

**RESIDENTIAL MORTGAGE FRAUD
IN EACH DEGREE
Penal Law §§ 187.05, 187.10, 187.15, 187.20, 187.25
Committed on or after July 19, 2024**

The (specify) count is Residential Mortgage Fraud in the (Specify) Degree.

Under our law, a person is guilty of Residential Mortgage Fraud in the (Specify) Degree when he or she commits residential mortgage fraud and thereby receives proceeds or any other funds [.]

Note: The foregoing defines Residential Mortgage Fraud in the Fifth Degree. For the remaining degrees add:

in the aggregate in excess of (specify) dollars.

The following term used in that definition has a special meaning:

NOTE: Parts of the following definitions of Residential Mortgage Fraud, Residential Mortgage Loan, and Residential Real Property (defined in Penal Law § 187.00 (4), (2), and (3), respectively) which are not factually presented by the evidence should be omitted.

"RESIDENTIAL MORTGAGE FRAUD is committed by a person who, knowingly and with intent to defraud, presents, causes to be presented, or prepares with knowledge or belief that it will be used in soliciting an applicant for, applying for, underwriting or closing a *residential mortgage loan*, or filing with a county clerk of any county in the state arising out of and related to the closing of a *residential mortgage loan*, any written statement which:

Add appropriate alternative(s)

contains materially false information concerning any fact material thereto; [or]

conceals, for the purpose of misleading, information concerning any fact material thereto.

RESIDENTIAL MORTGAGE LOAN (used in the definition of Residential Mortgage Fraud definition) means a loan or agreement to extend credit, including the renewal, refinancing or modification of any such loan, made to a person, which loan is primarily secured by either a mortgage, deed of trust, or other lien upon any interest in *residential real property* or any certificate of stock or other evidence of ownership in, and a proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of *residential real property*.

RESIDENTIAL REAL PROPERTY (used in the definition of Residential Mortgage Loan definition) means real property that is used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, including real property that is improved by a one-to-four family dwelling, or a residential unit in a building including units owned as condominiums or on a cooperative basis, used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, but shall not refer to unimproved real property upon which such dwellings are to be constructed.

A person KNOWINGLY presents, causes to be presented, or prepares with knowledge or belief that it will be used in soliciting an applicant for, applying for, underwriting or closing a residential mortgage loan, or filing with a county clerk of any county in the state arising out of and related to the closing of a residential mortgage loan, any written statement which:

Add appropriate alternative(s):

contains materially false information concerning any fact material thereto; [or]

conceals, for the purpose of misleading, information concerning any fact material thereto,

when that person is aware that he or she is doing so.

INTENT means conscious objective or purpose. Thus a person acts with intent to defraud when that person's conscious objective is to do so.

NOTE: There is no statutory definition of intent to defraud. See Supplementary Practice Commentary to Penal Law § 15.00.

In order for you to find the defendant guilty of this crime, the People are required to prove, from all the evidence in the case, beyond a reasonable doubt, each of the following two elements:

1. That on or about (date), in the County of (County), the defendant, (defendant's name), committed residential mortgage fraud; and
2. That the defendant thereby received proceeds or any other funds [.]

Note: The forgoing defines Residential Mortgage Fraud in the Fifth Degree. For the remaining degrees add:

in the aggregate in excess of (specify) dollars.

If you find the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of this crime.