

Notarize, Inc. (dba Proof.com)
867 Boylston Street, 5th Floor #1656,
Boston, MA 02116

Committee on Judiciary
c/o Legislative Information Office
State House, Room 438
100 State House Station
Augusta, ME 04333

March 4, 2024

RE: Written Testimony - L.D. 2244/S.P. 0960 - An Act to Implement Protections Against Deed Fraud

Dear Chair Anne Carney, Chair Matt Moonen, and members of the Committee on Judiciary,

Proof (formerly Notarize) welcomes the opportunity to submit written testimony in opposition to LD 2240 pending amendments to Section 9 and thanks the Committee and Senator Ingwersen for their attention to the important issue of deed fraud.

As we noted during the Committee hearing on March 4th, as proposed, Section 9 of LD 2240 would prohibit access to remote online notarization (RON) services across state lines in instances affecting real property instruments recorded with a register of deeds. Access to RON in these instances remains vital to the residents of Maine, and we strongly encourage the consideration of amendments to Section 9 in order to ensure that the interstate recognition of notarized documents is preserved and the people of Maine have continued access to a robust community of online notaries.

Proof is committed to combating deed fraud, and we recognize the serious harm it presents to the people of Maine. In furtherance of our mission to end fraud online, we rebranded Notarize to Proof in September and launched several new fraud prevention tools into the marketplace. Furthermore, we are aligned with the Legislature's overall efforts to stop deed fraud and seek to partner with Senator Ingwersen and the Committee in its ongoing work.

About Proof:

Proof.com (formerly Notarize) is the market leader for online notarization and identity verification. The company is the first service certified by the Kantara Initiative that connects an electronic signature to a NIST IAL2 verified identity, helping to restore trust online. Proof operates Notarize, the largest online notary network connecting

consumers and organizations to notary services 24/7.

Proof is an active partner and trusted resource to all levels of government and works to advance policies that prioritize consumer safety and the future of digital commerce.

Implications of Section 9 & Consideration of Amendments:

We caution against pursuing measures in haste that, by attempting to solve one problem, will present unintentional consequences in other areas. Namely, limiting the acceptance of validly performed notarizations across state lines and stifling the convenient access to notarization services that the people of Maine currently enjoy. Such access is an important resource to all residents, but in particular for those in Maine's rural communities with limited access to RON notaries commissioned in Maine or the ability to travel to a Maine notary in person.

With advancements in online notarization, accessing notarial services is now more global, allowing residents or those who will be in Maine at a later date to connect to a commissioned notary public where and when it is most convenient to them. Providing nearly instantaneous access to these services is improved when Mainers have the ability to connect with not only Maine's notaries more easily but to notaries providing their services online in other states.

The interstate recognition of notarized documents is a long-standing legal framework, both in Maine and nationally. Rooted in state statutes, common law, and the U.S. Constitution, interstate recognition affirms that a validly performed notarization will be accepted in any state regardless of which state's notary performed the notarization. Maine's interstate recognition statutes have been in place for hundreds of years, and the legal standing for this framework goes back over 200 years. Preserving the state's approach to interstate recognition will not only serve to provide stability to industries engaged in business across state lines, but it will also ensure that individuals can continue to travel freely between states, confident that legally executed notarizations are valid in Maine, regardless of the state in which or how it was executed.

Section 9 of LD 2240 is expected to cause confusion and constraints within Maine's real estate industry, which may result in validly executed documents being rejected. For example, real estate service providers may have preferred relationships with notaries who are not commissioned or based in Maine. As a result, limiting access to notaries outside of Maine may cause delays, or worse, an unwound real estate transaction where a validly notarized document is subsequently rejected due to the terms of this proposal, harming all parties involved.

While the need to address deed fraud is urgent, the issue remains incredibly complex. Multi-stakeholder efforts to limit deed fraud are underway nationwide that seek to strike the right balance among all involved parties, from county recorders to the real estate industry to notaries themselves. We believe that Section 9 of LD 2240 would benefit from amendments to strike a similar balance.

Summary of RON:

Remote notarization was designed to prevent fraud. Requiring, among other components, multiple steps of signer identity verification and the recording of the audio/video of the notary session. This A/V recording has proven to be a crucial piece of evidence in resolving deed fraud cases both by law enforcement at all levels of government and in judicial proceedings.

Additional components include:

- The use of two-way audio/video communication, allowing for real-time communication between the signer and the notary.
- Use of electronic documents, tamper-evident technologies, and an electronic notary journal, providing both consumers and the notary with a thorough record that far exceeds what is maintained in today's paper records.

Important Components of LD 2240:

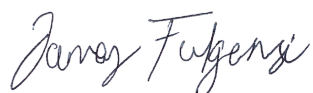
Components of LD 2240 are commendable and should be pursued. Establishing a public awareness campaign on the harms of deed fraud and instructions for signing up for an alert system, as well as focusing on the criminal aspect of recording a fraudulent instrument, are all tools that should be deployed to combat deed fraud. We have observed that property fraud alert systems have proven successful in other jurisdictions and would support establishing a similar program in Maine.

Conclusion:

Thank you for the opportunity to submit written testimony in opposition to LD 2240 and your attention to the important issue of deed fraud. We kindly request the opportunity to engage with the Committee and Senator Ingwersen during the Work Session on this legislation.

Should you have any questions regarding our comments, please contact me at James.Fulgenzi@proof.com. In the meantime, thank you for the opportunity to provide our input, and we appreciate your consideration.

Respectfully,



James Fulgenzi
Director of Government Affairs & Advocacy
James.Fulgenzi@proof.com
Notarize, Inc. (dba Proof.com)