

MAINE STATE LEGISLATURE

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L.D. 2240

Date: 4/9/24

(Filing No. S-672)

JUDICIARY

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**STATE OF MAINE
SENATE
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ **A** ” to S.P. 960, L.D. 2240, “An Act to Implement Protections Against Deed Fraud”

Amend the bill by striking out the title and substituting the following:

'Resolve, to Establish the Commission to Recommend Methods for Preventing Deed Fraud in the State'

Amend the bill by striking out everything after the title and inserting the following:

'Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, deed fraud occurs 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; and

Whereas, the process for the rightful owner of the property to nullify a fraudulently recorded deed is not only time-consuming and expensive but, if successful, can also leave the innocent purchaser of the property with neither the property nor the funds used to purchase the property from the perpetrator of the deed fraud; and

Whereas, this legislation establishes the Commission to Recommend Methods for Preventing Deed Fraud in the State to study options for both preventing deed fraud and recompensing the victims of deed fraud; and

Whereas, the study must be initiated before the 90-day period expires in order that the study may be completed and a report submitted in time for submission to the next legislative session; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore, be it

COMMITTEE AMENDMENT

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Sec. 1. Commission established. Resolved: That the Commission to Recommend Methods for Preventing Deed Fraud in the State, referred to in this resolve as "the commission," is established.

Sec. 2. Commission membership. Resolved: That, notwithstanding Joint Rule 353, the commission consists of 13 members as follows:

1. Four members appointed by the President of the Senate as follows:
 - A. Two members of the Senate, including one member of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;
 - B. One individual who is a register of deeds in this State; and
 - C. One individual who is an experienced title attorney in this State;
2. Six members appointed by the Speaker of the House as follows:
 - A. Three members of the House of Representatives, including 2 members of the party holding the largest number of seats in the Legislature and one member of the party holding the 2nd largest number of seats in the Legislature;
 - B. One individual who represents law enforcement interests;
 - C. One individual who represents a statewide association representing criminal defense attorneys; and
 - D. One individual who represents a statewide association of real estate brokers;
3. The chair of the Real Estate Commission within the Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation or the chair's designee;
4. The Secretary of State or the secretary's designee; and
5. The Attorney General or the Attorney General's designee.

Sec. 3. Chairs. Resolved: That the first-named Senate member is the Senate chair and the first-named House of Representatives member is the House chair of the commission.

Sec. 4. Appointments; convening of commission. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council once all appointments have been completed. After appointment of all members, the chairs shall call and convene the first meeting of the commission. If 30 days or more after the effective date of this resolve a majority of but not all appointments have been made, the chairs may request authority and the Legislative Council may grant authority for the commission to meet and conduct its business.

- Sec. 5. Duties. Resolved:** That the commission shall:
1. Gather information on the practice and prevalence of deed fraud in the State, including information and data, if available, on the number and characteristics of incidents of deed fraud and unsuccessful attempts at deed fraud;
 2. Examine the sufficiency of state laws and practices related to the following:

COMMITTEE AMENDMENT

ROS

- 1 A. Identity verification for the sale of real property located in the State;
- 2 B. Notarization and recording of instruments affecting title to real property in the State,
- 3 including the requirements for conducting remote notarization;
- 4 C. Existing criminal penalties potentially applicable to perpetrators of deed fraud; and
- 5 D. Civil remedies available to victims of deed fraud, including processes for nullifying
- 6 fraudulently recorded deeds and returning ownership of the property to the rightful
- 7 owners; and

8 3. Gather and review any educational materials regarding the prevention of deed fraud
9 that are currently available to property owners, real estate brokerage agencies, title
10 insurance companies, real estate attorneys and other professionals involved in the sale of
11 real property; examine the sufficiency of these materials; and consider the best methods for
12 ensuring that appropriate educational materials are disseminated to property owners and
13 relevant real estate professionals across the State.

14 **Sec. 6. Staff assistance. Resolved:** That the Legislative Council shall provide
15 necessary staffing services to the commission, except that Legislative Council staff support
16 is not authorized when the Legislature is in regular or special session.

17 **Sec. 7. Report. Resolved:** That, no later than November 6, 2024, the commission
18 shall submit to the joint standing committee of the Legislature having jurisdiction over
19 judiciary matters a report that includes the commission's findings and recommendations for
20 preventing deed fraud in the State, including recommendations for enhanced public
21 awareness of deed fraud and any suggested legislation for preventing deed fraud, including,
22 but not limited to, enhancing identity verification requirements for real estate transactions
23 in the State and for improving the civil and criminal remedies available in the State. The
24 joint standing committee is authorized to report out legislation related to the report to the
25 132nd Legislature in 2025.

26 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
27 takes effect when approved.'

28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
29 number to read consecutively.

30 **SUMMARY**

31 This amendment replaces the bill with a resolve. The amendment establishes the
32 Commission to Recommend Methods for Preventing Deed Fraud in the State. The
33 commission must, no later than November 6, 2024, submit to the joint standing committee
34 of the Legislature having jurisdiction over judiciary matters a report that includes the
35 commission's findings and recommendations for preventing deed fraud in the State,
36 including recommendations for enhanced public awareness of deed fraud and any
37 suggested legislation for enhancing identity verification requirements for real estate
38 transactions in the State and for improving the civil and criminal remedies available in the
39 State. The joint standing committee is authorized to report out legislation related to the
40 report to the 132nd Legislature in 2025.

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COMMITTEE AMENDMENT "A" to S.P. 960, L.D. 2240 (S672)

1 It also adds an emergency preamble and an emergency clause.

2 **FISCAL NOTE REQUIRED**

3 (See attached)

COMMITTEE AMENDMENT



131st MAINE LEGISLATURE

LD 2240

LR 3011(02)

An Act to Implement Protections Against Deed Fraud

Fiscal Note for Bill as Amended by Committee Amendment "A(S.672)"

Committee: Judiciary

Fiscal Note Required: Yes

Fiscal Note

Legislative Cost/Study

Legislative Cost/Study

The general operating expenses of this study are projected to be \$2,100 in fiscal year 2023-24 and \$2,350 in fiscal year 2024-25. The Legislature's budget for the 2024-2025 biennium includes \$14,500 in each of fiscal years 2023-24 and 2024-25 for the costs of legislative studies, as well as \$38,909 of balances carried over from prior years for this purpose. Whether these amounts are sufficient to fund all studies will depend on the number of studies authorized by the Legislative Council and the Legislature. The additional costs of providing staffing assistance to the study during the interim can be absorbed utilizing existing budgeted staff resources.

Fiscal Detail and Notes

Any additional costs to the Office of the Attorney General, the Maine Real Estate Commission and the Department of Secretary of State from the provisions of this bill are expected to be minor and can be absorbed within existing budgeted resources.