

Deed Fraud Study Final Report

Prepared in Response to Virginia Senate Bill 1270 and House Bill 2396

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Executive Summary

Deed fraud increasingly affects landowners and buyers across the commonwealth and primarily targets unencumbered, vacant properties. Fraudsters use information available on the internet and digital tools to forge signatures and impersonate property owners, often advertising rushed, cash-only sales. Fraudulent sellers may bypass typical third parties in the transaction process, such as real estate agents and mortgage lenders, leaving victimized buyers especially at risk without this professional oversight. At the root, deed fraud occurs when a fraudulent seller's identity is not accurately verified during the real estate transaction process.

Deed fraud, also referred to as title fraud, title theft, and seller impersonation fraud, occurs when a property title is fraudulently transferred by a bad actor impersonating the rightful property owner or otherwise fraudulently listing the property for sale. Deed fraud occurs all over the United States and is particularly prevalent in the Northeast, according to reported cases.¹ In 2023, 28% of title insurers saw at least one seller impersonation fraud attempt, and in April 2024 alone, 19% of insurers saw at least one attempt.² In 2023, 21% of the money spent by title insurers went toward fraud and forgery claims.³ Deed fraud most commonly involves vacant land and homes that are not regularly occupied (i.e., second homes or vacation homes), and targeted properties tend to have clear titles.^{4,5,6} Fraudsters may use publicly available records to identify vacant, unencumbered properties and information about true property owners. They may use unknowing real estate agents and title agents during the transaction process and may successfully bypass notarial identity verification. In instances of deed fraud, common indicators of fraudulent seller behavior include the request for a cash sale, the property being listed below market value, the request for signing and notarization to be conducted remotely, and urgent communication conducted via email or text only.

The technical advisory group convened by Virginia Housing in response to Senate Bill 1270 (and its companion House Bill 2396) included 25 members representing all aspects of the real estate transaction process, including real estate agents, mortgage lenders, mortgage insurers, land title and settlement agents, notaries, lawyers, and clerks of court. Members provided their own encounters with deed fraud, insight into vulnerabilities within the transaction process, and recommendations for how to best address these vulnerabilities based on their professional experience. For each recommendation compiled in this report, members of the technical advisory group were given the opportunity to comment, express their endorsement or dissent, and raise specific concerns and suggestions.

The research team and technical advisory group identified key vulnerabilities that introduce opportunities for deed fraud throughout the real estate transaction process. Often, multiple unknowing

¹ National Association of REALTORS® (2025). Deed and Title Fraud Survey.

² American Land Title Association (2024b). New Study Shows Increase in Seller Impersonation Fraud.

³ American Land Title Association (2024a). Analysis of Claims and Claims Related Losses in the Land Title Insurance Industry.

⁴ National Association of REALTORS® (2025). Deed and Title Fraud Survey.

⁵ American Land Title Association (2023). Wire Fraud Advisory: Vacant Property Fraud.

⁶ New York State Attorney General (2022). Attorney General James Announces Arrests in New York City Deed Theft Ring.

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parties are used by fraudsters throughout the transaction process to carry out these fraudulent sales. Key vulnerabilities that were identified include

- Publicly available land records allow fraudsters to identify vulnerable properties and collect information used to impersonate property owners.
- Many real estate agents are unprepared to identify and prevent deed fraud when approached by a fraudulent seller.
- No training or testing is required to be commissioned as a notary public or electronic notary public in Virginia, meaning that many notaries lack training in identifying potentially fraudulent signers.
- With advancements in deepfake technology and AI-generated material, it is easy for fraudsters to forge identification documents or create deepfake video impersonations allowing them to pass identity verification processes conducted by notaries and electronic notaries.
- Closing agents are often the last line of defense against a fraudulent sale, and many title insurers have incorporated advanced fraud detection techniques. However, more training and resources are needed to reduce risk and protect property owners.
- In Virginia, clerks of court are required to record all documents submitted for filing that appear to contain the necessary information, signatures, and proof of notarization, regardless of whether a document appears to be fraudulent or forged.

In collaboration with the technical advisory group, the research team compiled a list of 25 recommendations (and 14 sub-recommendations) for the prevention of deed fraud and for the protection of property owners. The recommendations address a wide range of issues related to deed fraud, covering identity verification, fraud detection, alert systems, security of land records, training and education, criminal enforcement, and victim remedies. Each recommendation includes a detailed description with relevant model legislation from other states, work from key advocacy bodies, and areas for further research. Input directly from the technical advisory group is included with each recommendation, and background information is provided to contextualize the issues each recommendation addresses and to describe any relevant current policies or solutions within Virginia.

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This report includes details on the technical advisory group’s process, findings, and recommendations. The group’s membership and meetings are described in the Process section. Details regarding findings, deliberations, and recommendations are included in the Recommendations section. There are six appendices, which include further details on recommendations, background research, and technical advisory group meetings.

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Process

In response to Senate Bill 1270 (and its companion, House Bill 2396), Virginia Housing convened a technical advisory group to

- evaluate the prevalence of deed fraud
- develop recommendations for preventing deed fraud
- develop measures to enhance protections for property owners from such crimes

The group comprised 25 members representing

- the Virginia Bankers Association
- the Virginia Court Clerks Association
- the Community Associations Institute
- the Virginia Association for Commercial Real Estate
- the Home Builders Association of Virginia
- the Virginia Municipal League
- the Virginia Association of Notaries
- the Virginia Land Title Association
- the Virginia Mortgage Bankers Association
- Virginia REALTORS®
- the Virginia Bar Association Real Estate Section Council

George Mason Center for Regional Analysis, the Virginia Center for Housing Research at Virginia Tech, and HousingForward Virginia supported the technical advisory group by

- facilitating meetings
- reviewing relevant academic and trade literature
- reviewing other state policy and model legislations
- conducting interviews with subject matter experts
- reviewing existing local policy and programs to prevent or address deed fraud
- facilitating recommendation development
- drafting recommendations and the final report

The technical advisory group (TAG) met three times. In the initial meeting, the research team introduced the group's charge and led a discussion of the members' experiences with deed fraud. The research team also solicited members' insights into key vulnerabilities in the real estate transaction process and requests for more information. Subsequent meetings were used for the research team to deliver findings and for the TAG to deliberate about possible prevention and remedy strategies. Meeting agendas are included in Appendix F. The final meeting was used to consider recommendations and their priority.

The research team conducted seven interviews. Interviewees included law enforcement, expert participants in the real estate transaction process (e.g., real estate agents, notaries, attorneys, and other closing agents), representatives from data aggregators and technology firms that focus on identifying

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and preventing deed fraud, elected officials, and other professionals. The findings of these interviews were conveyed to the TAG to inform their deliberations on the recommendations reported below.

The research team identified recommendations for actions and policies based on TAG recommendations, existing policy from other states, proposed or planned programs in Virginia, model legislation, and suggestions from industry associations.

Recommendations

The recommendations are divided into six categories:

- Identity verification
- Fraud detection, alerts, and reporting
- Access and security of land records
- Training, education, and professional standards
- Criminal enforcement
- Victim remedies

Each recommendation includes important details, model legislation, documentation of TAG input, and relevant background information and research.

Identity verification

1. Require real estate agents to verify a seller's identity

Recommendation Details

In most real estate transactions, the first identity verification happens at closing. Requiring real estate agents to verify a seller's identity earlier in the transaction process could prevent bad actors from successfully carrying out fraudulent real estate transactions. This requirement could mirror the standard identity verification processes that notaries follow for signers, customer identification protocols required by banks and non-bank mortgage lenders, or some other standardized identity verification procedure.

There are multiple points in the listing process at which identity verification could be required. Recommendations 1.1 and 1.2 are redundant with Recommendation 1 in that they specify two potential points for identity verification. Recommendation 1.1 specifies that a real estate agent should verify a seller's identity before listing a property for sale, which would take place after a brokerage agreement is signed. Recommendation 1.2 specifies that a real estate agent should verify a seller's identity before a brokerage agreement is signed. Requiring that a seller's identity be verified prior to signing a brokerage agreement could uncover a fraudulent seller earlier in the real estate transaction process. However, requiring that a seller's identity be verified only prior to listing could allow for more time and flexibility for the real estate agent to carry out the verification while still creating a checkpoint to discover a fraudulent seller early in the transaction process.

Any policy requiring real estate agents to verify a seller's identity must include the specific identity verification methods deemed acceptable and the steps and/or deliverables they involve (similar to policies defining acceptable identity verification methods for notaries). Specific requirements detailing how a real estate agent must carry out identity verification may standardize the process, make identity verification by real estate agents more accurate and reliable, and protect real estate agents

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from being liable in the event of an inaccurate identity verification where the proper steps were diligently carried out by the real estate agent, but a fraudster was able to bypass them.

With the rise of highly sophisticated forged documents and deepfake videos created with AI, identity verification has become increasingly complex. This recommendation would need to be paired with thorough identity verification training requirements for licensed real estate agents, including training for verifying the identities of remote or online clients.

Additional Research

Additional research should be conducted to determine the extent to which real estate agents reasonably should be held liable in the event of an inaccurate and/or negligent identity verification.

Model Legislation

In Virginia, notaries and electronic notaries, including those who perform remote online notarization (RON), are required to verify the identities of their clients in accordance with the methods and restrictions dictated by the Office of the Secretary of the Commonwealth of Virginia.

In the U.S., under the Bank Secrecy Act and the USA PATRIOT Act, banks and non-bank mortgage lenders are required to establish and maintain customer identification programs (CIP). These federal regulations obligate lenders to verify borrowers' identities through the collection and verification of identifying information (e.g., name, date of birth, address, taxpayer identification number) before opening an account (i.e., taking out a mortgage). Lenders are required to retain verification records and report suspicious activity. CIP compliance is monitored by the Financial Crimes Enforcement Network (FinCEN) and federal banking regulators (FDIC, Federal Reserve).

In Canada, the United Kingdom, and additional countries, real estate agents are legally required to verify the identities of their clients (under certain circumstances, including large cash, virtual, or suspicious transactions) as an effort to prevent fraud.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation. Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, land title and settlement agents, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

Some members express concern that real estate agents may not currently have access to the tools they need to comply with this proposed requirement. Members also express concern about the security and accuracy of the third-party identity verification tools that are currently on the market. Some members point to CIP for lenders as an example for such a requirement.

The only dissent comes from the perspective of real estate agents. These TAG members strongly emphasize that real estate agents currently lack the training and tools required to carry out identity verifications. Members express concern regarding the extent to which real estate agents may be held liable in the event of a diligently carried out yet inaccurate identity verification. Additionally, agents

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emphasize that while real estate licensees could be required to verify the identities of sellers, they could not be required to verify that an individual is indeed legally authorized to sell a property. Licensees are expected to carry out due diligence in confirming the seller's ownership or signing authority (e.g., confirming that the seller's name matches the owner's name on public property records, requesting documentation showing the signer's authority if a property is owned by an entity or held in a trust, or requesting power of attorney documentation), but they are not authorized to confirm with certainty that a seller has authority to sell a property, as that could be considered unauthorized practice of law.

Background

Seller Consent and Brokerage Agreements

Virginia law requires that a real estate licensee must obtain the property owner's consent through a written brokerage agreement before listing or marketing a property for sale. Under § 54.1-2131(A)(1)-(2)a of the Code of Virginia, a licensee "engaged by a seller" must perform in accordance with the terms of a brokerage agreement and may only conduct listing and marketing activities designated in that agreement. Without a brokerage agreement, a licensee is not "engaged by a seller," and has no authority to advertise, list, or act on behalf of an owner. Virginia Code § 54.1-2137 requires that all brokerage agreements be in writing.

Real Estate Agent Vulnerabilities

A 2025 National Association of REALTORS survey found that 63% of association executives, attorneys, and government affairs directors were aware of deed fraud occurring in their markets in the past year. Over half of real estate professionals surveyed by CertifID in 2023 reported experiencing at least one attempt at seller impersonation within the previous six months. Real estate agents represent one of many vulnerable points in the real estate transaction process.

1.1. Require real estate agents to verify a seller's identity prior to listing

Recommendation Details

See Recommendation 1.

This recommendation specifies the point at which real estate agents would be required to verify the identity of a seller. Requiring the identity verification to occur before the real estate agent lists the property (i.e., enters it into a multiple listing service (MLS) or advertises it to potential buyers) could prevent bad actors from ever fraudulently getting a property listed for sale.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, land title and settlement agents, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

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Members express strong support for requiring real estate agents to confirm the identities of sellers prior to listing, stating that adding verification at this stage would help eliminate fraud.

The only dissent comes from the perspective of real estate agents. See concerns expressed in Recommendation 1.

Background

See Recommendation 1.

1.2. Require real estate agents to verify a seller's identity prior to real estate agent contract

Recommendation Details

See Recommendation 1.

This recommendation specifies the point at which real estate agents would be required to verify the identity of a seller. Requiring identity verification to occur before the real estate agent signs a contract with the seller could prevent agents from listing or otherwise acting on behalf of a fraudulent seller.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. From the perspective of some land title and settlement agents, the recommendation is endorsed but considered a low priority.

The only dissent comes from the perspective of real estate agents. See concerns expressed in Recommendation 1.

Background

See Recommendation 1.

2. Require real estate agents to check tax records and send written communication to the owner's recorded address

Recommendation Details

In instances of deed fraud, real estate agents may unknowingly be used by fraudsters to carry out fraudulent transactions. A fraudster may impersonate the rightful owner of a property but provide contact information, such as a mailing address, that does not match the one provided by the true owner in the property tax records. Requiring real estate agents to cross-reference tax records and send written

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communication verifying intent to sell to the true owner's recorded address could help detect and prevent deed fraud early in the transaction process.

This recommendation would need to be paired with training, resources, and protocols that equip real estate agents with the tools and information they need in order for this additional identity verification step to be feasible.

Additional Research

Currently, no states require real estate agents to send written communication to the owner's recorded address confirming intent to sell. Additional research is needed to evaluate the feasibility and effectiveness of this method for preventing deed fraud.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including notaries, clerks of court, land title and settlement agents, and home builders) consider the recommendation a high priority. Some members (representing title insurers and mortgage lenders) endorse the recommendation but consider it a low priority.

Some members express concern over the feasibility of this requirement for real estate agents. Members emphasize that this requirement would need to be paired with training, resources, and protocols that could help equip real estate agents with the tools they need to take these identity verification actions.

The only dissent comes from the perspective of real estate agents. These TAG members express concern that requiring agents to check tax records and send written communication to the owner's recorded address could be unnecessarily burdensome in some cases. One member proposes that such actions be suggested and included in training but not mandated.

Background

See Recommendation 1.

3. Require [strengthened] identity processes by notaries (Stated in SB1270,i)

Recommendation Details

Notaries play a crucial role in preventing fraud in the real estate transaction process. In many transactions, a notary may perform the first and only verification of the seller's identity. Therefore, it is crucial that the identity verification performed by notaries is thorough, accurate, and robust to handle modern threats of forgery and impersonation. Adding or strengthening requirements for identity verification by notaries may decrease instances of fraudulent actors deceiving notaries and "passing" these verification checks. Strengthened identity verification processes may take many forms, such as

- Credential analysis software capable of detecting forged identification documents

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- Requirement for all credible witnesses to be United States citizens, as a fraudulent witness may otherwise be based in a country with which the United States does not have extradition agreements
- Biometric verification software for matching real-time facial scans with photo identification documents
- Deepfake audio and visual detection software for RON video calls

Model Legislation

In California, notaries are required to record signers' thumbprints in their journals when notarizing certain documents, including a power of attorney, deed, quitclaim deed, deed of trust, or any other document affecting real estate. Thumbprints are not currently used for identity verification, but instead for recordkeeping and as a method of disincentivizing fraud.

Additional Research

Additional research is necessary to evaluate the feasibility and effectiveness of potential strengthened identity verification processes. As AI and deepfake technology continues to evolve, ongoing research will be necessary to adapt identity verification processes to new threats of impersonation and forgery. Input from experts in cybersecurity, information technology, AI forgery, and deepfake technology is necessary to fully understand the implications of these issues and the policies that may address them.

Additional consideration must go into the potential selection and endorsement of third-party tools for identity verification and detection of forgery or deepfake media.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation, with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. One member (representing land title agents) considers the recommendation a low priority.

Members representing the perspective of notaries endorse this recommendation as written.

Background

Current Identity Verification Requirements

There are two authorized ways for Virginia notaries to establish proof of the signer's identity:⁷

- Identification document: Examination of a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a

⁷ Office of the Secretary of the Commonwealth of Virginia (2024). A HANDBOOK FOR VIRGINIA NOTARIES PUBLIC.

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- foreign passport, an alien registration card with photograph, a state-issued driver's license, a state-issued identification card, or a United States military card
- Credible witness: Identification of the signer by a credible witness who personally knows both the notary and the signer or who personally knows the signer and presents one of the documents listed above

There are multiple ways for electronic notaries in Virginia to establish proof of the signer's identity:⁸

- Personal knowledge: The notary personally knows the signer.
- Credible witness: A credible witness identifies the signer and is either personally known to the notary or is identified by two of the following methods.

OR two of the following:

- Identification document: The signer presents a valid government-issued identification document containing a photograph and signature.
- Antecedent proofing: The signer's identity has previously been proven in-person by a trusted third party (e.g., employer, law firm, bank).
- Digital certificate: The signer's identity is verified by biometrics or a personal identity verification card (PIV or PIV-I).
- Knowledge-based authentication (KBA): The signer is required to answer personally specific questions generated by a third-party system using public records and credit history.

Deepfake Impersonation

Fraudsters may use AI-generated deepfake technology to appear "on-camera" as someone else during a RON signing. Deepfake technology has become increasingly prevalent over recent years. These manipulated video livestreams may be used to pass photo identification document checks, antecedent proofing, or personal knowledge and credible witness checks. Deepfakes can take multiple forms:

- "Face swap" deepfakes use AI technology to map a source image or video of the impersonator's target onto the impersonator's face. Combined with AI voice filtering technology, this method allows the fraudster to appear live "on-camera," speaking with the RON and moving naturally.
- Generated deepfakes use AI to generate videos either replicating an actual target's face or generating a completely fabricated face. These deepfakes do not use live mapping.
- Lip syncing and editing deepfakes use AI to edit real source videos of the target to make their mouth appear to say something fabricated.

Knowledge-Based Authentication Risks

Another threat to accurate identity verification is the fraudulent "passing" of Knowledge-Based Authentication (KBA) tests using breached personal data from the internet. KBA systems use an individual's credit history, financial information, and other personal information to generate questions

⁸ Ibid.

that, in theory, only that individual would be able to correctly answer. KBA typically comes in the form of a quiz with a few questions and time limits. In the commonwealth, electronic notaries can use KBA to verify the identity of the signer.

KBA questions often refer to previous addresses, phone numbers, mortgage or other loan payments, and similar personal data collected and kept by credit agencies. The inherent vulnerability in the KBA system is that this type of data has historically been breached, sold, and distributed across the internet over recent decades. Moreover, information posted on social media could be used to deduce the answers to some of these questions (e.g., ZIP codes, area codes). Fraudsters may be able to buy or otherwise access all the data necessary to correctly answer KBA questions presented to them at the time of remote online notarization.

