STATE OF NEW YORK

6569--A

2023-2024 Regular Sessions

IN SENATE

April 27, 2023

Introduced by Sens. MYRIE, BAILEY, GOUNARDES, KAVANAGH -- (at request of the Attorney General) -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 eight years after the commission of the crime.

§ 2. The penal law is amended by adding a new article 162 to read as follows:

ARTICLE 162

RESIDENTIAL AND COMMERCIAL DEED THEFT

Section 162.00 Definitions.
162.05 Deed theft in the third degree.
162.10 Deed theft in the second degree.
162.15 Deed theft in the first degree.
162.20 Aggravated deed theft.

§ 162.00 Definitions.

For the purposes of this article, the following terms shall have the following meanings:

(1) "Deed theft" is committed by a person who,

(a) intentionally alters, falsifies, forges, or misrepresents property documents 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

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

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(b) 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

(c) 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.

(2) "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.

(3) "Commercial real property" or any derivative word thereof shall have the same meaning as defined in paragraph (a) of subdivision six of section four hundred eighty-nine-aaaa of the real property tax law.

(4) "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.

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

(6) "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.

§ 162.05 Deed theft in the third degree.

A person is guilty of deed theft in the third degree when such person commits deed theft of one commercial real property.

Deed theft in the third degree is a class D felony.

§ 162.10 Deed theft in the second degree.

A person is guilty of deed theft in the second degree when such person commits deed theft of: (1) one residential real property; or (2) one commercial mixed-use property with at least one residential unit; or (3) three or more commercial properties.

Deed theft in the second degree is a class C felony.

§ 162.15 Deed theft in the first degree.

A person is guilty of deed theft in the first degree when such person: (1) commits deed theft of a residential property that is occupied as a home by at least one person; or (2) commits deed theft of a residential property that involves a home that is owned or occupied by an elderly person or an incompetent, or an incapacitated person, or physically disabled person.

Deed theft in the first degree is a class B felony.

§ 162.20 Aggravated deed theft.

A person is guilty of aggravated deed theft in the first degree when such person commits deed theft of three or more residential properties.

Aggravated deed theft is a class B felony.

§ 3. 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.

§ 4. 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 or in respect of the practices or transactions referred to in article one hundred sixty-two of the penal law relating to residential or commercial deed theft or in connection with a deed theft or where there is fraud in connection with a transaction involving real property. 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.

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