



March 4, 2024

Senator Carney, Representative Moonen, and members of the Judiciary Committee;

On behalf of the Maine Real Estate and Development Association (MEREDA), I am writing in opposition to LD 2240, An Act to Implement Protections Against Deed Fraud. MEREDA opposes the proposed legislation because it would substantially undo the work that the Judiciary Committee recently completed on the Revised Uniform Law on Notarial Acts (RULONA) at Public Law. Maine Revised Statutes, Title 4, Chapter 39.

The proposed requirements in LD 2240 simply do not work in conjunction with the RULONA, and indeed propose to expressly prohibit its application. The proposed legislation would require that an instrument affecting title to real property and recorded with a registry of deeds must be “acknowledged” before a person authorized to perform notarial acts in this state, rather than an out-of-state notarial officer. This provision would effectively disallow the remote notarial methodologies approved in the RULONA.

Specifically, the proposal to require acknowledgement, under Section 9 of the bill, would require that any instrument “affecting title to real property and recorded with a register of deeds... must be acknowledged before a person authorized to perform notarial acts in this State as described in Title 4, section 1910.” LD 2240, pg. 2, line 39 et seq. This is an implied partial repeal of Title 4, Section 1911, which provides that 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 notary public of that state...”. 4 MRSA § 1911(1).

If the requirements of LD 2240 are enacted, it will not be possible to make use of the RULONA for purposes of real estate sales transactions. Given the global nature of our modern real estate market, the increase in in-migration to Maine, and the likelihood that the trend will continue, it is important for Maines and new Mainers to have access to remote notary services in the purchase and sale of real property.

The Uniform Law Commission and the 130th Legislature spent significant time and consideration in crafting Maine’s current RULONA. It is designed to protect consumers from fraud, increase compliance with registration of recorded documents, and provide flexibility for individuals who are not physically located in Maine but have transactional business here. MEREDA strongly encourages the Judiciary Committee not to enact anything that will gut these important provisions of RULONA.

MEREDA welcomes the opportunity to further discuss this with the committee and look forward to continued conversations about protecting mortgages from fraud while effectuating the important provisions of the RULONA. Thank you for your consideration of this important issue.

Sincerely,

Elizabeth M. Frazier

On behalf of the Maine Real Estate and Development Association (MEREDA)