AI-Generated Forged Identification

Advancements in AI technology have made it easier than ever to produce realistic forged documents with virtually any computer. According to a 2024 study by Entrust Cybersecurity Institute, digital forgeries are outnumbering physical forgeries in document fraud cases for the first time ever (with digital forgeries at 57.46% of cases). This prevalence of digital forgery represents a 1,600% increase in cases since 2021.⁹

With AI image generation becoming increasingly accessible, the fabrication of identification documents like passports, driver's licenses, Social Security cards, and other government-issued documents has become a larger threat. Fraudsters may use publicly available data to create identification documents with, for example, the real name and birthdate of the rightful owner of a property to convince a notary, real estate agent, title insurer, or other party that they are that individual. Remote online notarization could be especially vulnerable to these kinds of forgeries, as the notary lacks the opportunity to hold and physically inspect the documents.

3.1. Establish strengthened protocols for traditional and RON notaries, including identity verification and journal record

Recommendation Details

See Recommendation 3.

Requiring both traditional notaries and electronic notaries to maintain a journal (paper or electronic) of their notarial acts would require the creation of records (such as signers' personal information and the identity verification methods used by the notary) that may be useful for law enforcement in suspected cases of deed fraud. Notarial journal entries should include the date, time, and type of official act; the signature of any individuals whose signatures are being notarized; identity verification details (e.g., credible witness signatures, paper identification document information); and, in

⁹ Markey, J. & Horswell, S. (2024). Rise of Sophisticated Fraud and Deepfakes at Scale. Entrust Cybersecurity Institute.

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the special case of notarizations pertaining to real estate transactions, the name of any lender and title company involved in the transaction.

Model Legislation

In California, notaries are required to keep a physical sequential journal detailing their notarial acts. According to the notary handbook published by the California Secretary of State (2024), each entry must include:

- Date, time and type of each official act
- Character of every instrument sworn to, affirmed, acknowledged, or proved
- The signature of each person whose signature is being notarized
- A statement that the identity of a person making an acknowledgment or taking an oath or affirmation was based on “satisfactory evidence” pursuant to Civil Code section 1185
 - For paper identification, the entry must include the document type, issuing agency, serial number, and expiration date.
 - For a single credible witness known to the notary, the entry must include the signature of that witness or the paper identification information listed previously.
 - For two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the entry must include the paper identification information listed previously.
- The fee charged for the notarial service
- If the document to be notarized is a deed, quitclaim deed, deed of trust, or other document affecting real property or a power of attorney document, the signer’s right thumbprint must be included in the entry.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. Two members (representing land title and settlement agents) consider the recommendation a low priority.

The California legislation referenced in this recommendation includes examples of what the Virginia General Assembly may require Virginia notaries to record in a mandatory notarial journal. However, notaries from within the TAG recommend that legislation in Virginia omit the following pieces of information:

- Character of every instrument sworn to, affirmed, acknowledged, or proved
- The fee charged for the notarial service

These TAG members state that the first item could produce an unnecessary burden of detail and that the second item is based on the individual notary’s profit margin determination.

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Additionally, the TAG's notary members specifically suggest that journal entries be required to include the names of any lenders and title companies involved when the notarization is related to a real estate transaction.

Background

See Recommendation 3.

In Virginia, traditional notaries are not required to maintain any form of journal documenting their notarial acts.

Electronic notaries are required to maintain a journal (and a backup journal) documenting their remote online notarial acts. According to the notary handbook published by the Office of the Secretary of the Commonwealth (2024), journal entries are required to contain the following:

- Date and time of day of the notarial act
- Type of notarial act
- Type, title, or a description of the document or proceeding
- Printed name and address of each person seeking an electronic notarization
- Type of identification used to establish identity of each person seeking electronic notarization
- Fee, if any, charged for the electronic notarial act

3.2. Strengthen/modernize protocols for antecedent proofing

Recommendation Details

See Recommendation 3.

Antecedent proofing as a method of identity verification in remote online notarizations presents multiple potential weak points:

- A bad actor may have previously fraudulently passed the identity verification performed by the trusted third party.
- A bad actor may be impersonating an individual whose identity was previously verified by the trusted third party.

Currently, antecedent proofing is accepted when paired with identification document verification, a digital certificate, or a KBA test. As discussed in Recommendation 3, identification document verification and KBA tests in their currently required forms are not completely robust to fraud. Strengthening regulations around acceptable forms of antecedent proofing or requiring that it be paired with additional strong forms of identity verification, like AI forgery detection software for identification document verification or modernized KBA requirements, could reduce instances of fraudsters bypassing antecedent proofing.

Technical Advisory Group Input

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The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

The only dissent comes from the perspective of land title and settlement agents.

Members representing the perspective of notaries endorse the recommendation as written.

Background

See Recommendation 3.

In Virginia, electronic notaries are permitted to use antecedent proofing, or reliance on the signer's identity being previously proven in-person by a trusted third party (e.g., an employer, law firm, or bank) in combination with one of three other identity verification methods (identification document, digital certificate, and KBA).

4. Require RON notarizations to be transferred, recorded, and preserved in a digital format

Recommendation Details

When RON notarizations are transferred, recorded, and stored, they must maintain their original digital format to preserve their digital certificates. The printing and physical filing of documents with digital certificates or the scanning and re-digitizing of printed documents with digital certificates "flattens" the certificates, removing validating information and effectively delegitimizing them.

Additional Research

Additional research and consideration are necessary to determine how best to address the lack of infrastructure or protocols at many accepting authorities to transfer, record, and preserve RON notarizations in a digital format.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. One member representing land title agencies considers the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

Often, accepting authorities will intake RON notarized documents after they have been printed. When a digitally notarized document is printed, the information on the digital certificate can no longer be accessed and verified, effectively delegitimizing the certificate. After the digitally notarized document is printed, scanned, and re-digitized, bad actors may cut and paste the image of a digital notary stamp (without the valid digital certificate) and use it to attempt fraud.

5. Require settlement agents to verify the identity of sellers in high-risk transactions (cash sales, vacant land)

Recommendation Details

Identity verification requirements for settlement agents could mirror processes used by notaries, customer identification protocols used by banks and non-bank mortgage lenders, or some other standardized identity verification procedure.

This recommendation would need to be paired with thorough identity verification training requirements for licensed settlement agents, including training for verifying the identities of remote or online clients.

If paired with a requirement for real estate agents to verify seller identities prior to listing agreements and contracts, this recommendation to require settlement agents to verify seller identities could be limited to listings without real estate agent involvement (i.e., properties listed “for sale by owner”).

Model Legislation

In the U.S., under the Bank Secrecy Act and the USA PATRIOT Act, banks and non-bank mortgage lenders are required to establish and maintain customer identification programs (CIP). These federal regulations obligate lenders to verify borrowers' identities through the collection and verification of identifying information (e.g., name, date of birth, address, taxpayer identification number) before opening an account (i.e., taking out a mortgage). Lenders are required to retain verification records and report suspicious activity. CIP compliance is monitored by the FinCEN and federal banking regulators (FDIC, Federal Reserve).

Geographic Targeting Orders (GTOs) issued by FinCEN are temporary, geographically based requirements for specified organizations (financial or not) to record and report certain high-risk transactions in order to flag and track potential fraud. In April 2025, FinCEN renewed a set of GTOs that apply to residential real estate transactions in specific counties and metropolitan areas across the country. These orders require title insurance companies to identify and report the individuals behind shell companies involved in cash residential real estate transactions greater than \$300,000 (or \$50,000 in some counties).

Technical Advisory Group Input

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The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. Some members representing land title agencies and bankers consider the recommendation a low priority.

Members emphasize the need to carefully define which transactions are “high-risk.” Some concern is expressed over maintaining compliance with the Fair Housing Act if special identity verification requirements apply only to some transactions.

Members emphasize the need to specifically define the extent to which settlement agents may be held liable for failure to comply with this requirement. Some members emphasize that settlement agents are already subject to regulations that place fiduciary obligations on them and suggest that there would be pushback against additional statutory liabilities being created.

Additionally, members suggest pairing this recommendation with a requirement for seller verification by real estate agents (detailed in Recommendations 1, 1.1, and 1.2) and then limiting this requirement for settlement agents to only those transactions where a real estate agent was not used (i.e., for properties that are listed “for sale by owner”).

Background

In real estate transactions, the first instance of seller identity verification typically occurs at the closing table during notarization. As impersonation and fraud techniques become more advanced, especially with the advent of deepfake technology and AI-generated forged documentation, strengthened identity verification is necessary to prevent deed fraud. Requiring additional agents in the real estate transaction process to perform identity verification could increase the likelihood of detecting fraud before closing.

Fraud detection, alerts, and reporting

6. Expand access to fraud identification services for all agents in the real estate transaction process (real estate agents, notaries, financing agents, and settlement agents)

Recommendation Details

All participants in the real estate transaction process need robust fraud identification capabilities to protect property owners and maintain transaction integrity. Currently, access to fraud detection tools varies significantly across different roles, creating vulnerabilities that fraudsters can exploit. Expanding and standardizing access to fraud identification services would ensure that real estate

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agents, notaries, financing agents, and settlement agents all have the necessary tools to detect and prevent fraudulent transactions.

Enhanced fraud identification services should be made available to all transaction participants through a combination of state-sponsored resources, industry partnerships, and technology integration. These services would include real-time access to fraud databases, advanced document authentication tools, and suspicious activity reporting systems that allow information sharing across all parties involved in a transaction.

Model Legislation

Several states have implemented comprehensive fraud prevention frameworks that Virginia could adapt. California's Homeowner Bill of Rights includes provisions for enhanced fraud detection tools and mandatory verification processes for all transaction participants.

Texas Property Code Chapter 5 establishes fraud prevention protocols and requires access to identity verification services for settlement agents and notaries. New York's Real Property Law Article 12-D mandates fraud detection training and provides access to state-sponsored fraud identification resources. Arizona's Title 33 Real Property Statutes creates a comprehensive fraud reporting system with shared access across all real estate transaction participants.

Relevant Advocacy Efforts

The American Land Title Association (ALTA) has developed best practices that provide a framework for fraud prevention including identity verification, document authentication, and suspicious activity reporting protocols. The National Association of REALTORS® (NAR) has created comprehensive fraud identification training programs and recommended technology tools for real estate agents.

The FBI's Internet Crime Complaint Center (IC3) offers a public-private partnership model for fraud information sharing and detection tool access. Additionally, the International Association of Financial Crimes Investigators (IAFCI) has established professional certification requirements and fraud detection methodologies applicable to real estate transactions.

Additional Research

Research on technology interoperability is needed to understand how different fraud detection systems can integrate across multiple platforms used by various transaction participants. Privacy and data security considerations require careful analysis of data sharing protocols, consumer privacy protections, and compliance with state and federal privacy regulations.

Effectiveness metrics should be developed to evaluate different fraud identification tools for success rates, false positive rates, and impact on transaction processing times. To ensure equitable availability of fraud identification services in areas with limited technology infrastructure or resources,

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rural and underserved market access should be given special attention. Finally, analysis of liability and insurance implications is necessary to understand how expanded fraud identification services affect professional liability, errors and omissions coverage, and title insurance requirements.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority.

The only dissent comes from the perspective of land title and settlement agents.

Background

Fraud identification capabilities vary significantly across different agents in the real estate transaction process. Real estate agents have limited access to comprehensive fraud detection tools, instead relying on visual document inspection and basic verification methods. Notaries use identity verification processes as outlined in existing regulations but lack advanced fraud detection capabilities beyond document examination.

Financing agents have access to credit reporting and some fraud detection services through lending institutions, but these tools may not be comprehensive for real estate-specific fraud schemes. Settlement agents use title insurance company resources and basic verification methods but may lack access to real-time fraud databases and advanced detection services.

The current system creates significant gaps, including inconsistent access to fraud identification services across all transaction participants, limited real-time fraud database access, and lack of standardized fraud detection protocols. These disparities create vulnerabilities that sophisticated fraudsters can exploit by targeting the weakest links in the transaction process.

7. Require real estate agents to notate on the listing agreement and contract whether a personal interview or phone interview was conducted, or other means of obtaining the listing

Recommendation Details

Real estate agents would be required to document on listing agreements and purchase contracts the method used for initial client contact and verification. This could include checkboxes or fields indicating whether the interview was conducted in-person, by phone, video conference, or other

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electronic means. This documentation would create an audit trail that could help identify patterns in fraudulent transactions where perpetrators typically avoid face-to-face contact.

The requirement would apply to all residential property transactions and become part of the standard documentation retained for the state-mandated three-year period. Agents would note the initial interview method alongside existing required information such as property descriptions, commission rates, and mandatory disclosures.

No Models from Other States

No other state currently mandates documentation of client interview methods on real estate agreements. Without existing models, the most likely legislative approach would amend Virginia Code Section § 54.1-2137 and the Virginia Real Estate Board's regulations (18 VAC 135-20) to include interview documentation among required elements of brokerage agreements. The legislation would need to define acceptable interview methods, establish documentation standards, and specify enforcement mechanisms.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and home builders) consider the recommendation a low priority. Members think that it would be easy to collect this information, but they do not see much utility in collecting it.

Members representing real estate agents and mortgage lenders do not endorse this recommendation. Mortgage lenders from within the TAG state that implementing this recommendation would have little to no impact on preventing deed fraud from occurring. Members emphasize the importance of vetting the identity of the seller before listing agreements or contracts are signed.

Members representing real estate agents similarly doubt the impact that this requirement would have on preventing deed fraud. Moreover, they express concern over the implications of such a requirement on compliance with the Fair Housing Act. Common reasons for a virtual meeting or over the phone (including disability status, military status, and national origin) are protected under the Fair Housing Act. If contracts stating that the initial contact with the seller did not take place in person are flagged or subject to additional inspection, this could prohibit access to real estate transactions for these protected groups.

Background

Current Regulatory Gap

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Virginia's existing real estate regulations establish comprehensive documentation requirements but contain no provisions for recording client verification methods. The state's standard listing agreements focus on property information, commissions, and mandatory disclosures without addressing how agents initially verified client identity or conducted interviews.

One potentially relevant reform passed by the General Assembly in 2025 was HB1684/SB1309. This legislation now requires agents representing buyers to have a signed brokerage agreement prior to showing any property.

8. Strengthen safeguards to prevent fraudulent notaries (Stated in SB1270,ii)

Recommendation Details

To prevent uniformed commissioned notaries from unintentionally engaging in notary fraud:

- Create education, training, and/or testing requirements for becoming a commissioned notary public or remote online notary.
- Education should have a specific focus on identity verification processes, detailing acceptable forms of identification and introducing any third-party identity verification tools and services endorsed by the commonwealth.
- Education should have a specific focus on detecting, preventing, and reporting deed fraud. This training could clearly discuss red flags and high-risk characteristics commonly associated with deed fraud.

To prevent individuals from impersonating notaries:

- Make property deed images and other sensitive documents less accessible digitally to the public. The accessibility of signatures and notary stamps on these documents may make notary credentials more vulnerable to forgery, especially with the advancement of AI tools. See Recommendation 14.
- Create protocols for securing, voiding, and/or replacing the commission numbers of notaries who have had their stamps lost or stolen.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, home builders, bankers) consider the recommendation a high priority. Some members representing land title and settlement agencies consider the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

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Virginia is one of 32 states that require no training, testing, or education to become a notary public. To qualify, a person must:

- Be at least 18 years old
- Be able to read and write English
- Be a legal resident of the U.S.
- Be a resident of or have a place of employment in the Commonwealth of Virginia

If a person is eligible, the process to become a notary public in the commonwealth includes

- Completing the application paperwork and paying a \$45 application fee
- Having the application notarized by a Virginia notary
- Mailing the application to the Office of the Secretary of the Commonwealth
- Upon approval (generally issued within two to three weeks), taking the oath of office at the Circuit Court and paying the \$10 court fee
- Obtaining a notary seal in accordance with the law:
 - The seal may be either an ink stamp or embosser and embosser inker.
 - The seal must be sharp, legible, permanent, and photographically reproducible.
 - The seal must include the notary's name, "Notary Public," and "Commonwealth of Virginia."

No education, exams, or other training is required to begin notarizing. Neither surety bonds nor insurance are required for Virginia notaries.

Additionally, there is no testing, training, or education required to become a remote electronic notary (eNotary) in Virginia. Any individual already commissioned as a notary public in the commonwealth can acquire an electronic seal, create an electronic signature through a RON technology vendor, submit the application and pay a \$45 fee to the Secretary of the Commonwealth, and become a registered eNotary.

The lack of training required to become a notary public or eNotary in the commonwealth could leave notaries unprepared to identify bad actors and avoid notarizing fraudulent deed transfers. Without training that emphasizes the gravity of the consequences of notarization fraud or that spells out signs of fraud, notaries may not understand the potential risk. Moreover, they may not fully understand the requirements in legislation dictating their responsibilities, such as acceptable forms of identification from signers. The National Notary Association reports over 130,000 calls per year, many of which involve questions from commissioned notaries about basic requirements for carrying out notarizations. For example, according to the Secretary of State, two-thirds of notary misconduct cases in Colorado are related to notarizations occurring without the signer present.

8.1 Establish protocols for reporting and record modifications for lost or stolen stamps and tech devices

Recommendation Details

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If a notary's credentials, stamp, or commission number are lost or stolen, bad actors may use them to fraudulently notarize real estate transactions. Currently, there is no protocol in place for voiding, securing, and/or replacing the commission numbers of notaries who have had their credentials lost or stolen.

The state should establish protocols for voiding stolen commission numbers and issuing replacement commission credentials.

Model Legislation

Multiple states, including California and Florida, require notaries to report stolen credentials to the Office of the Secretary of State. These regulations are primarily intended to protect notaries from being liable for any fraudulent notarizations that may be recorded using their lost or stolen credentials.

Nevada Revised Statutes § 240.045 requires that a notary must submit a request for an amended Certificate of Appointment to the Secretary of State within 10 days of losing their stamp and must present the amended Certificate to the stamp manufacturer to obtain a new stamp.

Washington Administrative Code § 308-30-090 requires that a notary must notify the Department of Licensing within 10 days of their stamp being stolen or lost. The notary must obtain a new stamp with an approved variance to distinguish its appearance from the lost or stolen stamp.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with mixed levels of prioritization.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, real estate agents, notaries, clerks of court, home builders, bankers) consider the recommendation a high priority. Some members representing land title agencies and title insurers consider the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

See Recommendation 8.

8.2 Establish searchable reports/records of attempted fraud and stolen notary credentials.

Recommendation Details

If a notary's credentials, stamp, or commission number are lost or stolen, bad actors may use them to fraudulently notarize real estate transactions. Currently, there is no protocol in place for voiding, securing, and/or replacing the commission numbers of notaries who have had their credentials lost or stolen.

Establishing a searchable report or record of notary credentials that have been lost, stolen, or used in attempted fraud could allow other agents in the real estate transaction process (including real estate agents, title agents, and clerks of court) to cross-reference credentials used in the notarization of

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transactions they oversee and more easily detect fraudulent notaries. The searchable records should include information such as the notary's name and voided commission number, the reason for reporting/voiding (e.g., credentials were lost, stolen, or involved in attempted fraud), and the reported date of the incident.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing perspectives from across the real estate transaction process (including notaries, title insurers, clerks of court, and home builders) consider the recommendation a high priority. Members representing some perspectives (including mortgage lenders and real estate agents) endorse the recommendation as a low priority.

