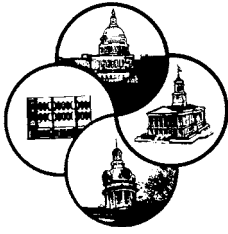


PROTECTING TENNESSEANS FROM REAL ESTATE FRAUD



SEPTEMBER 2026



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Tennessee Advisory Commission on Intergovernmental Relations
226 Anne Dallas Dudley Boulevard · Suite 508 · Nashville, Tennessee 37243
Phone: 615.741.3012 · Fax: 615.532.2443
E-mail: tacir@tn.gov · Website: www.tn.gov/tacir

Protecting Tennesseans from Real Estate Fraud

Bob Moreo, MArch
Senior Research Manager



Leah Eldridge, JD
Senior Research Director



Jennifer Arzate, MA
Senior Research Associate



Teresa Gibson
Web Development & Publications Manager

September 2026

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State of Tennessee

Tennessee Advisory Commission on Intergovernmental Relations
226 Anne Dallas Dudley Boulevard, Suite 508
Nashville, Tennessee 37243



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TACIR

Cliff Lippard, Executive Director

September 16, 2026

The Honorable Randy McNally
Lieutenant Governor and Speaker of the Senate

The Honorable Cameron Sexton
Speaker of the House of Representatives

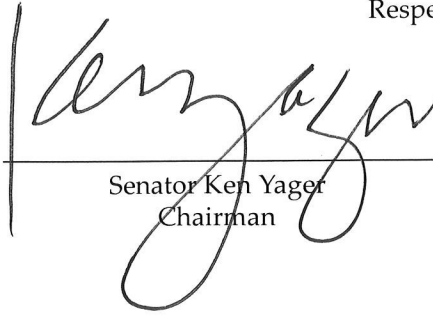
Members of the General Assembly
State Capitol
Nashville, TN 37243

Ladies and Gentlemen:

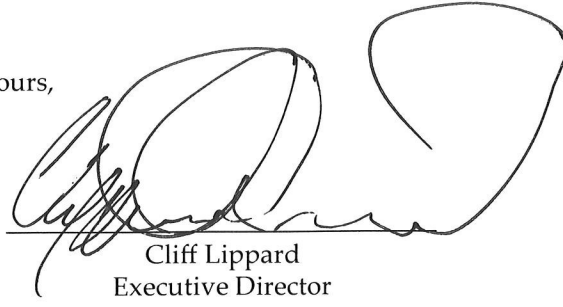
Transmitted herewith is the commission's report in response to Public Chapter 941, Acts of 2024, which directed the commission to study the prevalence of real estate fraud in Tennessee, real estate fraud schemes, methods used by other states to combat real estate fraud, and best practices for local government officials registering real estate documents. To better deter fraud, the commission recommends that Tennessee require in-person notaries to complete an instructional course on notary laws and best practices, including specific guidance about recognizing and preventing fraud, both when applying to become a notary and to renew a commission. The commission recommends that notaries be required to verify the identity of individuals by means of a government-issued credential, maintain a journal of all notarizations performed, and keep these journals for at least five years. The commission recommends defining specific felony offenses for deed theft and real property fraud within the state's criminal code and higher fines for these crimes.

The commission approved the report on September 16, 2026, and it is hereby submitted for your consideration.

Respectfully yours,



Senator Ken Yager
Chairman



Cliff Lippard
Executive Director



226 Anne Dallas Dudley Blvd., Suite 508
Nashville, Tennessee 37243-0760
Phone: (615) 741-3012
Fax: (615) 532-2443
www.tn.gov/tacir

MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard
Executive Director

DATE: 16 September 2026

SUBJECT: Public Chapter 941, Acts of 2024 (Real Estate Fraud)—Final Report for Approval

The attached commission report is submitted for your approval. It was prepared in response to Public Chapter 941, Acts of 2024, which directed the commission to study

- the prevalence of real estate fraud in Tennessee,
- different schemes used to perpetrate real estate fraud,
- methods used by other states to combat real estate fraud, and
- best practices for local government officials in registering documents related to real estate transactions.

It also directed the commission to suggest statutory revisions designed to reduce the risk of real estate fraud for property owners in this state. The report was first presented to the commission for approval at its September 2025 meeting. Three recommendations were presented: requiring training for notaries, strengthening requirements related to notarizations and notary records, and giving registers of deeds the authority to have real estate documents reviewed when they suspect documents are fraudulent.

Commission members voiced concerns at the meeting that the report did not include a recommendation for registers of deeds to require identification from individuals who present documents in person to record transfers of real property, something that was originally proposed in the legislation that became Public Chapter 941. The Shelby County Register of Deeds told commission staff that the county would be open to participating in a pilot program to test an ID-requirement if one is established, but other registers in the state shared concerns about liability and safety, as well as questions about the details of implementing an identification requirement.

For the report presented for approval at the December 2025 commission meeting, staff added two new recommendations to the report: one to authorize a pilot program for registers of deeds to require identification from individuals seeking to file documents in person and by mail, and the second to define specific offenses for deed theft and real property fraud within the state's criminal code. The report failed to receive the required two-thirds majority of present voting members and further action was tabled until the January 2026 meeting.

For the January 2026 meeting, staff prepared an alternative recommendation that limited authorization for an ID-requirement pilot program to only Shelby County. Other registers in the state continued to express concerns about the implementation of even a limited pilot program, and the commission voted unanimously to defer action on the report.

In August 2026, commission staff had a virtual meeting with representatives from the Tennessee Registers Association to discuss the registers' concerns. Also present were Brice Hobby, director of legislative affairs for the County Officials Association of Tennessee, and Austin Anderson, senior legislative advisor from Chairman Yager's office. Representative Antonio Parkinson was invited but was unable to attend. Executive Director Cliff Lippard said at the meeting that commission staff would not include a pilot project recommendation in the report or recommend giving registers of deeds authority to have real estate documents reviewed when they suspect documents are fraudulent. Staff has retained and updated information on what registers of deeds, sometimes called recorders, are doing in other states to combat fraud. Staff has kept only these previous recommendations in the report presented today for the commission's approval:

- 1. The commission recommends that Tennessee require in-person notaries to complete an instructional course on notary laws, ethical requirements, and best notarial practices, including specific guidance about recognizing and preventing fraud, both when applying to become a notary and when renewing their commission.**
- 2. The commission recommends that the state require notaries to verify the identity of individuals by means of a government-issued credential or personal knowledge of a credible witness can suffice if the witness has a government-issued credential, maintain a journal of all notarizations performed in-person and, as is already required of online notaries, keep these journals for at least five years; and ensure journal records include**
 - the date, time, and type of the notarial act;**
 - description of the document or proceeding;**

- the name, address, and signature of each individual signer and witness identifying a signer;
 - a description of the evidence used to identify any signer and witness identifying a signer; and
 - the itemized fees, if any, paid by the signer to the notary.
3. The commission also recommends that the General Assembly
- define specific offenses for deed theft and real property fraud related to residential and commercial properties within the state's criminal code,
 - determine appropriate felony classifications for these crimes, and
 - authorize juries to assess higher fines than those allowed for felonies in general.

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Summary and Recommendations: Protecting Property Owners and Reducing the Risk of Real Estate Fraud in Tennessee

Forged documents and fake notarizations had descendants of Elvis Presley all shook up in the spring of 2024, when an out-of-state scammer attempted to seize ownership of Graceland through a deed fraud and foreclosure scheme. An auction notice published in the *Memphis Commercial Appeal* caught the attention of the owner of the property, who quickly sued to stop the sale. Investigators determined that a woman from Missouri had forged the signatures of Elvis's late daughter, Lisa Marie Presley, and that of a Florida notary to claim that Lisa Marie had defaulted on a nonexistent loan listing Graceland as collateral. The woman was arrested on federal charges of mail fraud and aggravated identity theft. Facing a maximum 20-year prison sentence, she plead guilty to one count of mail fraud. In return, prosecutors recommended she spend 57 months in jail.

Even before the Graceland scheme was uncovered, reports of real estate fraud in Tennessee had caught the attention of state legislators. Public Chapter 941, Acts of 2024, directed the Tennessee Advisory Commission on Intergovernmental Relations to study

- the prevalence of real estate fraud in Tennessee,
- the different schemes used to perpetrate real estate fraud,
- the methods used by other states to combat real estate fraud, and
- the best practices for local government officials in registering documents related to real estate transactions.

The commission's recommendations for reducing real estate fraud in Tennessee include requiring training for notaries and strengthening requirements for notarizations and notary records and defining specific offenses for deed theft and real property fraud within the state's criminal code. While the commission did not reach consensus on any recommendations involving Tennessee's registers of deeds or their practices, staff identified initiatives being pursued by registers in other states.

Requiring training for notaries could help prevent fraud.

Notaries are entrusted to witness and acknowledge signatures on important documents, including real property documents, verifying that the individuals signing are who they say they are. This responsibility puts notaries on the front lines of preventing fraud. People seeking to commit fraud may attempt to deceive notaries by falsifying information, concealing their identities, or through other means. Notaries should understand the methods criminals use to commit fraud and the consequences that could

People seeking to commit fraud may attempt to deceive notaries by falsifying information, concealing their identities, or through other means.

The National Notary Association and other real estate and consumer protection groups recommend that all notary applicants complete instructional training before being commissioned.

result from notarizing fraudulent documents. They should also be aware of potential liabilities against them if proper procedures are not followed.

Thirty states require either training (four states), an exam (11 states), or both (15 states) for initial notary commissions for regular, in-person notary services. Eighteen states require continuing education or additional training to renew notary commissions. But Tennessee does not, though it will begin requiring online notaries to complete training and pass an exam as of January 1, 2026. It is one of 20 states where neither training nor an exam is required to become a traditional, in-person notary. According to the National Notary Association,

Significant legal and financial consequences associated with real estate fraud due to notarial misconduct and negligence can be mitigated by requiring new and renewing notary public commission applicants to be trained on the duties and responsibilities of their state's laws and fraud prevention measures. (emphasis added)

To tackle deed fraud, the National Notary Association and other groups associated with the real estate industry and consumer protection recommend that all notary applicants complete instructional training before being commissioned. Notary training is available online through vendors, and in some states, training is provided free of charge. No state requires more than six hours of instruction.

Because notaries public help deter fraud by witnessing the signing of important documents and verifying that the individuals signing are who they say they are, **the commission recommends that Tennessee require in-person notaries to complete an instructional course on notary laws, ethical requirements, and best notarial practices, including specific guidance about recognizing and preventing fraud, both when applying to become a notary and when renewing their commission.**

Requiring notaries to identify individuals by means of government-issued credentials and maintain a notary journal for all notarizations can help deter fraud and aid investigations.

Currently, Tennessee permits notaries to verify the identity of individuals signing documents based on government-issued identification. But it also permits notaries to verify an individual's identity based on the notary's personal familiarity with them or familiarity with another individual who can vouch for the signer, which could open the door to fraud and forgery. To help fight fraud, California acted to strengthen its identification requirements for notarizations. California changed its laws to prohibit notaries from relying solely on personal knowledge to identify principals

or credible witnesses in the performance of notarial acts. Government-issued identification must be used and recorded in the notary's journal. Although California is the only state that prohibits notaries from relying solely on personal knowledge to identify document signers, it is not the only state that requires information on signers to be recorded in the notary's journal.

A notary journal helps ensure consistent, proper notarizations. In several states, if a notary chooses to check an individual's credentials to verify identity those credentials must be recorded in the notary's journal. For in-person notarizations in Tennessee, a journal record is only required when the notary charges a fee for their services, and the law doesn't specify what information must be recorded in the journal. The *Tennessee County Clerks' Handbook for Notary Public Applications* recommends that the date and description of the instrument being notarized, document signer's name(s), document signer's identification credentials, and the fees received be recorded in the notary journal.

Maintaining notary journals for several years can help ensure that future fraud investigations have access to important documentation. Twenty-four states require notaries to keep their journals for 10 years. For online notarizations in Tennessee, the state's Online Notary Public Act of 2018, requires "a secure electronic record of electronic documents notarized by the online notary public," and lists what each record must include. These electronic journals must be kept for at least five years. There is no required length of time for maintaining journals of in-person notarizations in Tennessee.

Requiring notaries to obtain important identifying information that imposters may not be able to produce can help deter fraud and recording that information in the notary's journal can be useful in investigating fraud. **The commission recommends that the state require notaries to**

- **verify the identity of individuals by means of a government-issued credential or personal knowledge of a credible witness can suffice if the witness has a government-issued credential;**
- **maintain a journal of all notarizations performed in-person and, as is already required of online notaries, keep these journals for at least five years; and**
- **ensure journal records include**
 - the date, time, and type of the notarial act;
 - description of the document or proceeding;
 - the name, address, and signature of each individual signer and witness identifying a signer;

Requiring notaries to obtain important identifying information that imposters may not be able to produce can help deter fraud, and recording that information in the notary's journal can be useful in investigating fraud claims.

Lawmakers in New York and Texas have recently enacted specific criminal statutes to target real estate fraud.

- a description of the evidence used to identify any signer and witness identifying a signer; and
- the itemized fees, if any, paid by the signer to the notary.

Specific criminal penalties for real estate fraud could deter criminals and help cases get prosecuted.

Real estate fraud involves impersonating property owners to illegally sell or otherwise profit from real property the perpetrator does not own. Criminals may forge signatures, falsify notarizations, and steal personal information to record fake or forged documents in local land records. People who commit real estate fraud in Tennessee could be charged under several of the state's criminal laws—and may also face prosecution under federal criminal statutes—but those laws are not specifically written for real estate fraud. Lawmakers in New York and Texas have recently enacted specific criminal statutes to target real estate fraud. Advocates say these laws will help victims get restitution, that cases will be easier to prosecute, and that establishing unique crime categories will improve law enforcement agencies' ability to track how often real estate fraud occurs. And real estate industry groups have recommended that states' criminal penalties be reviewed "to ensure they reflect the devastating effect of these crimes for victims."

Although crimes involving real estate fraud can be prosecuted under various existing laws in Tennessee, more specifically defined offenses for deed theft and real property fraud could simplify cases for prosecutors and allow the General Assembly to impose tougher penalties for these crimes as a deterrent. **The commission recommends that the General Assembly**

- **define specific offenses for deed theft and real property fraud related to residential and commercial properties within the state's criminal code,**
- **determine appropriate felony classifications for these crimes, and**
- **authorize juries to assess higher fines than those allowed for felonies in general.**

Unlike Tennessee, some states give registers of deeds enhanced discretion to review or refuse to record suspicious documents.

Registering a deed is another point where real estate fraud can be committed or prevented. The register of deeds has the duty to "determine whether each instrument offered for registration is entitled to registration under the laws of this state." While registers can refuse to register an illegible document or an instrument or document that has not been

properly authenticated, the University of Tennessee County Technical Assistance Service cautions, “The register should not try to determine the legal sufficiency of an instrument but must determine whether or not it is acceptable for registration.” According to an opinion from the Office of the Attorney General of Tennessee, “Unless there is a specific statute that provides an exception to the requirement that the register of deeds register all deeds entitled to registration under the laws of the state promptly and correctly, the register of deeds must file the deed.”

Some states provide local officials with greater authority to combat fraud at the point when deeds are registered. In particular, Illinois authorizes counties to establish “a fraud referral and review process . . . to review deeds and instruments and refer any of them to an administrative law judge for review” when a recorder has reason to believe “that the filing may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property.” Illinois’ referral-and-review process is beneficial for addressing fraud for two reasons. First, it relieves property owners from the burden and expense of recovering their stolen property when fraud is caught, and second, it ensures that those trying to register deeds receive due process in the event that genuine property transfers are incorrectly flagged for review. Previously optional, Illinois will require all counties to adopt a fraud review and referral process beginning January 1, 2026. Several other states give county registers or recorders varying degrees of discretion to refuse to record suspicious documents including Ohio, Nevada, and Colorado. In some states, including North Carolina and South Dakota, this grant of authority to refuse to record documents stems from efforts to prevent “sovereign citizen” harassment of public officials.

Unlike Tennessee, some states require identification or other verification from individuals who present real estate documents to registers of deeds.

Registers in Tennessee are not required to ask for identification from people recording documents, something that could deter fraud and help investigations when fraud is committed. In cases where fake documents to convey property make it through the filing process and a property owner later determines the documents were fraudulent, it can be very difficult for investigators to determine who filed the phony documents. The original version of Public Chapter 941, introduced as Senate Bill 2448 by Senator Akbari and House Bill 2215 by Representative Parkinson, would have required registers of deeds to verify the identity of anyone seeking to have documents related to a real estate transaction recorded. Some registers in the state had concerns about liability and safety and questions about the details of implementing such a policy, which led to the amendment that sent the bill to the commission for further study.

Illinois authorizes its counties to establish a fraud referral and review process to refer deeds and other instruments to an administrative law judge when a recorder has reason to believe that the filing may be fraudulent, altered, or otherwise unlawful.

Registers in Tennessee are not required to ask for identification from people recording documents.

Documenting the identity of individuals seeking to record real estate documents has been shown to aid in fraud investigations and possibly deter real estate fraud in other states.

Other states have authorized local officials to request identification before recording real estate documents. Texas law authorizes county clerks to require individuals submitting real estate documents in person for recording to present photo identification. This anti-fraud measure was first authorized in Harris County (Houston) in 2016 and later expanded to additional counties. According to attorneys and county clerks in the state, it has proven to be an effective tool in helping reduce real estate fraud, and in 2025 the legislature enacted a bill to make the practice mandatory in all counties, making it so that documents conveying real property presented in person cannot be recorded without photo ID. In 2023, Lee County, Florida launched a two-year pilot program authorizing the county clerk to request government-issued photo identification from anyone recording a deed—and to refuse to record it if identification is not provided. The law requires both grantors and grantees to submit copies of their identification when recording deeds in person or by mail. The program demonstrated some success—a man was arrested for attempting to steal a property using a falsified deed after the clerk’s office provided law enforcement with the fake driver’s license used by him and two civil cases were filed to quiet title after fraudulent quitclaim deeds were discovered—but the majority of feedback from the legal and real estate community was negative. The Lee County clerk issued a comprehensive review of the program in October 2025, with recommendations to expand it on a discretionary basis with modifications, including a suggestion to allow the clerk’s office to test automated identity verification technologies. In Arkansas, Act 752 of 2025 went into effect on August 5. To have a deed recorded in person, the grantor or person signing the deed on behalf of the grantor must present a valid photo identification card or driver’s license to the clerk, who is required to file a copy with the deed. Deeds submitted by mail must also include a copy of the grantor’s identification. The law makes exceptions for attorneys, mortgage lenders, and licensed real estate professionals.

One technology firm has proposed a verification process that would allow registers to use biometric cameras to capture the images of individuals submitting documents for recording. The firm, IdentifiD, would supply the cameras and the related software used to encrypt and store the images. To date, it appears that the technology is being used by three registers offices, one in Kansas, one in Missouri, and one in Washington, but it is only being used as part of a voluntary program in which property owners place a verification check limiting who may modify their property’s deed. There was failed legislation this past year to make the use of biometric verification cameras mandatory statewide by notaries public in Kansas. At least two registers of deeds in Tennessee have expressed an interest in using this technology in their own fraud-reduction efforts.

Analysis: Protecting Property Owners and Reducing the Risk of Real Estate Fraud in Tennessee

A federal judge once wrote, “The law does not define fraud; it needs no definition; it is as old as falsehood and as versable as human ingenuity.”¹ In modern society, people are more vulnerable than ever to the ingenuity of criminals seeking new ways to exploit others for their own financial gain. Real estate fraud involves deceptive practices in real estate property transactions and usually involves one party providing false information or withholding facts, leading to financial loss for another party. And in May 2024, Tennessee found itself at the center of national attention when a case of real estate fraud involving Graceland—the Memphis estate once owned by Elvis Presley—made headlines.

Many were shocked when *The Commercial Appeal* published public notice that Graceland would be put up for public auction at the Shelby County Courthouse on May 23, 2024. Kurt Naussany, of Naussany Investments and Private Lending, claimed that Lisa Marie Presley had failed to repay a \$3.8 million loan she secured through the company on May 16, 2018, using Graceland as collateral, and therefore the estate was going to be sold off to pay back the loan. But there never was a loan, and Kurt Naussany and Naussany Investments didn’t exist. When Lisa Marie Presley died in January 2023, her daughter, Riley Keough became trustee of the Graceland estate. A few months later, Ms. Keough was sent notice for an outstanding debt. A creditor’s claim was mailed from a small town in southern Missouri to Lisa Marie Presley’s business manager in California. The claim appeared to be filed in California Superior Court and included a promissory note from 2018 regarding the \$3.8 million loan and a deed of trust, both allegedly signed by Lisa Marie Presley and notarized in Florida. The scheme unfolded over the next several months, leading up to the attempted auction, which Keough sued to stop. Investigators would later prove that the deed and signatures had been forged, including that of the Florida notary. After a bizarre series of communications from various aliases, investigators determined the woman behind the scheme was actually Lisa Jeanine Findley, a woman with a long history of fraud and embezzlement who had twice been in prison. She was arrested in August 2024 on federal charges of mail fraud and aggravated identity theft and faced a possible 20-year prison sentence. Instead, Findley agreed to plead guilty in February 2025 to a single count of mail fraud, and prosecutors recommended her sentence be no more than 57 months.²

Real estate fraud involves deceptive practices in real estate property transactions and usually involves one party providing false information or withholding facts, leading to financial loss for another party.

