



Janet T. Mills
Governor

STATE OF MAINE
DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION
OFFICE OF PROFESSIONAL AND OCCUPATIONAL
REGULATION
35 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0035

Anne L. Head
Commissioner, DPFR
Director, OPOR

March 1, 2024

Senator Anne Carney, Senate Chair
Representative Matt Moonen, House Chair
Joint Standing Committee on Judiciary
100 State House Station
Augusta, ME 04333-0100

Re: *LD 2240, An Act to Implement Protections Against Deed Fraud*

Dear Senator Carney, Representative Moonen, and Members of the Committee:

I am writing this letter on behalf of the Department of Professional and Financial Regulation's Office of Professional and Occupational Regulation ("OPOR"), an umbrella agency that supports the Maine Real Estate Commission.

The Department takes no position on the substance of the bill; *i.e.*, whether to amend Title 5, Title 14, Title 17-A, Title 32, Title 33 and Title 36 to add provisions to protect individuals from deed fraud, but submits this letter to raise an issue for your consideration.

As drafted, the bill would amend Title 33 to require out-of-state sellers to "pay to the *real estate broker, associate broker or real estate agent*" a \$500 refundable fee at the time an offer to purchase is accepted to be held in escrow. The bill provides that the fee must be returned to the seller at the time of closing, so long as the broker or agent certifies they have performed due diligence in confirming the identity of the seller to ensure the seller is the true owner.

However, an agreement to list a property for sale is between the seller(s) and the real estate *agency*. Real estate agencies, not the agents, are required to have a trust account to hold money in escrow. If the bill were enacted, Section 8 should first be amended to require any fees or refundable deposits be made to the agency, not an individual real estate agent.

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Thank you for the opportunity to share this information, and we would be happy to answer any questions at the work session.

Sincerely,

Catherine Pendergast, Director
Maine Real Estate Commission