The only dissent comes from the perspective of the Virginia Municipal League.

Members representing the perspective of notaries endorse the recommendation as written.

Background

See Recommendation 8.

9. Training for clerks of court – and authorization to refuse a doc set if the RON seal is not valid

Recommendation Details

Reversing or correcting fraudulent deeds that have been officially filed can be expensive and time-consuming. Allowing clerks of court the authority to refuse to file a document (or set of documents) if they have reasonable cause to believe that the RON seal or electronic notarial certificate on the submission is fraudulent, altered, expired, or otherwise invalid may reduce instances of fraudulent deeds being officially filed.

Reasonable cause for refusal may include:

- Evidence that the notarial seal or digital certificate metadata has been altered or duplicated
- A seal or digital certificate that fails electronic verification checks
- Notarization by an individual whose notary commission has expired, has been revoked, or cannot be verified
- Any other circumstances under which the clerk reasonably believes that the notarial act was forged or otherwise not lawfully performed

If enacted, this recommendation should be paired with an indemnification clause to protect clerks of court who act in good faith when delaying or refusing to process documents submitted for filing. Such a clause should protect the clerk from liability in any civil action for damages, costs, or fees

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arising out of a refusal to file a document, provided that the refusal was made in good faith and based upon reasonable cause as defined by the legislation.

Model Legislation

According to Ohio Revised Code § 2701.20, clerks of court are granted permission to refuse to file any document submitted for filing if the clerk has reasonable cause to believe that the document is materially false or fraudulent. The code specifies that clerks of court are not responsible for inspecting, evaluating, or investigating suspicious documents. If the submitter commences court action, it is the duty of the courts to determine the legitimacy of the document and provide an order for it to be filed by the clerk.

In Virginia, financial institutions are granted the authority to decline transactions for suspected fraud with liability protections in two areas of the Code of Virginia that could serve as templates for this recommendation:

- § 64.2-1618(B): Item 5 gives the third party (e.g., bank) the right to refuse acceptance of an acknowledged power of attorney (POA) if they in good faith believe that the POA is invalid or that the agent lacks authority. Item 6 gives the third party the right to refuse acceptance of an acknowledged POA if the third party reports or is aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of the principal by the agent.
- § 63.2-1606(L): This area of the Code gives the staff of financial institutions the right to delay or refuse a transaction if they believe in good faith that the transaction may involve, contribute to, result in, or facilitate the exploitation of an adult or if they report or are aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of an adult by the agent.

Additional Research

Additional consideration is required to develop training materials and tools for clerks of court to easily and accurately detect invalid or fraudulent RON seals.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, clerks of court, land title and settlement agents, bankers, and home builders) consider the recommendation a high priority. Members representing other perspectives (including the Virginia Municipal League and title insurers) consider the recommendation a low priority.

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Dissent comes from the perspective of some clerks of court and real estate agents. Clerks of court from within the TAG show concern over the potential for inconsistent application of a “reasonable cause” right of refusal across the state. The 120 Circuit Court Clerk’s Offices in Virginia can vary significantly in regard to staffing and resources. Therefore, these TAG members express concern that some offices may utilize the right to refuse much more or less frequently than other offices, perhaps due to differences in bandwidth and resources for training, creating an uneven landscape of refusals. Some members emphasize that granting clerks statutory authority to refuse a submission is a significant responsibility that should involve extensive research and consideration before potential implementation.

Background

In Virginia, clerks of court do not have the authority to reject a document submitted for filing on the basis of suspected fraud. Even under suspicious circumstances, if the submission appears to contain all the required information for filing, the clerk must file the document.

Fraudulent and Invalid RON Seals

Valid RON seals or stamps are attached to a digital certificate authenticating the identity of the notary and the act of notarization. However, the RON seal can become invalid when digitally notarized documents are improperly transferred and stored (e.g., when digitally notarized documents are printed, screen captured, or otherwise stored in a file format that does not retain the data associated with the digital certificate of notarization). An image of a RON stamp, which is not sufficient proof of authenticity of notarization, may be fraudulently inserted into a document.

10. Grant local governments and circuit clerks authority with respect to suspected fraudulent documents (Stated in SB1270,v)

Recommendation Details

Circuit court clerks are often the first line of defense against fraudulent property documents, yet Virginia clerks currently lack clear statutory authority to refuse or delay suspicious filings. Granting clerks explicit power to identify and respond to potentially fraudulent documents would create a checkpoint in the recording process before fraudulent transfers enter the public record. This authority would need to be carefully structured with appropriate safeguards, consultation requirements, and appeal processes to balance fraud prevention with property owners' due process rights.

The recommended framework would allow clerks who suspect fraud in good faith to delay filing while seeking guidance from commonwealth's attorneys or local law enforcement. Clerks could request additional documentation from filers, such as proof of identity or authorization from property owners. If law enforcement confirms suspicion of fraud or if filers cannot provide requested verification, clerks would have authority to refuse the filing. This system would require clear protocols, training, and legal protections for clerks making these determinations.

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If enacted, legislation dictating the obligations and liabilities of settlement agents (Code of Virginia § 55.1-903) should be updated to accommodate cases where an instrument is rejected for suspected fraud but later cleared through additional information provided and recorded so that the settlement agent is not out of compliance.

Model Legislation

Texas SB 647, effective Sept. 1, 2025, provides the most comprehensive framework for clerk authority over suspected fraudulent documents. The law allows clerks who believe in good faith that a document is fraudulent to delay filing while seeking assistance from county or district attorneys. Clerks must request additional information from filers, such as signatures from alleged owners or obligors. If attorneys determine the document is fraudulent or if filers fail to provide requested information, clerks have authority to refuse filing.

North Carolina General Statute § 161-14.1 takes a more discretionary approach, allowing but not mandating registers of deeds to refuse documents reasonably believed to be fraudulent. The statute requires consultation with the district attorney's office before refusal and provides legal immunity for good faith decisions. It includes provisions for appeal processes and override procedures to protect legitimate filers.

Colorado Revised Statutes § 38-35-109 creates a different framework focusing on mandatory suspicious activity reporting and coordination with law enforcement rather than outright refusal authority. This approach ensures law enforcement awareness while maintaining the recording process flow.

In Virginia, financial institutions are granted the authority to decline transactions for suspected fraud with liability protections in two areas of the Code of Virginia that could serve as templates for this recommendation:

- § 64.2-1618(B): Item 5 gives the third party (e.g., bank) the right to refuse acceptance of an acknowledged power of attorney (POA) if they in good faith believe that the POA is invalid or that the agent lacks authority. Item 6 gives the third party the right to refuse acceptance of an acknowledged POA if the third party reports or is aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of the principal by the agent.
- § 63.2-1606(L): This area of the Code gives the staff of financial institutions the right to delay or refuse a transaction if they believe in good faith that the transaction may involve, contribute to, result in, or facilitate the exploitation of an adult or if they report or are aware of a report to the local adult protective services department or hotline alleging possible abuse, neglect, or exploitation of an adult by the agent.

Additional Research

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To ensure implementation consistency across Virginia's 120 clerk jurisdictions, the state should develop standardized training, procedures, and decision-making frameworks. Research should examine how to ensure uniform application while accommodating varying local resources and caseloads.

Resource allocation presents significant challenges, particularly for rural jurisdictions with limited budgets. Analysis is needed on costs for training, technology upgrades, and additional staff time required for fraud review processes. Funding mechanisms must be identified to avoid creating unfunded mandates.

Legal liability and immunity protections require careful consideration to protect clerks making good faith determinations. Research should examine appropriate safeguards, appeal processes, and override mechanisms that balance fraud prevention with property rights. Clear investigation and referral procedures must be developed for coordination with commonwealth's attorneys and law enforcement agencies.

A technology infrastructure needs assessment should evaluate tools for fraud detection, database access, and ongoing education requirements. Many clerks lack legal backgrounds and would need substantial support to make quasi-judicial determinations about document validity. Inter-jurisdictional coordination mechanisms are essential for information sharing between clerk offices and for ensuring consistency in cross-county property transactions.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing perspectives from across the real estate transaction process (including mortgage lenders, notaries, title insurers, bankers, and home builders) consider the recommendation a high priority. Members representing other perspectives (including real estate agents and land title agents) consider the recommendation a low priority.

Dissent comes from the perspective of clerks of court. Clerks from within the TAG express concern over the administrative burden or other effects of delaying or refusing a document submitted for filing. Additionally, members express concern over the potential for inconsistency across Virginia's 120 clerk jurisdictions, which could create variability in how this discretionary authority is exercised and lead to pushback from settlement agents, attorneys, and title companies who prefer uniform processes.

Rural jurisdictions face challenges regarding limited financial resources and bandwidth for implementing new requirements, emphasizing the importance of structuring expanded authorities as permissive rather than mandatory (following North Carolina's legislative model). Effective implementation would require comprehensive guidance, training, and structural support to ensure that clerks can make accurate determinations while preventing bias or prejudice from influencing decisions.

Background

Once a fraudulent deed transfer is filed in public records, restoring legal ownership to the rightful property owner becomes a lengthy, complex, and expensive legal process often requiring court

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intervention. Currently, local circuit court clerks in Virginia operate under a ministerial duty to file any document submission that meets basic technical requirements, regardless of whether the document appears suspicious or potentially fraudulent. This creates a significant vulnerability in the property records system where obviously fraudulent documents must be accepted and recorded, giving them the appearance of legitimacy and legal effect.

Granting clerks the discretionary authority to flag, delay, and investigate suspected fraudulent filings would provide a critical first line of defense against property fraud. This authority would need to be carefully structured with appropriate training, legal protections, and procedural safeguards to prevent abuse while enabling effective fraud prevention at the point of filing.

10.1 Training local clerks to assess the validity of RON notarizations and authorizing them to refuse a doc set if the RON seal is not valid (see Recommendation 9)

Recommendation Details

Local clerks serve as the gatekeepers for public records, yet many lack the technical expertise to verify remote online n(RON) documents. This recommendation would establish mandatory training programs for recording officials on RON authentication methods, including electronic seal validation, digital certificate verification, and audit trail review.

The training would cover technical aspects such as credential analysis software, electronic seal formats, and tamper-evident technology used in RON platforms. Clerks would learn to identify red flags including missing authentication certificates, improperly formatted electronic seals, and incomplete audit trails. This approach creates a checkpoint before fraudulent documents enter the public record system.

This recommendation pairs such training with the recommendation to grant clerks explicit statutory authority (with indemnification protections) to reject documents submitted for filing with reasonable cause to believe that they contain invalid RON seals or digital certificates. See Recommendation 9 for details and background on the refusal with reasonable cause aspect of this recommendation.

Model Legislation

Virginia already has a foundation for this recommendation in Code § 47.1-2, which establishes the state's RON framework. This existing statute could be expanded to include mandatory training requirements for recording officials and explicit authority to validate and potentially reject RON documents. The expansion would build on Virginia's current infrastructure while adding the crucial element of clerk verification authority.

Several states have implemented comprehensive RON validation requirements that Virginia could adapt. Texas Government Code Chapter 406 establishes RON standards and requires county clerks to verify electronic notary seals and signatures before accepting documents for filing. Florida Statutes

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Chapter 117 mandates training for recording officials on RON document authentication and provides clear authority to reject improperly notarized electronic documents.

Nevada Revised Statutes Chapter 240 creates comprehensive validation requirements for county recorders, including specific seal verification protocols and rejection authority. Indiana Code Title 33-37 goes further by establishing mandatory RON authentication training with standardized certification requirements for all county clerks and recorders. These models demonstrate various approaches to implementing clerk training and validation authority.

Relevant Advocacy Efforts

The National Notary Association has developed comprehensive RON standards that include technical specifications for electronic seal validation and authentication protocols. The organization's best practices framework provides detailed guidance on document verification procedures that could inform clerk training curricula. MISMO, or the Mortgage Industry Standards Maintenance Organization, has established industry-wide technical standards for RON document formatting and seal requirements that are widely adopted by lenders and title companies.

The American Land Title Association has created guidelines for RON document acceptance and verification protocols that many title companies already follow. The National Association of Secretaries of State developed a RON Model Act that provides a comprehensive framework for implementation, including specific training requirements and document validation standards. The Property Records Industry Association has established technical specifications for electronic document acceptance that many recording offices reference when developing their procedures.

Additional Research

Developing a training curriculum requires careful consideration of Virginia's specific RON statute requirements and the varying technical capabilities of local clerks across the commonwealth. Research should focus on creating standardized programs that cover RON technology fundamentals, seal verification techniques, fraud detection methods, and legal requirements. The curriculum must be accessible to clerks with varying levels of technical expertise while remaining comprehensive enough to ensure effective validation.

Technology infrastructure presents significant challenges, particularly for rural jurisdictions with limited resources. Analysis is needed to determine the minimum software, hardware, and connectivity requirements for effective RON validation. This research should also address cost-effective solutions for smaller counties and potential state-level support systems.

Legal authority and liability issues require careful statutory language that grants clerks appropriate rejection authority while protecting against legal challenges. Research should examine how other states balance clerk discretion with due process rights and develop clear standards for document rejection. Additionally, appeals and override processes must be developed to handle disputed validity determinations and ensure coordination with notary regulatory authorities.

Cost-benefit analysis would help justify the investment in training and technology by quantifying the potential fraud prevention benefits. This should include evaluation of training costs, technology

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investments, and staff time requirements compared to the costs of fraudulent document acceptance. Integration with existing clerk workflows and document management systems also requires study to ensure that new validation procedures don't create undue burdens or processing delays.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, bankers, and builders) consider the recommendation a high priority.

Many other members (including both members representing clerks of court and those representing land title and settlement agents) do not endorse this recommendation. Clerks of court within the TAG believe it would be difficult to create and deliver accurate and effective training on the complex and constantly changing technology used in fraudulent remote online notarizations. Moreover, members express concern over inconsistencies across clerks' offices in bandwidths, abilities, or resources to use advanced software tools for detecting fraudulent RON seals or digital certificates.

See the Technical Advisory Group Input section of Recommendation 9 for details on the TAG's perspective toward refusal with reasonable cause.

Background

Remote online notarization (RON) has become increasingly prevalent in real estate transactions, particularly following pandemic-era adoption. While RON provides convenience and efficiency benefits, it also creates new vulnerabilities for document fraud if electronic seals and authentication processes are not properly validated at the point of recording. Currently, many local clerks lack the technical knowledge and authority to assess whether RON notarizations meet legal requirements before accepting documents for filing.

Invalid or fraudulent RON seals can give illegitimate documents the appearance of proper notarization, making them more difficult to challenge once recorded. Training clerks to recognize valid RON elements (including proper electronic seals, digital certificates, and authentication audit trails) would provide an additional layer of fraud prevention. Combined with clear authority to refuse documents with invalid RON components, this training would help ensure that only properly executed electronic notarizations are accepted into public records.

10.2 Requirement for clerks to check notarial commission number

Recommendation Details

This recommendation would require local clerks to verify notarial commission numbers against Virginia's state database before accepting any notarized document for recording. Clerks would check that the notary's commission is active, unexpired, and properly registered with the state. Documents

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with invalid, expired, or unverifiable commission numbers would be rejected at the point of filing, preventing fraudulent notarizations from entering the public record.

The verification process would integrate with Virginia's existing notary commission database, providing clerks with real-time access to commission status information. Each notarized document would undergo a simple check where the clerk enters the commission number into the system and receives immediate confirmation of validity. This creates a critical verification point that does not currently exist in many Virginia jurisdictions.

If enacted, this recommendation should be paired with an indemnification clause to protect clerks of court who act in good faith when delaying or refusing to process documents submitted for filing. Such a clause should protect the clerk from liability in any civil action for damages, costs, or fees arising out of a refusal to file a document, provided that the refusal was made in good faith and based upon reasonable cause as defined by the legislation.

Model Legislation

Several states have successfully implemented notary commission verification requirements that Virginia could adapt. California Government Code § 8205 requires county clerks to verify notary commission status and expiration dates before accepting documents for recording. Florida Statutes § 117.05 goes further by mandating that clerks verify commission numbers against the state database and reject documents from expired or invalid commissions.

New York Executive Law § 135-a establishes requirements for recording officers to check notary commission validity while providing access to a real-time commission database. Texas Government Code Chapter 406 creates mandatory verification protocols with standardized rejection procedures that ensure consistency across counties. Illinois's Notary Public Act requires clerks to authenticate both notary seals and commission numbers, while Pennsylvania Title 57 § 147 provides explicit legal authority for document rejection based on invalid commissions.

Relevant Advocacy Efforts

Professional organizations have developed standards that could inform Virginia's implementation. The National Notary Association has created verification standards that include best practices for database access protocols and validation procedures. The American Society of Notaries provides professional guidelines for commission tracking and validation systems that many states reference. The National Association of Secretaries of State has developed technical specifications for real-time notary commission verification systems that ensure interoperability across jurisdictions. These frameworks provide tested approaches that Virginia could adapt to its specific needs.

Additional Research

Implementation requires careful attention to database integration and workflow design. Research is needed on establishing real-time connections between clerk offices and Virginia's notary

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commission database, including technical requirements and associated costs. The verification process must integrate smoothly into existing document processing procedures without creating significant delays or bottlenecks.

Legal framework development is essential to grant clerks appropriate authority to reject documents with invalid commission numbers while protecting against liability. Research should examine statutory language that clearly defines rejection criteria and procedures. Additionally, exception and override procedures need development for handling edge cases, disputed verifications, and emergency situations where standard verification may not be possible.

Technical Advisory Group Input

The TAG generally endorses this as a lower-priority recommendation.

Members representing some perspectives across the real estate transaction process (including notaries and home builders) consider the recommendation a high priority. Members representing other perspectives (including mortgage lenders, real estate agents, bankers, land title agents, and clerks of court) consider the recommendation a low priority.

Dissent comes from one member representing land title and settlement agents and one member representing clerks of court. One member expresses concern over the feasibility of verifying every commission number, especially for documents submitted with notarizations by out-of-state notaries.

Background

Notaries public in Virginia must maintain valid commissions issued by the Secretary of the Commonwealth, with specific commission numbers and expiration dates. However, current practice does not require clerks to verify that notary commission numbers are valid and current before accepting notarized documents for recording. This creates a vulnerability where documents notarized by individuals with expired, suspended, or fraudulent commissions can be filed in public records.

Fraudulent actors may forge notary seals with fake commission numbers or use numbers from expired commissions to give illegitimate documents the appearance of proper notarization. Once these documents are recorded, they become part of the official record and are much more difficult to challenge. Requiring clerks to verify notary commission numbers against the state's official database would provide an automated check to ensure that only documents notarized by properly commissioned notaries are accepted for filing. This verification process would help prevent both intentional fraud and inadvertent acceptance of documents from expired notary commissions.

11. Alternative to increased clerk authority: recommend a certification/attestation be signed by the presenter at time of filing

Recommendation Details

This recommendation proposes requiring all deed presenters to sign a certification at the time of filing, attesting that they have verified the identity of the property owner shown on the deed. The attestation would explicitly acknowledge potential criminal liability under Virginia Code if the deed is later found to be fraudulent. This approach places responsibility on the document presenter rather than expanding clerk authority to reject suspicious filings.

