

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:

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

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

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

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

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

16 (c) "Deed theft" means the act of taking, transferring or encumbering
17 title to covered property without the owner's approval or knowledge, or
18 through unfair, deceptive or abusive acts or practices. Deed theft
19 includes, but is not limited to actions taken by a natural person or
20 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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1 (i) alters, falsifies, forges, or misrepresents any written instrument
2 involved in the conveyance or financing of covered property, such as a
3 residential or commercial deed or title, with the effect of deceiving,
4 defrauding, or unlawfully transferring or encumbering the ownership
5 rights or a portion thereof of covered property;

6 (ii) misrepresents themselves as the owner or authorized represen-
7 tative of covered property to induce others to rely on such false infor-
8 mation in order to obtain financing;

9 (iii) takes, obtains, or transfers title or ownership of covered prop-
10 erty by fraud, misrepresentation, forgery, larceny, false pretenses,
11 false promise, or any other fraudulent or deceptive practice; or

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

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

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

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

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

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

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

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

38 (i) provides title insurance coverage to a lender that provides a loan
39 to a deed thief and such title insurance coverage assists in the commis-
40 sion of the deed theft; and

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

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

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

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

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

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

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

10 (e) A private action for damages against the lender or deed thief
11 pursuant to this section shall be commenced within six years of discov-
12 ery of the deed theft.

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

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