¹ Edwin Ruthven Holmes, United States Court of Appeals for the Fifth Circuit, in *Weiss v. United States*, 122 F.2d 675 (1941).

² Strebig 2024; US Department of Justice 2024; and Burke, Zadrozny, and Schuppe 2025.

The transfer of property rights involves specific legal documents and processes designed to establish and protect ownership.

Even before the Graceland scheme was uncovered, reports of real estate fraud in Tennessee had caught the attention of state legislators. Senate Bill 2448 by Senator Akbari and House Bill 2215 by Representative Parkinson were introduced in the 113th General Assembly (see appendix A). The legislation originally sought to emulate laws in other states that require county registers of deeds and notaries public to verify by government-issued identification (ID) the identity of a person recording or notarizing documents relating to certain real estate transactions. It was instead amended in the Senate State and Local Government Committee to direct the Tennessee Advisory Commission on Intergovernmental Relations to study

- the prevalence of real estate fraud in Tennessee,
- the different schemes used to perpetrate real estate fraud,
- the methods used by other states to combat real estate fraud, and
- the best practices for local government officials in registering documents related to real estate transactions.

As amended, the bill was enacted as Public Chapter 941, Acts of 2024. See appendix B for a copy of the public chapter.

Documenting Ownership and Transfers of Real Property

Understanding how property ownership is documented and how real estate is transferred between parties is essential to recognizing and preventing property fraud. Title to real property is a concept that defines ownership of a property and the rights of its owners to use it and transfer rights and ownership to others. The title represents a “bundle of rights” related to the property, not a particular document.³

The transfer of property rights involves specific legal documents and processes designed to establish and protect ownership. One of the most important of these documents is the deed, which plays a central role in real estate transactions. Ownership of real property can be conveyed through a deed.⁴ A deed is a document where the property owner, the grantor, transfers the title to another person or entity, the grantee.⁵

There are different types of deeds. The general warranty deed is a deed where the grantor certifies that the title is good and the grantor promises to defend against claims to the title by third parties.⁶ With a special warranty deed, the grantor only guarantees that there are no defects or problems with the title during the period the grantor owned the property.⁷ It does

³ Schorr Law 2024.

⁴ Smith 2024.

⁵ Mettling, Cusic, Mettling and Stanfill 2024.

⁶ Mettling, Cusic, Mettling and Stanfill 2024; and Smith 2024.

⁷ Ibid.

not cover issues that may have existed prior to the grantor's ownership. There are also quitclaim deeds, which transfer any interest the grantor may have without guaranteeing clear title.⁸ While deeds are legal documents, the drafting of a deed is not considered the practice of law in Tennessee.⁹ Property owners may lawfully draft their own deeds. During the 113th session of the General Assembly, Senate Bill 1082 by Senator Kyle and House Bill 1344 by Representative Beck was introduced and would have required attorneys, title insurance agents, or property owners to draft deeds, but it failed to pass.

The sale and transfer of real property can be a complex process that involves multiple steps and the coordination of various parties.

Real estate brokers play a central role in marketing property and facilitating real estate transactions.¹⁰ While Tennessee law requires brokers to complete training to obtain and renew their licenses, current law does not mandate specific instruction in real estate fraud.¹¹ As a part of the real estate transaction, a buyer may seek a loan to finance the purchase of real estate. These loans are secured by the property itself, using either a traditional mortgage or a deed of trust. A traditional mortgage is a two-party agreement between the borrower and the lender, in which the borrower retains legal title to the property that is collateral for the loan.¹² In contrast, a deed of trust involves a three-party arrangement that includes the borrower, the lender, and a neutral trustee, who holds legal title on behalf of the lender until the debt is paid off.¹³

Although property can be transferred without a title search with a quitclaim deed, title companies still play a critical role in many real estate transactions in Tennessee. Title companies do title searches to verify legal ownership, identify any existing liens or encumbrances, and ensure that the chain of title is clear.¹⁴ They also issue title insurance to protect both the borrower and lender against potential financial loss arising from undiscovered claims, errors in public records, or title defects.¹⁵ Tennessee law does not require that an attorney be present at the closing.

Title companies do title searches to verify legal ownership, identify any existing liens or encumbrances, and ensure that the chain of title is clear.

⁸ Ibid.

⁹ Tennessee Attorney General Opinion No. 07-88 says that drafting of real estate documents may be "law business" if the preparation requires the professional judgment of an attorney, but this could only be determined by an attorney. Tennessee Code Annotated, Section 23-3-101 defines "law business" as "the advising or counseling for valuable consideration of any person as to any secular law, the drawing or the procuring of or assisting in the drawing for valuable consideration of any paper, document or instrument affecting or relating to secular rights ...".

¹⁰ Tennessee Code Annotated, Sections 62-13-101 et seq.

¹¹ Tennessee Code Annotated, Sections 62-13-303 and 62-13-324; and Tennessee Rules and Regulations Chapter 1260-05.

¹² Mettling, Cusic, Mettling and Stanfill 2024.

¹³ Ibid.

¹⁴ Smith 2024; and Tennessee Code Annotated, Section 56-35-129.

¹⁵ Ibid.

Notaries act as impartial witnesses to real estate transactions, verifying that the individuals signing the documents are who they claim to be and that they are signing them voluntarily.

Important documents, including real property records and transactions, require notarization.

Notaries public provide a vital service in maintaining the integrity of real estate transactions. Important documents, including property deeds and records, require notarization to be considered valid and legally binding.¹⁶ Notaries act as impartial witnesses to these transactions, verifying that the individuals signing the documents are who they claim to be and that they are doing so voluntarily.¹⁷ In Tennessee, a notary public is a commissioned state official.¹⁸ Once commissioned, notaries can operate in any county throughout the state.¹⁹ Tennessee is like nearly all states in this way. Louisiana is a partial exception: Because of the historical French influence on its legal system, notaries in Louisiana have traditionally been limited to practicing in the parish in which they reside.²⁰ But since 2005, the state has allowed notaries who pass an exam to be commissioned statewide.²¹ There are also some states that permit notaries to notarize documents outside their home state. Otherwise, notaries in the US are authorized to perform notarizations anywhere within their commissioning state's borders.²²

To complete a notarization, Tennessee notaries must confirm the signer's identity through personal knowledge, sworn statements from credible witnesses, or government-issued identification like a driver's license.²³ Although these procedures are meant to deter fraud, notarizations may still be exploited to commit real estate fraud by forging signatures on property deeds or fraudulently transferring ownership of property.²⁴ Tennessee permits three types of notarizations: traditional, electronic, and remote online notarization (RON). In a traditional notarization, the signer appears in-person before a notary to sign documents in ink, which the notary also signs in ink and stamps with an official, inked seal.²⁵ Electronic notarization—also known as e-Notarization or in-person electronic notarization (IPEN)—is the process of notarizing digital documents in which the notary and signer are physically present together, both use electronic signatures, and the notary applies an electronic seal to complete the notarization.²⁶ RON, by contrast, happens remotely using audio-video

¹⁶ Title Group of Tennessee 2023.

¹⁷ National Notary Association 2025c.

¹⁸ Tennessee Code Annotated, Sections 8-16-101 and 8-16-102.

¹⁹ Tennessee Code Annotated, Section 8-16-112.

²⁰ Stephenson 2015. Louisiana notaries may also practice in reciprocal parishes "without additional bonding or examination"; see Louisiana Department of State "Reciprocal Parishes."

²¹ Louisiana Revised Statutes, Section 35.191.

²² National Notary Association 2025d.

²³ Tennessee Code Annotated, Section 66-22-101.

²⁴ Interview with Brooke Merritt, senior manager of policy planning and Bill Anderson, vice president of government affairs, National Notary Association, November 19, 2024.

²⁵ National Notary Association 2025b; and Tennessee Code Annotated, Sections 8-16-112 and 8-16-114.

²⁶ National Notary Association 2025b; and Tennessee Code Annotated, Sections 8-16-112 and 47-10-111.

technology.²⁷ Each format has vulnerabilities, particularly if identity verification and recordkeeping standards are not enforced consistently.²⁸

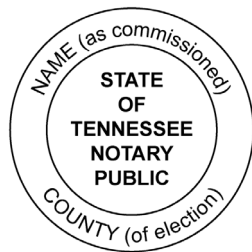
Becoming a notary in Tennessee

There are few requirements to become a notary in Tennessee. A person “must be a United States citizen or a legal permanent resident in order to hold the office of notary public” and be either a resident of or have their principal place of business in the county from which they seek to be elected.²⁹ Notaries must secure a \$10,000 surety bond³⁰ and—like other public officials—cannot be commissioned if they have been convicted of certain crimes like bribery or larceny.³¹ Each applicant “shall certify under penalty of perjury” that they are eligible to become a notary public, but the state does not require a criminal background check.³² Individuals seeking to perform in-person or electronic notarizations in Tennessee do not need to pass an exam or complete any formal training.³³ But Public Chapter 124, Acts of 2025, requires individuals seeking to become online notaries to complete training and pass an exam beginning in January 2026.

State law requires that all notaries use an official seal prescribed and designed by the Tennessee Secretary of State, which must be purchased by the notary at his or her own expense (see figure 1).³⁴ There are many retailers selling notary supplies. Notaries are not required by Tennessee law to provide proof of commission to purchase a notary seal, though retailers often require one. According to one online supplier, proof is required in 11 states.³⁵

There are few requirements to become a notary in Tennessee.

Figure 1. Official Tennessee Notary Public Seal



Source: Tennessee Secretary of State 2025.
(As described by Rule 1360-07-02-.01, Tennessee Compiled Rules and Regulations.)

²⁷ National Notary Association 2025b; and Tennessee Code Annotated, Sections 8-16-301 et seq.

²⁸ Business Conceptor 2025.

²⁹ Tennessee Code Annotated, Section 8-16-101.

³⁰ Tennessee Code Annotated, Section 8-16-104.

³¹ Tennessee Code Annotated, Section 8-18-101.

³² Tennessee Code Annotated, Section 8-16-101(c).

³³ Tennessee Secretary of State 2025.

³⁴ Tennessee Code Annotated, Section 8-16-114.

³⁵ All State Notary Supplies 2025. Certificates are required for the states of AZ, CA, GA, MO, MT, ND, NE, OR, UT, WA, and WV. Commission staff found another state, Illinois, where

Tennessee's current laws require traditional notaries to record notarizations in their notary journals only when a fee is charged.

For online notarizations, the state's Online Notary Public Act of 2018 requires detailed electronic records of their notarizations that must be kept for five years.

Duties and requirements for Tennessee notaries

Currently, Tennessee's laws require traditional notaries to record notarizations in their notary journals only when a fee is charged.³⁶ But the law does not specify what information must be recorded or how long the journal must be retained. The *Tennessee County Clerks' Handbook for Notary Public Applications* recommends that notaries record the date of the transaction, the name of the person whose signature is being notarized, a description of the instrument and for whom it was for, the form of identification presented and whether the person whose signature was being notarized was a personal acquaintance, and any fee collected.³⁷ In contrast, for online notarizations in Tennessee, the state's Online Notary Public Act of 2018 requires detailed electronic records of their notarizations for five years, and state law lists that each record must include

- the date and time of the notarization;
- the type of notarial act;
- the type, the title, or a description of the electronic document or proceeding;
- the printed name and address of each principal involved in the transaction or proceeding;
- evidence of identity of each principal involved in the transaction or proceeding;
- a recording of any video and audio conference that is the basis for satisfactory evidence of identity and a notation of the type of identification presented as evidence; and
- the fee, if any, charged for the notarization.³⁸

The original version of the legislation that became Public Chapter 941, Acts of 2024, would have expanded both the scope of information notaries are required to record and the length of time it must be retained. It would have required notaries to record the names of the people they are notarizing documents for, the types of identification presented, and the unique identifying numbers or letters on those identification cards. Additionally, it would have required notaries to retain this information as a permanent record.

Under Tennessee law, a notary who fails or refuses to perform the duties required when taking the acknowledgment of a deed or other instrument will be subject to a \$100 payment that is payable to the county in which

³⁶ "Only upon presentation by the notary . . . of the Commission Certificate is a vendor authorized to provide the notary with an official seal." Illinois Administrative Code, Section 176.550(b).

³⁷ Tennessee Code Annotated, Section 8-21-1201.

³⁸ University of Tennessee County Technical Advisory Service 2016.

³⁹ Tennessee Code Annotated, Section 8-16-308. Paragraph (a)(5) also specifies acceptable forms of identification.

the notary resides.³⁹ The purpose of an acknowledgment is for a verified signer to affirm to a notary or notarial officer that they willingly signed the document.⁴⁰ To fulfill their statutory duty, a notary must use the proper forms to certify that the persons signing a document “personally appeared” before the notary and that their identity has been proven “on the basis of satisfactory evidence.”⁴¹ Additionally, the notary may be held liable to any injured party for all resulting damages, including legal costs, arising from the notary’s failure or refusal to fulfill these statutory obligations. Liability may arise from either negligence or misconduct.

Real property documents are recorded and maintained in each county by a register of deeds.

Once the documents for the purchase or transfer of property have been signed, Tennessee’s registers of deeds are responsible for “carefully preserving as permanent records the recorded copies of all deeds, deeds of trust and other instruments affecting interests in real estate” in each county. Before recording any documents, however, registers have a duty to “determine whether each instrument offered for registration is entitled to registration under the laws of this state.” They must examine the real estate documents to make certain they meet the requirements in the law and, if they do, the registers must record them.⁴² This means checking that all the elements of proper notarization have been included with a certificate of acknowledgement that the signatures are authentic. The register of deeds has the duty to “determine whether each instrument offered for registration is entitled to registration under the laws of this state.” While registers can refuse to register an illegible document or an instrument or document that has not been properly authenticated, the University of Tennessee County Technical Assistance Service cautions, “The register should not try to determine the legal sufficiency of an instrument but must determine whether or not it is acceptable for registration.”⁴³ According to an opinion from the Office of the Attorney General of Tennessee, “Unless there is a specific statute that provides an exception to the requirement that the register of deeds register all deeds entitled to registration under the laws of the state promptly and correctly, the register of deeds must file the deed.”⁴⁴

Registers of deeds examine real estate documents to make certain they meet the requirements of the law. If they do, the registers must record them.

³⁹ Tennessee Code Annotated, Section 66-22-113; and University of Tennessee County Technical Advisory Service 2016.

⁴⁰ Clarke 2024.

⁴¹ Tennessee Code Annotated, Section 66-22-107. The acknowledging officer must designate in the acknowledgment form whether the principal personally appeared before the officer by means of an interactive two-way audio and video communication; Tennessee Code Annotated, Section 66-22-101(d).

⁴² Tennessee Code Annotated, Section 8-13-108.

⁴³ University of Tennessee County Technical Advisory Service 2025.

⁴⁴ Tennessee Attorney General’s Opinion No. 02-105.

In most Tennessee counties, property owners can sign up for free email alerts to let them know if a document is filed on their property.

Original documents can be filed with the register of deeds in person or by mail, and sometimes digital documents can be submitted electronically. The Tennessee legislature passed a bill this year, Public Chapter 104, Acts of 2025, that will limit electronic filing of documents to attorneys, lending institutions, title companies, and state and local governments. Documents notarized under the state's Online Notary Public Act must also meet standards for credential analysis and identity proofing to affirm signers' identities.⁴⁵ Registers are not required to ask for identification from people recording documents by mail or in person, something that could help investigations of attempted fraud. The original version of Public Chapter 941, Acts of 2024, would not only have required registers to ask filers for identification, but it also would have required registers to record the filer's name, the type of identification presented, and the numbers associated with it, and to keep this information permanently with the recorded document.⁴⁶ Some registers in the state had concerns about the original version of Public Chapter 941, Acts of 2024. There was concern that a register's office staff could be threatened if they were required to ask for identification when a person was filing a deed.⁴⁷ There were also concerns about how the law would work. Would the registers be held liable if fraud occurred? Whose identification would they ask for: the grantor, the attorney preparing the deed or the person filing the deed? How could they verify the validity of the ID? How long do they keep copies of the IDs?⁴⁸ One county register told commission staff, "while I fully support strengthening protections against property fraud, I do not believe an ID requirement at the register's counter is the appropriate or effective path, and I see significant practical challenges that could create more risk than benefit."⁴⁹

Tennessee's registers are not required to notify property owners if a document is filed on their property, but owners can sign up for a free email alert that will let them know if a document is filed on their property in most counties. In Hamilton County, the register of deeds has started sending automated written notices to property owners when a quit claim deed is filed on their property. He noted that the cost might prohibit others from doing this.⁵⁰ The original version of Public Chapter 941, Acts of 2024, would have required registers to send notice to owners anytime a document was filed on their property. Senator Johnson and Representative Slater filed bills, Senate Bill 2313 and House Bill 2271, in 2024 that would

⁴⁵ Tennessee Code Annotated, Section 8-16-301 et seq.

⁴⁶ Senate Bill 2448 by Senator Akbari and House Bill 2215 by Representative Parkinson.

⁴⁷ Interview with Heather Dawbarn, register of deeds, Rutherford County, Tennessee, August 14, 2024.

⁴⁸ Interview with Julie Runyon, register of deeds, Montgomery County, Tennessee, August 6, 2024.

⁴⁹ Email from Holly Hemmrich, register of deeds, Sumner County, Tennessee, November 13, 2025.

⁵⁰ Interview with Marc Gravitt, register of deeds, Hamilton County, Tennessee, July 26, 2024; confirmed by email, August 15, 2025.

have required registers of deeds across the state to send a postcard to property owners when a quitclaim deed was filed on their property. The legislation did not pass.

Deception and Fraud Involving Property and Real Estate Transactions

“Real estate fraud consists of any misrepresentation in a real estate transaction intended to cheat someone out of money or property, obtain housing under false pretenses, or secure better credit terms.”

—Ralph Roberts and Rachel Dollar

Protect Yourself from Real Estate and Mortgage Fraud

The Tennessee Office of Inspector General defines fraud as “an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person.”⁵¹ There are many types of real estate fraud and opportunities for deception and misrepresentation at different points in a real estate transaction.

Two tactics commonly used by criminals to commit real estate fraud are identity theft and forgery. Identity theft is when “someone wrongfully obtains and uses another person’s personal data in some way that involves fraud or deception, typically for economic gain.”⁵² This may mean a criminal using someone’s personal data to deceive others into believing that the criminal is the legal owner of a property in order to rent or sell the property to unsuspecting victims. Forgery is the act of creating “a false document, signature, or imitation of something valuable.”⁵³ Forged documents are used by criminals to misrepresent their identity and fraudulently claim legal ownership of property. Additionally, when criminals send mail or use phone lines and internet communications for fraudulent purposes—elements essential to the execution of many real estate fraud schemes—they commit mail fraud or wire fraud.⁵⁴

Deed Fraud: Impersonating Owners, Forging Signatures, Falsifying Notarizations

This type of fraud involves impersonating property owners to illegally sell or otherwise profit from real property the perpetrator does not own. Criminals may forge signatures, falsify notarizations, and steal personal information to record fake or forged documents in local land records. For

⁵¹ Tennessee Department of Finance and Administration “What is Fraud & Abuse?”

⁵² US Department of Justice “Identity Theft.”

⁵³ FindLaw.com “Forgery.”

⁵⁴ 18 US Code, Sections 1341 and 1343.