The certification could read similarly to:

"By signing below, I hereby acknowledge and confirm that I have taken all steps prudent and necessary to confirm and authenticate the valid and legitimate identity of the owner of record shown on this Deed. I further understand and acknowledge that failure to do so may implicate me under VA Code _____ if the Deed is found to be fraudulent."

This creates a clear paper trail establishing who presented the document and their affirmative representation about identity verification.

Model Legislation

Several states have implemented presenter certification requirements that Virginia could adapt. Pennsylvania's Recording Act requires a sworn affidavit from document presenters attesting to their authority and the legitimacy of the filing, with specific penalties for false statements. This model creates both a procedural safeguard and a clear basis for prosecution if fraud is later discovered.

Ohio Revised Code § 317.32 mandates certification by document preparers acknowledging legal authority and accuracy, with criminal penalties for fraudulent attestations. Michigan Compiled Laws § 565.201 establishes affidavit requirements for real estate document filings that include identity verification and authority confirmations. These approaches demonstrate how attestation requirements can be integrated into existing filing procedures.

Illinois's Conveyances Act requires notarized certification from both grantors and preparers confirming document authenticity and legal authority. Colorado Revised Statutes § 38-35-109 goes further by establishing sworn statement requirements with enhanced penalties specifically for fraudulent certifications. These models show varying levels of formality and enforcement mechanisms that Virginia could consider.

Additional Research

Key research areas require careful examination before implementation. Analysis is needed on the effectiveness of certification requirements against determined fraudsters to determine whether attestations deter fraud or merely add procedural steps that sophisticated criminals will circumvent. Studies from states with existing requirements could provide valuable data on fraud reduction rates and prosecution success.

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Implementation across different filer types presents practical challenges that need addressing. Research should examine how attestation requirements would apply to attorneys, real estate agents, title companies, individual property owners, and other document presenters. Each group may require different language or procedures based on their professional responsibilities and existing regulatory frameworks.

To understand the full impact of liability and insurance implications on transaction participants, analysts must examine the effects on professional liability coverage for attorneys and real estate professionals, errors and omissions insurance requirements, and potential changes to title insurance underwriting. The research should also address whether attestation requirements might discourage legitimate filers or create unintended barriers to property transfers.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (mortgage lenders, clerks of court, and the municipal league) consider the recommendation a high priority. Members representing other perspectives (including real estate agents, title insurers, clerks of court, bankers, and builders) consider the recommendation a low priority.

Dissent comes from some members representing land title and settlement agents and notaries. Some members express skepticism that a signed certification/attestation would not prevent fraudsters from filing; in other words, if an individual is willing to commit fraud, they might also be willing to sign a certification/attestation like this.

Some members express concern over the potential implications of placing statutory criminal or civil liability on the document submitter when the majority of deeds are submitted for recording by a third-party independent title examiner professional who has not necessarily interacted with the seller or buyer and therefore has little knowledge of the parties to base an attestation of authenticity on. Members propose that placing such liabilities on these third-party professionals may disincentivize them from offering deed recording services, which may impede closing processes.

Background

This recommendation presents an alternative approach to preventing fraudulent document filings without expanding clerk discretionary authority (as proposed in recommendation 10). Rather than requiring clerks to make subjective determinations about document legitimacy, this approach places the burden of verification and legal responsibility directly on the person presenting documents for filing.

Currently, individuals can file real estate documents with minimal accountability beyond basic notarization requirements. A mandatory certification/attestation would require document presenters to explicitly acknowledge that they have verified the identity and authority of all parties involved in the transaction and understand the legal consequences of filing fraudulent documents. This creates a clear paper trail of responsibility and potentially subjects fraudulent filers to enhanced criminal penalties.

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The certification approach offers several advantages: it maintains clerks' ministerial filing duties while adding fraud prevention measures; creates legal accountability without requiring clerks to make complex fraud determinations; provides prosecutors with clear evidence of intent in fraud cases; and can be implemented uniformly across all jurisdictions without concerns about inconsistent application. However, critics argue that determined fraudsters may simply sign false attestations, making this measure ineffective against sophisticated fraud schemes while adding bureaucratic burden to legitimate transactions.

12. Establishing free property alert notification systems within local land record offices (Stated in SB1270,vi)

Recommendation Details

Virginia could require or incentivize all localities to establish property alert notification systems that allow owners to register for free automatic notifications when documents affecting their property are recorded. As of September 2025, just 21 localities offer these systems, leaving most Virginia property owners without access to this critical fraud detection tool.

Potential action by the General Assembly could include:

- Mandating local implementation by a certain date
- Setting aside funding in the budget for localities to assist with implementation
- Prohibiting localities from charging registration or subscription fees to ensure universal access
- List of required information fields to be tracked and included in alerts to property owners
- Additional provisions that determine how the platforms should be developed within each locality

These systems operate independently from existing Secure Remote Access (SRA) and electronic recording platforms, allowing property owners to register online with basic information including property address, parcel number, and preferred notification method. When any document affecting a registered property is recorded, such as a deed, deed of trust, or lien, the system would automatically send alerts via email, text, or phone within 24 hours. Owners can register multiple properties and designate additional recipients such as family members or attorneys to receive notifications.

The technology infrastructure already exists through vendors currently serving Virginia localities including Logan Systems, GovOS, DTS AlertMe, and Tyler Technologies. Based on estimates from existing Virginia implementations, costs range from \$10,000 to \$100,000 per locality for a two-year period. The state could negotiate master contracts with approved vendors to reduce costs and ensure consistent functionality across all jurisdictions.

Model Legislation

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Illinois's recently passed SB 1523 provides the most comprehensive model for Virginia to follow. The law requires every county to establish and maintain a property fraud alert system with detailed requirements for registration forms, notification procedures, and liability protections. The statute includes provisions for real estate professionals to register properties on behalf of owners and allows designation of up to three additional alert recipients.

Arizona's SB 1110, enacted in 2023, offers a simpler approach with concise statutory language requiring recorders to provide notification systems by January 1, 2025. The law specifies that participation is voluntary for property owners, and notifications must be delivered promptly via email, text, or similar means. Arizona's experience shows implementation costs of approximately \$50,000 in startup expenses and \$20,000 in ongoing costs for larger counties.

North Carolina's currently proposed HB 431 includes important technical specifications that Virginia should consider, such as requiring notifications within 24 hours and including specific information in each alert. The bill also provides immunity from liability for registers of deeds regarding system operation, which would be crucial for encouraging Virginia clerk participation. Pennsylvania's proposed HB 2230 from 2024, though not enacted, emphasized the requirement that these services be free to property owners.

Additional Research

Implementation feasibility varies significantly across Virginia's localities, requiring research on how to support rural counties with limited technical infrastructure. Further assessments should examine whether the state can provide centralized technical support or funding assistance for smaller jurisdictions. Research should also address integration possibilities with existing systems like SRA to avoid duplicative infrastructure investments.

User adoption and effectiveness metrics need careful study to ensure systems achieve their fraud prevention goals. Research should examine registration rates in localities with existing systems, optimal notification methods for different demographics, and actual fraud prevention outcomes. Analysis of false positive rates and alert fatigue would help design systems that maintain user engagement without overwhelming registrants.

Legal framework development requires research on appropriate statutory language balancing mandatory implementation with local flexibility. Studies should address liability protection for clerks and vendors, requirements for system uptime and reliability, and procedures for handling system failures. Research should also examine privacy implications of maintaining registrant databases and appropriate data retention policies.

Cost optimization strategies need exploration, including potential for state-level procurement, shared services models for smaller localities, and integration with existing technology investments. Analysis should consider ongoing operational costs beyond initial implementation and sustainable funding models. Research should also examine whether fees could be charged for enhanced services while maintaining free basic access.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with mixed levels of prioritization.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, clerks of court, and bankers) consider the recommendation a high priority. Members representing other perspectives (including mortgage lenders, the municipal league, land title and settlement agents, title insurers, and builders) consider the recommendation a low priority.

Some members expressed concern about the cost of creating and implementing a system like this in every locality across the state. However, members representing clerks of court emphasize the importance of having consistency in this service across the state, as only a small portion of jurisdictions currently use this service, hosted by private vendors.

Background

Because Virginia localities currently have limited authority to identify and prevent deed fraud, these notification systems have become the most prevalent prevention strategy in use today. While this passive approach places responsibility on owners to act upon receiving alerts, it provides crucial early warning of potentially fraudulent activity.

The Supreme Court of Virginia's Secure Remote Access system, used by many Circuit Courts, currently lacks automatic alert functionality despite providing electronic access to land records. Similarly, electronic recording systems operated by vendors like Simplifile and CSC focus on document submission rather than owner notification. This gap in functionality has led localities to independently procure notification systems from various vendors, resulting in inconsistent availability across the commonwealth.

The piecemeal adoption of these systems has created an inequitable situation where property owners in 21 localities have access to fraud alerts while those in the remaining jurisdictions lack this protection. Recent increases in attempted deed fraud have prompted more localities to implement systems, but voluntary adoption remains slow and uneven as of late 2025.

13. Establishing an alert notification system to inform notaries when documents containing a notary's name or commission number are submitted for recording (Stated in SB1270,vii)

Recommendation Details

Establishing an alert notification system to inform notaries when documents containing a notary's name, signature, stamp, or commission number are submitted for recording could allow cases of deed fraud to be more quickly identified and addressed. This notification system could take the form of email alerts, phone alerts, or mailed alerts. Each instance could trigger a unique notification, or instances could be listed in a single notification on a recurring basis (e.g., monthly).

Model Legislation

The City of Philadelphia Department of Records maintains a free email alert system to notify notaries when their signature or stamp is used on a document submitted to the Department. The alert allows notaries to view the submitted documents. When a notary identifies a fraudulent use of their signature or stamp on a deed, they can file a notary affidavit against the property stating that they did not notarize the deed.

Additional Research

Additional consideration is required to determine the most feasible and effective format for this notification system. Municipalities may lack the infrastructure and support required to set up and maintain such a system.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with mixed levels of prioritization.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, the municipal league, notaries, clerks of court, and land title and settlement agents) consider the recommendation a high priority. Other members representing some perspectives (including land title and settlement agents, title insurers, clerks of court, and bankers) consider the recommendation a low priority.

Members representing the perspective of notaries endorse the recommendation as written.

Background

If a document is fraudulently notarized and submitted for filing, the notary whose name, signature, stamp, or commission number is fraudulently printed on it may never find out. A notification system alerting notaries each time their information appears on a document submitted for filing could help notaries identify fraudulent documents quickly, allowing the identification of deed fraud and its reversal process to happen more quickly as well.

Access and security of land records

14. Enhance security for public access to land records (Stated in SB1270,iii)

Recommendation Details

Over the past two decades Virginia jurisdictions have increased efficiency, developed record keeping resilience, and improved transparency by digitizing property records and increasingly making those records remotely accessible. Recommended actions discussed by TAG members include redacting/obscuring elements of scanned and online documents such as signatures, notary commission numbers, and notary stamp images. Other suggested actions would offer measures to deter fraudsters from easily

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accessing electronic property records in mass (by imposing access fees), requiring identification verification to access property records, and other measures.

Security recommendations:

- Redact signatures, notary information, and other sensitive information.
- Require and record identity verification for individuals accessing property deeds and other sensitive documents.
- Allow partial access online (e.g., redacted documents or a database of names and parcel IDs) but require in-person viewing for full documents with signatures.
- Require a fee for viewing and downloading property deed images and other sensitive documents.
- Require a login to view property deed images and other sensitive documents, record users' access histories, and flag suspicious activity.

Recommendations 14.2, 14.3, and 14.4 detail some of these security recommendations.

Additional Research

Before any of these security measures are considered for implementation, further research is required on the potential effects that limiting access to public records may have on professionals and landowners who are acting in good faith.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, and bankers) consider the recommendation a high priority. Other members representing some perspectives (including the municipal league and land title and settlement agents) consider the recommendation a low priority.

Dissent comes from members representing the perspectives of mortgage lenders, land title agents, title insurers, and clerks of court. Some members emphasize the importance of public access and transparency, expecting some pushback against the restriction of access to these public records. Specifically, the perspective of mortgage lenders from within the TAG is that making these records more difficult or expensive to access could drive up borrowing costs for buyers, as vetting these records is required per lenders' quality control and compliance procedures. Clerks of court within the TAG also express concern over the loss of transparency of public records.

Title insurers within the TAG state that allowing signatures or any parts of a notarial seal or acknowledgement to be redacted could create problems for title professionals who need to validate these items to evaluate the marketability and insurability of a title. Restricting access to land records could pose statutory challenges and impede the transaction process.

Background

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The information available in publicly accessible land records may be used by fraudsters to identify properties to target, impersonate property owners, or create forged signatures and notarizations. These records may be used to determine which properties are vacant, have owners that live out of state, or have recently deceased owners, which are characteristics of properties commonly targeted for deed fraud. Additionally, the name, signature, and mailing address of an owner may be duplicated or referenced by an impersonator. Similarly, the name, signature, seal, and commission number of a notary may be duplicated or referenced by someone attempting to commit notarization fraud.

Public records maintained by each county's clerk of court office may be accessed in person or remotely, either via Secure Remote Access (SRA) using the Commonwealth of Virginia Electronic Records System (COVERS) or via a locally determined and maintained online access system. SRA through COVERs requires an application, subscription, and fees, while unaffiliated local online access systems may have different requirements and/or fees.

14.1 Offer property title "freeze" system (similar to credit freeze system)

Recommendation Details

There is increasing discussion regarding the creation of systems that would allow real property owners to place a "freeze" on their property that would prevent the recording of a deed transaction without an additional, new owner verification process. The idea is analogous to an individual placing a freeze on their credit records that can effectively prevent new credit accounts from being opened. The recommendation, which requires legal study beyond this study exercise, would potentially operate in a manner similar to property transaction freezes imposed during legal proceedings.

Additional Research

Additional legal study is required to determine the form and details of the system described in this recommendation.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, notaries, and land title and settlement agents) consider the recommendation a high priority. Some members representing other perspectives (including real estate agents, title insurers, clerks of court, bankers, and home builders) consider the recommendation a low priority.

The only dissent comes from one member representing the perspective of clerks of court. This member expresses concern over the burden this recommendation could place on clerks of court depending on the form it takes. The member suggests some kind of alert that is attached to the land record system to avoid the clerk being required to consult an outside database to confirm whether a freeze has been placed on the property.

Background

The rise in awareness of deed fraud has resulted in the emergence of a new type of financial service commonly labeled as “title lock” services.

- Multiple private companies offer this service. The service does not actually prevent a transaction, but purports to offer a monitoring service that would trigger an alert to the subscriber if a filing is made with a jurisdiction, usually a county recorder's office, that would effectuate a change on property deeds, liens, mortgages, and other filings.
- This is a private offering for the same type of service discussed in **[insert item number from above]**.

Security Recommendations

- Create the legal authority for counties to allow verified property owners to “lock” transactions related to their property.
- The recommendation does not specify a particular mechanism, technology, or service to manage a property freeze. Such choices need to be taken by jurisdictions based on their individual needs and resources with support for exploring emerging solutions.

14.2 Allow only verified/authorized entities (attorneys, title agents) to file remotely/electronically; all others must file in-person

Recommendation Details

This recommendation would restrict the use of electronic records submissions for recording actions on property deeds exclusively to authorized entities, such as:

- Licensed attorneys,
- Banks, savings and loan associations, savings banks, or credit unions doing business under the laws of Virginia,
- Federally chartered lending institutions, a federal government sponsored entity, an instrumentality of the federal government, or a person approved as a mortgagee by the United States to make federally insured loans,
- People licensed to make regulated loans,
- Licensed title insurance companies or title insurance agents, or
- Entities of the Commonwealth of Virginia or of a political subdivision in the Commonwealth of Virginia.

Electronic recording services are facilitated by private vendors. This recommendation would place responsibility on the electronic recording service vendor to ensure that only authorized entities are permitted to submit documents for electronic recording, and those vendors would be liable for damages caused by any failure to comply with the requirement.

Model Legislation

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The recommendation expressed above is closely modeled on Tennessee House Bill 1039 (SB 1230) which similarly restricts electronic filing of deeds to authorized entities only.

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, land title and settlement agents, bankers, and builders) consider the recommendation a high priority. One member representing the perspective of mortgage lenders considers the recommendation a low priority.

Dissent comes from some members representing land title agents, title insurers, and clerks of court. Clerks of court question how this requirement would be enforced, specifically considering that e-recording service providers are private vendors. Title insurers find the concept of verified submitters to be problematic.

Background

Electronic recording, as opposed to in-person recording, of deeds may be more vulnerable to fraudulent activity including seller impersonation and forgery. In-person recording reduces anonymity, as the filer must interact with the clerk directly, leading to more accountability and the opportunity for the clerk to identify suspicious behavior.

14.3 Require a login to view property deed images and other sensitive documents, record users' access histories, and flag suspicious activity.

Recommendation Details

The recommendation is to require that jurisdictions place log-in requirements for anyone accessing electronic property deed images and transaction records that would capture and track viewers' login credentials as a way to identify suspicious behavior.

The digitization of property records and availability of those records through local government web portals enhances transparency and convenience for property owners and taxpayers. However, fraudulent actors may use this same accessibility to identify potential victims of deed fraud.

Several counties in Virginia require taxpayers to create digital accounts with traceable log-in credentials to gain access to tax bills and payment systems. Extending this approach to property records would create an electronic paper trail that could be used to identify potentially suspicious activity (e.g., an unusually high number of property record searches).

Technical Advisory Group Input

The TAG generally endorses this recommendation.

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Members representing some perspectives across the real estate transaction process (including notaries, title insurers, and bankers) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders, real estate agents, the municipal league, land title agents, clerks of court, and home builders) consider the recommendation a low priority.

Dissent comes from some TAG members representing clerks of court and land title and settlement agents. Clerks of court express concern over a loss of transparency and access to public records. Additionally, clerks express concern over the cost and burden that could be placed on clerks' offices.

Background

The information available in publicly accessible land records may be used by fraudsters to identify properties to target, impersonate property owners, or create forged signatures and notarizations. These records may be used to determine which properties are vacant, have owners that live out of state, or have recently deceased owners, which are characteristics of properties commonly targeted for deed fraud. Additionally, the name, signature, and mailing address of an owner may be duplicated or referenced by an impersonator. Similarly, the name, signature, seal, and commission number of a notary may be duplicated or referenced by someone attempting to commit notarization fraud.

Public records maintained by each county's clerk of court office may be accessed in person or remotely, either via Secure Remote Access (SRA) using the Commonwealth of Virginia Electronic Records System (COVERS) or via a locally determined and maintained online access system. SRA through COVERs requires an application, subscription, and fees, while unaffiliated local online access systems may have different requirements and/or fees.

14.4 Redact signatures, notary information, and other sensitive information.

Recommendation Details

The recommendation would require localities to redact specific information and visual imagery on the electronic records of deeds and related property documents. The information required to be redacted should be specifically listed in the legislation to avoid subjectivity or compliance issues. Such information could include:

- Images of signatures
- Notary commission numbers or personal details of notaries
- Sensitive property owner details

This recommendation would need to be paired with training and resources for clerks of court offices across the state that would equip them to carry out redactions.

