



Henry L. Ingwersen
Senator, District 32

THE MAINE SENATE
131st Legislature

3 State House Station
Augusta, Maine 04333

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Testimony of Senator Henry Ingwersen presenting
LD 2240, An Act to Implement Protections Against Deed Fraud

Senator Carney, Representative Moonen, and Esteemed members of the Judiciary Committee, my name is Senator Henry Ingwersen and I'm before you today to introduce LD 2240, "An Act to Implement Protections Against Deed Fraud"

One of the fastest-growing real-estate cyber fraud schemes in 2023 is seller impersonation fraud, or what I am calling deed fraud in this bill. Here's how it works:

Scammers search public databases for vacant land or house lots, usually without any encumbrances such as a mortgage. Maine is ripe for this kind of fraud because of the amount of vacant land for sale with out of state owners. The fraudsters will contact, usually through a service or online, an unsuspecting real estate agent and list the property. The scammers will want to do the entire transaction remotely, which is legal, providing fake deeds with forged signatures. This is a common occurrence in the post COVID world.

The broker will do some research and may even ask for a driver's license to verify the person listing the property is the same individual listed in municipal records as the owner. The broker is presented with the same urgency as lottery scam victims – in two cases in York County, the fraudster told the broker that he lived out of state and was recently diagnosed with cancer, prompting a quick sale to pay for medical bills.

The transfer takes place without any in-person meeting required. The buyer pays the fake seller, and the deed is recorded. The job of the registrar's office is to record deeds, not verify them, which is as it should be. The actual owner is not notified, because it's not required, and in many cases the only time they have realized that their land has been sold is when they don't receive their tax bill from the municipality.

Once a property is sold fraudulently, one would think everything can be undone easily. It cannot, especially if the deed has been recorded with the County. County registrars are not authorized to remove recorded deeds or alter any official record. So it is up to the real landowner to go to court to make this right. This is costly, and can take a very, very long time. The need for an expedited process to nullify false deeds is important.

*Chair, Agriculture, Conservation and Forestry Committee * Health and Human Services Committee*
*State House: (207) 287-1515 * Fax: (207) 287-1585 * Toll Free: 1-800-423-6900 * TTY: 711*
*Henry.Ingwersen@legislature.maine.gov * legislature.maine.gov/senate*

Proudly representing Senate District 32: Arundel, Biddeford, Dayton, Hollis, Lyman



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In my home county of York, there have been 11 instances that we know about (see attached map.) There is a highly publicized case in Rockland (see attached). The York County Registrar of Deeds has been in recent touch with other Maine registrars, and she will be helpful in talking about cases in other parts of Maine. This is a difficult issue to get good data on, since realtors are not required to flag suspicious deed transaction attempts and successful frauds are often not discovered until the actual owner does not receive a tax bill.

This proposed bill is made up of what I call the “3 P’s”: Professional and Public Education, Prevention of the Transaction, and Prosecution

Education:

Sec 1 of the bill directs the Attorney General’s Office or if amended another appropriate office, to create notices and publications to warn the public of the risks posed by deed fraud - these notices and publications, printed in a consistent fashion, would then be available for Registrars of Deeds and State Tax Assessors throughout the state to distribute to owners of properties in Maine. **Secs 10 and 11** refer to that.

Prevention of the Transaction:

Secs 4-7 would require Maine designated brokers to secure and maintain a surety bond in the amount of \$ 25,000 for the benefit of persons who are the victims of a fraudulent deed. It’s important to note here that the real owner in a fraudulent deed transaction must initiate legal action to have the fraudulent deed nullified at their own expense.

Section 8 of the bill is a measure that will further ensure best practice by brokers and agents in performing due diligence in scrutinizing the **identity** of the seller. This section requires that any seller who is not a resident of this state shall pay the broker a \$500 refundable fee at the time of offer to purchase, that is refunded at closing as long as the broker or agent has performed due diligence in confirming the identity of the seller as the true owner. I want to note here that it may be helpful to add a definition as to what “due diligence” is. Detailed steps that brokers should take to verify seller identity would be part of that.

Section 9 of the bill is a measure to strengthen **identity verification**, which I think is the biggest problem regarding deed fraud. This section requires that any instrument affecting title to real property in Maine and recorded with a registrar of deed must be acknowledged before a Maine State authorized notarial officer. I would like to amend this to be included under Chapter 39, Sec 1915 - “Notarial Acts performed for remotely located individuals.”

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This amendment would state that:

“for any instrument affecting title to real property in Maine and recorded with a register of deed where all parties are remotely located, at least one of the notarial acts remotely performed must be done by a Maine authorized notarial officer performing in accordance with Chapter 39 Sec 1915.”

Prosecution:

Secs 2 and 3 of the bill creates Deed fraud as a Class B crime in Maine. A critical part of this proposed law is Sec 2, number 1 - Nullifying fraudulent instrument. For the actual owner, there needs to be an expedient way to nullify a fraudulent deed. I know that we already have an existing Maine statute for all fraud that already includes deeds - the intent of this addition to the Maine Statute is to separate out deed fraud as a class B crime rather than a class D, which it currently is. There are currently many other states that treat the recording of a fraudulent deed as a felony.

I hope this has helped the committee to understand deed fraud in Maine and how this bill aims to prevent it. There will be folks following me that are more expert and experienced in deed fraud and the parts of this bill that address it. They may be better suited to answer your questions, but I will give it my best try. I want to thank you so very much for your time today on this serious matter in the midst of all of the urgent work you are doing in these last weeks of the session. I appreciate it.

Thank you.

Henry Ingwersen
 State Senator