Criminals may forge signatures, falsify notarizations, and steal personal information to record fake or forged documents in local land records.

example, in 2022, a woman was arrested in Shelby County “after allegedly forging false quit claim deeds to sell properties across Memphis that she didn’t own.”⁵⁵ In April 2025 she agreed to plead guilty to federal charges of mail fraud, bank fraud, and making a false statement, and agreed to plead guilty in state court to six counts of drawing property transfer documents without legal interest in the property—a class E felony.⁵⁶ In another case in Memphis, a woman was charged with “numerous counts of property theft, forgery, criminal impersonation, [and] identity theft” for filing fraudulent quit claim deeds against several Memphis properties and transferring them to a business she owned with her husband.⁵⁷ Because criminals often target properties that are not owner-occupied or developed, it can sometimes take months or years for the property owner to discover the fraud.⁵⁸

According to the American Land Title Association, seller impersonation is a growing problem, with 28% of title insurance companies experiencing at least one attempt in 2023. Nearly one in five companies had experienced a seller impersonation attempt the month they were surveyed (April 2024). Criminals’ most common scheme was attempting to use fake notary credentials, followed by the use of legitimate notary credentials without consent and the use of fake IDs at in-person notarizations.⁵⁹ The National Notary Association warns, “There’s not much [notaries] can do” to prevent criminals from copying stamps or forging a notary’s seal.⁶⁰ The group advises that keeping a detailed notary journal can help defend against accusations of fraud and also recommends carrying errors and omissions (E&O) insurance—a type of policy that protects the holder from losses resulting from unintentional mistakes or false claims.⁶¹ But just as technology has expanded criminals’ ability to commit fraud, so too has it led to the development of more tools to combat fraud. The companies that provide online notarization services say that online notarization “creates a more trusted record than a paper notarization and can help prevent fraud.” Online notarizations include video recordings and encrypted digital certificates that, according to technology providers, verify the identity of the notary responsible “and ensure that the notary was in control of their stamp and in good standing at the time of the notarization.”⁶²

⁵⁵ FOX13Memphis.com 2022.

⁵⁶ “Plea Agreement,” United States v. Seymore, case no. 2:25-cr-20086-01-MSN (W.D. Tenn. April 16, 2025).

⁵⁷ Suriani 2022.

⁵⁸ American Land Title Association 2024a.

⁵⁹ Ibid.

⁶⁰ National Notary Association 2018.

⁶¹ National Notary Association 2025a.

⁶² MacDougall 2024.

Mortgage Fraud and Intercepting Funds

Criminals may attempt to disguise themselves as legitimate parties to a real estate transaction, sending emails or making phone calls that mimic those from the actual real estate agents, title companies, or lenders. In March 2024, FBI agents in Denver received a complaint reporting a compromised business email during a real estate transaction. “The individuals were in the process of purchasing property and received a spoofed email from their supposed real estate agents requesting that they wire \$956,342 to a US domestic bank to finalize the closing. Two days after the wire was initiated, the victims realized the instructions came from a spoofed email.”⁶³

Rental Fraud

Criminals are using publicly available or stolen information to create fraudulent rental listings for properties they don’t own. They attempt to collect money from victims by pretending to be legitimate property owners looking for renters. A survey conducted in 2022 found that 60% of renters reported seeing fraudulent listings online in the previous 12 months. Dwellsy, the online rental listing service provider who conducted the survey, estimated that rental fraud costs Americans \$16 billion a year.⁶⁴

Federal and State Criminal Statutes that Cover Real Estate Fraud

People who commit real estate fraud in Tennessee could be charged under several of the state’s criminal laws and may also face prosecution under federal criminal statutes. These laws, however, are not specifically written for real estate fraud. For example, using the US Postal Service or any private or commercial carrier to send anything involved in a scheme to defraud someone constitutes mail fraud, punishable with up to 20 years imprisonment.⁶⁵ Similarly, the crime of wire fraud involves the use of interstate electronic communications to facilitate fraud.⁶⁶ Defrauding a financial institution or obtaining money under false pretenses tied to bank transactions is bank fraud.⁶⁷ Those who act in any way to contribute to the commission of these federal crimes can be charged with conspiracy, punishable with up to five years in prison.⁶⁸

Identity Theft

Identity theft occurs when someone knowingly uses another person’s identifying information, like their Social Security number, without consent, with intent to commit any unlawful act.⁶⁹ Impersonating a notary public or

People who commit real estate fraud in Tennessee could be charged under several of the state’s criminal laws and may also face prosecution under federal criminal statutes.

⁶³ Federal Bureau of Investigation 2025.

⁶⁴ Dwellsy 2022.

⁶⁵ 18 US Code, Section 1341.

⁶⁶ 18 US Code, Section 1343.

⁶⁷ 18 US Code, Section 1344.

⁶⁸ 18 US Code, Section 371.

⁶⁹ Tennessee Code Annotated, Section 39-14-150.

Crime statistics specifically for real estate fraud are difficult to find, but there are many indications that it is prevalent throughout the United States and Tennessee.

using a property owner's personal information to intercept funds could be considered examples of identity theft to commit real estate fraud. Under Tennessee's criminal sentencing statutes, it is a Class D felony, punishable by two to 12 years imprisonment and a fine of up to \$5,000.⁷⁰ Identity theft is also a federal crime, which "in most circumstances carries a maximum term of 15 years' imprisonment, a fine, and criminal forfeiture of any personal property used or intended to be used to commit the offense."⁷¹

Forgery, Criminal Simulation, and Fraudulent Deeds

Forgery is the alteration or falsification of written or printed materials "with intent to defraud or harm another."⁷² Criminal simulation is a related offense, akin to counterfeiting, involving fraudulent objects of value.⁷³ Each is, at minimum, a Class E felony under Tennessee's criminal sentencing statutes, punishable by one to six years in prison. Forgery and criminal simulation are punishable as theft, the severity of which is determined by the value of the property obtained.⁷⁴ It is also a Class E felony in Tennessee "to knowingly cause to be prepared, sign, or file records of any property transfer document" when "the transferor or grantor has no legal nor equitable interest to convey" the property.⁷⁵ And it is a Class A misdemeanor for a person to attempt to record a deed "with knowledge that the transferor or grantor has no legal or equitable interest to convey such land."⁷⁶

Theft of Property

Theft is when a person, "with intent to deprive the owner of property ... knowingly obtains or exercises control over the property without the owner's effective consent."⁷⁷ Sentence classifications for theft in Tennessee are graded by the value of property stolen, and theft includes the taking of real property as well as the taking of items and things people commonly think of when they think about theft. Theft of property valued between \$60,000 and \$250,000, for example, is a Class B felony punishable by eight to 30 years imprisonment and a fine of up to \$25,000. Theft of property valued greater than \$250,000 is a Class A felony, punishable by 15 to 60 years in prison and a \$50,000 maximum fine.⁷⁸

⁷⁰ Ibid and Tennessee Code Annotated, Section 40-35-111.

⁷¹ US Department of Justice "Identity Theft"; and 18 US Code, Section 1028.

⁷² Tennessee Code Annotated, Section 39-14-114.

⁷³ Tennessee Code Annotated, Section 39-14-115.

⁷⁴ Tennessee Code Annotated, Sections 39-14-114, 39-14-115, and 40-35-111.

⁷⁵ Tennessee Code Annotated, Section 39-17-116.

⁷⁶ Tennessee Code Annotated, Section 66-3-104.

⁷⁷ Tennessee Code Annotated, Section 39-14-103.

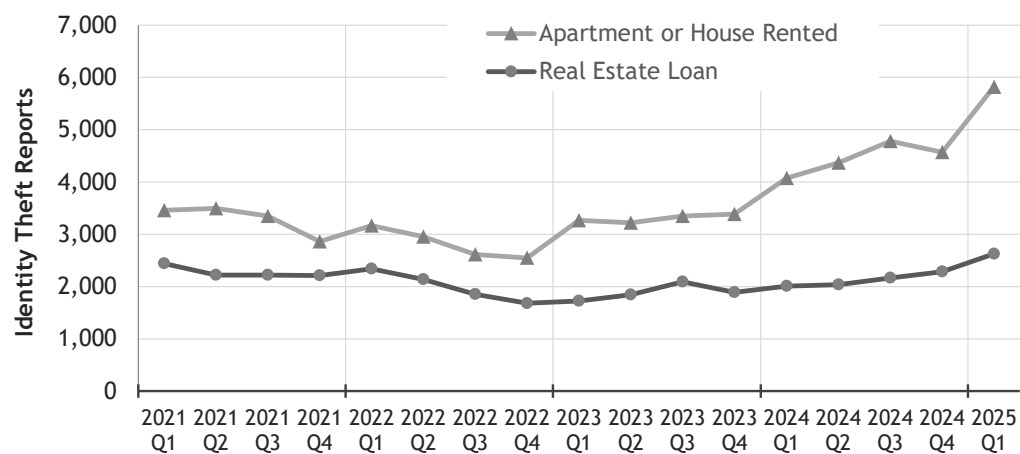
⁷⁸ Tennessee Code Annotated, Sections 39-14-105 and 40-35-111.

Real Estate Fraud is a Problem Nationwide and Throughout Tennessee

Because real estate fraud can happen in many ways, and criminal charges can fall under broader categories (e.g. forgery, wire fraud), crime statistics specifically for real estate fraud are difficult to find. But there are many indications that real estate fraud is prevalent throughout the United States and Tennessee. One such resource is the Federal Trade Commission's (FTC) Consumer Sentinel Network (Sentinel). When the FTC receives consumer reports about fraud, identity theft, and other consumer protection topics, it categorizes and stores them in the secure, online Sentinel database, along with "reports filed with other federal, state, local, and international law enforcement agencies, as well as other organizations, like the Better Business Bureau."⁷⁹ Since the first quarter of 2021, the FTC has received nearly 100,000 reports from all parts of the country where identity theft was used either to rent a house or apartment or to obtain a real estate loan. See figure 2.

Since 2021, the Federal Trade Commission has received nearly 100,000 reports from all parts of the country where identity theft was used either to rent a house or apartment or to obtain a real estate loan.

Figure 2. Reports of Identity Theft to Commit Real Estate Fraud in the US, 2021 to 2025



Reported use of a person's identifying information to get a loan or lease, such as to get a house or apartment rental lease, or a mortgage or other real estate loan without their permission.

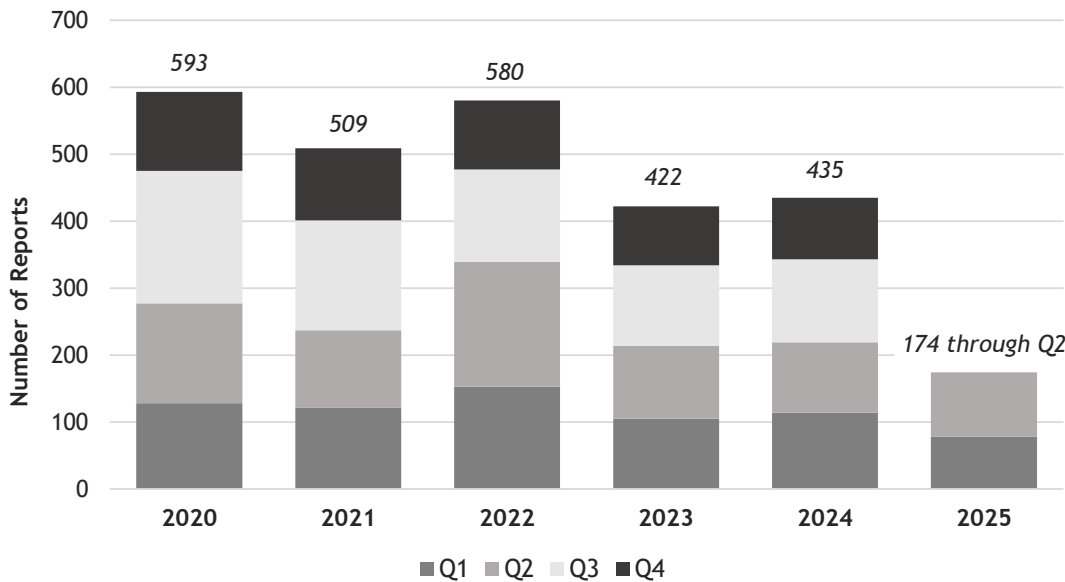
Source: Commission staff analysis of Consumer Sentinel Network data. Federal Trade Commission "Explore Data."

⁷⁹ Federal Trade Commission 2025.

State-level data isn't available at the same level of detail but reports of identity theft used for all loan and lease types in Tennessee increased from 2,220 in 2022 and 2,374 in 2023 to 2,849 in 2024.⁸⁰

The FTC also receives millions of other fraud reports each year, not directly linked to identity theft, which it groups into fraud report subcategories, including one for "Real Estate." The Sentinel database only says these reports are "about real estate sales and advertising," and that they exclude complaints about timeshare services. Further details about the nature of these real estate fraud complaints are unavailable. There have been 2,713 of these reports received from Tennessee since the beginning of 2020. See figure 3.

Figure 3. Reports of Miscellaneous Real Estate Fraud in Tennessee, 2020 to 2025



Includes reports about real estate sales and advertising but excludes timeshares.
Source: Commission staff analysis of Consumer Sentinel Network data. Federal Trade Commission "Explore Data."

⁸⁰ Federal Trade Commission "Explore Data."

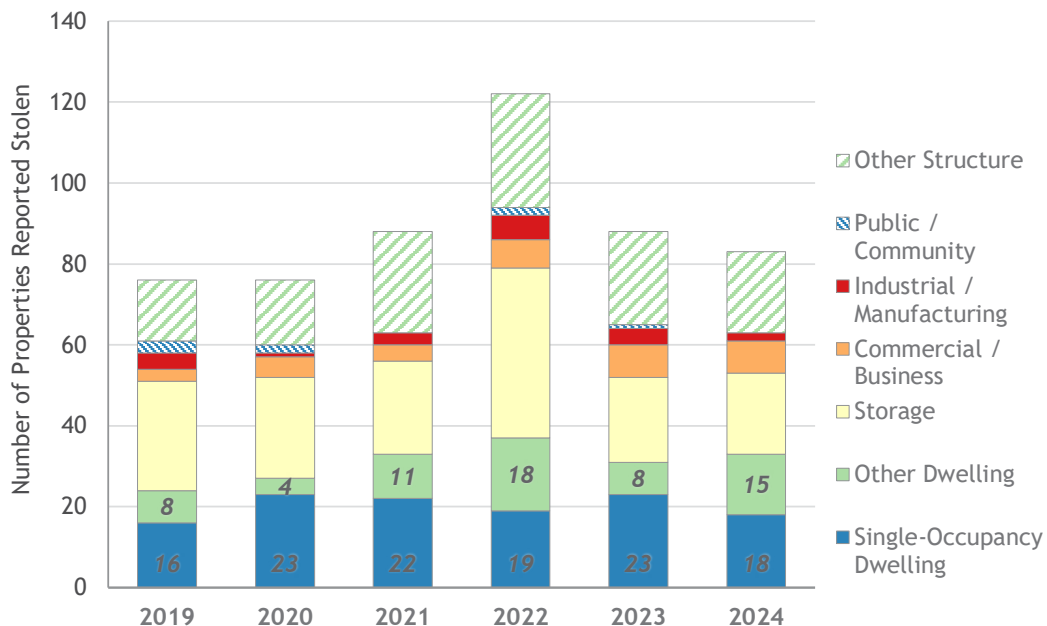
Since 2000, the Federal Bureau of Investigation’s Internet Crime Complaint Center (IC3) has also been collecting reports of cyber-enabled crime and fraud. In 2024, IC3 reported 9,359 complaints of online real estate fraud, which cost victims nearly \$174 million.⁸¹ In 2025, the National Association of Realtors surveyed members about deed and title fraud. Sixty-three percent of respondents reported awareness of fraud in their markets within the past 12 months.⁸² Further highlighting the nationwide level of concern, in 2025 the Uniform Law Commission formed a study committee to consider “the need for and feasibility of a uniform or model act designed to discourage or prevent deed fraud and to provide effective civil remedies to permit victims to mitigate the financial consequences of deed fraud.”⁸³

The Tennessee Bureau of Investigation tracks property theft—including theft of homes and other buildings.

The Tennessee Bureau of Investigation collects crime data from local law enforcement agencies. For incidents where property is reported stolen, that can even include theft of dwellings and other structures. According to TBI data on theft of real property, 185 dwellings were stolen across 50 counties from 2019 to 2024. See figure 4, which includes thefts of all types of real property reported to TBI.

According to Tennessee Bureau of Investigation data on theft of real property, 185 dwellings were stolen across 50 counties from 2019 to 2024.

Figure 4. Theft of Real Property in Tennessee by Type, 2019 through 2024



Source: Tennessee Incident Based Reporting System (TIBRS).

⁸¹ Federal Bureau of Investigation 2025. Real Estate Fraud: Loss of funds from a real estate investment or fraud involving rental or timeshare property.

⁸² National Association of Realtors 2025.

⁸³ Uniform Law Commission “Deed Fraud.”

There were 533 total property structures reported stolen to law enforcement from 2019 to 2024, with at least one reported in 83 of the state's 95 counties.

Two counties—Shelby and Hamilton—were responsible for 38% of the state's total, with 48 and 23 incidents, respectively. For comparison purposes, there were 95,906 home sales in 2023 according to information from the Tennessee Housing Development Agency—meaning one home was reported stolen per roughly 3,000 home sales.⁸⁴

There were 533 total property structures reported stolen to law enforcement from 2019 to 2024, with at least one reported in 83 of the state's 95 counties. Four counties comprised 34% of the total: Shelby (90), Hamilton (51), Davidson (21), and Montgomery (20).⁸⁵ Representatives from the Tennessee Registers Association said that members in Blount, Knox, Loudon, Rutherford, Sevier, and Williamson counties have also reported problems with fraud.⁸⁶ Staff with the Memphis Police Economic Crimes Bureau estimated that they see one to three cases of real estate fraud per month. Although they don't keep statistics, the bureau says quit claim deed fraud is the most common. Cases involving multiple instances of fraud committed by a single person or group—especially those where communications cross state lines—are referred to the FBI.⁸⁷

Financial institutions report suspicious activity to the US Treasury Department.

The US Treasury Department's Financial Crimes Enforcement Network (FinCEN) collects financial transactions data to help law enforcement prevent and prosecute financial crimes.⁸⁸ Financial institutions are required to file suspicious activity reports (SARs) for things like suspected forgery, identity theft, and providing questionable or false documentation. From 2020 through 2024, financial institutions in Tennessee filed 8,914 SARs related to residential mortgages.⁸⁹ Filing a SAR does not mean that a crime has occurred; rather, it reflects that a transaction or activity appears unusual or warrants further review by authorities.

Efforts to Prevent and Deal with Real Estate Fraud

Stakeholder groups recognize that fraud is constantly evolving. But while there is concern that some changes to the real estate transfer system might be impractical, there is agreement that "steps can be taken to help combat these crimes without unintentionally harming innocent American property holders."⁹⁰ Some measures, like strengthening the role of

⁸⁴ Tennessee Housing Development Agency 2023.

⁸⁵ Tennessee Incident Based Reporting System (TIBRS).

⁸⁶ Interview with Holly Hemmrich and Terra Dickey, Tennessee Registers Association, July 17, 2024.

⁸⁷ Interview with Lieutenant Kevin Johnson, Memphis Police Department, July 16, 2024.

⁸⁸ US Treasury Financial Crimes Enforcement Network "What We Do."

⁸⁹ Commission staff analysis of FinCEN Suspicious Activity Report Statistics available online at <https://www.fincen.gov/reports/sar-stats>.

⁹⁰ American Land Title Association 2024b.

the notary public, empowering registers of deeds to report suspicious documents, and raising public awareness can be preventative. Others, like property records notification and increased criminal penalties, are corrective measures to address fraud when it occurs.

Notary Association Recommendations and Requirements for Notaries in Other States

Notaries are entrusted to witness and acknowledge signatures on important documents, including real property documents, verifying that the individuals signing are who they say they are. This responsibility puts notaries on the front lines of preventing fraud. There is growing concern across the country about the need to professionalize the role of notaries, especially because of the legal and financial ramifications of real estate fraud.⁹¹ In the context of real estate transactions, fraudulent notarization can result in the unlawful transfer of property and long, costly legal disputes for victims. Compared to states with higher standards, Tennessee's minimal requirements and safeguards could leave the state susceptible to notary fraud.

“Professional education enhances the effectiveness and integrity of the notarial system.”

—National Conference of Commissioners
on Uniform State Laws
Revised Uniform Law on Notarial Acts (2021)

Notary Education and Examinations

Notaries should understand the methods criminals use to commit fraud and the consequences that could result from notarizing fraudulent documents. They should also be aware of potential liabilities against them if proper procedures are not followed. According to the National Notary Association (NNA), “Significant legal and financial consequences associated with real estate fraud due to notarial misconduct and negligence can be mitigated by requiring new and renewing Notary Public commission applicants to be trained on the duties and responsibilities of their state’s laws and fraud prevention measures.”⁹² See appendix C for a copy of the letter. Similarly, other organizations recommend requiring training for notaries both when applying for and renewing notary commissions⁹³ and requiring an exam.⁹⁴

Real estate fraud is constantly evolving, but steps can be taken to help combat these crimes without unintentionally harming innocent property holders.

⁹¹ Lewis 2019.

⁹² Bill Anderson, vice president of government affairs, and Brooke Merritt, senior manager of policy planning, National Notary Association to the Tennessee Advisory Commission on Intergovernmental Relations, January 10, 2025, letter.

⁹³ American Association of Retired Persons, American Land Title Association, Mortgage Bankers Association, National Association of Realtors, and the National Notary Association 2024.

