

# STATE OF NEW YORK

6569--B

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 -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- 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:

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

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

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

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

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

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

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

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1 14. "Incompetent" shall have the same meaning as defined in section  
2 1-2.9 of the estates, powers and trusts law.

3 15. "Incapacitated person" shall mean a person who, because of mental  
4 disability as defined in subdivision three of section 1.03 of the mental  
5 hygiene law or mental deficiency, is unable to care for their own prop-  
6 erty and/or personal needs, and is likely to suffer harm because such  
7 person is unable to understand and appreciate the nature and conse-  
8 quences of not being able to care for their property and/or personal  
9 needs.

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

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

15 (ix) Perform any other act which would not in itself materially bene-  
16 fit the actor but which is calculated to harm another person materially  
17 with respect to his or her health, safety, business, calling, career,  
18 financial condition, reputation or personal relationships[~~+~~]; or

19 (f) By wage theft.

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

31 (g) By deed theft.

32 A person commits deed theft when he or she:

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

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

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

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

46 § 155.35 Grand larceny in the third degree.

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

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

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

52 3. when such person commits deed theft of one commercial real proper-  
53 ty, regardless of the value.

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

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

1 § 155.40 Grand larceny in the second degree.

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

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

5 2. The property, regardless of its nature and value, is obtained by  
6 extortion committed by instilling in the victim a fear that the actor or  
7 another person will (a) cause physical injury to some person in the  
8 future, or (b) cause damage to property, or (c) use or abuse his or her  
9 position as a public servant by engaging in conduct within or related to  
10 his or her official duties, or by failing or refusing to perform an  
11 official duty, in such manner as to affect some person adversely[+]; or

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

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

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

19 § 155.42 Grand larceny in the first degree.

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

21 1. he or she steals property and when the value of the property  
22 exceeds one million dollars[+]; or

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

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

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

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

41 § 8. Section 63 of the executive law is amended by adding a new subdivi-  
42 sion 17 to read as follows:

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

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