

LAWYERS LINK

DEED THEFT

Can your home be stolen?

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The term deed or title theft can be deceiving. With the circulation of inaccurate information, homeowners may believe that thieves can steal the title to their home simply by forging a deed and recording it in the county records. Homeowners may also believe that the deed to their home can be stolen and pledged as collateral to obtain a loan and strip all the equity from the home without the true homeowner's knowledge.

Recently, companies have formed a new type of service which offers deed monitoring services where they purport to regularly check the county records to identify any fraudulent activity involving the title to a homeowner's property.

The companies describe a very rare criminal act. Through an elaborate and carefully worded marketing campaign, these companies prey on the fear that someone is going to "steal" a homeowner's deed or title to their home.

These providers charge a monthly or annual service fee and simply notify the homeowner if anything pops up. This all occurs AFTER someone has recorded a forged deed. It does not prevent a scammer fraudulently transferring your title. Their service is not an insurance product and does not fix the fraudulent recording.

Continued on next page

Continued from previous page

Although it is true that anyone can forge someone's name and record documents, such as a deed, it does not make the thief the rightful owner of that property. Here are a few items to consider when contemplating a subscription to this type of service:

- **First**, there is no way to "lock" a title or deed.
- **Second**, anyone can monitor the county records at any time by either visiting the county office in person or checking online. In most cases, monitoring the county records online is free of charge and some counties offer an automated option.
- **Third**, this type of service is not a replacement for title insurance. A home title lock cannot replace title insurance. Their services do not help cover any financial burden of title issues or mortgage fraud.
- **Last**, even if a forged deed is recorded in the county — the homeowner does still own their home. Even if the fraudster does take out a loan secured by the stolen property the homeowner is not the victim; the lender is, since the scammer never legally owned the property a lender has no legal claim and would be unable to foreclose when the fraudster fails to repay the loan.

Lenders protect themselves by requiring the borrower to purchase a lender's title policy as a part of the loan closing process. When a lender suffers a loss due to a forgery in the chain of title, they file a claim under their title insurance policy. This is why it is important to understand these title lock services are nothing like title insurance.

Title insurance is purchased once, at the time a buyer purchases the property, and it provides the insured or their heirs protection against fraud or forgery that occurred prior to the time the insured purchased the property. Title insurance companies protect the integrity of the county records in this country since they examine the chain of title for any potential discrepancies. It is the best way for homebuyers to protect their investment.

MORAL OF THE STORY

Always purchase title insurance when purchasing real property. Learn how to monitor the county records for free. If a forged document is recorded, affecting title to your home, notify the county and law enforcement.

If the forged document is a mortgage or deed of trust, contact the beneficiary to notify them it is a forgery and ask them to release their lien. If you prefer, contact an attorney.

This information does not, and is not intended to, constitute legal advice; instead, all information is for general informational purposes only.



MONTHLY INDUSTRY TERMS

Deed Restrictions

Limitations (covenants) written into a deed to restrict the control, occupancy, or use of a property.

Trust Account

An account separate and apart and physically segregated from the broker's own, in which the broker is required by law to deposit all funds collected for clients.

Negative Amortization

Occurs when your monthly payments are not large enough to pay all the interest due on the loan. This unpaid interest is added to the unpaid balance of the loan. The danger of negative amortization is that the home buyer ends up owing more than the original amount of the loan.