Additional Research

Additional research is required to determine which specific information to redact in order to:

- Maximize protection against deed fraud and
- Minimize obstruction of reasonable public access to land records

Technical Advisory Group Input

The TAG disagrees on the endorsement of this recommendation.

Members representing some perspectives across the real estate transaction process (including notaries and the municipal league) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders, real estate agents, land title agents, clerks of court, bankers, and builders) consider the recommendation a low priority.

Dissent comes from some members representing clerks of court, title insurers, and land title and settlement agents. Clerks of court express concern over the ability of some jurisdictions to afford and implement the software required to carry out redactions.

Background

The information available in publicly accessible land records may be used by fraudsters to identify properties to target, impersonate property owners, or create forged signatures and notarizations. These records may be used to determine which properties are vacant, have owners that live out of state, or have recently deceased owners, which are characteristics of properties commonly targeted for deed fraud. Additionally, the name, signature, and mailing address of an owner may be duplicated or referenced by an impersonator. Similarly, the name, signature, seal, and commission number of a notary may be duplicated or referenced by someone attempting to commit notarization fraud.

Public records maintained by each county's clerk of court office may be accessed in person or remotely, either via Secure Remote Access (SRA) using the Commonwealth of Virginia Electronic Records System (COVERS) or via a locally determined and maintained online access system. SRA through COVERS requires an application, subscription, and fees, while unaffiliated local online access systems may have different requirements and/or fees.

The recommendation extends current practices of shielding personal information of "protected individuals" from unrestricted public view.

15. Require the Treasurer to note in the public record the dates of all changes of address for the property owner; Disallow notice such as "name/address withheld upon request," except under certain protected circumstances.

Recommendation Details

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In order to prevent legal notices of deed transfer or tax documents from being sent to the rightful property owner, a fraudster may file to change the property owner's name and mailing address on record with the Treasurer for a target property. Additionally, if local policies permit, a fraudster may request that the owner's name or mailing address be redacted from publicly accessible online records.

Requiring that the dates of owner name changes and mailing address changes be made publicly available may help property owners and title companies identify suspicious activity, such as recent or repeated updates to a specific parcel owner's information. Disallowing notices such as "name/address withheld upon request," except under certain circumstances (e.g., individuals protected by address-confidentiality programs) may prevent fraudsters from obscuring fraudulent changes made to a property's recorded owner name or mailing address.

Additional Research

Requiring additional information, such as timestamps of property owner name and mailing address changes, to be recorded by local treasurers could involve new infrastructure and protocol development. Additional consideration is required to determine the best uniform structure for this additional reporting in municipalities across the state.

Protections for individuals with a statutorily authorized address confidentiality notice or a court-ordered nondisclosure requirement must be built into this recommendation. The purpose of disallowing notices such as "name/address withheld upon request," except under certain circumstances, is to provide transparency and prevent bad actors from using such notices to obscure fraudulent changes made to a target property's records. Additional research must be conducted to determine specific exceptions and protections to be built into any legislation, disallowing such notices.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including land title and settlement agents and title insurers) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders, real estate agents, the municipal league, clerks of court, bankers, and builders) consider the recommendation a low priority.

The only dissent comes from a member representing the perspective of notaries. The dissenting perspective emphasizes the importance of protecting property owners' sensitive information, stating that change of address request dates should be made public but that the address data itself should remain protected with access reserved for authorized entities.

Background

The Code of Virginia requires local treasurers to keep a record of the names and mailing addresses of property owners. Currently, the dates of any changes made to a property owner's name or mailing address are not recorded or publicly accessible.

Some municipalities across the state have local policies that allow for some level of redaction of property owner information from publicly accessible records. For example, Fairfax County allows

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property owners to submit a form requesting that their name be withheld from the county's online property records. The County maintains public access to that information, but it must be accessed in person or by special request, adding a layer of privacy.

Training, education, and professional standards

16. Provide consumer and professional education and awareness training (Stated in SB1270, iv)

Recommendation Details

Consumer Education

Property owners may be unaware of the threat of deed fraud and of how to monitor their property title to ensure that their property has not been targeted. State-mandated consumer education efforts may help both property owners and potential buyers gain awareness of this issue, understand how to identify it, and ultimately prevent themselves from becoming victims of deed fraud.

Consumer education efforts could take many forms, including:

- Public awareness campaigns on the prevalence, form, and red flags of deed fraud
- Annual educational materials sent to property owners' mailing addresses
- Public advertisement and enrollment education efforts for property alert notification systems, if developed
- Requirements for real estate agents, brokers, or other agents in the real estate transaction process to provide a mandatory disclosure to prospective buyers detailing the prevalence, form, and red flags of deed fraud with additional resources and guidance

Model Legislation

Legislation mandating other real estate-related disclosures for consumer protection (e.g., California's Natural Hazard Disclosure and New York's Property Condition Disclosure requirement alerting buyers of the presence of lead-based paint) could serve as models for an educational disclosure explaining the prevalence, form, and red flags of deed fraud.

Professional Education

See Recommendations 16.1 and 16.2 for specific training recommendations for professionals including real estate agents, notaries, and settlement agents.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks

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of court, and bankers) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders and home builders) consider the recommendation a low priority.

Background

No thorough statewide consumer education on the prevalence, form, and red flags of deed fraud has been carried out in Virginia.

16.1 Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents

Recommendation Details

The detection and prevention of deed fraud require modern, detailed training for each agent involved in the real estate transaction process, including real estate agents, notaries, and settlement agents.

Real Estate Agents

Integrating required modules on deed fraud, seller impersonation, and digital security into Virginia's pre-licensing, post-licensing, and continuing education requirements would better equip real estate agents to identify and prevent deed fraud.

Arizona's CE requirements now include a specific hour on deed fraud, providing a precedent for Virginia. In Arizona, real estate agents must complete 24 hours (and brokers must complete 30 hours) of continuing education (CE) every two years in order to renew their licenses. As of 2025, agents are required to complete one hour of training specifically on deed fraud (identifying and preventing fraudulent real estate transactions) as part of their CE hours (Arizona Department of Real Estate).

Notaries

Requiring training for both traditional notaries and electronic notaries on deed fraud, seller impersonation, and digital security could make notaries better equipped to identify and prevent deed fraud.

Eighteen states and Washington, D.C., require training and/or testing for notaries. For example, in North Carolina, notaries are required to pass an approved course (approximately 6 hours) with an exam in order to become commissioned.

Settlement Agents

Requiring settlement agents with access to consumer or property data to complete regular training on deed and wire fraud prevention, data security, and document authentication could make settlement agents better equipped to identify and prevent deed fraud.

Technical Advisory Group Input

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The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, mortgage lenders, and builders) consider the recommendation a high priority. One member representing the perspective of bankers considers the recommendation a low priority.

Background

Real Estate Agents

Virginia real estate agents lack training and tools specifically focused on fraud detection and prevention. In Virginia, agents must complete only 60 hours of pre-licensing education, a 30-hour post-licensing curriculum within the first year, and 16 hours of continuing education every two years. Mandatory topics cover ethics, contracts, agency, legal updates, and fair housing, but fraud detection and identity verification are not required. (Courses on wire fraud, data fraud, etc., are elective only.) If an agent were to suspect a seller of fraud, they may lack access to the data and tools needed to verify the seller's identity.

Notaries

Virginia is one of 32 states that require no training, testing, or education to become a notary public. The lack of training required to become a notary public or eNotary in the commonwealth could leave notaries unprepared to identify bad actors and avoid notarizing fraudulent deed transfers. Without training that emphasizes the gravity of the consequences of notarization fraud or that spells out the signs of fraud to watch out for, notaries may not understand the potential risk. Moreover, they may not fully understand the requirements in legislation dictating their responsibilities, such as acceptable forms of identification from signers. The National Notary Association reports over 130,000 calls per year, many of which are questions from commissioned notaries about basic requirements for carrying out notarizations. For example, according to the Secretary of State, two-thirds of notary misconduct cases in Colorado are related to notarizations occurring without the signer present.

Settlement Agents

Currently, no standards or requirements for deed fraud-related training exist in Virginia for settlement agents. However, their role in the real estate transaction process (i.e., verifying buyer and seller documents, preparing deeds, overseeing notarization) makes them uniquely positioned to identify and prevent deed fraud if given the proper training.

16.2 Require pre-appointment/licensure as well as continuing education require courses (and exams) on deed fraud prior to appointment/licensure and as continuing education for real estate agents and notaries

Recommendation Details

See Recommendation 16.1.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including real estate agents, notaries, land title and settlement agents, title insurers, clerks of court, bankers, and home builders) consider the recommendation a high priority. Members representing some other perspectives (including mortgage lenders and the municipal league) consider the recommendation a low priority.

Background

See Recommendation 16.1.

17. Require notaries to purchase surety bonds as a condition of their commission, require a mandatory journal of notarial acts for traditional and electronic notaries, establish strengthened standards for standard and electronic notary seals, and establish civil liability for notaries

Recommendation Details

Require Bonds for Notaries

Requiring both traditional notaries and electronic notaries to purchase surety bonds as a condition of their appointment could provide a streamlined compensation mechanism for victims of deed fraud caused by notarial negligence.

Many states require notaries to hold surety bonds. For example, in California, notaries are required to purchase and maintain a surety bond at the value of \$15,000 for the duration of their term.

Require a Journal of Notarial Acts

Requiring both traditional notaries and electronic notaries to maintain a journal (paper or electronic) of their notarial acts would result in the creation of records (such as signers' personal information and the identity verification methods used by the notary) that may be useful for law enforcement in suspected cases of deed fraud. Notarial journal entries should include the date, time, and type of official act; the signature of any individuals whose signatures are being notarized; identity verification details (e.g., credible witness signatures, paper identification document information); and, in the special case of notarizations pertaining to real estate transactions, the name of any lender and title company involved in the transaction.

Many states require notaries to maintain notarial journals. For example, in California, notaries are required to keep a physical sequential journal detailing their notarial acts. According to the notary handbook published by the California Secretary of State (2024), each entry must include:

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- Date, time and type of each official act
- Character of every instrument sworn to, affirmed, acknowledged or proved
- The signature of each person whose signature is being notarized
- A statement that the identity of a person making an acknowledgment or taking an oath or affirmation was based on “satisfactory evidence” pursuant to Civil Code section 1185
 - For paper identification, the entry must include the document type, issuing agency, serial number, and expiration date.
 - For a single credible witness known to the notary, the entry must include the signature of that witness or the paper identification information listed previously.
 - For two credible witnesses whose identities are proven upon the presentation of satisfactory evidence, the entry must include the paper identification information listed previously.
- The fee charged for the notarial service.
- If the document to be notarized is a deed, quitclaim deed, deed of trust, or other document affecting real property or a power of attorney document, the signer’s right thumbprint must be included in the entry.

Establish Strengthened Standards for Notary Seals

To strengthen standards for obtaining physical notary seals, the state could implement requirements for seal manufacturers to confirm the legitimacy of the buyer (i.e., confirm that the name and commission number they provide are those of an actively commissioned notary and confirm the identity of the buyer).

Multiple states have implemented similar regulations. In California, seal manufacturers are only permitted to create notary seals once presented with a certificate of authorization issued by the Secretary of State. The manufacturer must keep a copy of the certificate, and the original certificate, with an impression of the manufactured seal, must be sent to the Secretary of State for recordkeeping. Similar authorization processes and recordkeeping are required in Texas, Florida, Oregon, and Illinois.

Establish Civil Liability for Notaries, Bond Sureties, and/or Employers

In Virginia, notaries are liable for all damages caused by misconduct in their notarial acts. The recommendation to expand liability could include covering any employer, title company, settlement agent, or other entity that knowingly permits or fails to prevent unlawful or negligent acts by a notary employed or contracted by that entity. Combined with the recommendation to require that notaries hold surety bonds, liability would extend to the surety as well.

Expanding civil liability beyond just the notary (i.e., including bonding companies and employers) could strengthen accountability across the notarization process by incentivizing stronger training and oversight in identity verification protocols.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

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Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, notaries, title insurers, clerks of court, and builders) consider the recommendation a high priority. Members representing some other perspectives (including the municipal league, land title and settlement agents, and bankers) consider the recommendation a low priority.

The only dissent comes from a member representing the perspective of clerks of court.

The California legislation referenced in this recommendation includes examples of what the Virginia General Assembly may require Virginia notaries to record in a mandatory notarial journal. However, notaries within the TAG recommend that legislation in Virginia omit the following pieces of information:

- Character of every instrument sworn to, affirmed, acknowledged or proved
- The fee charged for the notarial service

Notaries within the TAG state that the first item could produce an unnecessary burden of detail and that the second item is based on the individual notary's profit margin determination. Additionally, these TAG members specifically suggest that journal entries be required to include the names of any lenders and title companies involved when the notarization is related to a real estate transaction.

Background

Require Bonds for Notaries

In Virginia, notaries are currently not required to purchase surety bonds as a condition of their appointment.

Require a Journal of Notarial Acts

In Virginia, traditional notaries are not required to maintain any form of journal documenting their notarial acts.

Electronic notaries are required to maintain a journal (and a backup journal) documenting their remote online notarial acts. According to the notary handbook published by the Office of the Secretary of the Commonwealth (2024), journal entries are required to contain the following:

- Date and time of day of the notarial act
- Type of notarial act
- Type, title, or a description of the document or proceeding
- Printed name and address of each person seeking an electronic notarization
- Type of identification used to establish identity of each person seeking electronic notarization
- Fee, if any, charged for the electronic notarial act

Establish Standards for Notary Seals

Obtaining a legitimate-looking physical notary seal or stamp is easy, and Virginia notaries are not required to prove the status of their commission in order to purchase one. Under these loose regulations, a fraudster may obtain a forged notary seal with which to commit notarization fraud.

Establish Civil Liability for Notaries, Bond Sureties, and/or Employers

Virginia Code § 47.1-7 states that notaries are liable for all damages caused by official misconduct. Currently, notaries in Virginia are not required to hold surety bonds.

Criminal enforcement

18. Felony classification with notable prison terms (3-10 years) with enhanced penalties for repeat offenders

Recommendation Details

This recommendation addresses potential changes in criminal code to enhance deterrence and punish perpetrators of deed fraud. Multiple goals include

- Creating a specific category of offences related to deed fraud
- Making the commission of deed fraud a felony (second degree)
- Punishing offenders with up to 10 years in prison and/or a substantial fine
- Including punishment enhancements for repeat offenders
- Making possession of a counterfeit deed a separate misdemeanor with appropriate prison/fine options

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, the municipal league, notaries, title insurers, clerks of court, bankers, and builders) consider the recommendation a high priority. Members representing some other perspectives (including real estate agents and land title and settlement agents) consider the recommendation a low priority.

The only dissent comes from a member representing the perspective of clerks of court.

Background

In most states, deed fraud is charged under general fraud statutes. Given the rise in the incidence of deed fraud, it is believed that having specific statutes that cover criminal actions related to deed fraud would help attract public attention that could result in property owners taking preventive measures against deed fraud. The potential financial loss to property owners and other victims of deed fraud warrants this type of crime be a felony with the potential for substantial jail time and/or fines. These actions have been taken by multiple states including but not limited to Maryland, Pennsylvania,

and Michigan. Maryland has taken an additional step in seeding a deed fraud prevention grant fund that will get future support from state appropriations and fines associated with deed fraud offenses.

19. Broad coverage including fraudulent recording, forged documents, and deceptive conveyances

Recommendation Details

To provide property owners with better protection and to provide definitional tools to support law enforcement efforts, it is recommended that the legal/criminal definition of deed fraud cover a range of documents and activities including:

- Fraudulent deed recordings: Filing or causing to be filed any deed, lien, mortgage, or other instrument affecting title to real property without lawful authority or consent.
- Forged documents: Creating, altering, or submitting documents containing forged signatures, false information, or fabricated identities.
- Forged signatures: Signing the names of another person by physical, electronic, or other means on any document affecting real property without their consent or legal authority.
- Deceptive conveyances: Transferring or attempting to transfer ownership of real property through misrepresentation, impersonation, or concealment of material facts.
- Notary fraud: Falsifying notarial acts, using a notary seal without authorization, or impersonating a notary public.
- Owner or seller impersonation: Representing oneself as the lawful owner or seller of a property without legal right or title.
- Fraudulent lien filing: Recording liens or encumbrances against property without a valid legal basis.

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, the municipal league, notaries, title insurers, clerks of court, and builders) consider the recommendation a high priority. Members representing some other perspectives (including real estate agents, title agents, and bankers) consider the recommendation a low priority.

Dissent comes from some members representing clerks of court and land title agents. One representative of clerks of court objects to making this recommendation without consulting and collaborating with commonwealth's attorneys.

Background

This recommendation expands on Recommendation 18, creating a specific set of actions constituting criminal deed fraud. Having separate detailed criminal code can help draw public awareness

to the issue of deed fraud, allow better tracking of the incidence of deed fraud, identifying repeat offenders, and removing ambiguities about actions that constitute deed fraud.

20. Multi-jurisdictional prosecution authority

Recommendation Details

To enhance the timely resolution of deed fraud and convenience for victims and potential victims of deed fraud, legal filings related to deed fraud may be filed in jurisdictions for

- Place of the subject property
- Place where the fraudulent papers were filed
- Place of residence of the rightful (original) property owner

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, notaries, title insurers, clerks of court, bankers, and builders) consider the recommendation a high priority. Members representing some other perspectives (including real estate agents, the municipal league, and land title and settlement agents) consider the recommendation a low priority.

Dissent comes from one member representing the perspective of clerks of court. One representative of clerks of court objects to making this recommendation without consulting and collaborating with commonwealth's attorneys.

Background

Anecdotal evidence suggests that many instances of deed fraud occur when owners of real property do not reside near the targeted property. Allowing the victim to choose where to file legal complaints regarding deed fraud to any relevant jurisdiction, including the victim's place of residence, allows for the more timely identification of potential deed fraud, and prevents the imposition of unreasonable burdens on deed fraud victims related to seeking court or law enforcement intervention from distance.

Victim remedies

21. Expedited court procedures for title restoration and automatic stays during criminal proceedings

Recommendation Details

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Upon a verified petition supported by sworn affidavit and documentary evidence, a judge in the appropriate court may issue *ex parte* orders to temporarily restrain or void the effects of a recorded deed lien or other instrument affecting real property if the court finds:

- Probable cause to believe the document was recorded fraudulently, included but not limited to
 - Forged signatures
 - Falsified notarial acts
 - Seller or owner impersonation
 - Deceptive conveyance or misrepresentation
- Relief may include but is not limited to
 - Temporary injunction against further transfer or encumbrance of the property
 - Order to suspend the legal effect of the recorded document
 - Order to the clerk of the court to flag the document as disputed in the land records system
 - Order for expedited hearings (within 14 days of issuance)

Technical Advisory Group Input

The TAG unanimously endorses this recommendation with an overwhelming majority considering it a high priority.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, notaries, land title and settlement agents, title insurers, clerks of court, bankers, and builders) consider the recommendation a high priority. One member representing the perspective of the municipal league considers the recommendation a low priority.

Members emphasize the importance of informing and preparing judges for these expedited hearings.