⁹⁴ American Society of Notaries, National Notary Association, and Pennsylvania Association of Notaries 2024.

Tennessee is among the 20 states where neither training nor an exam is required for notaries performing traditional, in-person notarizations; after January 1, 2026, the state will require both for online notaries.

See appendices D and E for copies of the documents. The Model Notary Act also includes language that notaries be required to attend training and take an exam.⁹⁵

Tennessee is among the 20 states where neither training nor an exam is required for notaries performing traditional, in-person notarizations. Thirty states require training,⁹⁶ an exam,⁹⁷ or both⁹⁸ before applicants can be approved for initial commissions to provide regular, in-person notary services. Eighteen states require continuing education or additional training to renew traditional notary commissions.⁹⁹ Fifteen of the 26 states that require new notaries to pass an exam also require an exam for renewals.¹⁰⁰ Three states with no training or exam requirements for traditional, in-person notaries do require training for notaries to perform remote online notarizations: Iowa, Kansas (also requires an exam), and Massachusetts.¹⁰¹ Tennessee will soon join these three; online notaries will be required to complete training and pass an exam after January 1, 2026.¹⁰² See table 1.

⁹⁵ National Notary Association 2022.

⁹⁶ Four (AL, FL, GA, TX) only require training without an exam.

⁹⁷ Eleven (AR, AZ, CT, HI, LA, ME, NE, NY, UT, VT, WI) only require an exam.

⁹⁸ Fifteen (CA, CO, IL, IN, MD, MO, MT, NC, NJ, NM, NV, OH, OR, PA, WY) require training and an exam.

⁹⁹ AL, CA, CO, GA, IL, IN, MD, MO, MT, NC, NJ, NV, OH, OR, PA, TX, VT, WY.

¹⁰⁰ AR, AZ, CA, CO, IL, IN, ME, MO, MT, NC, NV, OR, UT, WI, WY. Other states require a new exam only when a notary's commission has expired without renewing (PA), sometimes allowing for a grace period (NJ 30 days, CT 90 days.)

¹⁰¹ Massachusetts authorized RON in 2023 but has not approved its required training program.

¹⁰² Public Chapter 124, Acts of 2025.

Table 1. Notary Training and Exam Requirements by State

Requirements to Perform Remote Online Notarizations (RON)	Requirements for Traditional (in-person) Notaries			
		Training / Education Only	Exam Only	Both Training and Exam
	RON Training Only	Florida	Louisiana <u>Maine</u> Wisconsin	Oregon*^
	RON Exam Only		Hawaii	
	RON Training and Exam		<u>Arkansas</u> ^{a^} # <u>Nebraska</u>	California*†^# Colorado*†^# Indiana*†^# <u>Missouri</u> *†^# <u>Montana</u> *†^# <u>Nevada</u> *†^# New Mexico <u>North Carolina</u> *† Ohio*^
	No Specific Requirements for RON	Texas*	Arizona† New York Utah† Vermont*	Alaska, Delaware, Idaho, Kentucky, Michigan, Minnesota, New Hampshire, North Dakota, Oklahoma, Rhode Island, South Dakota, Virginia, Washington, West Virginia
	RON not Authorized	Alabama* Georgia*	Connecticut	Mississippi <u>South Carolina</u>

Italics: Specific training required to perform in-person electronic notarizations (IPEN).

* Training or education required to renew standard commission.

† Exam required to renew standard commission.

^ Training required to renew RON commission.

Exam required to renew RON commission.

^a Continuing education required to perform electronic notarizations.

Source: Commission staff review of state laws and National Notary Association online Knowledge Center.

Surety bonds for public officials are intended to protect the public by holding officials personally liable for misconduct or negligence. In Tennessee, notaries are required to file a \$10,000 surety bond before their commission can be approved.

Most notary training is offered online, with in-person training offered in a few states.¹⁰³ No state requires more than six hours of instruction. Notary training also varies based on who provides the instruction. Fifteen states provide notary training through government agencies, with one state partnering with a judges' association to provide training.¹⁰⁴ In most of these states, the secretary of state's office offers training.¹⁰⁵ These courses are typically free, although three states charge a fee.¹⁰⁶ Two of these states, Colorado and Oregon, have a list of approved vendors that offer courses in notary training as well.¹⁰⁷ In contrast, notaries have to attend training offered by vendors in nine states.¹⁰⁸ Most of these states have a list of approved vendors on their state websites. Training costs differ by vendor; for example, the Illinois Notary Association offers a state-approved training course and exam online for \$49.¹⁰⁹ In states where training is provided by the government, proof of completion can be an automatic part of the notary application process. In those where training is provided by a non-government vendor, applicants may be required to submit proof of completion with all other forms and requirements their state may have.

Surety Bonds for Notaries

Surety bonds for public officials are intended to protect the public and compensate those suffering loss or injury by reason of misconduct or neglect by an individual in office. Bonds also encourage officials to perform the duties of their office by holding them personally liable for misconduct or negligence. In Tennessee, notaries are required to file a \$10,000 surety bond before their commission can be approved. This amount has not increased since 1993,¹¹⁰ while the price of professional services and property values have gone up significantly. The term of the bond must match the length of the notary commission—both must be renewed every four years.

The National Notary Association recommends that bonds for notaries should be raised from \$10,000 to \$25,000 in Tennessee.¹¹¹ A \$10,000 bond costs a Tennessee notary between \$30 and \$45; a \$25,000 bond might cost

¹⁰³ CA, FL, IL, NV, OH, PA.

¹⁰⁴ AL, AR, CO, FL, GA, IN, KS, MO, NC, NE, NJ, NV, OR, SC, WY. The Alabama Law Institute, a state agency, offers training in conjunction with the Alabama Probate Judges Association.

¹⁰⁵ In Georgia, the Georgia Clerks Authority offers training. In North Carolina, community colleges and colleges offer training.

¹⁰⁶ Arkansas charges \$30 and Nevada charges \$45 for their training course. The cost of training is \$84 for traditional notaries and \$65 for remote notaries in North Carolina.

¹⁰⁷ Colorado Secretary of State 2025; and Oregon Secretary of State 2025.

¹⁰⁸ CA, IA, IL, MD, MT, NM, OH, PA, and VT.

¹⁰⁹ Illinois Notary Association 2025.

¹¹⁰ Public Chapter 57, Acts of 1993.

¹¹¹ Bill Anderson, vice president of government affairs, and Brooke Merritt, senior manager of policy planning, National Notary Association to the Tennessee Advisory Commission on Intergovernmental Relations, January 10, 2025, letter. See appendix C.

\$45 to \$70.¹¹² Six of the 28 states that require bonds for notaries set the amount higher than \$10,000. See table 2.

Table 2. Notary Bond Requirements by State

Bond Amount	States
\$50,000	(1) Alabama
\$25,000	(2) Indiana, Montana
\$15,000	(2) California, Nebraska
\$12,000	(1) Kansas
\$10,000	(10) Idaho, Louisiana, Michigan, Missouri, Nevada, New Mexico, Pennsylvania, <u>Tennessee</u> , Texas, Washington
\$7,500	(3) Arkansas, Florida ^a , North Dakota
\$5,000	(4) Arizona, Illinois ^b , Mississippi, Utah
\$2,500	(1) Alaska
\$1,000	(3) Hawaii, Kentucky, Oklahoma
\$500	(1) Wisconsin
None	(22) Colorado, Connecticut, Delaware, Georgia, Iowa, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, South Dakota ^c , Vermont, Virginia, West Virginia, Wyoming

^a \$25,000 bond required for remote online notaries (Florida Annotated Statutes, Section 117.225).

^b Additional \$25,000 bond required for electronic notarizations and remote online notaries (Illinois Compiled Statutes, Chapter 5, Section 312/2-105).

^c Effective July 1, 2025, a \$5,000 surety bond is no longer required (Chapter 90, State Laws of 2025).

Source: Commission staff review of state laws.

Criminal Background Checks for Notaries

Tennessee does not require criminal background checks for notary applicants. The NNA and other professional organizations have suggested that notary applicants should be required to undergo criminal background checks.¹¹³ Similarly, the Model Notary Act includes provisions mandating that a notary be required to submit to a background check before being commissioned as a notary. The Act's drafters note that such checks help

Tennessee is not among the 13 states to authorize or require background checks for notary applicants.

¹¹² Surety Bonds Direct "Notary Bond Prices by State." This bond agency offers \$10,000 bonds in Tennessee for \$30 and \$25,000 bonds in Montana and Indiana for \$45 and \$50, respectively. The National Notary Association offers \$10,000 bonds in Tennessee for \$45 and \$25,000 bonds in Indiana and Montana for \$70. See "Your [state] Notary Surety Bond" web pages.

¹¹³ Ibid.

Notaries should not rely upon personal acquaintance with a document signer as their sole means of identification.

ensure that applicants possess the integrity necessary for the position.¹¹⁴ Thirteen states authorize or require criminal records check on notary applicants.¹¹⁵

Verifying Identities

In Tennessee, when the person signing documents is someone “with whom [the notary] is personally acquainted,” a notary can accept the signer’s identity without documentary or other acceptable proof. If the notary is not acquainted with a document signer, the notary needs “satisfactory evidence” that the person is who they claim to be.¹¹⁶ Satisfactory evidence can include affirmation by a “credible witness personally known” to the notary or a driver’s license, passport, or military ID.¹¹⁷ Notary expert Michael Closen suggests, “[the] notary should not use the notary’s personal knowledge of a document signer as a means of identification,” because even “parties with whom one has dealt for years may not be who they claim to be.” California stands out as the only state that prohibits notaries from relying exclusively on personal knowledge to verify a signer’s identity. Instead, it requires valid identification for all notarizations and, for certain real estate transactions, a thumbprint in the notary journal.¹¹⁸ This requirement aims to strengthen fraud prevention efforts by creating a reliable evidentiary record.

In his book on notary best practices, Closen encourages notaries to obtain a thumbprint from the person signing the document where legally permissible.¹¹⁹ Under California law, notaries must obtain a thumbprint when notarizing documents that affect real property—such as grant deeds, quitclaim deeds, deeds of trust, and mortgages—as well as powers of attorney. However, there are exceptions to the thumbprint requirement for trust deeds executed by a trustee in foreclosure proceedings and reconveyances of deeds of trust, such as when a loan is paid off.¹²⁰ This emphasis on stricter verification sets California apart from other states.

¹¹⁴ National Notary Association 2022. (Page 31, comment to Section 3-1.)

¹¹⁵ CA, IL, IN, MD, MI, MN, NC, NH, NV, OH, OR, TX, UT.

¹¹⁶ Tennessee Code Annotated, Section 66-22-107. Also, Section 8-16-112, “A Tennessee notary public is authorized to act in any county in the state and has the power to acknowledge signatures upon personal knowledge or satisfactory proof.”

¹¹⁷ Tennessee Code Annotated, Section 66-22-106(c). This statute does not explicitly mention notaries public, but it defines satisfactory evidence “for the purposes of this chapter.” Under Public Chapter 71, Acts of 1870, “[N]otaries public . . . are hereby authorized and empowered to take acknowledgments of all instruments required for registration, in the same manner and under the same rules and regulations as govern county court clerks by existing laws.” See *Daly v. Hamilton Perpetual Building and Loan Association*, 1897 Tenn. Ch. App. LEXIS 146; and 1 Tennessee Jurisprudence, Section 11.

¹¹⁸ California Civil Code, Section 1185(b) specifies acceptable forms of identification. For persons who don’t have proper identification, credible witnesses vouching for that person must present identification. California Government Code, Section 8206(a)(2), requires that notaries record details about the type of identification in their official journal, including a thumbprint for certain types of documents.

¹¹⁹ Closen 2024.

¹²⁰ California Government Code, Section 8206(a)(2)(G).

Notary Journals

A notary journal helps ensure consistent, proper notarizations, serving as a checklist the notary can use to determine whether every required element of a proper notarization has been performed. In a letter to the commission, the NNA emphasized the notary journal's significant evidentiary value in cases of real estate fraud. Both the Model Notary Act and the Revised Uniform Law on Notarial Acts include provisions requiring notaries to record all notarial acts in their journals.¹²¹ In Tennessee, traditional, in-person notaries are only required to record actions for which the notary charges a fee. But unlike many other states the law does not specify what information must be recorded or how long the journal must be retained.¹²² Requirements for notary journals differ among states. Twenty-two states require notaries to record all notary acts in a journal.¹²³ Twenty-one of these go further, mandating specific information be recorded in journal entries, including signer information, the document type, and location of notarization (see table 3). Seventeen additional states, including Tennessee, require journals for remote online notarizations or electronic notarizations but not all in-person notary acts (see table 4).

A notary journal helps ensure consistent, proper notarizations, serving as a checklist to determine whether every required element of a proper notarization has been performed.

¹²¹ National Notary Association 2022 and Uniform Law Commission 2021.

¹²² Tennessee Code Annotated, Section 8-21-1201.

¹²³ AZ, CA, CO, DE, GA, HI, IL, KS, MA, MD, MO, MS, MT, NJ, NM, NV, NY, OR, PA, TX, WA, WY.

Table 3. Journal Requirements by State
(for states where all notarial acts must be recorded in a journal)

	Arizona	California	Colorado	Delaware	Georgia	Hawaii	Illinois	Kansas	Maryland	Massachusetts	Mississippi	Missouri	Montana	Nevada	New Jersey	New Mexico	New York	Oregon	Pennsylvania	Texas	Washington
Date of Notary Act	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Time of Notary Act		•	•	•	•	•		•	•	•	•	•	•		•	•	•	•	•		•
Type of Notary Act	•	•	•	•	•	•		•	•	•	•	•	•	•	•		•	•	•		•
Description of Document	•	•	•	•		•	•	•	•	•	•	•	•	•				•	•	•	•
Physical Location of Notary Act					•					•	•	•									
Physical Location of Notary and Participants						•															
Fee Charged	•	•	•	•		•	•	•	•	•	•	•	•	•	•	•		•	•		
Names of Individuals for Whom Notarization Performed	•		•	•	•		•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Addresses of Individuals for Whom Notarization Performed	•		•	•	•			•	•	•	•		•			•	•	•	•	•	•
Phone Numbers of Individuals for Whom Notarization Performed					•																
Signatures of Individuals for Whom Notarization Performed	•	•			•	•				•		•	•	•				•			•
Names of Any Individuals Signing for Another						•															
Information for How Each Individual's Identity Was Verified	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Witness Names and Addresses										•										•	
Witness Signatures										•											
Thumbprint of Signers		•																			
Type of Notarization (in-person, electronic, online)						•		•					•								
Oath Administered														•							

Source: Commission staff review of state laws. Tennessee does not require notaries to keep journal records unless the notary collects a fee for their services, and even then, it does not specify what information must be recorded.

Table 4. Journal Requirements by State
(for states where only online or electronic notarial acts must be recorded in a journal)

	Alaska	Arkansas	Indiana	Kentucky	Maine*	Michigan	Minnesota	Nebraska*	New Hampshire	North Carolina*	North Dakota	Ohio	Oklahoma	South Carolina†	Tennessee	Utah	Virginia*
Date of Notary Act	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Time of Notary Act	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Type of Notary Act	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Description of Document	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Physical Location of Notary Act	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Fee Charged	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Names of Individuals for Whom Notarization Performed	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Addresses of Individuals for Whom Notarization Performed	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Signatures of Individuals for Whom Notarization Performed	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Information for How Each Individual's Identity Was Verified	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Witness Names and Addresses	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Identification of Technology Used	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•
Audio-Visual Recording	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•	•

* Required for remote online and in-person electronic notarizations.

† Required for in-person electronic notarizations (remote online notarization not authorized.)

All others are requirements for remote online notarizations only.

Source: Commission staff review of state laws.

In the Revised Uniform Law on Notarial Acts, the provisions say that there are six pieces of information that should be recorded: the date and time of the notarization, a description of the document, document signer's name and contact information and fees, if any, received by the notary.¹²⁴ The Model Notary Act suggests there are nine pieces of information that should be recorded.¹²⁵ In the book *Professor Closen's Notary Best Practices*, the author recommends that 13 pieces of information be included in the journal.¹²⁶ In most of the 21 states that require specific journal information, if the identity of an individual is based solely on the notary's personal knowledge, a statement to that effect must be recorded in the journal entry.

¹²⁴ Uniform Law Commission 2021.

¹²⁵ National Notary Association 2022.

¹²⁶ Closen 2024.

In Philadelphia, property records can be searched by the name of the notary, enabling notaries to check whether their commission has been used without their knowledge and helping local authorities identify patterns of fraudulent activity.

Some states like Indiana, Illinois, Montana and Texas prohibit recording numbers from identification documents (e.g., driver's license number) or thumbprints in their journals,¹²⁷ while others like Mississippi and Pennsylvania allow partial identifiers like the last four digits of a Social Security number to be recorded in notary journals.¹²⁸

Retention periods for journal entries also vary widely from state to state. Twenty-four states require notaries to retain journals for 10 years.¹²⁹ Three states require notaries to keep them for five to seven years,¹³⁰ while California¹³¹ mandates retention of their journals until notaries resign or are disqualified and they must turn the journals over to the county clerk. Both the Model Notary Act and the Revised Uniform Law on Notarial Acts include a requirement that notaries keep their journals for ten years, whereas a notary best practices guide suggests indefinite retention as best practice.¹³²

Property records in Philadelphia can be searched by notary.

To further combat deed fraud, a coalition of organizations has proposed creating an email alert system to notify notaries whenever a document bearing their name is recorded. The group supporting this recommendation include the American Association of Retired Persons, American Land Title Association, Mortgage Bankers Association, National Association of Realtors, and the National Notary Association. Proponents say this type of alert system would help notaries quickly detect unauthorized use of their credentials and support early intervention in potential fraud cases.¹³³

Property records in Philadelphia, Pennsylvania, can be searched by notary, providing an effective tool for identifying potential real estate fraud.¹³⁴ This feature enables notaries to check whether their name or commission has been used without their knowledge. It also helps local authorities identify patterns of fraudulent activity and uncover potential connections between cases, as notary identities are often misused repeatedly.¹³⁵

¹²⁷ Texas Government Code, Section 406.014; 75 Indiana Administrative Code 7-6-1; Illinois Administrative Code Title 14, Section 176.910; and Montana Annotated Code, Section 1-5-618.

¹²⁸ Pennsylvania Revised Uniform Law, Section 161.1; and Mississippi Code Section 25-34-51 et seq.

¹²⁹ AK, CO, DE, HI, IA, IN, KS, KY, MD, ME, MI, MN, MO, MT, ND, NE, NH, NJ, NM, NY, OK, OR, SC, WA.

¹³⁰ AZ, NV, WA.

¹³¹ California Government Code, Section 8209.

¹³² Closen 2024.

¹³³ American Association of Retired Persons, American Land Title Association, Mortgage Bankers Association, National Association of Realtors, and the National Notary Association 2024. See appendix E.

¹³⁴ Philadelphia, Pennsylvania, Department of Records 2025.

¹³⁵ Interview with Kimberly Esack, supervisor, economic crimes division and carjacking enforcement unit, office of the district attorney, Philadelphia, Pennsylvania, September 24, 2024.

Other State Laws and Industry Recommendations to Stop Fraudulent Deeds from Being Recorded

Registering a deed is another point where real estate fraud can be committed or prevented. Some states provide local officials with greater authority to combat fraud at the point when deeds are registered. Seven states have enacted laws granting recording officials more authority when it comes to recording documents. These laws authorize recording officials to identify and act on suspicious documents. In some states, they can refuse to record documents suspected of fraud, while in others, they are required to notify property owners when potentially fraudulent documents are filed on their property.

Illinois, for example, has authorized county recorders of deeds to establish “a fraud referral and review process . . . to review deeds and instruments and refer any of them to an administrative law judge for review” when a recorder has reason to believe “that the filing may be fraudulent, unlawfully altered, or intended to unlawfully cloud or transfer the title of any real property.”¹³⁶ This referral-and-review process is beneficial for addressing fraud for two reasons. First, it relieves property owners from the burden and expense of recovering their stolen property when fraud is caught, and second, it ensures that those trying to register deeds receive due process in the event that genuine property transfers are incorrectly flagged for review. If a recorder determines, after review by legal staff and counsel, that a deed or instrument that is recorded may be fraudulent, the recorder may refer the matter to a local administrative law judge. In determining whether a deed is fraudulent, the statute outlines the factors to consider

- whether the owner of the property or owner’s designated representative has reported to the recorder that another individual is attempting or has attempted to record a fraudulent deed or other instrument upon the property;
- whether a law enforcement official has contacted the recorder indicating that the law enforcement official has probable cause to suspect title or recording fraud;
- whether the filer’s name has a copyright attached to it or the property owner’s name has nonstandard punctuation attached to it;
- whether the documents assert fines that do not exist or have no basis under current law or that require payment in gold or silver;
- whether the documents are maritime liens, or liens under the Federal Maritime Lien Act or the Preferred Ship Mortgage Act or not authorized by the United States Coast Guard;

In some states, local officials can refuse to record documents suspected of fraud, while in others, officials are required to notify property owners when potentially fraudulent documents are filed on their property.

