treated as null. A fraudulent deed is voidable and will be passable until set aside or struck down by the Court.

How can you tell if it is deed fraud? Deed fraud occurs when the person signing the deed has attempted to lay a claim on a property based on forged signatures, undue influence, or flawed deeds. It will not be considered forgery when the person signs his own name.

Common examples of deed fraud include:

- A claim to sell or convey property that the grantor does not own.
- A claim to sell or convey property for which the grantor lacks sufficient authority to transfer (such as exceeding the authority under a power of attorney/appointment as personal representative of a deceased person)
- A claim to lease property that that belongs to another.
Forgery occurs when the person executes the document under the pretense of another person. Forgery is defined by the Texas Penal Code as:
To alter, make, complete, execute, or authenticate any writing so that it purports:
 - to be the act of another who did not authorize that act;
 - to have been executed at a time or place or in a numbered sequence other than was in fact the case; or
 - to be a copy of an original when no such original existed

Commission to Recommend Methods for Preventing Deed Fraud in the State

BACKGROUND RESOURCE

The conveyance of property is a complicated process. It is crucial to ensure that your deed is valid. If you believe that you are dealing with deed forgery or fraudulence, it may be in your best interest to get in touch with a board-certified real estate attorney. Our number is [713-572-4900](tel:713-572-4900).