STATE OF NEW YORK

8863--A

2025-2026 Regular Sessions

IN ASSEMBLY

June 9, 2025

Introduced by M. of A. CUNNINGHAM, LEVENBERG, HYNDMAN, FORREST, GALLAGHER, SHRESTHA, MORENO, MITAYNES -- read once and referred to the Committee on Judiciary -- recommitted to the Committee on Judiciary in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the real property actions and proceedings law, in relation to establishing a right of action for deed theft

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

Section 1. Short title. This act shall be known and may be cited as the "deed theft: private right of action act".

§ 2. The real property actions and proceedings law is amended by adding a new section 891 to read as follows:

§ 891. Action for deed theft. 1. Definitions. For the purposes of this section, the following terms shall have the following meanings:

(a) "Lender" means any trust company, private banker, savings bank, safe deposit company, licensed lender, savings and loan association, credit union, investment company, or mutual trust company, as such terms are defined in section two of the banking law, that provides a loan that encumbers covered property or was collateralized by covered property.

(b) "Covered property" means residential real property, including but not limited to, one-to-six family dwellings, condominium units, cooperative apartments, lots in manufactured home parks, and securities that entitle the holder thereof to possession or occupancy of such property.

(c) "Deed theft" means the act of taking, transferring or encumbering title to covered property without the owner's approval or knowledge, or through unfair, deceptive or abusive acts or practices. Deed theft includes, but is not limited to actions taken by a natural person or entity whereby such person or entity:

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

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(i) alters, falsifies, forges, or misrepresents any written instrument involved in the conveyance or financing of covered property, such as a residential or commercial deed or title, with the effect of deceiving, defrauding, or unlawfully transferring or encumbering the ownership rights or a portion thereof of covered property;

(ii) misrepresents themselves as the owner or authorized representative of covered property to induce others to rely on such false information in order to obtain financing;

(iii) takes, obtains, or transfers title or ownership of covered property by fraud, misrepresentation, forgery, larceny, false pretenses, false promise, or any other fraudulent or deceptive practice; or

(iv) fails to disclose materially relevant information in order to induce an unfair transfer or encumbrance of the ownership rights of covered property.

(d) "Deed thief" means any person or entity that commits deed theft.

(e) "High-value experienced commercial transaction" means a transaction the value of which exceeds six million dollars where all parties to the transaction are licensed realtors, lawyers, and/or have purchasing, selling, renting, and/or encumbering real property as their primary source of income.

2. Private right of action for victims of deed theft. (a) A person or entity that is a victim of deed theft, as defined in this section, may maintain a private right of action against any deed thief, as defined in this section, who has committed deed theft against the covered property of such person or entity.

(b) A person or entity that is a victim of deed theft, as defined in this section, may maintain an action against a lender that is not a bona fide encumbrancer if such lender:

(i) provides a loan to a deed thief and such loan materially assists the deed thief in the commission of the deed theft; and

(ii) fails to conduct reasonable due diligence or complete a standard non-negligent investigation regarding the covered property that is subject to the claim of deed theft.

(c) A person or entity that is a victim of deed theft, as defined in this section, may maintain an action against a title insurance corporation that has negligently facilitated such deed theft if such title insurance corporation:

(i) provides title insurance coverage to a lender that provides a loan to a deed thief and such title insurance coverage assists in the commission of the deed theft; and

(ii) fails to conduct reasonable due diligence or complete a standard non-negligent investigation of the title ownership of the covered property that is subject to the claim of deed theft.

3. High-value experienced commercial transactions. No private cause of action for deed theft shall be available for high-value experienced commercial transactions.

4. Remedies and limitations. (a) Any deed or mortgage obtained by deed theft shall be deemed void ab initio.

(b) Any person or entity found by a preponderance of the evidence to have violated this section shall be liable to the deed theft victim for the following: (i) actual damages, including consequential and incidental damages, (ii) treble damages, and (iii) reasonable attorneys' fees.

(c) With respect to a bona fide purchaser or encumbrancer for value, any right to equitable subrogation shall be limited to an amount not to exceed the amount that such bona fide purchaser or encumbrancer for

value paid to satisfy any liens encumbering the covered property before the deed theft. This lien shall not accrue interest, shall not provide for a right to foreclose on the covered property, and shall become due upon the sale of the subject covered property.

(d) The remedies provided in this section are not intended to be the exclusive remedies available to a victim of deed theft, and a deed theft victim may be granted injunctive, declaratory and such other equitable relief as the court deems appropriate in an action to enforce compliance with this section.

(e) A private action for damages against the lender or deed thief pursuant to this section shall be commenced within six years of discovery of the deed theft.

(f) In any action by an assignee to enforce a loan against a deed theft victim, a deed theft victim may assert any claims in recoupment and defenses to payment under the provisions of this section and with respect to the loan, without time limitations, that the deed theft victim could assert against the original lender.

§ 3. This act shall take effect on the ninetieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.