¹³⁶ 55 ILCS 5/3-5010.5.

- whether the documents are land patents not authorized and certified by the United States Department of the Interior Bureau of Land Management;
- whether the documents are representing that the subject of the lien is releasing itself from a lien held by another entity, with no apparent cooperation or authorization provided by the lienholder;
- whether the documents are protesting or disputing a foreclosure proceeding that is not filed within the foreclosure suit and with the court presiding over the matter;
- whether the documents are Uniform Commercial Code filings referencing birth certificates or other private records that are not in compliance with Section 9-501 of the Uniform Commercial Code;
- whether the documents are re-recording deeds to re-notarize or attach notary certification if prior notarization already appears unaltered on the document of record;
- whether the documents are asserting diplomatic credentials or immunity, non-United States citizenship, or independence from the laws of the United States;
- whether the documents are claims that a bank cannot hold title after a foreclosure;
- whether the documents are deeds not properly signed by the last legal owner of record or the owner's court-appointed representative or attorney-in-fact under a power of attorney;
- whether the documents are manipulated or altered federal or state legal or court forms that release a lien;
- whether a document is not related to a valid existing or potential adverse transaction, existing lien, or judgment of a court of competent jurisdiction;
- a document that is not related to a valid existing or potential commercial or financial transaction, existing agricultural or other lien, or judgment of a court of competent jurisdiction;
- whether the document is filed with the intent to harass or defraud the person identified in the record or any other person;
- whether the document is filed with the intent to harass or defraud any member of a governmental office, including, but not limited to, the recorder's office, local government offices, the state of Illinois, or the federal government; and
- whether the documents are previous court determinations, including a previous determination by a court of competent jurisdiction that a particular document is fraudulent, invalid, or forged.

Prior to referral, the recorder must first notify the last owner of record that the document may be fraudulent and that they can request that the recorder refer the case for review to a local administrative law judge. If the evidence shows the document in question to be fraudulent, the local administrative law judge is required to rule that the document is fraudulent and notify all affected parties. The recorder then records a new document that includes a copy of the judgment that states that the document in question has been found to be fraudulent and isn't considered to affect the property's chain of title.

One of the counties in Illinois that adopted the process, Tazewell, did so after a case of deed theft that involved forged documents.¹³⁷ The recorder in that county thought that there was value in the program because it provides officials with the authority to investigate suspicious filings and to involve a local administrative law judge to fast-track legitimate fraud cases through the legal system. He said this relieves victims from the cost and burden of filing civil suits. In August 2025, the Illinois General Assembly passed legislation to require all county recorders to establish a fraud review and referral process, effective January 1, 2026.¹³⁸

Nevada and Ohio have enacted laws that authorize county recorders to refuse to record real estate documents as well in certain circumstances. In Nevada, a recorder may reject a document if, within two judicial days, they determine that the document is falsified or otherwise ineligible for lawful recording.¹³⁹ The recorder has to send written notice to the individual trying to record the document within two days of the determination. The individual then has the right to petition the court for an order to record the document. Recorders who act in good faith are granted immunity from liability for any resulting damages. Ohio law gives recorders the authority to refuse to record a document they have reasonable cause to believe is "materially false or fraudulent."¹⁴⁰

In some states, this grant of authority to refuse to record documents stems from efforts to prevent "sovereign citizen"-type actions or harassment. Sovereign citizens deny the legitimacy of government authority; they sometimes file fraudulent liens against the property of government officials, forcing victims to spend time and money to undo the damage.¹⁴¹ In North Carolina, a register of deeds may refuse to record liens or encumbrances they have a reasonable suspicion "is materially false, fictitious, or fraudulent," and cannot be held liable for failing to record these documents.¹⁴² The North Carolina General Assembly enacted this

In Illinois, one county recorder said their fraud referral and review process aids investigations and relieves victims from the cost and burden of filing civil lawsuits.

¹³⁷ Interview with John Ackerman, recorder of deeds, Tazewell County, Illinois, May 2, 2025.

¹³⁸ Public Act 104-0382 (Senate Bill 1523).

¹³⁹ Nevada Revised Statutes Annotated, Section 247.145.

¹⁴⁰ Ohio Revised Code Annotated, Section 317.13.

¹⁴¹ NPR 2013.

¹⁴² North Carolina General Statutes, Section 14-118.6.

To help combat deed fraud, the National Notary Association, American Land Title Association, and Mortgage Bankers Association suggest giving local officials more authority to refuse to record suspicious documents.

legislation in 2012 in response to problems caused by sovereign citizens, also making it a Class I felony “to knowingly present for filing a false lien or encumbrance against the property of a public officer or employee based on that person’s performance of official duties.”¹⁴³

Colorado allows county clerks and recorders to refuse to record liens and documents they reasonably and in good faith believe to be spurious.¹⁴⁴ Spurious documents are defined in statute as “any document that is forged or groundless, contains a material misstatement or false claim, or is otherwise patently invalid.”¹⁴⁵ Spurious liens are defined as a lien that is not provided for by a state or federal statute or home rule municipality’s ordinance or charter, not created, assumed or agreed to by the property owner it purports to encumber or not imposed by a federal or state court order, judgment or decree. The clerks and recorders are shielded from liability for accepting or rejecting such filings. One Colorado clerk said that the law grants clerks and recorders the authority to reject documents that appear fraudulent, particularly those targeting government officials.¹⁴⁶ This law was prompted by incarcerated individuals filing liens against prison staff. He said that clerks are not to interpret the legality of documents but rather to ensure the integrity and accuracy of the public record.

In Texas, if a county clerk suspects that a recorded document—or one submitted for recording—that creates a lien or property interest is fraudulent, they must notify the last owner of record.¹⁴⁷ The law says a document is presumed to be fraudulent if it references a non-existent or unauthorized court, claims to create a lien or interest without legal basis or the debtor or property owner’s consent, or is filed by or for an inmate. Before recording a potentially fraudulent lien, the clerk must consult the county or district attorney before recording it to determine if it is fraudulent and may request additional documentation from the filer. An affected party may request judicial review of the purportedly fraudulent document.¹⁴⁸ Should a judge determine the document is fraudulent, a formal finding of fact and conclusion of law is issued and recorded.¹⁴⁹ Likewise, in South Dakota, registers of deeds can refuse to record documents they believe to be counterfeit liens.¹⁵⁰ The law defines a counterfeit lien as being one that is not authorized by state or federal statutes, doesn’t require the property owner’s consent, and is not imposed by a court recognized under federal or state law.

¹⁴³ North Carolina Session Law 2012-150 and UNC School of Government 2013.

¹⁴⁴ Colorado Revised Statutes, Section 38-35-202.

¹⁴⁵ Colorado Revised Statutes, Section 38-25-201.

¹⁴⁶ Interview with Justin D. Grantham, clerk and recorder, Fremont County, Colorado, April 15, 2025.

¹⁴⁷ Texas Government Code, Section 51.901.

¹⁴⁸ Texas Government Code, Section 51.903.

¹⁴⁹ Ibid.

¹⁵⁰ South Dakota Codified Law, Sections 7-9-19 and 22-11-29.

In a set of proposed legislative approaches to combat deed fraud, professional organizations including the National Notary Association, American Land Title Association, and Mortgage Bankers Association suggested giving registers the authority to refuse to record suspicious documents. They noted that there may be benefit derived from allowing recording officials to reject suspicious documents from a party other than a “trusted submitter.” Under the proposal, a “trusted submitter” is defined as a title company, insurer or agent, or an escrow company. A “suspicious document” is defined as any document that has information about a notary that doesn’t match the information in the state’s notary records, says it is not subject to federal or state law, or is materially false, fictitious, or fraudulent and submitted by someone other than a trusted submitter. The register could refuse to record the document unless a court overrules their decision, report it to law enforcement; or notify the notary involved. If a document is wrongly rejected, the affected party could seek declaratory or injunctive relief, but the register couldn’t be sued for monetary damages.¹⁵¹

Other states have authorized local officials to request identification before recording real estate documents.

Under current Tennessee law, filing property documents by mail or in-person with the register of deeds does not require an individual to show identification. Registers aren’t authorized to even ask for identification from someone who brings documents in to be recorded. Some states either require or authorize registers of deeds—or their counterparts in other states—to request identification from individuals recording deeds or other real estate documents, as a safeguard against real estate fraud. In Georgia, a new law, effective January 1, 2025, requires “self-filers” to electronically record deeds, liens and plats through the Georgia Superior Court Clerks’ Cooperative Authority eFiling Portal.¹⁵² Self-filers are defined as anyone except Georgia licensed attorneys, title insurance agents, credit unions, banks, mortgage lenders and servicers, land surveyors, real estate brokers and salespeople, government employees and public officials. Those who are exempt from the self-filer definition may continue to file documents in person. Anyone recording documents electronically must submit identification through the filing portal.¹⁵³ The Tennessee legislature passed a bill this year to take the opposite approach to electronic filing. Public Chapter 104, Acts of 2025, will limit electronic filing of documents to attorneys, lending institutions, title companies, and state and local governments—entities whose identities can be verified through approved online vendors. And although Tennessee’s Online Notary Public Act includes verification standards for online notarizations,

As a safeguard against real estate fraud, some states either require or authorize registers of deeds or their counterparts to request identification from individuals recording deeds or other real estate documents.

¹⁵¹ American Association of Retired Persons, American Land Title Association, Mortgage Bankers Association, National Association of Realtors and the National Notary Association 2024.

¹⁵² Official Code of Georgia Annotated, Section 44-2-2.

¹⁵³ Official Code of Georgia Annotated, Section 44-2-39 and Georgia Superior Court Clerks’ Cooperative Authority Real Estate Electronic Recording Rules.

An identity verification pilot program in Lee County, Florida, demonstrated some success despite technical challenges and mixed feedback from legal and real estate professionals.

registers of deeds are not authorized to use third-party credential analysis or identity proofing for individuals who have not been through that verification process to file documents in person or by mail.

In 2023, Lee County, Florida launched the Title Fraud Prevention Through Identity Verification Pilot Program to combat real estate fraud.¹⁵⁴ The law establishing the program authorizes the Lee County Circuit Court Clerk to request government-issued photo identification from anyone recording a deed and to refuse to record it if identification is not provided. The clerk requires both the grantor and grantee to submit copies of their identification when recording deeds in person or by mail. For electronic recording of deeds, copies of the identification can be submitted electronically.¹⁵⁵ The pilot program came to an end on June 30, 2025. Before it ended, the program demonstrated some success—two civil cases were filed to quiet title after fraudulent quitclaim deeds were discovered, and a man was arrested for attempting to steal a property using a falsified deed after the clerk’s office provided law enforcement with the fake driver’s license used by him.¹⁵⁶ The pilot program included a requirement for the clerk to submit a report to the governor and state legislature evaluating whether the program helped detect fraud and recommending whether to adopt the identification requirement statewide.¹⁵⁷ The clerk’s report was published on October 30, 2025, noting “mixed” feedback from legal and real estate professionals “due to perceived burdensome statutory requirements,” as well as “favorable views” from general customers who “did not mind the additional steps required.”¹⁵⁸ In the report, the clerk documented steps taken to prepare for the program’s rollout, legal analysis, technical challenges, and legislative recommendations to expand the program “on a discretionary basis.” One suggestion was to allow clerks to “test signature matching and/or automated identity verification technologies.” They noted complaints that “collecting IDs without validation does not deter sophisticated fraudsters.”¹⁵⁹

Texas law—effective December 4, 2025—says that “an instrument conveying real property may not be recorded unless . . . any individual presenting the instrument in-person for recording presents a photo identification to the county clerk.”¹⁶⁰ In 2025, Texas made it mandatory for clerks in all counties to require ID from individuals submitting real estate documents for recording in person.¹⁶¹ This anti-fraud measure was first authorized

¹⁵⁴ Florida Bar News 2023 and Florida Annotated Statutes, Section 28.2225.

¹⁵⁵ Clerk of the Circuit Court & Comptroller Lee County, Florida 2024.

¹⁵⁶ Clerk of the Circuit Court & Comptroller Lee County, Florida 2025a. According to the program evaluation report published later, formal charges were not filed by the State Attorney. Clerk of the Circuit Court & Comptroller Lee County, Florida 2025b, page 16.

¹⁵⁷ Florida Annotated Statutes, Section 28.2225(3)(c).

¹⁵⁸ Clerk of the Circuit Court & Comptroller Lee County, Florida 2025b.

¹⁵⁹ *Ibid.*

¹⁶⁰ Texas Property Code, Section 12.001.

¹⁶¹ Texas Local Government Code, Section 191.010.

in Harris County (Houston) in 2016 and later expanded to additional counties through legislative amendments in 2021 and 2023. According to attorneys and county clerks in the state, requiring identification prior to recording documents has proven to be an effective tool in helping to reduce real estate fraud.¹⁶²

In Arkansas, Act 752 of 2025 went into effect on August 5. To have a deed recorded in person, the grantor or person signing the deed on behalf of the grantor must present a valid photo identification card or driver's license to the clerk, who is required to file a copy with the deed. Deeds submitted by mail must also include a copy of the grantor's identification. The law makes exceptions for attorneys, mortgage lenders, and licensed real estate professionals.

To help deter fraud in Philadelphia, Pennsylvania, the Department of Records asks individuals to show photo identification when recording deeds in person.¹⁶³ It is not mandatory that they present their identification; it's voluntary. The people recording deeds are also asked to sign a log and they are asked if the staff can take a picture of them. Most comply but they don't have to since the law doesn't require it.¹⁶⁴

In 2024, the register of deeds in Leavenworth County, Kansas, adopted new technology that uses biometric cameras rather than physical identification cards.¹⁶⁵ The office uses the cameras as part of a voluntary program that allows persons submitting deeds for recording, with most fees totaling \$110, to require biometric verification before the property can be conveyed or a mortgage added.¹⁶⁶ The program uses a service, Frozen Deed, created and administered by a vendor, IdentifiD, to tie the property owner's deeds to a biometric signature that is created using the vendor's proprietary 3D biometric cameras and software.¹⁶⁷ According to IdentifiD, the cameras don't store photos or other data, the company doesn't store transactional data on its platform, and the client, in this case the register of deeds office, doesn't store biometric data or fraudulent reports on its database—“eliminating concerns about data breaches and consumer privacy and any related liabilities.”¹⁶⁸ Since 2024, two other registers of deeds, those in Platte County, Missouri,¹⁶⁹ and Mason County, Washington,¹⁷⁰ have established voluntary Frozen Deed programs.

Many registers and recorders offer free email or text alert systems to notify property owners if a document is filed on their property but few in Tennessee or other states automatically send written notices to property owners.

¹⁶² Interview with Phillip Clark, assistant district attorney, Dallas County, Texas, July 23, 2024; and Behrndt 2021.

¹⁶³ Savage 2022.

¹⁶⁴ Interview with Kimberley Esack, supervisor, economic crimes division and carjacking enforcement unit, office of the district attorney, Philadelphia, Pennsylvania, September 24, 2024.

¹⁶⁵ IdentifiD “News.”

¹⁶⁶ Leavenworth County, Kansas, Register of Deeds Office “Biometric Lien (Self-Imposed).”

¹⁶⁷ Frozen Deed “How it Works”; and “Find a Participating Location.”

¹⁶⁸ IdentifiD “How it Works.”

¹⁶⁹ Dodge 2025.

¹⁷⁰ Williams 2026.

IdentifiD has proposed that its technology could be used as part of anti-fraud programs where registers would use the biometric cameras to take photos of everyone submitting a document for recording; the photo, as with the voluntary programs, would be used to create an encrypted biometric signature. But with this use, the photos would only be accessed in cases of alleged fraud.¹⁷¹ To date, it does not appear that any register of deeds is using the biometric cameras for verification outside of their use in voluntary programs, though House Bill 2309, which was filed in Kansas in 2025, would have required the use of 3D biometric cameras and supporting software statewide by notaries public when submitting real estate documents for recording. The bill did not pass out of committee.¹⁷² In Tennessee, at least two Tennessee registers of deeds are considering adopting the use of biometric cameras.¹⁷³

Few local governments in other states mail notice to property owners when documents are filed on their property.

Many registers of deeds offices in Tennessee or their equivalent in other states offer free email or text alert systems to notify property owners if a document is filed on their property but few send written notice to property owners. However, a few jurisdictions in other states send written notices by mail. Cook County, Illinois, for example, is required by state law to send a postcard to the previous owner of record when a quitclaim deed is recorded on their property.¹⁷⁴ Other local governments mail written notices to property owners when documents are filed on their property even though they are not required to do so by state law. California law authorizes local governments to mail notice to property owners but does not require them to do so.¹⁷⁵ Several counties—including Los Angeles, Contra Costa, Placer, and Riverside—choose to send written notices to property owners when documents affecting property ownership are recorded.¹⁷⁶ New York City’s Office of the City Register will notify property owners by mail if a deed or mortgage-related document is recorded on their property—but only for owners that sign up for the service. Likewise, Montgomery County, Ohio, offers voluntary opt-in to receive mail notifications.¹⁷⁷ In Hamilton County, Tennessee, the register of deeds has started sending automated

¹⁷¹ Interview with Paige Brown, mayor, city of Gallatin, Tennessee; John Taylor, founder, IdentifiD; and Marc Gravitt, Julie Runyon, and Holly Hemmrich, Tennessee Registers Association, August 12, 2026.

¹⁷² Kansas House of Representatives “House Bill 2309.”

¹⁷³ Interview with Paige Brown, mayor, city of Gallatin, Tennessee; John Taylor, founder, IdentifiD; and Marc Gravitt, Julie Runyon, and Holly Hemmrich, Tennessee Registers Association, August 12, 2026, and email from Holly Hemmrich, August 24, 2026.

¹⁷⁴ 55 ILCS 5/3-5046.

¹⁷⁵ California Government Code, Section 27297.7.

¹⁷⁶ Contra Costa County Clerk Recorder 2025; County of Placer 2025; County of Riverside Assessor-County Clerk-Recorder 2025; and Los Angeles County Consumer & Business Affairs 2025.

¹⁷⁷ NYC Department of Finance, Division of Land Records, Office of the City Register 2025; and Montgomery County 2025.

written notices to property owners when a quit claim deed is filed on their property.¹⁷⁸

Other states have laws authorizing the transfer of a deed to a beneficiary automatically when an owner dies.

The Uniform Real Property Transfer on Death Act has been enacted in nineteen states.¹⁷⁹ It allows property owners to use a transfer on death deed to name one or more beneficiaries who will automatically inherit the property upon the owner's death. Until that time, the owner retains full control and use of the property, as no ownership interest transfers during their lifetime. The deed is fully revocable, offering flexibility if the owner's plans change. Upon the owner's death, the property passes directly to the named beneficiaries outside of probate, streamlining the transfer process and reducing legal costs. By clearly documenting the owner's intentions, this approach also helps prevent disputes or fraudulent claims by family members.

In Tennessee, legislation to enact the Uniform Real Property Transfer on Death Act has been introduced but hasn't passed. During the 112th General Assembly, Senate Bill 660 by Senator Massey and House Bill 1600 by Representative Mannis were introduced but failed to pass. More recently, a similar bill, Senate Bill 984 by Senator Southerland, was introduced during the 114th General Assembly, but it also has not passed.

In other states, the drafting of deeds is considered to be the practice of law and attorneys must be present at closings.

In several states, drafting deeds is considered to be the practice of law; Tennessee is not among them. Eight states explicitly define deed drafting as the practice of law by statute; all eight allow exceptions for property owners to draft deeds to transfer their own property.¹⁸⁰ Another thirteen states recognize deed drafting as the practice of law in case law, court rules, or bar association opinions.¹⁸¹ In addition, some states require attorneys to be present at real estate closings. Eleven states require attorneys to be present at real estate closings.¹⁸² This helps to ensure comprehensive legal oversight.

The Uniform Real Property Transfer on Death Act can help prevent disputes or fraudulent claims by family members upon a property owner's death.

¹⁷⁸ Email from Marc Gravitt, register of deeds, Hamilton County, Tennessee, August 15, 2025.

¹⁷⁹ AK, HI, IL, ME, MS, MT, ND, NE, NH, NM, NV, NY, OR, SD, TX, UT, VA, WA, WV. Also DC and the US Virgin Islands. Uniform Law Commission "Real Property Transfer on Death Act."

¹⁸⁰ AL, HI, MS, NC, NY, OH, VA, and VT.

¹⁸¹ CT, DE, GA, IA, KY, LA, MA, NE, NH, RI, SC, WA and WV.

