

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2240

S.P. 960

In Senate, February 28, 2024

An Act to Implement Protections Against Deed Fraud

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator INGWERSEN of York.
Cosponsored by Representative MOONEN of Portland and
Senators: BRENNER of Cumberland, CARNEY of Cumberland, RAFFERTY of York,
TIPPING of Penobscot, Representatives: DUCHARME of Madison, MALON of Biddeford,
PARRY of Arundel, SHEEHAN of Biddeford.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §200-O** is enacted to read:

3 **§200-O. Creation of notices and publications to warn public of risks posed by deed**
4 **fraud**

5 The Office of the Attorney General, referred to in this section as "the office," shall
6 create notices and publications designed to inform and educate the public regarding the
7 risks posed by deed fraud. The notices and publications must provide owners of real
8 property in this State with information concerning types of deed fraud, the risk associated
9 with deed fraud and information about resources for assistance available to property owners
10 affected by deed fraud. The office shall make the notices and publications available to
11 registers of deeds in the State to distribute pursuant to Title 33, section 612 and to the State
12 Tax Assessor for distribution pursuant to Title 36, section 301. For the purposes of this
13 section, "deed fraud" has the same meaning as in Title 33, section 612.

14 **Sec. 2. 14 MRSA §6055** is enacted to read:

15 **§6055. Deed fraud**

16 The District Court or the Superior Court has jurisdiction to grant appropriate equitable
17 relief when the plaintiff has shown by a preponderance of the evidence that the defendant
18 has committed deed fraud within the meaning of Title 33, section 612. Equitable relief
19 may include, but is not limited to:

20 **1. Nullifying fraudulent instrument.** Ordering the immediate nullification of any
21 publicly recorded fraudulent instrument affecting title to real property;

22 **2. Damages.** Damages; and

23 **3. Attorney's fees and costs.** Attorney's fees and costs.

24 **Sec. 3. 17-A MRSA §706-B** is enacted to read:

25 **§706-B. Recording fraudulent instrument with register of deeds**

26 **1.** A person is guilty of recording a fraudulent instrument with a register of deeds if:

27 A. The person knowingly or intentionally records or attempts to record with a register
28 of deeds a false deed, mortgage, lien or any other instrument for which the law provides
29 public recording;

30 B. In the process of recording with a register of deeds a deed, mortgage, lien or any
31 other instrument for which the law provides public recording, the person knowingly or
32 intentionally provides to a register of deeds false information in respect to a material
33 fact pertaining to the instrument the person seeks to record; or

34 C. In the process of recording with a register of deeds a deed, mortgage, lien or any
35 other instrument for which the law provides public recording, the person, who is not
36 the true owner of the real property affected by the instrument the person seeks to record
37 or the authorized agent of the true owner, knowingly or intentionally misrepresents the
38 person's identity in an attempt to impersonate the true owner or the true owner's
39 authorized agent.

40 **2.** Violation of this section is a Class B crime.

1 **Sec. 4. 32 MRSA §13173, sub-§1**, as enacted by PL 1987, c. 395, Pt. A, §212, is
2 amended to read:

3 **1. Designated broker.** The owner or a duly authorized agency official shall hold a
4 Maine real estate broker license and be designated by the agency to act for it in the conduct
5 of real estate brokerage and shall secure, and maintain in force, the surety bond required
6 by section 13721-A.

7 **Sec. 5. 32 MRSA §13198, sub-§3**, as amended by PL 2017, c. 210, Pt. F, §6, is
8 further amended to read:

9 **3. Acts authorized.** Each broker license granted entitles the holder to perform all of
10 the acts contemplated under this chapter on behalf of an agency, including being designated
11 by the agency to act for it, except that a licensed real estate broker must secure and maintain
12 the surety bond required by section 13271-A before the real estate broker may act on behalf
13 of an agency.

14 **Sec. 6. 32 MRSA §13271, sub-§6**, as amended by PL 2005, c. 378, §13 and
15 affected by §29, is further amended to read:

16 **6. Designated broker.** "Designated broker" means a broker designated by a real estate
17 brokerage agency to act for the real estate brokerage agency in the conduct of real estate
18 brokerage. To qualify as a designated broker, the broker must satisfy the requirements of
19 section 13271-A.

20 **Sec. 7. 32 MRSA §13271-A** is enacted to read:

21 **§13271-A. Surety bond required for designated brokers**

22 To qualify as a designated broker within the meaning of this chapter, a real estate
23 broker shall secure and maintain in force as long as the broker remains a designated broker
24 a surety bond issued by a state-licensed insurer in the amount of \$25,000, in favor of the
25 Treasurer of State, for the benefit of the State and any person who relied on the professional
26 services of the designated broker or agency in a transaction for sale or purchase of real
27 estate that resulted in deed fraud that harmed that person when the designated broker's or
28 agency's conduct in respect to that transaction would subject the designated broker or
29 agency, or both, to disciplinary action under section 13067-A. For the purposes of this
30 section, "deed fraud" has the same meaning as in Title 33, section 612.