Background

Once deed fraud is detected, delays in legal intervention reduce the chances a victim can be made whole. Providing for judicial intervention through an *ex parte* proceeding lowers the legal and financial burden of recovery for victims, can lessen the magnitude of financial loss, and increases opportunities for successful law enforcement. It also allows for qualified intervention that relieves legal and administrative burdens on county clerks.

22. Minimum statutory damages, attorney fee recovery for successful plaintiffs

Recommendation Details

For civil proceedings where suit is brought by victims of deed fraud, successful plaintiffs will be awarded statutory damages and legal cost recovery, including attorney fees.

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Statutory Damages: Any person who is found liable in a civil action for committing deed fraud shall be subject to statutory damages in an amount not less than \$25,000 per affected property, regardless of actual damages proven, in addition to:

- Restitution of title or interest in the affected property
- Compensation for lost use, rental value, or sales value of the property
- Punitive damages where the fraud was willful or malicious, subject to statutory caps

Legal Cost Recovery: In any civil action brought under this section, the court will award the prevailing plaintiff:

- Reasonable attorney fees
- Court costs
- Expert witness fees related to proving fraud or forgery.
- Other reasonable costs incurred by the plaintiff in bringing suit

Burden of Proof of Deed Fraud: The plaintiff must prove deed fraud by clear and convincing evidence including but not limited to:

- Forged signatures
- Falsified notarial acts
- Deceptive conveyances
- Unauthorized recordings

Technical Advisory Group Input

The TAG generally endorses this recommendation.

Members representing some perspectives across the real estate transaction process (including mortgage lenders, notaries, title insurers, clerks of court, and builders) consider the recommendation a high priority. Members representing some other perspectives (including land title and settlement agents, the municipal league, clerks of court, and bankers) consider the recommendation a low priority.

Objection comes from one member representing the perspective of real estate agents. Some members express concern about the feasibility of tracking down and charging the fraudster, suggesting that the rare or minimal impacts of this recommendation may not be worth the effort spent to implement it.

Background

This recommendation provides civil remedies specific to acts related to deed fraud. This addresses issues of victim restitution not included in the criminal code and is an important consideration, especially for economically vulnerable victims.

23. Streamlined petition processes with standardized forms

Recommendation Details

The purpose of this recommendation is to expedite and simplify the process by which victims of deed fraud may petition the court to challenge fraudulent recordings and seek relief.

Petition filing with Circuit Court Clerk:

- Create a standard form for a Verified Petition for Relief from Fraudulent Conveyance that may be filed in any relevant jurisdiction (see recommendation on multijurisdictional filings).
 - Petition will include
 - Sworn affidavit detailing the suspected fraud
 - Supporting documentation such as prior deeds, identification, title reports)
 - A request for temporary relief, if applicable
- Direct Court Clerk shall
 - Accept the petition without requiring a full civil complaint
 - Immediately forward the petition to the presiding judge for review
 - Flag the affected property record in the land records system of the appropriate jurisdiction as “Disputed-Pending Judicial Review”
- Victims of deed fraud shall be eligible for a waiver of filing fees.
- Clerks of court, upon presentation of an appropriately completed Verified Petition for Relief from Fraudulent Conveyance have the authority to
 - Flag suspicious documents for judicial review
 - Refer suspected fraud cases to the commonwealth’s attorney or local law enforcement
 - Notify property owners if the county has established a Property Notification System that notifies property owners when documents are recorded under their name.
 - This provision does not require clerks of court to take any other action, such as forwarding the Verified Petition for Relief from Fraudulent Conveyance. Any filing with the clerk of the court is the responsibility of the property owner, complainant, or their authorized representative.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, and builders) consider the recommendation a high priority. One member representing bankers considers the recommendation a low priority.

Dissent comes from members representing the perspectives of mortgage lenders and clerks of court. One representative of clerks of court emphasizes that circuit courts are not form driven, but rather most of their pleadings are drafted by attorneys. The member also emphasizes the importance of collaborating with the Office of the Executive Secretary, along with the Clerks Forms Committee, for the

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development of any forms that would be available statewide. Additionally, the member proposes that any waiver of filing fees be statutory.

Background

To better protect victims of deed fraud, and to limit the burden of initiating actions to protect one's property from fraudulent conveyance, having a streamlined process for notifying the courts and county clerks of suspected fraud is in the public interest. Having a standard form establishing factual indications of deed fraud eliminates any confusion and reduces errors inherent when petition documents are not standardized across jurisdictions. Having standardized petition documents also enhances efficiency in training of county clerks, clerks of the court, owner representatives, promotes transparency, and enhances public convenience and effectively lowers the cost of seeking legal recovery for victims.

24. Establish an expedited process for correcting fraudulent transfers that would be less expensive and time consuming than a court action (e.g., procedure before Clerk of Court or a Commissioner of Accounts or similar); establish requirements to prove or document fraud

Recommendation Details

This recommendation extends the previous recommendation for a standardized form by which victims of deed fraud may notify a county clerk of fraudulent recordings.

Petition filing with Clerk of Court:

- Create a standard form for a Verified Petition for Relief from Fraudulent Conveyance (same as above).
 - Petition will include
 - Sworn affidavit detailing the suspected fraud
 - Supporting documentation such as prior deeds, identification, title reports
 - A request for temporary relief, if applicable
- Clerks of court, upon presentation of an appropriately completed Verified Petition for Relief from Fraudulent Conveyance have the authority to
 - Flag suspicious documents for judicial review
 - Refer suspected fraud cases to the commonwealth's attorney or local law enforcement
 - Notify property owners if the county has established a Property Notification System that notifies property owners when documents are recorded under their name.
 - Correct property records to remove the effect of fraudulent documents or conveyances.
 - This provision does not require clerks of court to forward the Verified Petition for Relief from Fraudulent Conveyance. Any filing with the Clerk of the Court is the responsibility of the property owner, complainant, or their authorized representative.
 - Any related county filing fees associated with correcting property records will be waived.

Technical Advisory Group Input

The TAG generally endorses this as a high-priority recommendation.

Members representing some perspectives across the real estate transaction process (including real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, bankers, and builders) consider the recommendation a high priority. One member representing mortgage lenders considers the recommendation a low priority.

Dissent comes from members representing the perspectives of clerks of court. Members hold that any order affecting real estate should be directly court-ordered, not ordered by a clerk.

Some members emphasize the belief that any such action regarding real estate should be directly court ordered.

Background

Even with *ex parte* court proceedings as an option for hastening a resolution to a deed fraud for property owners, court filings and actions may be intimidating to elderly and other vulnerable individuals. Consideration was given for the creation of a process that would use sufficient evidence for a county clerk to be able to recognize a fraudulent conveyance has occurred and to offer a mechanism for immediate redress, when such redress is limited to correcting ownership records.

25. Allow recordation of a corrective deed re-establishing title in the rightful owner without requiring additional recording and transfer taxes be paid by the defrauded parties, or

Recommendation Details

Irrespective of any other recommendations that may be adopted into law or administrative practices, any corrections required by court order or county clerk determination to correct property records shall have any state or substate jurisdictional fees, transfer taxes, or other financial obligations of the rightful owner will be waived.

It is recommended that any fees or taxes paid by persons engaging in deed fraud as a part of a fraudulent property conveyance shall not be recoverable upon the cancellation of the conveyance or correction of the property record.

Technical Advisory Group Input

The TAG unanimously endorses this recommendation as a high priority.

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Members representing some perspectives across the real estate transaction process (including mortgage lenders, real estate agents, the municipal league, notaries, land title and settlement agents, title insurers, clerks of court, bankers, and home builders) consider the recommendation a high priority.

Members emphasize that any waiver of fees or taxes must be statutory.

Appendices

Appendix A: Interdependent and Contradictory Recommendations

Interdependent Recommendations

- Recommendation 1 (Require real estate agents to verify seller's identity), Recommendation 1.1 (Require real estate agents to verify seller's identity prior to listing), and Recommendation 1.2 (Require real estate agents to verify seller's identity prior to real estate agent contract) must be paired with Recommendation 16.1 (Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents).
- Recommendation 2 (Require real estate agents to check tax records and send written communication to the owner's recorded address) must be paired with Recommendation 16.1 (Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents).
- Recommendation 5 (Require settlement agents to verify the identity of sellers in high-risk transactions) must be paired with Recommendation 16.1 (Require basic data security and deed-fraud awareness and prevention training and protocols for real estate agents, notaries, and settlement agents).

Contradictory and Redundant Recommendations

- Recommendations 1, 1.1, and 1.2 are intentionally redundant. Only one of these three recommendations should be adopted.
- Recommendation 9 (Training for clerks of court – and authorization to refuse a doc set if the RON seal is not valid) and Recommendation 10.1 (Training local clerks to assess the validity of RON notarizations and authorizing them to refuse a doc set if the RON seal is not valid) are intentionally redundant. Recommendations 10.1 and 10.2 are presented as specific additions to Recommendation 10.

Appendix B: Prevalence and Form of Deed Fraud

Prevalence

Deed fraud appears to be particularly prevalent in the northeastern United States but occurs nationwide (NAR, 2025). In 2023, 28% of title insurers saw at least one seller impersonation fraud attempt, and in April 2024 alone, 19% of insurers saw at least one attempt (ALTA, 2024b). Fraud and forgery claims cost title insurers 5x more than other types of claims and have increased rapidly over recent years, accounting for an average of 19% of all title claims from 2013-2020, followed by 27% in 2021 and 44% in 2022. This pattern is consistent across states. In 2023, 21% of the money spent by title insurers went toward fraud and forgery claims (ALTA, 2024a).

The FBI reported 9,521 complaints of real estate fraud (all real estate fraud, including deed fraud) in 2023 amounting to \$145,243,348 in associated losses. In 2022, the FBI reported 11,727 complaints with \$396,932,821 in losses, and in 2021, it reported 11,578 complaints with \$350,328,166 in losses (FBI, 2023).

Targeted Owners and Properties

In deed fraud situations where the real owner is unaware of the scam, victimized properties are more likely to be vacant or neglected than to be occupied in any capacity (NAR, 2025) (Sterk, 2023). Properties with recently deceased owners and properties with no mortgage also tend to be specifically targeted (Sterk, 2023; ALTA, 2023; New York State Attorney General, 2022).

In deed fraud situations where the real owner is scammed, victims tend to be in extreme financial distress, making them more vulnerable. In these cases, elderly homeowners also tend to be specifically targeted (OIG, 2022) (Chen, 2023).

Mechanisms and Qualities of Fraudulent Deed Transfers

- Fraudster requests cash sales (Sterk, 2023; FBI Newark, 2024; ALTA, 2024b).
- Property is listed below market value (FBI Newark, 2024).
- Signings and/or notarization are conducted remotely or online (ALTA, 2024b; FBI Newark, 2024).
- Notarization is fraudulent via fake or stolen notary credentials (ALTA, 2024b).
- Unknowing real estate agents and title agencies are utilized to conduct the fraud (ALTA, 2023).
- Public records are used to identify mortgage-free properties and their owners' identities (ALTA, 2023).
- Financially distressed homeowners are dishonestly convinced to transfer their deeds, believing they will be relieved of debt or signing agreements they do not know the details of (ALTA, 2023).
- Digitized deeds recorded and kept at the local level are used to identify victims (Sterk, 2023).
- A deed transferring the property to the fraudster is forged and recorded with the county, allowing the fraudster to sell the property (Sterk, 2023).

Various Presentations of Deed Fraud

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Deed fraud can present in different ways. Cases tend to fall into these categories:

1. A high value, not regularly occupied home (e.g., second home, vacation home) is fraudulently sold for cash to an unknowing buyer. The home is identified to be mortgage-free via public records. The fraudster forges a deed transferring the property to themselves, an accomplice, or an LLC and records it with the local authority. To execute the sale, the fraudster may use an unknowing real estate agency or list the property for sale by owner. Often, notarization is also fraudulent, with notary credentials either being stolen or forged. The fraudster may be operating in an organized ring with deep knowledge of the industry and processes. Throughout the process, the actual owner is completely unaware.
 - a. In Queens, NYC, a five-member organized ring forged deeds for three homes collectively worth over \$1 million owned by elderly homeowners. The fraudsters impersonated the owners and forged signatures on contracts to close "sales" on the properties (New York State Attorney General, 2022).
2. A vacant, rural property with no structures or abandoned structures is fraudulently sold for cash to an unknowing buyer. The property is identified to be vacant and mortgage-free via public records. The fraudster forges a deed transferring the property to themselves, an accomplice, or an LLC and records it with the local authority. To execute the sale, the fraudster may use an unknowing real estate agency or list the property for sale by owner. Often, notarization is also fraudulent, with notary credentials either being stolen or forged. The property may be listed below market value, the sale may be rushed, and the fraudster may request remote, virtual signings and notarization. Throughout the process, the actual owner is completely unaware.
 - a. In North Carolina, a title agency reported a \$33,000 loss from a vacant-lot fraud situation (ALTA, 2023).
3. A homeowner in financial distress who may be at risk of default or foreclosure is approached by a fraudster who dishonestly offers to assist them. The fraudster may convince the homeowner that transferring the deed will release them of debt or may get the homeowner to sign away the deed under false pretenses (e.g., telling them they are signing some other financial document). When the deed is transferred to the fraudster, the mortgage debt is not, allowing the fraudster to rent out the property until it is foreclosed. In contrast to examples (1) and (2), the actual owner is involved in this form of a deed fraud scam.
 - a. In Brooklyn and Queens, NYC, a disbarred lawyer preyed on vulnerable, financially distressed homeowners, dishonestly offering them a short sale in exchange for debt forgiveness. Owners unknowingly signed documents transferring the property to the fraudster without transferring their debt. The fraudster is accused of fraudulently obtaining some 40 properties through this method, many of which were rented out to unknowing tenants (Chen, 2023).

FBI Warnings

In 2024, the FBI Newark field office reported a trend of vacant lots getting wrapped up in deed fraud cases. Sometimes real estate agents are unknowingly involved, and sometimes the properties are

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listed as for-sale by owner. Either way, the “sellers” tend to accept below-market offers, demand virtual signings, and only accept all-cash offers (FBI Newark, 2024).

In April 2025, the FBI Boston field office issued a statement detailing rising counts of deed fraud in the Northeast. The FBI reports 58,141 victims and \$1.3 billion in losses associated with real estate fraud (generally, including deed fraud) (FBI Boston, 2025).

Sources

American Land Title Association (2023). Wire Fraud Advisory: Vacant Property Fraud. <https://www.alta.org/news-and-publications/news/20230124-Wire-Fraud-Advisory-Vacant-Property-Fraud>

American Land Title Association (2024a). Analysis of Claims and Claims Related Losses in the Land Title Insurance Industry. <https://www.alta.org/media/pdf/240517-analysis-of-claims-and-claims-related-losses-in-the-land-title-insurance-industry.pdf>

American Land Title Association (2024b). New Study Shows Increase in Seller Impersonation Fraud. <https://www.alta.org/news-and-publications/press-release/New-Study-Shows-Increase-in-Seller-Impersonation-Fraud>

Chen, S. (2023). He Admitted Stealing People’s Homes. He’s Charged With Doing It Again. <https://www.nytimes.com/2023/01/18/nyregion/solny-deed-theft-charges-ny.html>

De Freitas-Tamura, K. (2019). Why Black Homeowners in Brooklyn Are Being Victimized by Fraud. <https://www.nytimes.com/2019/10/21/nyregion/deed-theft-brooklyn.html>

FBI (2023). 2023 Internet Crime Report. https://www.ic3.gov/AnnualReport/Reports/2023_IC3Report.pdf

FBI Boston (2025). FBI Boston Warns Quit Claim Deed Fraud is on the Rise. <https://www.fbi.gov/contact-us/field-offices/boston/news/fbi-boston-warns-quit-claim-deed-fraud-is-on-the-rise->

FBI Newark (2024). Fraudsters Are Stealing Land Out from Under Owners. <https://www.fbi.gov/contact-us/field-offices/newark/news/fraudsters-are-stealing-land-out-from-under-owners>

National Association of REALTORS® (2025). Deed and Title Fraud Survey. <https://www.nar.realtor/research-and-statistics/research-reports/deed-and-title-fraud-survey>

New York State Attorney General (2022). Attorney General James Announces Arrests in New York City Deed Theft Ring. <https://ag.ny.gov/press-release/2022/attorney-general-james-announces-arrests-new-york-city-deed-theft-ring>

Office of the Inspector General (2022). Deed Fraud. <https://www.hudoig.gov/fraud-prevention/deed-fraud>

Stewart E. Sterk, Title Theft, 81 Wash. & Lee L. Rev. Online 161 (2023). <https://larc.cardozo.yu.edu/faculty-articles/811>

Appendix C: Deed Fraud and Notarization Vulnerabilities

Deed Fraud & Notarization Vulnerabilities: Literature Review

Key Discussion Points from Technical Advisory Group

Gaps in the Notarization Process

- *Virginia notaries are among the least regulated in the U.S. No training is required, yet they hold wide authority and can notarize documents in other states and countries.*
- *Notaries can be the “weakest link” in the process when it comes to deed fraud. Fraudsters exploit this by using fake IDs (easy to acquire) or stolen notarization credentials.*
- *Remote/Online Notarization: Strong support for online notarization using Knowledge-Based Authentication (KBA), which makes impersonation more difficult by requiring identity verification through personal history questions. Some note that it may be more difficult to forge an eNotary seal than a physical one.*
- *Anecdotes included stolen notary credentials still being listed as active, and the ease of acquiring fraudulent notary seals online.*
- *Notaries, agents, attorneys, and clerks all need to be involved in ensuring that the seller is who they say they are.*

Vulnerability 1: No training, testing, or education is required to become a notary public or eNotary in the commonwealth.

Requirements for notaries in the Commonwealth of Virginia

Virginia is one of 32 states that require no training, testing, or education to become a notary public (Thun, 2015). The requirements to qualify include:

- Be at least 18 years old
- Be able to read and write English
- Be a legal resident of the U.S.
- Be a resident of or have a place of employment in the Commonwealth of Virginia

(How to Become a Notary Public in Virginia, 2025).

If eligible, the process to become a notary public in the commonwealth is:

1. Complete the application paperwork and pay a \$45 application fee.
2. Have the application notarized by a Virginia notary. Mail the application to the Office of the Secretary of the Commonwealth.
3. Notice of approval will be issued within two to three weeks. Upon approval, take the oath of office at the Circuit Court and pay the \$10 court fee.
4. Obtain a notary seal in accordance with the law:
 - a. The seal may be either an ink stamp or embosser and embosser inker
 - b. The seal must be sharp, legible, permanent, and photographically reproducible

- c. The seal must include the notary's name, "Notary Public," and "Commonwealth of Virginia"

No education, exams, or other training is required to begin notarizing. Neither surety bonds nor insurance are required for Virginia notaries.

There are two ways that notaries in Virginia are allowed to use to establish proof of the signer's identity (Office of the Secretary of the Commonwealth of Virginia, 2024):

1. Identification document: Examination of a United States Passport Book, a United States Passport Card, a certificate of United States citizenship, a certificate of naturalization, a foreign passport, an alien registration card with photograph, a state issued driver's license or a state issued identification card or a United States military card
2. Credible witness: Identification of the signer by a credible witness who personally knows both the notary and the signer or who personally knows the signer and presents one of the documents listed in (1).