¹⁸² CT, DE, GA, MA, MS, NC, NH, NY, SC, VT, and WV.

Few states have enacted specific criminal statutes for real estate fraud, but several have taken steps to address misconduct related to notaries.

Some states have specific criminal statutes for real estate fraud.

Two states have recently enacted criminal statutes to specifically target real estate fraud. In 2024, New York passed a law allowing prosecutors to charge deed fraud as grand larceny.¹⁸³ Regardless of value, deed theft of any residential property occupied as a home or owned by at least one person who is elderly, incapacitated, or physically disabled, or to unlawfully acquire three or more residential properties by deed theft, is classified as grand larceny in the first degree—a class B felony punishable by up to 25 years in prison. Deed theft involving a single residential property, a mixed-use commercial property with at least one residential unit, or two or more commercial properties, regardless of value, constitutes grand larceny in the second degree—a class C felony punishable by up to 15 years in prison. Deed theft of a single commercial property, regardless of value, is treated as larceny in the third degree—a class D felony punishable by up to seven years in prison.¹⁸⁴ In a press release, New York Attorney General Letitia James said, “Under these new laws, homeowners will have stronger protections against deed theft, law enforcement will have new tools to prosecute deed thieves, and scammers will be deterred from stealing homes.”¹⁸⁵

In 2025, Texas created a new section in its penal code for real property theft. Effective December 4, 2025, attempts to “transfer or purported transfer of real property or title to real property” or “to sell or otherwise transfer or encumber, real property or title to real property” without consent of the owner will be a second-degree felony if the property value is less than \$300,000 and a first-degree felony if the value is higher. Under the same statute, receiving benefits of less than \$30,000 from the sale of stolen real property will be a third-degree felony, receiving \$30,000 to \$150,000 will be a second-degree felony, and benefitting \$150,000 or more will be a first-degree felony.¹⁸⁶ Texas also established a new section for real property fraud. “Intentionally or knowingly mak[ing] a materially false or misleading written statement to obtain real property” or causing a person to “sign or execute any document affecting real property” without that person’s effective consent will be a second-degree felony when the value of the property is less than \$300,000 or a first-degree felony if the value is higher.¹⁸⁷ In Texas, third-degree felonies carry a sentence of two to ten years and a fine of up to \$10,000.¹⁸⁸ Second-degree felonies increase the maximum sentence to 20 years and first-degree felonies are punishable

¹⁸³ New York Senate Bill 8306, Part O, the Heirs Property Protection and Deed Theft Prevention Act of 2024.

¹⁸⁴ New York Consolidated Laws, Penal Law Sections 155.42 (first-degree larceny), 155.40 (second-degree larceny), 155.35 (third-degree larceny), and 70.00 (felony sentencing).

¹⁸⁵ Office of the New York State Attorney General 2024.

¹⁸⁶ Texas Statutes and Code Annotated, Penal Code Section 31.23.

¹⁸⁷ Texas Statutes and Code Annotated, Penal Code Section 32.60.

¹⁸⁸ Texas Statutes and Code Annotated, Penal Code Section 12.34.

by a minimum of five years in prison with a maximum of 99.¹⁸⁹ The new categories will allow law enforcement to track how often deed fraud occurs and, according to one district attorney, make criminal cases “easier to prosecute,” while making it “easier [for victims] to get restitution [and] easier to make a person whole.”¹⁹⁰

Illinois criminalizes “fraud in transfers of real and personal property,” making it a Class 3 felony to “knowingly and with intent to defraud” sell the same land to more than one buyer, and a Class 4 felony for authorities to knowingly certify a fraudulent instrument of conveyance.¹⁹¹ Class 3 felonies carry a prison sentence of two to five years and Class 4 felonies are punishable by one to three years, each with a fine of up to \$25,000.¹⁹² Nineteen states have enacted laws that explicitly define mortgage fraud as a criminal offense.¹⁹³ “While all states impose some degree of criminal liability for forgery or for knowingly recording false or fraudulent documents,” groups like the American Association of Retired Persons and several real estate industry associations say, “these penalties should be reviewed to ensure they reflect the devastating effect of these crimes for victims.”¹⁹⁴

In addition to criminalizing real estate fraud itself, some states have also taken steps to address misconduct related to notaries. The American Land Title Association did a survey of the title insurance community and 31% of respondents said legitimate notary credentials were commonly used in the fraud they encountered.¹⁹⁵ Sixteen states make it a crime to impersonate a notary.¹⁹⁶ Two states make it a crime for a person who is not a notary to use a notary seal or stamp.¹⁹⁷

In a letter of recommendations to the Commission, the NNA urged Tennessee to enact a law that would make notary impersonation a criminal offense.¹⁹⁸ Under current law, impersonating a notary could be considered a form of identity theft or forgery, depending on the circumstances of the impersonation. The NNA emphasized the need to strengthen protections for both notaries and the public, noting that property owners who fall victim to fraud sometimes attempt to sue notaries whose seals or commission information were misused without their knowledge. In

¹⁸⁹ Texas Statutes and Code Annotated, Penal Code Sections 12.33 and 12.32, respectively.

¹⁹⁰ Eiserer 2025.

¹⁹¹ Illinois Compiled Statutes, Chapter 720, Section 5/17-13.

¹⁹² Illinois Compiled Statutes, Chapter 730, Sections 5/5-4.5-40, -45, and -50.

¹⁹³ AZ, CA, CO, CT, FL, GA, IL, KY, LA, MA, MI, MN, MS, NC, NV, NY, RI, TX, UT.

¹⁹⁴ American Association of Retired Persons, American Land Title Association, Mortgage Bankers Association, National Association of Realtors, and the National Notary Association 2024. See appendix E.

¹⁹⁵ American Land Title Association 2024a and National Notary Association 2024.

¹⁹⁶ AL, AZ, CO, FL, GA, HI, IL, IN, MA, MO, NC, PA, SC, VA, VT, WV.

¹⁹⁷ FL and PA.

¹⁹⁸ National Notary Association to Tennessee Advisory Commission on Intergovernmental Relations, January 10, 2025, letter.

Twenty-seven states authorize civil penalties for notary misconduct. Eighteen states impose criminal penalties.

many cases, the only safeguard available to the notary is an errors and omissions (E&O) insurance policy. E&O insurance can protect a notary if someone impersonates them and a lawsuit is filed as a result.¹⁹⁹ Without such insurance, notaries may be left to cover legal costs out of pocket, even if the claims are baseless. The Model Notary Act also has a provision that would make impersonation of a notary a crime.²⁰⁰

A number of states authorize significant civil and criminal penalties for notary misconduct.

Twenty-seven states authorize civil penalties for notary misconduct.²⁰¹ These penalties may include sanctions such as suspension or revocation of a notary commission. Seven of these states authorize civil fines.²⁰² Civil penalties are often used in cases where misconduct does not rise to the level of criminal behavior but still violates statutory requirements. Tennessee does not authorize different civil penalties for notary fraud than for other types of fraud.

In addition to civil penalties, eighteen states impose criminal penalties on notary misconduct.²⁰³ All of these states allow courts to levy criminal fines, which range from as little as \$50 to as much as \$7,500, depending on the severity of the violation. Furthermore, seven of these states authorize jail time for serious offenses, with sentences ranging from six months to five years.²⁰⁴ These criminal penalties are intended to hold notaries accountable when their actions constitute fraud. Tennessee's criminal statutes do not differentiate notary fraud from other types of fraud.

California law authorizes counties to impose a fee to fund the investigation and prosecution of real estate fraud.

In California, counties are authorized to impose a fee of up to \$10 on the filing of real estate documents, including quitclaim deeds.²⁰⁵ The funds collected must be used to help law enforcement and district attorneys deter and prosecute real estate fraud crimes. State law specifies that 60% of the fee revenue in a county must be allocated to the district attorney's office and 40% to local law enforcement, unless the district attorney exclusively handles real estate fraud investigations—in which case the full amount goes to that office. Counties may also allocate a portion of the revenue to the county recorder to fund programs to detect and prevent the recording of fraudulent property transactions.

¹⁹⁹ National Notary Association 2025a.

²⁰⁰ National Notary Association 2022. See Section 12-7.

²⁰¹ AK, AR, AZ, CA, CT, DE, IA, ID, IN, KS, KY, LA, MA, ME, MI, MO, ND, NE, NH, NV, OH, OR, PA, TX, WA, WI, WY.

²⁰² AR, AZ, CA, ME, MI, NH, PA.

²⁰³ AL, CO, FL, GA, HI, IL, KS, LA, MN, MT, NC, NM, NV, NY, OK, SC, VT, WV.

²⁰⁴ GA, LA, MT, NM, SC, VT, WV.

²⁰⁵ California Government Code, Section 27388.

Consumer Awareness and Public Education about Fraud

When it comes to preventing real estate fraud, it's been said, "The most effective defense against fraudsters and con artists is education."²⁰⁶ Measures like property alert notifications offered by many county registers are only effective if property owners are aware of them. In Fremont County, Colorado, the recorder told commission staff that they visit senior centers and participate in community outreach events to enroll residents.²⁰⁷ In Illinois, the Tazewell County recorder said they include instructions to enroll in their alert system when they mail property tax bills.²⁰⁸ AARP Tennessee plans to hold fraud prevention sessions in different parts of the state this year to raise awareness about the latest scams.²⁰⁹

In 2024, The Aspen Institute, a global nonprofit organization, formed a National Task Force on Fraud and Scam Prevention. The task force's Consumer Awareness, Warning, and Intervention Working Group noted in its problem statement these challenges:

- Limitations of Consumer Awareness: Despite the risks, many individuals remain unaware or uncertain about how to protect themselves.
- Victim Shame: Victims of fraud face shame, embarrassment, confusion, and lack of hope for recovery, preventing them from reporting and participating in the criminal justice process.

They emphasize that, "while consumer education is a key component of fraud prevention, it alone cannot solve this crisis."²¹⁰ However, the group says consumer education can help "by increasing vigilance and encouraging the reporting of information that could improve scam-fighting efforts." They are developing guidelines for "a disciplined and well-resourced public safety campaign, with coordinated messaging and calls to action across industry sectors."²¹¹

Despite the risks, many individuals remain unaware or uncertain about how to protect themselves from real estate fraud.

²⁰⁶ Roberts and Dollar 2007.

²⁰⁷ Interview with Justin Grantham, clerk and recorder, Fremont County, CO, April 15, 2025.

²⁰⁸ Interview with John Ackerman, clerk and recorder, Tazewell County, Illinois, May 2, 2025.

²⁰⁹ Crouch 2025.

²¹⁰ Aspen Institute "Working Groups."

²¹¹ Aspen Institute 2025.

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Persons Contacted

John C. Ackerman, County Clerk and Recorder
Tazewell County, Illinois

Raumesh Akbari, Senator
Tennessee District 29

Bill Anderson, Vice President of Government
Affairs
National Notary Association

Shenita Baker, TN/AL Agency Consultant
Fidelity National Title Group

Elizabeth Blosser, Vice President of Government
Affairs
American Land Title Association

Seth Boffeli, Advisor,
Fraud Prevention Programs
AARP

Paige Brown, Mayor
City of Gallatin, Tennessee

Phillip Clark, Assistant District Attorney
Dallas County, Texas

Vincent Clark, Administrator
Shelby County Register of Deeds

Francoise Cleveland, Government Affairs Director
AARP

Tomi Coffey, MLS & MAAR Data Director
Memphis Area Association of Realtors

Tristina Craft, Investigator
Tennessee Attorney General's Office

Thomas Cronkright
Cofounder and Executive Chairman
CertifID

Heather Dawbarn, Register of Deeds
Rutherford County, Tennessee

Candice Dawkins, Legislative Director
Tennessee Department of Commerce and
Insurance

Terra Dickey, Register of Deeds
Lawrence County

Kimberly Esack, Supervisor, Economic Crimes
Division and the Carjacking Enforcement Unit
Philadelphia District Attorney's Office

Lee Garvey, Notary/Special Filings Section
Manager
State of California Secretary of State's Office

Justin D. Grantham, Clerk and Recorder
Fremont County, Colorado

Marc Gravitt, Register of Deeds
Hamilton County, Tennessee

Celeste Grimaldi, MLS Project Manager and
Trainer
Memphis Area Association of Realtors

Gloria Valle Halleck, Notary/Special Filings
Manager – Compliance
State of California Secretary of State's Office

Holly Hemmrich, Register of Deeds
Sumner County, Tennessee

Brice Hobby, Director of Legislative Affairs
County Officials Association of Tennessee

Robyn Householder, President/CEO
Better Business Bureau of Middle Tennessee

Samar Jha, Government Affairs Director
AARP

Lieutenant Kevin Johnson
Memphis Police Department

Tabitha King, Owner
Authority Title and Escrow and Authority Title and
Escrow of Alabama

Joe Kirkland, Senior Underwriting Counsel
Executive Title & Closing, Inc.

Claudia Lee, Vice President of Marketing
CertifiD

Jamie Lee, Notary Analyst
State of California Secretary of State's Office

Andy Maloney, Owner
Blue Note Title Company

Claire Marsalis, Director
Division of Consumer Affairs
Tennessee Attorney General's Office

Nick McBride, Register of Deeds
Knox County, Tennessee

Brooke Merritt, Senior Manager of Policy Planning
National Notary Association

Lorneth Peters, Vice-President of Market
Engagement
Better Business Bureau of Middle Tennessee

Mia McNeil, State Director
AARP Tennessee

Sandra Oh, Legal Support Analyst
New York State Attorney General's Office

Antonio Parkinson, Representative
Tennessee District 98

Cyndi Pickle, Register of Deeds
Sevier County, Tennessee

Ben Rodgers, Executive Director
County Officials Association of Tennessee

Julie Runyon, Register of Deeds
Montgomery County, Tennessee

Beth Russo, Government Affairs Director
AARP

William Sak, Support Specialist
Criminal Justice Information Services
Tennessee Bureau of Investigation

Katie Shotts, CEO and Executive Vice President
Memphis Area Association of Realtors

Maria Strohbehn, Assistant Attorney General
Tennessee Attorney General's Office

Justin Tanner, Vice President, State Manager &
Counsel
CATIC

John Taylor, Founder
IdentifiD

Jim Thompson, Chief Staff Officer
Property Records Industry Association

Shernee Tousant, Notary
Notary/Special Filings Manager
State of California Secretary of State's Office

Kerri White, Special Assistant for Housing and
Community Development
New York State Attorney General's Office

Reid Witcher, Assistant Commissioner for the
Division of Regulatory Boards
Tennessee Department of Commerce and
Insurance

Melissa Ysaguirre, Special Counsel
New York State Attorney General's Office

Appendix A: Senate Bill 2448 and House Bill 2215

HOUSE BILL 2215
By Parkinson

SENATE BILL 2448

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 8, Chapter 13; Title 8, Chapter 16 and Title
66, relative to real property.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "Real Estate Fraud Reduction Act."

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 13, is amended by adding the following new section:

(a) As used in this section:

(1) "Identification card" means a valid, government-issued identification card that bears the cardholder's name, address, and photograph, and that contains a unique identifying series of numbers or letters, or both, as applicable to the type or category of government-issued identification card; and

(2) "Real estate transaction":

(A) Means the sale, transfer, or assignment of an interest in real property and the sale, transfer, or assignment of a contract, agreement, or right to purchase an interest in real property; and

(B) Does not include a transaction involving a leasehold, easement, life estate, or short- or long-term rental agreement; and

(b) Notwithstanding another law to the contrary, when a register records a document relating to a real estate transaction, including any type of deed or lien with respect to real property, the register shall:

(1) Verify the identity of the person recording the document by requiring the person to present an identification card. If the document is recorded:

(A) In person, the register shall make a physical copy of the identification card to be recorded and maintained as part of the register's permanent records; or

(B) Electronically in accordance with § 8-13-108(e) or another provision of this chapter, a legible, digital copy of the identification card must be submitted with the document to be recorded and maintained as part of the register's permanent records;

(2) Record as a permanent record with the name and description of the document:

(A) The name and address of the person recording the document as indicated on the identification card; and

(B) The type or category of the identification card and the unique identifying series of numbers or letters, or both, associated with the identification card; and

(3) Not less than ten (10) business days after recording the document, cause notice to be mailed to the last person of record who paid property taxes on the real property that is the subject property of the recorded document. The notice must include the information recorded under subdivision (b)(2).

SECTION 3. Tennessee Code Annotated, Title 8, Chapter 16, Part 2, is amended by adding the following new section:

(a) As used in this section:

(1) "Identification card" has the same meaning as defined in Section 1; and

(2) "Real estate transaction" has the same meaning as defined in Section

1.

(b) Notwithstanding another law to the contrary, when a notary public notarizes a document relating to a real estate transaction, including any type of deed or lien with respect to real property, the notary public shall:

(1) Verify the identity of the person notarizing the document by requiring the person to present an identification card. If the document is notarized electronically in accordance with chapter 16, part 3 of this title, a legible, digital copy of the identification card must be submitted with the document to be notarized and maintained as part of the notary public's permanent records; and

(2) Record as a permanent record with the name and description of the document:

(A) The name and address of the person notarizing the document as indicated on the identification card; and

(B) The type or category of the identification card and the unique identifying series of numbers or letters, or both, associated with the identification card.

(c) If a notary public fails to comply with this section:

(1) For a first and each subsequent violation, the notary public is subject to a fine of five hundred dollars (\$500), to be paid to and collected by the secretary of state;

(2) For a second violation, the notary public's commission must be revoked for one (1) year; and

(3) For a third violation, the notary public's commission must be revoked permanently.

SECTION 4. This act takes effect upon becoming a law, the public welfare requiring it.

Appendix B: Public Chapter 941, Acts of 2024



State of Tennessee

PUBLIC CHAPTER NO. 941

SENATE BILL NO. 2448

By Akbari, Pody

Substituted for: House Bill No. 2215

By Parkinson, Russell, White, Terry, Chism, McKenzie

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8, Chapter 13; Title 8, Chapter 16 and Title 66, relative to real property.

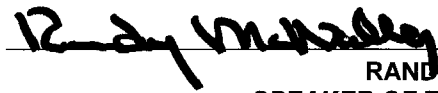
BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

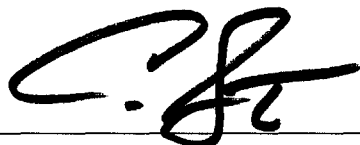
SECTION 1. The Tennessee Advisory Commission on Intergovernmental Relations (TACIR) shall conduct a study and compile a report to be submitted to the General Assembly on real estate fraud in this state. The study must investigate the prevalence of real estate fraud in this state, the different schemes used to perpetrate real estate fraud, the methods used by other states to combat real estate fraud, and the best practices for local government officials in registering documents related to real estate transactions. The report must provide a detailed summary of the study and provide suggested statutory revisions that are designed to reduce the risk of real estate fraud for property owners in this state.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it.

SENATE BILL NO. 2448

PASSED: April 22, 2024


RANDY McNALLY
SPEAKER OF THE SENATE


CAMERON SEXTON, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 16th day of May 2024


BILL LEE, GOVERNOR

Appendix C: National Notary Association Letter to the Commission



January 10, 2025

Tennessee Advisory Commission on Intergovernmental Relations
226 Anne Dallas Dudley Blvd., Suite 508
Nashville, Tennessee 37243-0760

Re: Public Chapter 941, Acts of 2024, Real Estate Fraud

Commission Members,

Established in 1957, the National Notary Association is the leading authority on the American Notary office and is dedicated to educating, serving, and providing information services for Tennessee's approximately 100,000 Notaries Public, the nation's 4.4 million Notaries, and other stakeholders including lawmakers and regulators. Our mission is to promote standards of professional practices that protect consumers and equip Notaries to fulfill their important role as deterrents to fraud involving notarized documents.

We respectfully submit the following recommendations for the Commission's consideration regarding measures to combat real estate fraud in Tennessee.

Journal of Notarial Acts. Tennessee law requires Notaries to keep records of notarial acts for which the Notary or Notary's employer charges and receives a fee; however, if no fee is demanded or received for the Notary's services, no recordation of the notarial act is required.¹

A detailed, accurate Notary journal of all notarial acts performed is one of the most important methods by which a Notary can deter fraud and protect the public. Twenty-one states require Notaries to record most, if not all, notarial acts in a journal.²

The journal has significant evidentiary value for law enforcement when real estate fraud occurs. A 2018 New York County Grand Jury report detailed investigations into deed fraud complaints reflecting a combined fair market value of over \$112 million. The Grand Jury recommended a journal requirement stating, "We heard testimony that a journal voluntarily kept by a New York City notary public, enabled law enforcement to prosecute a person engaged in deed fraud. However, the absence of a journal, or any type of recordkeeping, made it difficult, and in some cases impossible, to identify the culprits and their accomplices, or to gather sufficient evidentiary facts to mount a successful prosecution."³

¹ See Tenn. Code Ann. § 8-21-1201(b) and (c); Legislation in 2015 repealed a requirement that a Notary maintain a record of all notarial acts regardless of whether the Notary charged a fee (see 2015 Tenn. Pub. Ch. 76).

