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**Testimony in Opposition to LD 2240
("An Act to Implement Protections Against Deed Fraud")**

J. Andrew Cashman on behalf of the Maine Association of REALTORS®

March 4, 2024

Senator Carney, Representative Moonen and members of the Joint Standing Committee on Judiciary, my name is Andy Cashman. I am the Founder of Resolve Government Relations. We represent the Maine Association of REALTORS®, a professional trade association established in 1936 with over 6,500 members statewide. REALTORS® grow Maine's economy, build Maine communities, and advocate for the protection of private property rights. Our members represent buyers and sellers involved in both residential and commercial real estate transactions. Our membership also includes industry affiliates, such as lenders, closing agents, title agents, appraisers, building inspectors, surveyors, etc. The Maine Association is chartered by the National Association of REALTORS® (NAR), the largest trade association in the country.

The Maine Association of REALTORS® strongly opposes LD 2240. The bill would have significant negative consequences for Maine real estate transactions.

We recognize that fraudulent real estate transactions are a growing problem both on a state and national level and we support the consumer education aspects of the bill (Section 1 and Section 11) as important measures for preventing fraud. However, we have several serious concerns about other points in the bill:

- The surety bond requirement for designated brokers (Section 7) would be a costly and unreasonable business expense for Maine real estate agencies. Real estate brokers and agents are one of many different types of professionals involved in real estate transactions (for example, lenders, title companies, attorneys, municipal offices and tax assessors to name a few). **We believe that one of the best ways to help prevent fraudulent real estate transactions is through collaboration among all of the professionals involved in the transaction rather than unfairly placing the burden or liability on one professional over another.**
- The bill would require non-resident sellers who are selling property located in Maine to pay a \$500 refundable fee to the real estate broker or agent at the time an offer to purchase is accepted by the seller (Section 8). It is critical to note that escrow fees are never paid to agents or brokers individually but instead, it is the agency that is responsible for holding the escrow account pursuant to 32 MRS Section 13178. In addition, this fee is an unfair and arbitrary requirement for non-residents and would not necessarily prevent fraudulent



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transfers. For example, some of the fraudulent transactions or attempts have not been limited to non-resident sellers. We have heard of many instances where a fraudulent seller has attempted to list vacant property owned by Maine residents and in doing their due diligence, our members have been able to successfully contact the legitimate owners to alert them of the fraud attempt. Furthermore, this section would make the return of the escrow fee contingent on the broker or agent certifying that they have “performed due diligence in confirming the identity of the seller to ensure the seller is the true owner of the real estate.” This provision is very vague and would make compliance difficult. **It does not specify standards of due diligence for any industries involved in real estate transactions and it does not indicate how or to whom the real estate brokers and agents are supposed to certify this information.** There is also a significant liability concern about this certification because real estate brokers and agents are neither attorneys nor notaries.

- The bill would require that any instrument affecting title to real property and recorded with the register of deeds must be acknowledged before a Maine notary. This would be a significant restriction on Maine real estate transactions, particularly for commercial transactions. **Many real estate instruments are lawfully notarized in other states when the signor is not able to be physically present in Maine and we believe that there are proper safety measures that can be in place to continue this practice without sacrificing the validity of those transactions.**

Fraudulent real estate transactions are unquestionably a pressing problem and we would welcome the opportunity to help collectively work towards possible solutions. As an alternative to this bill, we think it would be more beneficial to consider a resolve to create a comprehensive workgroup involving stakeholders from various industries who are involved in real estate transactions in order to more thoroughly study the issue, create standards for due diligence, and make further recommendations.

For these reasons, we oppose LD 2240 and respectfully urge you to vote Ought Not To Pass. Thank you for your time and consideration.