Requirements for eNotaries in the Commonwealth of Virginia

Additionally, there is no testing, training, or education required to become a remote electronic notary (eNotary) in Virginia. Any individual already commissioned as a notary public in the commonwealth can acquire an electronic seal, create an electronic signature through a RON technology vendor, submit the application and pay a \$45 fee to the Secretary of the Commonwealth, and become a registered eNotary ("How to Become a Remote Electronic Notary in Virginia," 2022).

According to the law, RON must be completed via two-way live teleconference; in other words, all parties must be able to simultaneously see and speak to one another in real-time through a secure signal transmission. Electronic notaries in the commonwealth are required to keep a journal of their electronic notarizations.

There are multiple ways that eNotaries in Virginia are allowed to use to establish proof of the signer's identity (Office of the Secretary of the Commonwealth of Virginia, 2024):

1. Personal knowledge: The notary personally knows the signer.
2. Credible witness: A credible witness identifies the signer and is either personally known to the notary or is identified by two of the following methods.

OR two of the following:

3. Identification document: The signer presents a valid government issued identification document containing a photograph and signature.
4. Antecedent proofing: The signer's identity has previously been proven in-person by a trusted third party (e.g. employer, law firm, bank).
5. Digital certificate: The signer's identity is verified by biometrics or a Personal Identification Card (PIV or PIV-I).

6. Knowledge-based authentication (KBA): The signer is required to answer personally specific questions generated by a third-party system using public records and credit history.

Lack of Training Leaves Virginia Notaries Vulnerable to Fraud

The lack of training required to become a notary public or eNotary in the commonwealth could leave notaries unprepared to identify bad actors and avoid notarizing fraudulent deed transfers. Without training emphasizing the gravity of the consequences of notarization fraud or spelling out the signs of fraud to watch out for, notaries may not understand the potential risk. Moreover, they may not fully understand the requirements spelled out in the legislation dictating their responsibilities, such as acceptable forms of identification from signers. The National Notary Association reports over 130,000 calls per year, many of which are from licensed notaries asking questions about basic requirements for carrying out notarizations. For example, according to the Secretary of State, two thirds of the cases of notary misconduct in Colorado are related to notarizations occurring without the signer present (Thun, 205).

Social engineering is when bad actors trick or otherwise influence unknowing victims into performing actions or divulging secure information that they otherwise would not. In the notarization process, fraudsters may use social engineering to trick a notary into skipping parts of the identity verification process or otherwise bending the rules. Bad actors who engage in social engineering look for victims that will be easily manipulated into bypassing security measures (Steinmetz, 2020). These bad actors self-reportedly seek out victims who

- have access to something of value to the bad actor, like private information or the power to notarize a fraudulent document
- are uninformed or naive, lacking training and education that could make them robust to fraud
- are unconcerned, either because they do not feel invested in the security of their work or because they are simply too busy and overwhelmed to be concerned
- are friendly and helpful, eager to “help out” without suspicion

Social engineers self-report patterns that arise in successful manipulation attempts (Steinmetz, 2021):

- Research and planning: Fraudsters may spend significant time collecting information before engaging with the victim. In the case of deed fraud and notarization fraud, the bad actor may spend time collecting information on the homeowner they are impersonating in order to pass KBA tests, or they may spend time collecting information on the notary they are attempting to manipulate.
- Proximity: Fraudsters may attempt to build trust with the victim or choose victims that they already have rapport with. In the context of deed fraud and notarization fraud, this could look like bad actors taking advantage of notaries that they have an established personal relationship with (e.g. coworkers, family members, friends).

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- Getting the victim to act: Social engineers self-report two strong methods for getting victims to act in their favor. One effective method is showing vulnerability by asking the victim for “help.” In notarization fraud, this could look like the fraudster asking for a favor (e.g., because “their family member who signed the deed transfer is sick right now,” etc.). The other method is offering some kind of incentive to the victim. In notarization fraud, this could look like directly paying off the notary, making them a knowing accomplice.
- Concealment: Social engineers self-report tactics for keeping their attacks concealed in order to minimize suspicion from victims. These include creating a sense of trust and authenticity with the victim and either keeping the interaction mundane and ordinary or making the interaction seem like a one-off urgent, unusual request. In deed fraud and notarization fraud, the former could look like impersonation of a homeowner complete with fraudulent identification and correct answers to KBA questions. In other words, the situation seems completely straightforward to the notary. The latter could look like the fraudster taking advantage of the notary’s friendliness or willingness to help by asking for a favor or creating an intense sense of urgency to manipulate the victim to act quickly.

Common tactics used by fraudsters to trick notaries include (Lewis, 2024; Lewis, 2025):

- Urgency: The fraudster may communicate urgency and request a rushed notarization, possibly leading the notary to cut corners and not exercise due diligence in the identity verification procedure.
- Asking for a favor: If the fraudster and the notary have a standing friendship or other relationship (e.g. co-workers), the fraudster may take advantage of that relationship by asking for a favor (e.g. to notarize a deed transfer allegedly signed by a family member who is not present; a boss pressuring a notary to notarize company documents without the signer present).
- Charm, sympathy, social pressure: Even if the fraudster and the notary do not have a previous relationship, the fraudster may still take advantage of politeness, sympathy, and social norms to get the notary to cut corners in the notarization process (e.g. the fraudster may express emotional distress; the fraudster may be, or claim to be, in some position of authority).

The psychology behind social engineering scams is related to (“The Psychology Behind Scams,” 2024; “Why do smart people fall for scams,” 2025):

- Optimism bias: This cognitive bias can make people underestimate their own risk of being scammed.
- Confirmation bias: People tend to look for information that confirms what they already believe and ignore information that contradicts it.
- Urgency / Fear tactics: When people are put into a heightened emotional or stressful state, they may act irrationally and not carry out due diligence.
- Emotional manipulation: Fraudsters may take advantage of people’s empathy and willingness to help others.

Vulnerability 2: The remote online notarization (RON) process is vulnerable to AI-generated deepfake impersonations.

Fraudsters may use AI deepfake technology to appear “on-camera” as somebody else during a fraudulent RON signing (“Digitally Disguised,” 2024; Granfield, 2025; Levonick, 2025). Deepfakes are a relatively new threat, only becoming a significant fraud method in the past two or three years. These manipulated video livestreams and photos can be used to pass biometric checks that use facial recognition to compare a signer’s face with the photos on their identification documents. Deepfakes account for an estimated 40% of video biometric identification fraud attempts, and this number will likely rise as AI technology becomes more advanced (Markey & Horswell, 2025). Deepfakes can take multiple forms (Markey & Horswell, 2025):

- “Face swap” deepfakes use AI technology to map a source image or video of the impersonator’s target onto the impersonator’s face. Combined with AI voice filtering technology, this method allows the fraudster to appear live “on-camera,” speaking with the RON and moving naturally.
- Generated deepfakes use AI to generate videos either replicating an actual target’s face or generating a completely new, not real face. These deepfakes do not use live mapping.
- Lip syncing/editing deepfakes use AI to edit real source videos of the target to make their mouth appear to say something fabricated.

To actually deploy deepfakes in the RON process, fraudsters may use injection attacks. This may take the form of a virtual camera, where software is used to stream deepfake footage in a way where the signal appears identical to real physical webcam footage on the video streaming platform being used by the eNotary to verify the signer’s identity. A more sophisticated version of this is known as a network injection, where the fraudster uses code to directly insert the deepfake footage over the internet (Markey & Horswell, 2024).

Case study: A recent example of this happened in Hallandale Beach, Florida, when a fraudster used deepfake technology to disguise their identity in a RON video call (see Matter, 2024).

Vulnerability 3: Knowledge-based authentication (KBA) used in RON can be bypassed by bad actors pulling breached personal data from the internet.

Knowledge-based authentication (KBA) systems use an individual’s credit history, financial information, and other personal information to generate questions that, in theory, only that individual would be able to correctly answer. KBA typically comes in the form of a quiz with a few questions and time limits (Thun, 2024; Hearn, 2023). In the commonwealth, eNotaries can use KBA to verify the identity of the signer.

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KBA questions often refer to previous addresses, phone numbers, mortgage or other loan payments, and similar personal data collected and kept by credit agencies. The inherent vulnerability in the KBA system is that this type of data has historically been breached, sold, and distributed across the internet over recent decades (Fung, 2018; Krebs, 2013). Moreover, information posted on social media could be used to deduce the answers to some of these questions (e.g. ZIP codes, area codes). Fraudsters may be able to buy or otherwise access all the data necessary to correctly answer KBA questions presented to them at the time of RON (Hearn, 2024; Shultz, 2024).

Case study: A journalist shares KBA questions generated to verify his own identity and demonstrates how fast and straightforward it is to find all the necessary information on Google (see Hearn, 2023).

Vulnerability 4: AI has made it easier than ever for fraudsters to produce convincing forged personal identification, signatures, contracts, and other items.

Advancements in AI technology have made it easier than ever to produce realistic forged documents with virtually any computer (Markey & Horswell, 2024; Griffith, 2024). According to a 2024 study by Entrust Cybersecurity Institute, digital forgeries are outnumbering physical forgeries in document fraud cases for the first time ever (with digital forgeries at 57.46% of cases). This prevalence of digital forgery represents a 1,600% increase in cases since 2021 (Markey & Horswell, 2024).

In some reported cases, this takes the form of forged signatures on deed transfers or other contracts that may additionally be falsely notarized through forgery or stolen credentials (McLaughlin, 2024; Griffith, 2024; Mendoza, 2025). AI tools can reproduce an individual's handwriting and signature with a small sample of training material (Granfield, 2025).

With AI image generation becoming increasingly accessible, the fabrication of identification documents like passports, driver's licenses, Social Security cards, and other government-issued documents has become a larger threat (Thun, 2025; Kofsky & Morris, 2024). Fraudsters may use publicly available data to create identification documents with, for example, the real name and birthdate of the rightful owner of a property to convince a notary, real estate agent, title insurer, or other party that they are that individual. Remote online notarization could be especially vulnerable to these kinds of forgeries, as the notary lacks the opportunity to hold and physically inspect the documents.

Case study: A vacant New Jersey property was listed for sale by an unknowing real estate agent who was contacted over the phone by a fraudster claiming to own it. The fraudster fabricated driver's licenses with the real names of the couple who actually owned the property, and the real estate agent listed the land for sale. When a high offer came in, the fraudster urged the agent to quickly accept and provided a deed transfer likely fraudulently notarized. The fraudster received half the buyer's payment before the scam was realized (Kofsky & Morris, 2024).

Case study: In 2024, offshore scammers forged the signature of the late Lisa Marie Presley on a deed transferring ownership of Elvis Presley's Graceland mansion in Memphis, Tennessee, and attempted to auction off the property before being caught (McLaughlin, 2024).

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Case study: A community organizer in Detroit stole over 30 homes by forging quitclaim deed transfers to nonexistent entities and then “selling” them (Griffith, 2024). Quitclaim deeds are simple documents that do not contain any guarantees on the property, making them easy targets for forgery.

Case study: A real estate broker in Saratoga County, New York, was recently arrested for attempting to fraudulently sell a property to herself by forging the owner’s signature on documents (Mendoza, 2025).

Vulnerability 5: Fraudsters may forge or steal notary and eNotary credentials to fraudulently notarize documents before registering them with the clerk.

Before widescale digitization of property records and other documents, forging a notary’s seal and signature required physically pulling a deed from the county clerk’s office and attempting to replicate it. Now, these records are widely available on the internet, and purchasing a fake notary stamp or forging a notary’s seal on a rubber stamp is easy (“Notary theft,” 2024). Further, these publicly available records can be used as reference material for AI-generated stamps and signatures used in forgeries.

Electronic notary credentials are more difficult to forge, as they use timestamped, encrypted digital certificates (Furey, 2024). The unique cryptographic seals attached to these digital certificates cannot be forged; a fraudster would need access to a notary’s account with their third-party digital certificate provider.

Case study: The National Notary Association surveyed its members and reported dozens of anecdotal cases of notaries dealing with their credentials being stolen or forged (Browne, 2024).

Sources

How to Become a Notary Public in Virginia (2025). National Notary Association. <https://www.nationalnotary.org/virginia?srsId=AfmBOooFEXIFIMhuatu3QZLOk4tEUDwG0NkDi48OrqZHWHMcaFCheSHb>

How to Become a Remote Electronic Notary in Virginia (2022). National Notary Association. <https://www.nationalnotary.org/knowledge-center/remote-online-notary/how-to-become-a-remote-online-notary/virginia>

Thun, D. (2015). The Case for Education. *The National Notary*, 10-14. <https://www.nationalnotary.org/file%20library/nna/the-national-notary/archive/2015-december.pdf?srsId=AfmBOooCVF5adK7H9Qdh2Az7tBFtXPLjC00jKS9DtpolGTZ6rgpxfY8n>

Lewis, M. (2024). 5 scammers Notaries need to watch out for. *The National Notary Bulletin*. National Notary Association. <https://www.nationalnotary.org/notary-bulletin/blog/2018/07/5-scammers-notaries-need-to-watch-out-for?srsId=AfmBOorOG35T3SlmjgoVouMI88alrp6vhlo6nd00YcNLGXa4URHqLDN>

SB1270-HB2396 Deed Fraud Study Final Report

Lewis, M. (2025). Tricks fraudsters use to scam Notaries. *The National Notary Bulletin*. National Notary Association. <https://www.nationalnotary.org/notary-bulletin/blog/2019/01/duping-notaries-tricks-fraudsters->

use#:~:text=By%20Michael%20Lewis%2C%20Updated%20June,the%20parents%20weren't%20present.

The Psychology Behind Scams: Why People Get Fooled. (2024). Members 1st Credit Union. <https://www.m1cu.org/news/articles/the-psychology-behind-scams-why-people-get-fooled>

Why do smart people fall for scams? (2025). First Merchants Bank. <https://www.firstmerchants.com/why-us/news/2025/01/29/why-do-smart-people-fall-for-scams>

Steinmetz, K. F., Pimentel, A., & Goe, W. R. (2021). Performing social engineering: A qualitative study of information security deceptions. *Computers in Human Behavior*, 124(1). <https://doi.org/10.1016/j.chb.2021.106930>.

Steinmetz, K. F. (2020). The Identification of a Model Victim for Social Engineering: A Qualitative Analysis. *Victims & Offenders*, 16(4), 540–564. <https://doi.org/10.1080/15564886.2020.1818658>

Digitally Disguised: Deepfakes and Remote Notarial Acts. (2024). National Notary Association. <https://www.nationalnotary.org/file%20library/nna/knowledge%20center/outside%20pdfs/digitally-disguised-deepfake-position-2024-2.0.pdf>

Markey, J. & Horswell, S. (2024). Rise of Sophisticated Fraud and Deepfakes at Scale. Entrust Cybersecurity Institute. <https://www.entrust.com/blog/2024/11/rise-of-sophisticated-fraud-and-deepfakes-at-scale>

Matter, B. (2024). 'It shocked me': Scammers now using AI deepfakes to fraudulently sell real estate. Local10. <https://www.local10.com/news/local/2024/09/19/it-shocked-me-scammers-now-using-ai-deepfakes-to-fraudulently-sell-real-estate/>

Levonick, J. (2025). Deepfakes at the Closing Table: Protecting Financial Institutions from AI-Enabled Fraud in Remote Online Notarizations. Medium. https://medium.com/@john_levonick/deepfakes-at-the-closing-table-protecting-financial-institutions-from-ai-enabled-fraud-in-remote-4d8873fb72aa

Granfield, T. (2025). What You Need to Know About Deepfake Risks in Real Estate Closings. Qualia. <https://blog.qualia.com/what-you-need-to-know-about-deepfakes/>

Krebs, B. (2013). Data Broker Giants Hacked by ID Theft Service. Krebs on Security. <https://krebsonsecurity.com/2013/09/data-broker-giants-hacked-by-id-theft-service/>

Fung, B. (2018). Equifax's massive 2017 data breach keeps getting worse. *The Washington Post*. <https://www.washingtonpost.com/news/the-switch/wp/2018/03/01/equifax-keeps-finding-millions-more-people-who-were-affected-by-its-massive-data-breach/>

Shultz, J. (2024). Replacing Knowledge-Based Authentication Is Long Overdue. Socure. <https://www.socure.com/blog/replacing-knowledge-based-authentication-is-long-overdue>

SB1270-HB2396 Deed Fraud Study Final Report

Hearn, C. (2023). Why knowledge-based authentication (KBA) is not effective. Alloy. <https://www.alloy.com/blog/answering-my-own-authentication-questions-prove-that-theyre-useless#:~:text=The%20Equifax%20breach%20of%202017,but%20they%20certainly%20won't.>

Thun, D. (2024). How do you identify signers for a remote online notarization? *The National Notary Bulletin*. National Notary Association. https://www.nationalnotary.org/notary-bulletin/blog/2020/04/identify-signers-remote-online-notarization?srsId=AfmBOoplyRUnKhN3HNfjVuvdcqz_hF1xNxRKPvCdqUwnn67Gls8QDQwR

Thun, D. (2025). Report: fake AI passports put Notaries on alert. National Notary Association. <https://www.nationalnotary.org/notary-bulletin/blog/2025/05/report-fake-ai-passports-put-notaries-on-alert>

Kofsky, J. & Morris, K. (2024). FBI warns scammers are impersonating landowners to sell properties to unsuspecting buyers. ABC News. <https://abcnews.go.com/US/fbi-warns-scammers-impersonating-landowners-sell-properties-unsuspecting/story?id=113218044>

McLaughlin, K. (2024). How Scammers Are Using AI to Try to Steal Multimillion Dollar Properties. Architectural Digest. <https://www.architecturaldigest.com/story/how-scammers-are-using-ai-to-try-to-steal-multimillion-dollar-properties>

Griffith, K. (2024). Deed Fraud Is On the Rise—Here's How To Protect Your Home. National Association of REALTORS®. <https://www.realtor.com/news/trends/deed-fraud-quitclaim-home-title-theft/?msockid=06f243a200d061313b56504301c4601b>

Mendoza, C. (2025). NY broker charged for forging deed in alleged property fraud scheme. Mortgage Professional America. <https://www.mpamag.com/us/news/general/ny-broker-charged-for-forging-deed-in-alleged-property-fraud-scheme/537039>

Browne, P. (2024). Notary Voices: Thieves stealing your Notary seals. National Notary Association. <https://www.nationalnotary.org/notary-bulletin/blog/2024/08/notary-voices-thieves-stealing-your-notary-seals>

Notary theft causes complicated problems (2024). The Legal Description. <https://www.thelegaldescription.com/tld/articlestld/notary-theft-causes-complicated-problems-93242.aspx>

Furey, L. (2024). Proof Digital Certificates Now Available for Notaries on the Proof Platform. Proof. <https://www.proof.com/blog/proof-digital-certificates-now-available#:~:text=Your%20digital%20certificate%20serves%20as,than%20a%20paper%2Dbased%20notarization.>

Appendix D: Deed Fraud and Real Estate Agent Vulnerabilities

Real Estate Agent Vulnerabilities and Recommendations

A 2025 National Association of REALTORS® survey found that 63% of association executives, attorneys, and government affairs directors were aware of deed fraud occurring in their markets in the past year. Over half of real estate professionals surveyed by CertifID in 2023 reported experiencing at least one attempt of seller impersonation within the previous six months. Real estate agents represent one of many vulnerable points in the real estate transaction process.