² See Ariz. Rev. Stat. Ann. § 41-313E; Cal. Gov't Code § 8206; Colo. Rev. Stat. § 24-21-519(1); Del. Code Ann. Tit. 29, § 4332; D.C. Code Ann. § 12a-1-1231(A); Haw. Rev. Stat. § 456-15; 5 ILCS 312/3-107(a); Kan. Stat. Ann. § 53-5A-20; Md. Code Ann. (State Gov't) § 18-219; Mass. Gen. Laws Ann. Ch. 222, § 22(a); Miss. Code Ann. § 25-34-37; Mo. Rev. Stat. Ann. § 486.260; Mont. Code Ann. § 1-5-618(1); Nev. Rev. Stat. Ann. § 240.120(1); N.J. Stat. § 52:7-10.18(a); N.M. Stat. Ann. § 14-14A-18(a); 19 NYCRR § 182.9(a); 57 Pa. Const. Stat. Ann. § 319(a); Tex. Gov't Code § 406.014(a) and Civ. Prac. & Rem. Code 121.012(a); Wash. Rev. Code Ann. § 42.45.180(1); and Wyo. Stat. § 32-3-118(d).

³ Report of the Grand Jury of the Supreme Court, State of New York, First Judicial District, issued pursuant to Criminal Procedure Law § 190.85(l)(c). <https://manhattanda.org/wp-content/uploads/2018/12/Deed-Fraud-Grand-Jury-Report.pdf>. Last viewed on January 8, 2025.

Tennessee Advisory Commission on Intergovernmental Relations
January 10, 2025
Page 2 of 4

Education and Examination. Notaries in Tennessee are not required to undergo training or pass an examination as a condition of obtaining a commission. Without proper training, even experienced Notaries can make costly mistakes that endanger the public welfare.⁴

The significant legal and financial consequences associated with real estate fraud due to notarial misconduct and negligence can be mitigated by requiring new and renewing Notary Public commission applicants to be trained on the duties and responsibilities of their state's laws and fraud prevention measures. Currently, eighteen states and the District of Columbia require Notaries to undergo training.⁵

Notary Bond. A Notary Public bond is an important tool to protect the public from financial loss resulting from a Notary's negligence or intentional misconduct. Even when a bond is required, however, the high losses associated with real estate fraud mean the bond is often inadequate to compensate the victim.⁶

Twenty-nine states and the District of Columbia require Notaries Public to have a bond.⁷ Notary bond amounts currently range from \$500 (Wisconsin) to \$50,000 (Alabama). The Tennessee Notary bond has been \$10,000 since 1993.⁸ Given the substantial increase in property values in the 32 years since the bond was last increased, we recommend increasing the bond to \$25,000. Even at \$25,000, the bond would be just ahead of the consumer price index rate of inflation.⁹

Notary Impersonation. Criminals currently are committing real estate fraud using the legitimate commission information of a Notary Public to forge the Notary's seal and signature on documents conveying title to real property at an alarming rate.¹⁰ This is what occurred in the Graceland property scam in Shelby County in 2024.

⁴ Testimony provided by the office of the Oregon Secretary of State in support of H.B. 4020 (82nd Leg., 2024 Reg. Sess.) cited the numerous errors experienced Notaries committed as grounds for requiring Notaries seeking reappointment to satisfactorily complete an education course for their new commission. <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/PublicTestimonyDocument/115304>. Last viewed on January 8, 2025.

⁵ See Ala. Code § 36-20-70(e); Cal. Gov't Code § 8201(a)(3) and (4); Colo. Rev. Stat. Ann. § 24-21-522(2); D.C. Code § 1-1231.21; Fla. Stat. Ann. § 668.50(11)(b); Ga. Code Ann. § 45-17-8; 5 ILCS 312/2-101.5; Ind. Code Ann. § 33-42-12-2; Md. Code Ann. (State Gov't) § 18-102(a)(4); Mont. Code Ann. § 1-5-620(3); N.C. Gen. Stat. § 10B-8; N.J. Stat. Ann. § 52:7-10.10.2(b) and (c); N.M. Stat. Ann. § 14-14A-21(B); Nev. Rev. Stat. § 240.018(3); Ohio Rev. Code Ann. § 147.021; Or. Rev. Stat. § 194.325(3); 57 Pa. Cons. Stat. Ann. § 322; Vt. Stat. Ann. tit. 26, § 5343; and Wyo. Stat. Ann. § 32-3-121.

⁶ Tenn. Code Ann. § 66-22-113 addresses the personal liability of an officer who fails to carry out the required duties when taking the acknowledgment of a deed.

⁷ See Ala. Code § 36-20-71; Alaska Stat. § 44.50.034; Ariz. Rev. Stat. Ann. § 41-269.D; Ark. Code Ann. § 21-14-101; Cal. Gov't Code § 8212; D.C. Code § 1-1231.19(e); Fla. Stat. Ann. § 117.01(7)(a) and § 117.225(6); Haw. Rev. Stat. Ann. § 456-5; Idaho Code § 51-121(3); 5 ILCS 312/2-105; Ind. Code Ann. § 33-42-12-1(c)(4); Kan. Stat. Ann. § 53-5a22(a)(2); KY. Rev. Stat. Ann. § 423.390(5); La. Rev. Stat. Ann. § 35:71; Mich. Comp. Laws § 55.273(2); Miss. Code Ann. § 25-34-41(4); Mo. Rev. Stat. Ann. § 486.615.1; Mont. Code Ann. § 1-5-619(4)(d); Neb. Rev. Stat. § 64-102 and § 64-109; Nev. Rev. Stat. § 240.030; N.M. Stat. Ann. § 14-14A-20.E; N.D. Cent. Code § 44-06.1-20.4; Okla. Stat. Ann. tit. 49 § 2(a); 57 Pa. Cons. Stat. Ann. § 321(d)(3); S.D. Codified Laws § 18-1-2; Tex. Gov't Code Ann. § 406.010; Utah Code Ann. § 46-1-4; Wash. Rev. Code Ann. § 42-45-200(4); Wis. Stat. Ann. § 140.02(1)(d).

⁸ In 1993 the Notary Public bond was increased from \$5,000 to \$10,000 (see 1993 Tenn. Pub. Acts 57).

⁹ \$10,000 in January 1993 is worth \$22,124 today (see https://www.bls.gov/data/inflation_calculator.htm).

¹⁰ A survey of members of the American Land Title Association found that 31% of respondents said it was somewhat common, common, or very common for bad actors to use the legitimate credentials of Notaries Public

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Several states criminalize impersonating a Notary¹¹ and unlawfully possessing or using a Notary seal.¹² While Tennessee law prohibits anyone who has previously been commissioned as a Notary to act in an official capacity after the expiration of their commission,¹³ the General Assembly should consider adding a criminal penalty for Notary impersonation because Notaries Public no less than legitimate property owners are victims of this crime. The National Notary Association has seen claims in its insurance program where a defrauded property owner sues an insured Notary whose commission information or seal was used to create a bogus property deed, seeking recovery of damages from their stolen property. In fact, perhaps the only financial protection for a Notary who falls victim to impersonation crimes is to purchase an optional Notary errors and omissions insurance policy. Without such a policy, an aggrieved Notary may have no other choice than to hire an attorney to resolve the claims against the Notary, even if they are not legitimate.

Commission Database. Tennessee maintains a public, searchable database of Notaries Public which provides a Notary's commission name, status, zip code, date of commission, commission expiration date, and whether the individual registered as an Online Notary Public.¹⁴ Criminals use such databases to fish for legitimate commission information to create fraudulent documents purportedly notarized by legitimately commissioned Notaries and to create fake Notary seals. The National Notary Association strongly urges the General Assembly to consider implementing methods to secure the database from incidents of data mining, such as requiring a login to access commission data and limiting the search results to provide only verification of the Notary's commission status rather than all of the information that could be used to create a fraudulent seal.¹⁵

Seal Vendors. Another weak link with property fraud is the ease with which any individual, irrespective of whether that individual holds a Notary Public commission, may obtain a Notary Public seal. At the very least, the General Assembly should require Notaries to provide proof of a valid Notary commission to a seal stamp manufacturer or electronic seal vendor when they purchase a seal and require seal vendors to retain the copy for the length of the Notary's commission plus one year. The General Assembly may even consider regulating seal vendors as the states of California and Missouri (and soon, North Carolina) have done.

Limiting the manufacture and sale of Notary Public seals to vendors approved by the state and requiring vendors to obtain proof of commission from the Notary prior to manufacturing the seal¹⁶ can help deter criminals and make it easier for states to go after bad actors.¹⁷

without their permission. See "ALTA Critical Issues Study on Seller Impersonation Fraud." American Land Title Association, 2024. <https://www.alta.org/file/Seller-Impersonation-Fraud-Study-Report.pdf>. Last viewed on January 9, 2025.

¹¹ See, e.g., Cal. Gov't Code § 8227.1; Colo. Rev. Stat. Ann. § 24-21-532; Fla. Stat. Ann. § 117.05(7); 5 ILCS § 312/7-106; Mo. Rev. Stat. Ann. § 578.700.4; N.C. Gen. Stat. § 10B-60(e), Pa. Cons. Stat. Ann. tit. 18, § 4913(a); Va. Code Ann. § 47.1-29; W.Va. Code § 39-4-33(c).

¹² See, e.g., Fla. Stat. Ann. § 117.05(3)(d); Pa. Cons. Stat. Ann. tit. 57, § 323(f)(3).

¹³ See Tenn. Code Ann. § 8-16-120.

¹⁴ See <https://tnbear.tn.gov/Notary/notary>. Last viewed on January 8, 2025.

¹⁵ For further recommendations on Notary database security, see the NNA's position paper "Counterfeit Credibility: The New Threat of Notary Impersonation Fraud." <https://www.nationalnotary.org/file%20library/nna/knowledge%20center/outside%20pdfs/position-paper-notary-impersonation-fraud-2024.pdf>. Last viewed on January 9, 2025.

¹⁶ See, e.g., Cal. Gov't Code § 8207.2 and Mo. Rev. Stat. § 486.285.

¹⁷ See Cal. Pen. Code § 470(b).

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Background Screening. Tennessee law excludes individuals convicted of certain crimes from holding office as a Notary Public¹⁸ but there is no criminal records check conducted on applicants to verify whether they have been convicted of a disqualifying crime. Several states either authorize or require the commissioning official to conduct a criminal records check on Notary Public applicants as a preventative measure to protect the public.¹⁹ Currently, ten states require a background screening.

In conclusion, the recommendations provided herein offer several levers for addressing the growing threat of deed fraud in Tennessee. While no single solution will eliminate all instances of fraud, a multi-pronged approach can create a system of deterrents that minimize risk to the public, maintain the integrity of the Notary Public office, and arm law enforcement with valuable tools for prosecuting criminals.

Sincerely,



Bill Anderson
Vice President, Government Affairs



Brooke Merritt
Sr. Manager, Policy Planning

¹⁸ See Tenn. Code. Ann §8-18-101.

¹⁹ See, e.g., Cal. Gov't Code § 8201.1(a) through (d); 5 ILCS 312/2-102(i-5); Mich. Comp. Laws § MCL 55.275(3); Ohio Rev. Code Ann. § 147.01(3).

Appendix D: Notary Public Statute Amendments to Address Seller Impersonation Fraud



Notary Public Statute Amendments to Address Seller Impersonation Fraud

Introduction

Seller impersonation fraud (SIF) causes the theft of ownership rights from unsuspecting property owners. No area of the country is immune to these frauds.

To successfully mount SIF, a fraudster must have a real property deed notarized and recorded in the land records. The following legislative proposals from the American Society of Notaries, National Notary Association, and Pennsylvania Association of Notaries seek to lessen the risks of SIF for property owners and Notaries by making sensible changes to state notary public statutes. Recommended language is proposed for states that have adopted the Revised Uniform Law on Notarial Acts and subsequent amendments and those that have not.

States That Have Enacted the Revised Uniform Law on Notarial Acts

The following amendments to state Revised Uniform Law on Notarial Acts enactments would help reduce the risk of seller impersonation fraud. The amendments:

1. Authorize a notarial officer to use a tangible or electronic driver's license or state identification credential under Section 7(b) to identify an individual or credible witness for a notarial act.
2. Replace "card" with "credential" in Section 7(b).
3. Move the definition of "identity proofing" from Section 14A(a) to Section 2 so that it is a global definition and authorize a notarial officer to use identity proofing as satisfactory evidence of identity for any notarial act under Section (7)(b) and not just for notarial acts for remotely located individuals under Section 14A.
4. Require a notary public to present due proof of the notary public's commission before obtaining a stamping device under Section 18, require the notary public to retain the due proof for the length of the notary public's commission term plus one year, [require the seal manufacturer to retain a copy of the due proof for the notary public's term plus one year,] and authorize the commissioning officer or agency to adopt rules as to the form and contents of the due proof to procure a stamping device under Section 27.
5. Make mandatory the examination and course of study for notary commission applicants under Section 22 and remove the brackets for the corresponding rulemaking in Section 27.
6. Add training on frauds relevant to notarial acts as a subject to be covered by the

course under Section 22.

7. Require the commissioning officer or agency to adopt reasonable security measures to protect the database of notaries public under Section 24.

SECTION 2. DEFINITIONS

(4) "Identity proofing" means a process or service by which a third person provides a notary public with a means to verify the identity of an individual by a review of personal information from public or private data sources.¹

NOTE: Renumber all following definitions in the section.

SECTION 7. IDENTIFICATION OF INDIVIDUAL.²

(a) A notarial officer has personal knowledge of the identity of an individual appearing before the officer if the individual is personally known to the officer through dealings sufficient to provide reasonable certainty that the individual has the identity claimed.

(b) A notarial officer has satisfactory evidence of the identity of an individual appearing before the officer if the officer can identify the individual:

(1) by means of:

(A) a passport, tangible or electronic driver's license, or government issued nondriver identification ~~card~~ credential, which is current or expired not more than [three years] before performance of the notarial act; ~~or~~

(B) identity proofing; or

~~(B) another form of tangible or electronic~~ government issued identification ~~card~~ credential ~~issued to an individual~~, which is current or expired not more than [three years] before performance of the notarial act, contains the signature or a photograph of the individual, and is satisfactory to the officer; or

(2) by a verification on oath or affirmation of a credible witness personally appearing before the officer and known to the officer or whom the officer can identify on the basis of a passport, tangible or electronic driver's license or government issued nondriver identification ~~card~~ credential, which is current or expired not more than [three years] before performance of the notarial act, or identity proofing.

(c) A notarial officer may require an individual to provide additional information or

¹ We revised the definition of identity proofing adopted by the ULC, replacing "a remotely located individual" with "an individual" to allow its use in both Sections 7 and 14A. This "individual" may refer to someone presenting a record for a traditional notarial act or in-person electronic notarial act, a remotely located individual presenting a record for a remote notarial act, or a credible witness used to verify the identity of either.

² The intent of the amendments to Section (b)(1)(A) and (b)(1)(C) are to authorize "mobile driver's licenses" (mDLs) and identification (mIDs) that have been enacted in several states. The mDL/mID is provisioned by the state agency regulating driver's licenses and state IDs to the secure "wallet" apps on Apple iOS or Android phones, or in a proprietary app of the third party contracting with a state issuing mDLs/mIDs. These electronic IDs are securely issued to the bearer, updated in real time, and are accessed through a secure means of authentication on the bearer's mobile device.

identification credentials necessary to assure the officer of the identity of the individual.

(d) A notarial officer may charge an individual the cost of identity proofing under subsections (b)(1)(B) and (b)(2).

SECTION 14A. NOTARIAL ACT PERFORMED FOR REMOTELY LOCATED INDIVIDUAL.

NOTE: Strike the definition of identity proofing in Section 14A(a)(3) and renumber all following definitions.

SECTION 18. STAMPING DEVICE.

(a) A notary public is responsible for the security of the notary public's stamping device and may not allow another individual to use the device to perform a notarial act. [On resignation from, or the revocation or expiration of, the notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notary public, the notary public's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing, or securing it against use in a manner that renders it unusable.]

(b) If a notary public's stamping device is lost or stolen, the notary public or the notary public's personal representative or guardian shall notify promptly the commissioning officer or agency on discovering that the device is lost or stolen.

(c) A notary public shall present due proof of the notary public's commission to a vendor or manufacturer for the purpose of obtaining a stamping device. The notary public shall retain the due proof for [X] years. [The manufacturer shall retain a copy of the due proof for [X] years.]³

SECTION 21. COMMISSION AS NOTARY PUBLIC; QUALIFICATIONS; NO IMMUNITY OR BENEFIT.

(a) An individual qualified under subsection (b) may apply to the [commissioning officer or agency] for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the [commissioning officer or agency] and pay any application fee.

(b) An applicant for a commission as a notary public must:

- (1) be at least 18 years of age;
- (2) be a citizen or permanent legal resident of the United States;
- (3) be a resident of or have a place of employment or practice in this state;
- (4) be able to read and write [English]; [and]
- (5) not be disqualified to receive a commission under Section 23;

³ A state should insert the number of years of its statutory term for notaries public plus an additional year. [A state that chooses to require seal manufacturers to retain a copy of the due proof should insert the same number of years.]

[(6) pass a background check to determine whether the applicant has been convicted of a disqualifying crime under Section 23(a)(3)]; and

(67) have passed the examination required under Section 22(a)].

SECTION 22. EXAMINATION OF NOTARY PUBLIC.

(a) An applicant for a commission as a notary public who does not hold a commission in this state must pass an examination administered by the [commissioning officer or agency] or an entity approved by the [commissioning officer or agency]. The examination must be based on the course of study described in subsection (b).

(b) The [commissioning officer or agency] or an entity approved by the [commissioning officer or agency] shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures, ~~and~~ ethics, and frauds relevant to notarial acts.

SECTION 24. DATABASE OF NOTARIES PUBLIC.

(a) The [commissioning officer or agency] shall maintain an electronic database of notaries public:

(1) through which a person may verify the authority of a notary public to perform notarial acts; and

(2) which indicates whether a notary public has notified the [commissioning officer or agency] that the notary public will be performing notarial acts on electronic records.

(b) The [commissioning officer or agency] shall implement reasonable security measures as may be necessary to protect the database described in this section. The [commissioning officer or agency] shall redact any information in the database as may be necessary to protect the information from unauthorized use.

SECTION 27. RULES.

(a) The [commissioning officer or agency] may adopt rules to implement this [act]. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

(1) prescribe the manner of performing notarial acts regarding tangible and electronic records;

(2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;

(3) include provisions to ensure integrity in the creation, transmittal, storage, or authentication of electronic records or signatures;

(4) prescribe the process of granting, renewing, conditioning, denying, suspending, or revoking a notary public commission and assuring the trustworthiness of an individual holding a commission as notary public;

(5) prescribe the form and contents of the due proof of commission to procure a stamping device under Section 18(c);

(6) prescribe the fee for identity proofing under Section 7(d); [and]

(57) include provisions to prevent fraud or mistake in the performance of notarial acts; [and]

[(68) establish the process for approving and accepting surety bonds and other forms of assurance under Section 21(d)]~~}; and~~

~~{(79) provide for the administration of the examination under Section 22(a) and the course of study under Section 22(b)}.~~

(b) In adopting, amending, or repealing rules about notarial acts with respect to electronic records, the [commissioning officer or agency] shall consider, so far as is consistent with this [act]:

(1) the most recent standards regarding electronic records promulgated by national bodies, such as the National Association of Secretaries of State;

(2) standards, practices, and customs of other jurisdictions that substantially enact this [act]; and

(3) the views of governmental officials and entities and other interested persons.

Other State Law Amendments

Following is suggested language to revise various sections of non-uniform state law to address seller impersonation fraud as recommended by the American Society of Notaries, National Notary Association, and Pennsylvania Association of Notaries. The language is adapted from the recommended amendments to the Revised Uniform Law on Notarial Acts presented above.

SECTION DEFININING SATISFACTORY EVIDENCE OF IDENTITY FOR NOTARIAL ACTS.

NOTE: This section proposes two amendments – the first with unwritten language and the section with written language. An enacting state should, in addition to the amendments proposed below, clarify in its statutes that a notary public may accept a “tangible or electronic” driver’s license or state identification credential. Due to the variety of state law enactments, proposing specific language is challenging. An “electronic” driver’s license would be permissible if a state has enacted provisions authorizing motorists to carry a “mobile driver’s license (mDL) or state identification credential (mID). These forms of identification are issued by the state issuing authority just as a tangible driver’s license or identification credential, but are stored in a “wallet” or an app on an individual’s Apple iPhone or Android device. Some states have chosen to use a third-party wallet or app instead of Apple’s and Android’s wallets. mDLs/mIDs are more secure and less prone to alteration and counterfeiting than their paper-based equivalents.