31 **Sec. 8. 33 MRSA §10** is enacted to read:

32 **§10. Sale of real estate by out-of-state seller**

33 If a seller who is not a resident of this State offers for sale real estate that is located in
34 this State, the seller shall pay to the real estate broker, associate real estate broker or real
35 estate agent a \$500 refundable fee at the time the offer to purchase is accepted by the seller
36 to be held in escrow. The fee must be returned to the seller at the time of closing as long as
37 the broker or agent certifies that the broker or agent has performed due diligence in
38 confirming the identity of the seller to ensure the seller is the true owner of the real estate.

39 **Sec. 9. 33 MRSA §203, last ¶**, as amended by PL 2021, c. 651, Pt. A, §7 and
40 affected by §8, is further amended to read:

41 Notwithstanding any of the requirements in this section, an instrument with an
42 acknowledgment conforming to the requirements of the Revised Uniform Law on Notarial

1 Acts must be accepted for recording purposes, except that any instrument affecting title to
2 real property and recorded with a register of deeds pursuant to this section must be
3 acknowledged before a person authorized to perform notarial acts in this State as described
4 in Title 4, section 1910.

5 **Sec. 10. 33 MRSA §612** is enacted to read:

6 **§612. Register authorized to distribute notices, publications and programs warning**
7 **public about deed fraud**

8 A register of deeds may distribute notices, publications and information about
9 programs to inform and educate the public about the risks of deed fraud and inform victims
10 of deed fraud of available resources for assistance. The notices, publications and
11 information about programs may also include instructions for a property owner to sign up
12 for a service, if available, to receive electronic notification of real estate transactions
13 involving the property owner's name or property. For the purposes of this section, "deed
14 fraud" means:

15 **1. Forgery.** Forgery within the meaning of Title 17-A, section 703 in respect to a
16 deed, mortgage, lien or other instrument affecting title to real property; or

17 **2. False recording.** Fraudulently recording, attempting to record or otherwise
18 knowingly or intentionally providing false information or misrepresenting one's identity to
19 a register of deeds in the process of recording a deed, mortgage, lien or other instrument
20 within the meaning of Title 17-A, section 706-B.

21 **Sec. 11. 36 MRSA §301**, as amended by PL 1975, c. 545, §4 and PL 1997, c. 526,
22 §14, is further amended by enacting at the end a new paragraph to read:

23 The State Tax Assessor shall direct all primary assessing areas and municipal assessing
24 units to include in real property tax bills a standard notice regarding the risks of deed fraud
25 and resources available to assist victims of deed fraud. "Deed fraud" has the same meaning
26 as in Title 33, section 612.

27 **SUMMARY**

28 This bill enacts new provisions and amends current provisions of law to protect
29 individuals from deed fraud. The bill makes it a Class B crime to record or attempt to record
30 with a register of deeds a false deed, mortgage, lien or other instrument for which the law
31 provides public recording or, in the process of recording a deed, mortgage, lien or other
32 instrument for which the law provides public recording, to provide to a register of deeds
33 false information in respect to a material fact pertaining to that instrument or impersonate
34 the true owner. The bill also provides for equitable relief for individuals who have been
35 impacted by a forged or fraudulently recorded instrument.

36 The bill requires that any instrument affecting title to real property and recorded with
37 a register of deeds must be acknowledged before a person authorized to perform notarial
38 acts in this State, rather than an out-of-state notarial officer.

39 The bill requires that sellers of real estate who are not residents of this State pay a \$500
40 refundable fee to the real estate broker or other transacting agent to be placed in escrow
41 and returned to the seller at the closing as long as the agent can certify that the agent has
42 performed due diligence in confirming the identity of the seller.

1 The bill requires a designated real estate broker to secure, and maintain thereafter, a
2 surety bond in the amount of \$25,000 for the benefit of the State and any person harmed
3 by deed fraud as a result of the broker's or agency's action.

4 The bill directs the Office of the Attorney General to create notices and publications
5 designed to inform and educate the public regarding the risks posed by deed fraud. The
6 bill requires the office to make these materials available to registers of deeds throughout
7 the State and to the State Tax Assessor. The bill authorizes registers of deeds to distribute
8 notices, publications and information about programs to educate the public about deed
9 fraud and directs the State Tax Assessor to require that all real property tax bills contain a
10 notice to property owners regarding the risks of deed fraud and resources available to
11 victims.