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Rick Kahler: Can home title thieves steal your house? No, they can't.

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Home title theft.

This is a “threat” I only learned about from frantic radio commercials warning that your home can be stolen from you. They claim thieves can deed your property to themselves and then mortgage or even sell it without your knowledge. In fact, they may have done so already! You may have lost all your home equity! You’ll discover the fraud when you are evicted by a foreclosure or new owner!

Of course, after all these alarms, the ads offer a solution: buy their title theft insurance. They promise to shield your title, monitor it 24/7 and alert you when a fraudulent title transfer is filed. One company charges \$79 a year for \$1,000,000 of title theft insurance. It’s highly unlikely any such company will ever pay out a dime of insurance.

The claims are so over the top that these companies either don’t understand the law or are intentionally bending the facts. Like most things, these outlandish claims include a grain of truth. It is true that anyone can forge your name to any document, including a deed supposedly transferring title to the forger. Such a deed could be filed with the county register of deeds.

That doesn’t mean someone has stolen your title.

First, a forged deed is not valid and conveys nothing. Only you can legally transfer your title to a third party. If a buyer or a lender rely on a forged deed and don’t do their due diligence on a property’s title, they are out of luck. They, not the legitimate property owner, will ultimately lose any money paid to the thief.

Second, a would-be forger could easily get a blank deed form online and fill in your property’s legal description obtained from public records. However, the signature must be certified by a notary public, who is required by law to verify your identity.

Third, it is next to impossible for the thief to mortgage or sell the property to a knowledgeable lender or buyer. Lenders, title companies and real estate firms have so many safeguards in place that there is almost no chance a fraudulent transfer won't be discovered. The required credit reports, employment and income verifications, back tax returns, appraisals and title insurance are bound to alert you and the lender that something is wrong.

Even with a cash buyer, a thief's chances of success are small. Only the most naïve buyer will fail to obtain title insurance. Title insurance protects buyers against defects in the title, including liens, fraud and forgery. It will alert the buyer or lender to any defects prior to closing. If a title company misses a defect, it must pay for any damages. No legitimate attorney or real estate firm will allow you to buy a property without this insurance.

Fourth, if a buyer is naïve enough to buy property without a legitimate appraisal or title insurance, it is possible they could be conned. If they show up in your driveway with a moving van, however, they — not you — are the ones at risk of losing their money.

Fifth, forgery is a felony in all 50 states, punishable by jail time and heavy fines. The court might also require restitution for damages caused by the forgery, such as the costs of clearing the title.

In the extremely unlikely event that someone goes to the trouble and risk of committing all these crimes, the cost of clearing the title is the biggest risk to a homeowner. That will require the assistance of an attorney. Would that potential expense make it worthwhile to consider buying title theft insurance? Perhaps, assuming the policy covered such expenses. Unfortunately, none do.

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