[(a)] In addition to [section or subsection defining satisfactory evidence of identity] a notary public may use [identity proofing][remote presentation, credential analysis, and knowledge-based authentication] as defined under [section in remote/online notarial act laws] as satisfactory evidence of identity for a notarial act.

[(b)] In addition to [section specifying maximum fees for a notarial act] a notary public may charge the cost of verifying an individual’s identity using [identity proofing][remote presentation, credential analysis, and knowledge-based authentication] under [subsection] [(a)] of this section.

[(c)] The [commissioning official] may adopt [rules][regulations] to prescribe the fee under subsection [(b)] of this section.

SECTION ON NOTARY PUBLIC SEAL OR STAMP

[(a)] A notary public shall present due proof of the notary public's commission to a vendor or manufacturer for the purpose of obtaining a [notary public seal]. The notary public shall retain a copy of the certification of authorization for [X] years.⁴ [The manufacturer shall retain a copy of the certificate of authorization for [X] years.]

[(b)] The [commissioning officer or agency] may adopt [rules][regulations] to prescribe the form and contents of the due proof of commission under [subsection] [(a)].

SECTION ON COMMISSION QUALIFICATIONS

NOTE: In addition to the existing qualifications for a notary public commission or appointment, add the following:

[(a)] pass a background check to determine whether the applicant has been convicted of a [disqualifying crime] under [section, subsection listing a disqualifying crime as grounds for denying, suspending, or revoking a notary public commission or appointment].

SECTION ON NOTARY PUBLIC TRAINING

NOTE: A state that currently does not have a mandatory education requirement for notaries public should adopt subsections (a) and (b). A state that has a mandatory education requirement should adopt subsection (b).

[(a)] Prior to granting a notary public commission, the [commissioning official] shall require an applicant to successfully complete a training course of [4] hours.

[(b)] The subject matter of the training course under [subsection (a)] shall be the laws, rules, ethics, and frauds related to the duties and functions of a notary public.

⁴ A state should insert the number of years of its statutory term for notaries public plus an additional year. [A state that chooses to require seal manufacturers to retain a copy of the due proof should insert the same number of years.]

Appendix E: Suggested Legislative Approaches to Addressing Deed Fraud

Suggested by these organizations: AARP, ALTA, MBA, NAR, and NNA

Preventative Measures – Land Records

Suspicious Real Property Documents Submitted for Recording

Generally, the duties of a recording official are limited to reviewing a document to confirm it is the type of document eligible for recording under state law, that it is legible and meets required formatting and other criteria and contains the acknowledged signatures of the necessary parties. Recording officials are generally not responsible for the accuracy or authenticity of the document or signatures. However, there may be benefit derived from allowing recording officials to reject documents from an entity other than a “Trusted Submitter” when they have suspicion of fraud.

Suggested legislative text:

(a) As used in this section:

(1) “Trusted submitter” means:

- (A) a title insurer [as defined by state law];*
- (B) a title company or title agent [as defined by state law];*
- [(C) a licensed escrow company [as defined by state law];]*
- (D) an attorney licensed to practice in this state [or any other state]; and*
- (E) a regulated financial institution [as defined by state law].*

(2) “Document” means information inscribed on a tangible medium or stored in an electronic or other medium and retrievable in perceivable form.

(3) “Suspicious Document” means a document submitted for recording for which the [recorder] has found any one of the following:

- (A) the name or [commission] information of a notarial officer who has purported to acknowledge or verify the document does not match official [commission] records;*
- (B) the document purports not to be subject to the laws of the United States or this state;*
- (C) the document does not conform to recording standards established by other law of this state; or*
- (D) the document has not been submitted for recording by a trusted submitter or an authorized representative of a trusted submitter and the document is materially false, fictitious, or fraudulent.*

(b) A [recorder] may:

(1) refuse to record a suspicious document, unless a court of competent jurisdiction finds that [recorder's] finding that the document is a suspicious document is erroneous;

(2) report a suspicious document to any appropriate law enforcement agency; or

(3) notify a notarial officer who has purported to acknowledge or verify a suspicious document of the reason for the [recorder's] finding that the document is a suspicious document.

(c) An injured person has a cause of action against a [recorder] for the refusal to record a document based on an allegedly erroneous finding that the document is a suspicious document. In an action authorized by this subsection, an injured person is entitled to appropriate declaratory or injunctive relief. A [recorder] is not liable for damages or any other claim for monetary relief in an action brought under this subsection.

Legislative Note: Lawmakers should consider how a financial institution may be defined under state law. The definition relied upon for a “financial institution” in this section needs to capture all state and federal regulated entities who provide financial services and are expected to submit documents to record. This definition should capture at the very least: banks, bank holding companies, trust companies, savings and loan associations, credit unions, and independent mortgage banks. The term “escrow company” is in brackets because many states do not license escrow companies separately from title insurance agents or producers. In those states, paragraph (a)(1)(C) may be omitted.

The term “recorder” in brackets is used to identify the officer who has the authority under state law to accept documents for recording in the land records office. Although “recorder” is the word commonly used in many jurisdictions, other officers such as a “clerk” or “registrar” may be appropriate. The term “commission” in brackets may be replaced with “appointment,” “license,” or other appropriate term in states in which notaries public receive an appointment or license rather than a commission.

Corrective Measures – Land Records

Free Property Recording Notification System

Several states and local recording offices have adopted a system to notify property owners of any deed or lien recorded against their property. This allows them to take any necessary action to challenge the fraudulent activity. The service is generally provided for free.

Suggested legislative text: *Property Alert Notifications – Property Owners*

(a) Not later than [January 1, 2026] each [recorder] shall establish a property alert notification system that allows a person to enroll real property owned by the person in the system.

(b) A property alert notification system established under this section shall:

(1) notify the enrolled owner of the recording of any document describing, affecting, or purporting to affect the enrolled property; and

(2) in the notification required by paragraph (1) identify the nature of the [document] recorded, identify the subject property by address or tax identification number, and provide the recording information of the [document].

(c) A property owner may elect to receive any notification provided under this section by [mail, text message, call, or email].

(d) There shall be no charge to a property owner for enrolling in the property alert notification system required by this section

(e) A [recorder] may by mail notification, website notification, newspaper advertisement, or other media provide property owners with:

(1) educational information on deed fraud; and

(2) information about the property alert notification system established under this section.

(f) A [recorder] is not liable for a violation of this section. No person shall have a right or cause of action and a [recorder] is not liable with respect to the establishment, maintenance, or operation of a property alert notification system required by this section.

Suggested legislative text: Document Alert Notifications – Notaries Public

(a) A [recorder] may establish a document alert notification system that allows a notary public to enroll in the system.

(b) A document alert notification system established under this section shall:

(1) notify the enrolled notary public of the recording of any document containing the name or [commission] number, if applicable, of the notary public; and

(2) in the notification required by paragraph (1) identify the nature of the document recorded, identify the subject property by address or tax identification number, and provide the recording information of the document.

(c) A notary public may elect to receive any notification provided under this section by [mail, text message, call, or email].

(d) There shall be no charge to a notary public for enrolling in the document alert notification system.

(e) A [recorder] may by mail notification, website notification, newspaper advertisement, or other media provide notaries public with:

(1) educational information on deed fraud; and

(2) information about the document alert notification system established under this section.

(f) A [recorder] is not liable for a violation of this section. No person shall have a right or cause of action and a [recorder] is not liable with respect to the establishment, maintenance, or operation of a document alert notification system required by this section.

Legislative Note: States enacting this section should consider indexing or otherwise logging information regarding the notary public contained on documents submitted for recording. States should consider enacting the legislative text in the following section to accomplish this goal, along with the section below on notary impersonation.

See above for use of the term “recorder” in brackets to identify the officer who has the authority under state law to accept documents for recording in the land records office.

Additional Document Details Index

Law enforcement can utilize information in the land records to more easily identify additional fraud victims, with the help of recording officers. For example, indexing information regarding the notary public, tracking document submitters and flagging unusual recording of documents can be useful for investigations. This type of indexing should be a permissive measure that may be implemented in counties with a taskforce or law enforcement focused on deed fraud prosecution.

Suggested legislative text:

(a) A [recorder] may index or by other means create a searchable log that includes the following information for each document recorded in the [land records]:

- (1) information identifying real property described in or purported to be affected by the document;*
- (2) the name and [commission] number, if applicable, of any notarial officer described in or identified in the document, along with [commissioning] jurisdiction of such officer; or*
- (3) the name of the person that submitted the document for recording.*

(b) An index or log created under subsection (a) may be made available for public search and examination in the same manner as any other index for the [land records] required by other law of this state.

Legislative Note: See above for use of the term “recorder” in brackets to identify the officer who has the authority under state law to accept documents for recording in the land records office; and the term “land records” in brackets to identify those public records where documents affecting title to real property are recorded to impart constructive notice on purchasers and encumbrancers for value under state law.

Preventative Measures – Professional Education & Licensing

Education for Notaries and Real Estate Professionals

Continuing education for notaries or real estate professionals can provide information on trends in fraudulent activity and technology and tools to combat them, ensure awareness of changes in laws, and increase compliance with current requirements. If a state does not have an education requirement for notaries, it is recommended they adopt one.

Suggested legislative text (Notaries):

(a) An applicant for a [commission] as a notary public must pass a background check administered by the [commissioning official] to determine whether the applicant has been convicted of a disqualifying crime [cite to applicable statute].

(b) Within [6] [months] of applying for a notary public [commission], each applicant shall satisfactorily complete a course of instruction approved by the [commissioning official] on notarial laws, procedures, and practices of at least [4] hours, of which at least [1] hour encompasses red flags and trends related to real estate fraud and elder financial exploitation, and pass an examination of the course.

(c) Within [] [months] prior to applying for each successive [commission], an individual shall satisfactorily complete a course of instruction of [2] hours approved by the [commissioning official] on the laws, procedures, and practices pertaining to notarial acts, of which at least [1] hour encompasses red flags and trends related to real estate fraud and elder financial exploitation. If an individual does not successfully complete the education requirement pursuant to this paragraph, the individual must satisfy the education requirement pursuant to paragraph (a).

Suggested legislative text (Real Estate Professionals Continuing Education):

(a) In determining its continuing education requirements, the [board/regulator/commission] shall consider including courses on fraud and cyber security to be taken by those licensees whose practices may require knowledge in combating real estate related fraud, including deed fraud, wire fraud and cyber security.

Preventative Measures – Identity Verification & Notarial Law

Empowering Notaries to Use Technology

Expressly permitting, but not requiring, notaries and notarial officers to use technology to perform credential analysis, identity proofing or other methods of screening the principal for in-person notarial acts. By allowing notaries and notarial officers to use their discretion while embracing available technology, notaries and notarial officers may be able to detect or deter the attempted use of fake identification. This authorization should not establish a standard of care or expose a notary public to liability if such technology is not used. A notary public or notarial officer should be allowed to pass the cost of using any technology to the principal.

Suggested legislative text:

To make these changes in a state that has enacted the Revised Uniform Law on Notarial Acts (2018/2021) (“RULONA”), or comparable state notary public law, the definition of “identity proofing” should be moved from Section 14A to Section 2 (making it global within the act) and the following additions made to Section 7 and Section 8.

Section 7 Additions

(c) A notarial officer may require an individual to provide additional information or identification credentials, including identity proofing, necessary to assure the officer of the identity of the individual. This subsection does not establish any duty or standard of care or impose liability on a notarial officer for failure to require additional information, identification credentials, or identity proofing. [The officer may charge the individual an additional fee for identity proofing with the individual’s advance consent.]

Section 8 Additions

(b) A notarial officer may refuse to perform a notarial act unless refusal is prohibited by law other than this [act].

(d) A notarial officer may refuse to perform a notarial act if an individual does not provide the notarial officer information sufficient to conduct identity proofing under Section 7 (c) [or if the individual does not consent to pay for identity proofing].

Legislative Note: The last sentence of paragraph (c) and final clause of paragraph (d) are bracketed to reflect the fact that in some states the fees notaries public may charge for notarial services are strictly regulated while in others, they are not. Traditional maximum notary public fee laws generally do not authorize notaries to separately charge to verify the identity of an individual. However, newer, technological methods of identity proofing cost \$1.00 or more per transaction. The bracketed language adopts the policy that notaries public should be authorized to use and charge for technology-assisted identity proofing if they directly incur the cost and be allowed to refuse a notarial act if the individual to be identified does not

consent to pay the added cost. A notary public who performs a traditional notarial act will be disincentivized to use identity proofing to combat seller impersonation fraud if the notary public cannot recoup the additional cost.

Penalties for Impersonating a Notary Public

Creating penalties for impersonating a notary public can help deter this criminal behavior that very often is part of deed fraud.

Suggested legislative text:

(a) A person who willfully impersonates or knowingly acts as a notary public while not lawfully [commissioned] to perform notarial acts is guilty of a [misdemeanor/felony], punishable upon conviction by a fine of not more than [] or imprisonment not more than [] year(s), or both.

Generation of a Traceable Notary Public Number

State notary public commissioning entities should provide notaries with a commissioning number that can be traced to help verify notary public credentials and track impersonation.

Suggested legislative text:

(a) The [commissioning official] shall assign with each [commission] a unique identification number to each notary public which shall appear on the notary public's commission and notary public's [official stamp].

Legislative Note: The term “official stamp” in brackets may be replaced by “seal” if appropriate.

Enacting jurisdictions with a separate statute listing the required informational elements to be contained in the notary public's official seal or stamping device should consider adding a unique, notary public identification number to that section (for example, Revised Uniform Law on Notarial Acts Section 17, for jurisdictions that have enacted the RULONA).

Notary Public Stamping Device Requirements

Notaries public should provide vendors of stamping devices with proof of commission status, which is retained by the notary public and vendor to avoid the creating of fraudulent stamping devices.

Suggested legislative text:

A notary public shall present due proof of the notary public's commission to a vendor or manufacturer for the purpose of obtaining a [stamping device]. The notary public shall retain the due proof for [] years. [The manufacturer shall retain a copy of the due proof for [] years.]

Legislative Note: The number of years in paragraph (a) are bracketed. No single, suggested number is provided since notary public commissions are issued for 2-10 years depending on the state. The drafters intended the due proof of commissioning to be retained by the notary public and seal manufacturer for the length of the notary public's commission or appointment term plus one additional year. Legislators should therefore insert the number of years as applicable. For example, in states with four-year terms, five years would be inserted. The requirement for seal or stamping device manufacturers is bracketed because some states may authorize the commissioning officer or agency to regulate notaries public only, and not seal or stamping device manufacturers. "Due proof of commissioning" may be a copy of the notary public's commission certificate, or a specific form designed specifically for the purpose of obtaining a seal or stamping device which an enacting jurisdiction may clarify in administrative rules. The term "stamping device" in brackets may be replaced by "seal" if appropriate.

Access Controls for State Database of Notaries Public

Like land and tax records, access to a state database of commissioned notaries should be controlled to prevent untraceable access to information that can be used to commit forgery and fraud. In a state that has enacted RULONA, these provisions would be appropriately added to Section 24 (regarding databases of notaries public) with the subsections renumbered accordingly.

Suggested legislative text:

(a) The [records custodian] [shall] require use of a username and password authentication for any person attempting to access online the electronic database of notaries public established under [this section].

(b) The [records custodian] [that requires username and password authentication under subsection (a)] shall establish and maintain a system of reasonable security procedures and access controls. In establishing and maintaining the system, the [records custodian] shall consider the most recent standards promulgated by national standard-setting bodies, such as the National Institute of Standards and Technology.

(c) The [records custodian] may charge a fee not to exceed \$[_____] for the creation of a username and password and maintenance of a system of security procedures and access controls.

Legislative Note: Currently, over 40 jurisdictions have a database or publicly downloadable list of active, and in some states, inactive notary public commissions. Nearly half have enacted the Revised Uniform

Law on Notarial Acts Section 24 (Database of Notaries Public) in whole or in part. These jurisdictions can strengthen their existing law by incorporating the suggested legislative language. Other jurisdictions with a similar provision may also adopt the suggested language, in their statutes or administrative rules. Jurisdictions lacking such a statute may consider adopting one modeled after the RULONA provision and adding legislative language regarding access controls. See above (regarding online access to property and tax assessment records) for making this section mandatory or optional.

The “records custodian” of notary public databases is typically the notary public commissioning official or agency (see RULONA Section 24) but was used in this context to give states the option of designating another official to be the custodian of the records.

The drafters believe that if left unsecured these databases pose a significant risk of both notary public impersonation fraud (see “Penalties for Impersonating a Notary Public” above) and seller impersonation fraud and should be enacted.

Corrective Measures – Law Enforcement and Consumer Protections

Establish a State Deed Fraud Taskforce

Legislatures should consider establishing a state taskforce to assess the extent of deed fraud, improve reporting and tracking, and collaborate on education and enforcement efforts. The taskforce should be led by an appropriate office, and include representatives from the state attorney general’s office, law enforcement agencies, the judicial system, the recorders of deeds, the title insurance industry, real estate brokers, notaries, and other relevant stakeholders or agencies.

Increased Criminal Penalties for Deed Fraud

While all states impose some degree of criminal liability for forgery or for knowingly recording false or fraudulent documents, these penalties should be reviewed to ensure they reflect the devastating effect of these crimes for victims.

Unfortunately, many forged deed schemes involve foreign actors who are difficult to identify and prosecute. However, there are also “local” criminals and those aiding foreign actors.

Sample LEGISLATION PASSED IN THE STATE OF NEW YORK:

A person commits deed theft when he or she:

- (1) intentionally alters, falsifies, forges, or misrepresents a property document such as a residential or commercial deed or title, with the intent to deceive, defraud or unlawfully transfer or encumber the ownership rights of a residential or commercial property; or*
- (2) with intent to defraud, misrepresents themselves as the owner or authorized representative of residential or commercial real property to induce others to rely on such false information in order to obtain ownership or possession of such real property; or*
- (3) with intent to defraud, takes, obtains, steals, or transfers title or ownership of real property by fraud, forgery, larceny, or any other fraudulent or deceptive practice.*

A person is guilty of grand larceny in the first degree when such person commits deed theft, regardless of the value, of

- (1) residential real property that is occupied as a home by at least one person; or*
- (2) residential real property that involves a home that is owned by an elderly person, an incompetent, an incapacitated person, or physically disabled person; or*

(3) three or more residential real properties.

A person is guilty of grand larceny in the second degree when he or she steals property and when Such person commits deed theft, regardless of the value, of:

(1) one residential real property; or

(2) one commercial mixed-use property with at least one residential unit; or

(3) two or more commercial properties.

The attorney general may investigate and prosecute every person or entity charged with the commission of a criminal offense in violation of the laws of this state applicable to any crime that affects the title to, encumbrance of, or the possession of real property, including but not limited to deed theft, larceny, criminal possession of stolen property, offering a false instrument for filing, falsifying business records, residential mortgage fraud, or scheme to defraud. In all such proceedings, the attorney general may appear in person or by his or her deputy before any court of record or any grand jury and exercise all the powers and perform all the duties in respect of such actions or proceedings which the district attorney would otherwise be authorized or required to exercise or perform.

Enhanced Civil Damages for Deed Fraud

If not already provided by state law, victims of deed fraud should be able to obtain a judgment for compensatory damages, punitive damages, and attorneys' fees and costs against a person who forges a deed or mortgage, knowingly and willfully causes a forged deed or mortgage to be recorded, or knowingly and willfully sells or encumbers property based on an interest derived from a forged document. An award of punitive damages could be mandatory and a minimum of some multiplier of the compensatory damages, such as three or five times.

Suggested legislative text:

(a) In addition to any judgment quieting title, cancelling a recorded document, or providing declaratory relief, a party alleging damages arising from the recording of a forged deed or mortgage has a cause of action against any of the following:

- (1) The person who forged the signature of a property owner on a deed or mortgage;*
- (2) A person who, with actual knowledge that the deed or mortgage included a forged signature, submitted the document to be recorded in the land records; or*
- (3) A person with actual knowledge that the vested title to the real property is based on a forged deed, and who purports to sell or encumber the property to someone who is unaware of the forged deed.*

(b) In an action against a person described in subsection (a), a person whose title was purportedly transferred or encumbered by a forged deed or mortgage, or a person who subsequently relied on a forged deed to purchase or encumber the property without knowledge of the forgery, shall be entitled to a monetary judgment consisting of the following:

- (1) compensatory damages;*
- (2) punitive damages in an amount not less than [2] times the compensatory damages; and*
- (3) actual attorney's fees and costs incurred.*

Legislative Note: The inclusion of punitive damages twice the amount of compensatory damages would effectively result in a triple damages remedy. States should consider the state and federal constitutional limits on any punitive awards above this *ratio before deciding on a higher amount*.