



March 1, 2024

Committee on the Judiciary
Maine Legislature
State House, Room 438
Augusta, ME 04333

RE: LD 2240/SP 960 — SENT VIA ONLINE SUBMISSION

Committee Members,

On behalf of the National Notary Association, the largest professional association of Notaries Public in the United States, I submit the following written comments on LD 2240/SP 960 (Ingwersen), implementing protections against deed fraud.

We are very concerned that Section 9 of LD 2240/SP 960 seeks to alter the settled law concerning the interstate recognition of notarial acts for instruments affecting real property that are recorded with a register of deeds by requiring the notarial acts on these instruments to be performed by a Maine Notary Public or notarial officer.

Any notion that Notaries Public of other states are inferior to a Maine Notary Public and create a weak link that leads to the perpetration of deed fraud is unfounded, and the limitations this bill imposes will not accomplish the goal of mitigating deed fraud. While the qualifications and performance standards for notarial acts vary by state, there are numerous examples of jurisdictions with higher qualifications for Notaries and more rigorous standards for performing notarial acts than the state of Maine. Consider:

1. Over half the states and the District of Columbia require Notaries Public to post a surety bond that will protect the parties from deed fraud should that act be perpetrated by a complicit Notary.
2. Nearly half the states and the District of Columbia require Notaries to keep a journal or written record of every notarial act performed as a valuable public record of the performance of a traditional, paper-based notarial act which can help fight and expose deed fraud.
3. 18 states and the District of Columbia require Notaries (and in some cases, notarial officers) to take a course of instruction or continuing education, or both, on performing notarial acts as a qualification to receive or retain a Notary Public commission, which can inform prospective Notaries on the proper procedures for performing notarial duties and the penalties for violations.
4. Over a dozen states and the District of Columbia require or authorize a background screening to be performed on Notary Public commission applicants for evidence of conviction of a criminal offense that would disqualify them from holding a Notary Public commission.

Thus, it is entirely possible an out-of-state Notary Public who notarizes an instrument affecting real property situated in Maine will be better qualified and trained than a Maine Notary Public. Furthermore, a Notary Public of a sister state who notarizes an instrument affecting real property situated in Maine will more likely have a written, evidentiary record of the notarial act that could help investigate or expose deed fraud and a surety bond that will protect the parties from any fraud the Notary commits.

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To be sure, there are Maine Notaries who on their own seek training on how to perform notarial acts, undergo an industry-standard, third-party background screening, keep a journal of notarial acts for every notarial act they perform, and obtain a Notary errors and omissions insurance policy to protect their notarial acts from any negligent acts they perform, even though the policy excludes acts of fraud by the Notary. They are to be commended for this.

Any Maine property holder or grantee involved in the transfer of Maine real property should want the best, most well-qualified Notary Public to notarize the deed conveying property to which they are a party. Unfortunately, as currently written, we do not believe LD 2240/SP 960 will accomplish this.

Thank you for the opportunity to provide these comments to the Committee.

Respectfully,



Bill Anderson

Vice President, Government Affairs