STATE OF NEW YORK

9763

IN ASSEMBLY

April 4, 2024

Introduced by M. of A. DAIS -- (at request of the Attorney General) -- read once and referred to the Committee on Codes

AN ACT to amend the criminal procedure law, the penal law and the executive law, in relation to deed theft

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 30.10 of the criminal procedure law is amended by adding a new paragraph (h) to read as follows:

(h) A prosecution for any felony related to a deed theft or where there is fraud in connection with a transaction involving real property must be commenced within five years after the commission of the crime, or within two years after the facts constituting such offense are discovered by the aggrieved party, whichever occurs later.

§ 2. Section 155.00 of the penal law is amended by adding six new subdivisions 11, 12, 13, 14, 15 and 16 to read as follows:

11. "Residential real property" or any derivative word thereof shall have the same meaning as defined in subdivision three of section 187.00 of this part.

12. "Commercial property" or any derivative word thereof shall mean a nonresidential property used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities.

13. "Mixed-use property" shall have the same meaning as defined in subdivision twenty-two of section four hundred eighty-nine-aaaa of the real property tax law.

14. "Incompetent" shall have the same meaning as defined in section 1-2.9 of the estates, powers and trusts law.

15. "Incapacitated person" shall mean a person who, because of mental disability as defined in subdivision three of section 1.03 of the mental hygiene law or mental deficiency, is unable to care for their own property and/or personal needs, and is likely to suffer harm because such person is unable to understand and appreciate the nature and consequences of not being able to care for their property and/or personal needs.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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16. "Elderly person" means a person sixty years of age or older.

§ 3. Subparagraph (ix) of paragraph (e) and paragraph (f) of subdivision 2 of section 155.05 of the penal law, paragraph (f) as added by chapter 353 of the laws of 2023, are amended and a new paragraph (g) is added to read as follows:

(ix) Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his **or her** health, safety, business, calling, career, financial condition, reputation or personal relationships[~~.~~]**; or**

(f) By wage theft.

A person obtains property by wage theft when he or she hires a person to perform services and the person performs such services and the person does not pay wages, at the minimum wage rate and overtime, or promised wage, if greater than the minimum wage rate and overtime, to said person for work performed. In a prosecution for wage theft, for the purposes of venue, it is permissible to aggregate all nonpayments or underpayments to one person from one person, into one larceny count, even if the nonpayments or underpayments occurred in multiple counties. It is also permissible to aggregate nonpayments or underpayments from a workforce into one larceny count even if such nonpayments or underpayments occurred in multiple counties[~~.~~]**; or**

(g) By deed theft.

A person commits deed theft when he or she:

(i) intentionally alters, falsifies, forges, or misrepresents a property document such as a residential or commercial deed or title, with the intent to deceive, defraud or unlawfully transfer or encumber the ownership rights of a residential or commercial property; or

(ii) with intent to defraud, misrepresents themselves as the owner or authorized representative of residential or commercial real property to induce others to rely on such false information in order to obtain ownership or possession of such real property; or

(iii) with intent to defraud, takes, obtains, steals, or transfers title or ownership of real property by fraud, forgery, larceny, or any other fraudulent or deceptive practice.

§ 4. Section 155.35 of the penal law, as amended by chapter 464 of the laws of 2010, is amended to read as follows:

§ 155.35 Grand larceny in the third degree.

A person is guilty of grand larceny in the third degree when he or she steals property and:

1. when the value of the property exceeds three thousand dollars, or

2. the property is an automated teller machine or the contents of an automated teller machine[~~.~~]**, or**

3. when such person commits deed theft of one commercial real property, regardless of the value.

Grand larceny in the third degree is a class D felony.

§ 5. Section 155.40 of the penal law, as amended by chapter 515 of the laws of 1986, is amended to read as follows:

§ 155.40 Grand larceny in the second degree.

A person is guilty of grand larceny in the second degree when he **or she** steals property and when:

1. The value of the property exceeds fifty thousand dollars; or

2. The property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will (a) cause physical injury to some person in the future, or (b) cause damage to property, or (c) use or abuse his **or her** position as a public servant by engaging in conduct within or related to

his **or her** official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely[~~.~~]**; or**

3. Such person commits deed theft, regardless of the value, of: (a) one residential real property; or (b) one commercial mixed-use property with at least one residential unit; or (c) two or more commercial properties.

Grand larceny in the second degree is a class C felony.

§ 6. Section 155.42 of the penal law, as added by chapter 515 of the laws of 1986, is amended to read as follows:

§ 155.42 Grand larceny in the first degree.

A person is guilty of grand larceny in the first degree when**:**

1. he **or she** steals property and when the value of the property exceeds one million dollars[~~.~~]**; or**

2. such person commits deed theft, regardless of the value, of (a) residential real property that is occupied as a home by at least one person; or (b) residential real property that involves a home that is owned by an elderly person, an incompetent, an incapacitated person, or physically disabled person; or (c) three or more residential real properties.

Grand larceny in the first degree is a class B felony.

§ 7. Subdivision 3 of section 187.00 of the penal law, as amended by chapter 507 of the laws of 2009, is amended to read as follows:

3. "Residential real property" means real property **that is used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, including real property that is** improved by a one-to-four family dwelling, or a residential unit in a building including units owned as condominiums or on a cooperative basis, used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, but shall not refer to unimproved real property upon which such dwellings are to be constructed.

§ 8. Section 63 of the executive law is amended by adding a new subdivision 17 to read as follows:

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

§ 9. This act shall take effect on the thirtieth day after it shall have become a law.