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Additional Comments for LD 2182

“An Act to Implement a Recommendation of the Commission to Recommend Methods for Preventing Deed Fraud in the State”

March 11, 2026

Senator Curry, Representative Gere, and members of the Joint Standing Committee on Housing and Economic Development:

My name is Hannah McMullen, Legal and Government Affairs Counsel for the Maine Association of REALTORS®, and we previously submitted testimony Neither For Nor Against LD 2182. We would like to offer additional comments in response to some of the questions that were raised during the public hearing.

- Type of rulemaking: The bill as drafted proposes that both the Superintendent of Consumer Protection and the Real Estate Commission conduct routine technical rules governing the process of verifying the identity of a seller in a real estate transaction. Title 5, Chapter 375, sub-chapter 2-A, Section 8071 outlines that “Routine technical rules are procedural rules that establish standards of practice or procedure for the conduct of business with or before an agency...” With this in mind, it is important to note the background behind the Commission’s first recommendation, which led to this proposed bill. We believe it was the intent of the Commission to direct the above referenced agencies to conduct rulemaking to establish *industry standards of practice or procedures* on identity verification. The Commission discussed identity verification at length and concluded the following:

“The commission members who favor this recommendation also acknowledged that it would not be appropriate for the Commission or the Legislature, who are not experts in these fields, to prescribe the specific steps real estate licensees and settlement agents must take to verify the identity of the seller, especially given the ever-evolving practices of the perpetrators of fraud. Instead, while legislation should be developed and enacted requiring real estate licensees and settlement agents to verify the seller’s identity for each sale of real property in the State, that legislation should also direct the Real Estate Commission and the Bureau of Consumer Credit Protection within the Department of Professional and Financial Regulation, which oversees registered settlement agents, to jointly adopt rules to implement this requirement. These jointly developed rules should describe both the specific identity-verification steps real estate licensees and settlement agents must take as well as the timeframe in which these steps must be performed to satisfy the new statutory seller-identity-verification duty.” (page 31 of *Report of Commission to Recommend Methods for Preventing Deed Fraud in the State* (“Report”).
- Overview of a deed fraud transaction: There were several questions about the details of how this fraud occurs and who is involved. Resolve 2025, chapter 104, which is the underlying legislation that led to the Commission, described deed fraud or seller impersonation fraud, as occurring “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.” The Commission report further explains that “the rightful property owner is being impersonated by a fraudster who ‘illegally sells the real property the perpetrator does not own.’” (page 2-3 of Report). Furthermore, the Report continues with a brief overview of what these transactions commonly look like, although the details can vary from case

to case. The fraudster 1) Identifies a target property, often with the aid of online resources; 2) Lists the property for sale posing as the real property owner, either with the assistance of a real estate licensee or independently as a For Sale By Owner; 3) Completes the closing, often signing documents remotely utilizing an “imposter” notary; and 4) Funds are transferred to the fraudster, usually by wire transaction, and the fraudulent deed is recorded at the registry of deeds by the settlement agent. (See page 4-5 of Report). If a fraudulent transaction closes and the deed is recorded, there are multiple victims that suffer loss, including the innocent buyer who has paid money for a property which they do not own because it was a fraudulent deed and the real property owner who suffers costly and time-consuming consequences to try to nullify the fraudulent transaction and clear title to their property.

- Notarization: There were several questions about the notarization process and whether there are changes to this process that could prevent seller impersonation fraud. This topic was discussed at length during the Commission and the Commission ultimately believed it was most appropriate to wait for the Uniform Law Commission’s recommendations, as notarization was one of the topics they were reviewing (See page 26-28 of Report).

Moreover, the original deed fraud bill presented in the 131st Legislature, LD 2240, contained a proposal to require in-state notarizations for real property transactions. However, that proposal was met with substantial opposition. Many industry members, including our Association, testified that such a requirement would be a significant and unnecessary restriction on Maine real estate 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. The Commission Report provides an in-depth overview of the Revised Uniform Law on Notarial Acts (RULONA), which Maine adopted in 2022 (See pages 11-15 of Report). Generally, legitimate notaries are following all the necessary requirements to take a proper acknowledgment and verify the signor’s identity. A fraudulent seller, however, most often uses a false or “imposter” notary credential which circumvents these safeguards. In turn, some members of the Commission believed adding in another layer of identity verification with different professionals involved in the real estate transaction could be beneficial, which led to the recommendation behind the present bill LD 2182.

- Type of fraud: The Commission focused its work on deed fraud, or seller impersonation fraud, when real property is being sold. While mortgage fraud, or home equity fraud, was discussed in overview, it was not the focus of the Commission. The recommendation that led to this bill was to require identity verification for persons “selling property in all real estate transactions.”

In conclusion, we want to again highlight that this bill is just one of several recommendations from the Commission and we respectfully urge this Committee to keep the scope of this bill narrow in light of those other Commission recommendations. While we recognize that seller impersonation fraud is a pressing and evolving problem both in Maine and nationally, we also do not want to lose sight of the successful interventions by real estate professionals which have prevented many fraud attempts. In the last few years, many real estate licensees and other real estate professionals have been successfully utilizing industry best practices to detect red flags at the outset of transactions and to prevent deed fraud from occurring. As noted in the Commission Report, there is currently limited quantitative data on the occurrence of deed fraud. However, the Commission discussed a few known cases of completed fraudulent transactions and also heard many anecdotes of fraudulent attempts that were intercepted before closing. We believe that education, continued due diligence and collaboration among all professionals involved in real estate transactions remain a central focus. We look forward to continued engagement with the Committee and stakeholders to ensure a manageable and effective result. Thank you for your time and consideration.