Vulnerability: Virginia real estate agents lack training and tools specifically focused on fraud detection and prevention.

In Virginia, agents must complete only 60 hours of pre-licensing education, a 30-hour post-licensing curriculum within the first year, and 16 hours of continuing education every two years. Mandatory topics cover ethics, contracts, agency, legal updates, and fair housing, but fraud detection and identity verification are not required. (Courses on wire fraud, data fraud, etc., are electives only.) If an agent were to suspect a seller of fraud, they may lack access to the data and tools needed to verify the seller's identity.

Possible solutions specifically regarding real estate agents identified in the literature and industry practice include:

1. Mandated early identity verification at the listing stage

In most transactions, the first identity verification happens at closing. Requiring agents to verify a seller's identity before accepting a listing agreement using third-party tools (Forewarn, CertifID, etc.) could prevent fraudulent actors from entering the transaction pipeline at all. This requirement could mirror the standard identity verification processes that notaries follow for signers.

In Canada, the United Kingdom, and other countries, real estate agents are legally required to verify the identities of their clients as an effort to prevent fraud.

2. Required fraud-specific training

The commonwealth could integrate required modules on deed fraud, seller impersonation, and digital security into Virginia's pre-licensing, post-licensing, and continuing education requirements. Arizona's continuing education (CE) requirements now include a specific hour on deed fraud, providing a precedent for Virginia.

In Arizona, real estate agents must complete 24 hours (and brokers must complete 30 hours) of CE every two years in order to renew their licenses. As of 2025, agents are required to complete one hour of training specifically on deed fraud (identifying and preventing fraudulent real estate transactions) as part of their CE hours (Arizona Department of Real Estate).

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3. Centralized fraud reporting portals

Create a standardized, local or state-level online form where real estate agents can report suspicious "sellers." Reports could automatically notify clerks to flag the associated property file.

Sources and Notes

National Association of REALTORS® (2021). GEOGRAPHIC TARGETING ORDERS (GTOS).

<https://www.nar.realtor/sites/default/files/documents/Geographic-Targeting-Orders-Educational-Brochure-04-30-2021.pdf>

- GTOs were first issued by FinCEN in 2016.
- Geographic targeting orders require title insurance companies to verify the identities of "individuals behind legal entities" involved in cash real estate purchases.
- CA, FL, HI, IL, MA, NV, NY, TX, WA have GTOs
- GTOs don't apply to real estate agents, but a similar policy structure could be used to require agents to verify the identities of potential clients early in the transaction process.

Proof (2024). To Prevent Seller Fraud, Verify Seller Identity Before Closing.

<https://www.proof.com/blog/prevent-seller-fraud-verify-seller-identity-before-closing>

- Sellers' identities are not verified at the beginning of the listing process. Listing agents, who often work remotely with sellers (especially those who live in a different state or country), are not required to verify sellers' identities.
- Title companies may collect information about the buyer and seller but are not required (and often do not) verify the identities of the buyer and seller.
- Most often, the first verification of the seller's identity is by the notary or signing agent at closing.
- Fraudulent sellers really only have to "trick" one person (the notary) in the transaction process as it currently exists. Adding additional requirements for identity verification by independent parties (listing agent, title insurer, title company, notary) may allow for less fraudulent sellers to slip through the entire process.

Palomares, L. (2024). Your Guide to Identity Verification for Real Estate Transactions.

<https://www.certifid.com/article/guide-to-identity-verification-for-real-estate-transactions>

- Real estate agents should use identity verification as a first step when initiating a new sale in order to prevent fraud.
- GTOs require title companies to verify the identities of entities making cash real estate purchases greater than \$300,000.

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Business Wire (2023). Over Half of U.S. Real Estate Professionals Experienced a Seller Impersonation Fraud Attempt in 2023. <https://www.businesswire.com/news/home/20231107876534/en/Over-Half-of-U.S.-Real-Estate-Professionals-Experienced-a-Seller-Impersonation-Fraud-Attempt-in-2023>

- A CertifID survey (Oct 2023) states that 54% of real estate professionals have encountered a seller impersonation attempt within the past six months.

National Association of REALTORS® Research Group (2025). 2025 Deed & Title Fraud Survey. https://cms.nar.realtor/sites/default/files/2025-05/2025-deed-and-title-fraud-survey-report-05-29-2025.pdf?_gl=1*sbiau2*_gcl_au*MTIxNjEzMTEwOC4xNzUyNTIyMjU5

- Survey of REALTOR® association executives, attorneys, and government affairs directors
- 63% of respondents are aware of deed fraud occurring in their markets within the past year. 59% of respondents from the South are aware of deed fraud occurring in their markets within the past year.
- REALTORS® most commonly report encountering fraud in central cities and urban areas (64%) and suburban areas (62%). In small towns, 40% of REALTORS® report encountering fraud.
- REALTORS® most commonly encounter fraud involving vacant land (62% of occurrences). Instances involving owner-occupied land make up just 12% of occurrences.
- The most common intervention reported by REALTORS® is a electronic notification system that notifies owners when documents are filed regarding thier property.
- Some REALTORS® report that their local recorders are allowed to use their discretion to flag and delay suspicious filings (in AZ, IN, MI, ND, SC, TN, WA).
- Some states have a property title freeze system similar to a credit freeze system (AZ, IN, ME, SC).
- Some states allow verified/authorized filers (attorneys, title agents) to file remotely while others are required to file in person (AZ, IN, MA, NV)
- Some states have begun creating expedited quiet title processes to investigate and resolve fraud (FL, NV)
- To REALTORS®, the perceived most effective solutions include
 - Electronic notification system (83% of respondents)
 - Property title freeze system (61%)
 - Local recorders ability to flag suspicious filings (60%)
 - Creating expedited quiet title process to investigate (39%)
 - Safe harbor for agents to mitigate fraud (35%)
 - Known filer system (34%)

Appendix E: Deed Fraud and Notary Fraud Targeting Spanish Speakers

Deed Fraud and Notary Fraud Targeting Spanish Speakers

An estimated 505,407 Virginians older than 18 speak Spanish as their primary language at home. Of those, an estimated 233,202 individuals speak English less than “very well” as designated by the Census Bureau (ACS 2023). These individuals are at risk of the types of title fraud targeting Spanish speakers detailed below.

Deed Fraud Targeting Spanish Speakers

The Hispanic community, especially native Spanish speakers, is especially vulnerable to real estate fraud. Common scams disproportionately affecting this group include:

- **Predatory lending:** Native Spanish speakers with limited English and young or poor credit may be especially vulnerable to predatory lending terms. These terms may include exorbitantly high interest rates, hidden fees, or misleading marketing (e.g., a lender may mislead the victim into thinking they are a government official).
- **Foreclosure rescue scams:** Families in financial distress who are at risk of foreclosure may be preyed on by fraudsters offering to buy the home and rent it back to the family only to pocket the money and let the home be foreclosed.
- **Other loan modification scams:** Bad actors may target native Spanish speakers in loan modification scams, falsely promising to lower their mortgage payments, charging high and useless fees, convincing them to redirect mortgage payments to the fraudster, and sometimes convincing them to sign away their home title.

The California Department of Real Estate has observed a pattern of real estate fraud targeting Hispanic communities. These schemes often involve fraudsters falsely offering loan modifications or foreclosure rescue and proceeding to charge exorbitant fees for their “services.” Fraudsters may convince or trick victims into redirecting their mortgage payments or, in some instances, transferring their property deed to the fraudster (Bell, 2012).

Case study: The U.S. Department of Justice recently pressed charges against a group of fraudsters targeting Spanish-speaking homeowners in Florida. The scammers falsely advertised, in Spanish, loan modification services that would cut homeowners’ mortgage payments in half. The group charged high fees and convinced victims to stop paying their real mortgage lenders, resulting in many families defaulting on their mortgages and losing their homes (U.S. Dept of Justice, 2025).

Case study: The U.S. Department of Justice and the U.S. Consumer Financial Protection Bureau recently pressed charges against a Texas land developer who targeted thousands of Spanish speakers in a real estate fraud scheme. The developer offered predatory loans for flood-prone properties without water or sewer connections, and when the properties were foreclosed, the developer resold them under the same misleading terms (Gillison, 2023).

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Case study: Fraudulent “property investor” Michael O’Sullivan has engaged in deed fraud targeting at least 15 Hispanic families in and near East Hampton, New York, in recent years. His scams involve buying properties in foreclosure and “selling” them, collecting payments without ever actually transferring the title or applying the funds to the property. With O’Sullivan taking multiple mortgages out on these properties, the victims end up at risk of eviction with nothing to show for the hundreds of thousands or millions they paid to the fraudster. O’Sullivan and his accomplices (attorneys and title insurance companies) specifically target Hispanic immigrant families who are especially vulnerable (Gangemi, 2025; Dowding, 2025).

‘Notario’ Fraud Targeting Spanish Speakers

This phenomenon of deed fraud targeting Hispanic communities is different from ‘Notario’ fraud, which is a separate important issue.

‘Notario’ fraud is a scheme where notaries public in the U.S. take advantage of the Spanish language translation of their title: notario publico. In many Spanish-speaking countries, notarios publicos are trained legal professionals with the ability to provide legal advice and draft legal documents. As such, bad actors may advertise themselves using the term “notario publico” to charge Spanish speakers for phony legal services they are not legally entitled to provide. This fraud can result in victims losing large sums of money and, in some cases, having their immigration status placed in jeopardy (Cossman, 2023; Jany, 2025).

In 2014, the Virginia General Assembly passed legislation that prohibits Virginia notaries from advertising with the words “notario,” “notario publico,” and “licenciado” in order to discourage this type of fraud in the commonwealth.

Sources

U.S. Department of Justice. (2025). *Justice Department Obtains Relief in Lawsuit Alleging Discriminatory Targeting of Hispanic Homeowners* [Press Release]. <https://www.justice.gov/archives/opa/pr/justice-department-obtains-relief-lawsuit-alleging-discriminatory-targeting-hispanic>

Soto, A. (2022). How Hispanic Families Can Guard Against Mortgage Scams. Synchrony. <https://www.synchrony.com/blog/banking/understanding-mortgage-scams>

Gillison, D. (2023). US charges Texas developer with allegedly targeting Hispanics in land sale scheme. Reuters. <https://www.reuters.com/legal/government/us-doj-consumer-bureau-sue-texas-developer-predatory-lending-2023-12-20/>

Dowding, J. (2025). NY Attorney General's Office files motion to pause eviction of East End family alleging deed fraud. News 12 Long Island. <https://longisland.news12.com/ny-attorney-generals-office-files-motion-to-pause-eviction-of-east-end-family-alleging-deed-fraud>

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Gangemi, C. (2025). Dreams Become Nightmares for Would-Be Buyers. East Hampton Star. <https://www.easthamptonstar.com/police-courts/2025626/dreams-become-nightmares-would-be-buyers>

Bell, W. (2012). Special Warning to Non-English Speaking Hispanic California Homeowners. California Department of Real Estate. https://dre.ca.gov/files/pdf/ca/2012/ConsumerAlert_FraudWarningSpanishSpeakers.pdf

Jany, L. (2025). Immigration 'notario' scams coming back under Trump's crackdown, authorities warn. Los Angeles Times. <https://www.latimes.com/california/story/2025-06-14/notario-immigration-fraud-trump-deportations>

Cossman, S. (2023). Nefarious Notarios: Responding to Immigration Scams as White Collar Crime as a Matter of Public Policy. *Refugee L. & Migration Stud. Brief*, 1(2). <https://digitalcommons.wcl.american.edu/refugeemigrationstudiesbrief/vol1/iss2/3>

Additional prohibition on advertising; penalties, H.B. 492, Ch. 783, Va. Gen. Assemb. (2014). <https://legacylis.virginia.gov/cgi-bin/legp604.exe?141+ful+CHAP0783>

Appendix F: Technical Advisory Group Meeting Agendas

June 25, 2025; 10am-12pm

SB 1270 Deed Fraud Technical Advisory Group Agenda

Group Members

Virginia Bankers Association: **Bruce Whitehurst**, President & CEO; **Matthew Bruning**, EVP, Government & Member Relations; **Tristan Macdonald**, VBA Vice President, Government & Member Relations

Virginia Court Clerks Association: **Kelly L. Flannagan**, President; **Llezele Dugger**, Legislative Committee

Community Associations Institute (CAI): **Dawn M. Bauman**, Executive Director/Chief Strategy Officer; **Phoebe Neseth**, Senior Director, Government & Public Affairs and CCAL Liaison

Virginia Association for Commercial Real Estate (VACRE): **Martha D. Marks**, Executive Vice President; **Sarah Thomas**, Manager, State and Federal Government Relations; **Phil Abraham**, Director and General Counsel

Home Builders Association of Virginia: **Craig Toolson**, CEO; **Andrew Clark**, Vice President of Government Affairs; **Melissa McPherson**, Safe Harbor Title Company President

Virginia Municipal League (VML): **Michelle Gowdy**, Executive Director; **Josette Bulova**, Policy Communications Coordinator

Virginia Association of Notaries: **Kimberly B. Wright**, Vice President/Interim President, **Juanita Little Lyons**, Board Member

Virginia Land Title Association: **Leigh Hubbard**, Executive Director; **Katherine Crawford**, Virginia State Counsel at First American Title

Virginia REALTORS®: **Rick Lugg**, CEO; **Erin Kormann**, SVP of Legal Operations & Legislative Counsel

Virginia Bar Association Real Estate Council: **Paul Fletcher**, Executive Director & Chief Executive Officer; **Kay Creasman**, Chair; **Whitney Jackson Levin**, Member

Virginia Mortgage Bankers Association: **Bill West**, President-Elect & VAMPAC Chair

Virginia Housing representatives

Fabrizio Fasulo, Director, Policy and Planning; **Matthew Steele**, Organizational Development Consultant, Policy and Planning; **Demas Boudreaux**, Government Relations Manager, Policy and Planning; **Jeff Quann**, Associate Deputy Counsel, Legal

DHCD representatives

Maggie Beal, Interim Director; **Trisha Lindsey**, Policy and Legislative Director; **Amy Fottrell**, Policy Analyst

Consultant team

Mel Jones, Co-Director, Virginia Center for Housing Research (VCHR) at Virginia Tech; **Ainsley Raymond**, Research Assistant, VCHR; **Michelle Carter**, Program Coordinator, Virginia Tech Continuing and Professional Education (CPE); **Lucas Kintz**, CPE; **Terry Clower**, Director, George Mason Center for

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Regional Analysis (GMU CRA); **Jonathan Knopf**, Executive Director for Programs, HousingForward Virginia (HFV); **Maria Dougherty**, Senior Associate, HousingForward Virginia (HFV)

1. Technical Advisory Group Charge and Scope of Work

- Research team presentation
 - Responsibilities
 - Timeline
 - Reporting
- Group member questions for research team, Virginia Housing staff, DHCD staff

2. Group Member Introductions

- Name and organization
- Do you or your organization have experience with or knowledge of deed fraud or related fraudulent or negligent activities?
 - Specific experiences or events in Virginia
 - Specific experiences or events outside of Virginia
 - Professional reports
 - Data
- Are there experts in this area that you can refer us to?

3. Research team presentation, high-level review of deed fraud considerations identified thus far

July 22, 2025; 10am-12pm

SB 1270 Deed Fraud Technical Advisory Group Agenda

Group Members

Virginia Bankers Association: **Bruce Whitehurst**, President & CEO; **Matthew Bruning**, EVP, Government & Member Relations; **Tristan Macdonald**, VBA Vice President, Government & Member Relations

Virginia Court Clerks Association: **Kelly L. Flannagan**, President; **Llezelle Dugger**, Legislative Committee

Community Associations Institute (CAI): **Dawn M. Bauman**, Executive Director/Chief Strategy Officer; **Phoebe Neseth**, Senior Director, Government & Public Affairs and CCAL Liaison

Virginia Association for Commercial Real Estate (VACRE): **Martha D. Marks**, Executive Vice President; **Sarah Thomas**, Manager, State and Federal Government Relations; **Phil Abraham**, Director and General Counsel; **Stewart (Skip) Sacks**, Associate Senior Underwriter, Stewart Title Company; **Mary Long**, Senior Agency Sales Representative and VA State Underwriter, Stewart Title Company

Home Builders Association of Virginia: **Craig Toolson**, CEO; **Andrew Clark**, Vice President of Government Affairs; **Melissa McPherson**, Safe Harbor Title Company President

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Virginia Housing representatives

Fabrizio Fasulo, Director, Policy and Planning; **Matthew Steele**, Organizational Development Consultant, Policy and Planning; **Demas Boudreaux**, Government Relations Manager, Policy and Planning; **Jeff Quann**, Associate Deputy Counsel, Legal

DHCD representatives

Trisha Lindsey, Policy and Legislative Director; **Amy Fottrell**, Manager of Research and Data

Consultant team

Mel Jones, Co-Director, Virginia Center for Housing Research (VCHR) at Virginia Tech; **Ainsley Raymond**, Research Assistant, VCHR; **Michelle Carter**, Program Coordinator, Virginia Tech Continuing and Professional Education (CPE); **Lucas Kintz**, CPE; **Terry Clower**, Director, George Mason Center for Regional Analysis (GMU CRA); **Jonathan Knopf**, Executive Director for Programs, HousingForward Virginia (HFV); **Maria Dougherty**, Senior Associate, HousingForward Virginia (HFV)

Meeting Agenda

1. Data and information gathering update

- Research team presentation
 - Completed
 - Underway
- Member questions for consultants, Virginia Housing staff, DHCD staff

2. Attendance poll

3. Review of new findings: research team presentation & member discussion

- Deed fraud/title theft prevalence and form
- Virginia existing conditions
- Conditions/actions in other states

4. Review of property transaction process & discussion

5. Additional questions/discussion

August 25, 2025; 10am-12pm

SB 1270 Deed Fraud Technical Advisory Group Agenda

Group Members

Virginia Bankers Association: **Bruce Whitehurst**, President & CEO; **Matthew Bruning**, EVP, Government & Member Relations; **Tristan Macdonald**, VBA Vice President, Government & Member Relations

Virginia Court Clerks Association: **Kelly L. Flannagan**, President; **Liezelle Dugger**, Legislative Committee

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Trisha Lindsey, Policy and Legislative Director; **Amy Fottrell**, Manager of Research and Data

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Regional Analysis (GMU CRA); **Jonathan Knopf**, Executive Director for Programs, HousingForward Virginia (HFV); **Maria Dougherty**, Senior Associate, HousingForward Virginia (HFV)

Meeting Agenda

1. Data and information gathering update

- Research/information gathering update
- Member questions for consultants, Virginia Housing staff, DHCD staff

2. Timeline

3. Attendance poll

4. Review of new findings: research team presentation

- Real estate agent vulnerabilities
- Survey and interview preliminary results
- Conditions/actions in other states

5. Possible recommendations (please see outline/recommendations document) poll and discussion

6. Additional questions/discussion