

## CIVIL CODE SECTION 890-894

890. (a) (1) "Rent skimming" means using revenue received from the rental of a parcel of residential real property at any time during the first year period after acquiring that property without first applying the revenue or an equivalent amount to the payments due on all mortgages and deeds of trust encumbering that property.

(2) For purposes of this section, "rent skimming" also means receiving revenue from the rental of a parcel of residential real property where the person receiving that revenue, without the consent of the owner or owner's agent, asserted possession or ownership of the residential property, whether under a false claim of title, by trespass, or any other unauthorized means, rented the property to another, and collected rents from the other person for the rental of the property. This paragraph does not apply to any tenant, subtenant, lessee, sublessee, or assignee, nor to any other hirer having a lawful occupancy interest in the residential dwelling.

(b) "Multiple acts of rent skimming" means knowingly and willfully rent skimming with respect to each of five or more parcels of residential real property acquired within any two-year period.

(c) "Person" means any natural person, any form of business organization, its officers and directors, and any natural person who authorizes rent skimming or who, being in a position of control, fails to prevent another from rent skimming.

891. (a) A seller of an interest in residential real property who received a promissory note or other evidence of indebtedness for all or a portion of its purchase price secured by a lien on the property may bring an action against any person who has engaged in rent skimming with respect to that property. A seller who prevails in the action shall recover all actual damages and reasonable attorney's fees and costs. The court may award any appropriate equitable relief. The court shall award exemplary damages of not less than three times the actual damages if the defendant has engaged in multiple acts of rent skimming and may award exemplary damages in other cases.

(b) A seller of an interest in residential real property who reacquires the interest from a person who has engaged in rent skimming with respect to that property, or a law enforcement agency, may request the court for an order declaring that the reacquired interest is not encumbered by any lien that is or has the effect of a judgment lien against the person who engaged in rent skimming if the lien is not related to any improvement of the property and does not represent security for loan proceeds made by a bona fide lien holder without knowledge of facts constituting a violation of this title. The motion or application shall be made with at least 30 days' advance written notice to all persons who may be affected by the order, including lienholders, and shall be granted unless the interests of justice would not be served by such an order.

(c) A mortgagee or beneficiary under a deed of trust encumbering residential real property may bring an action against a person who has engaged in rent skimming with respect to that property as one of multiple acts of rent skimming, whether or not the person has become contractually bound by an obligation secured by the mortgage or deed of trust. The mortgagee or beneficiary who prevails in the action shall recover actual damages to the extent of the amount of the rent collected on the encumbered property and attorney's fees and costs. The court also may order any appropriate equitable relief and may award exemplary damages.

(d) A tenant of residential real property may bring an action against a person who has engaged in rent skimming with respect to that property for the recovery of actual damages, including any security, as defined in Section 1950.5, and moving expenses if the property is sold at a foreclosure sale and the tenant was required to move. A prevailing plaintiff in such an action shall be awarded reasonable attorney's fees and costs. The court also may award exemplary damages; it shall award exemplary damages of at least three times the amount of actual damages if the payments due under any deed of trust or mortgage were two or more months delinquent at the time the tenant rented the premises or if the defendant has engaged in multiple acts of rent skimming.

(e) The rights and remedies provided in this section are in addition to any other rights and remedies provided by law.

(f) Rent skimming is unlawful, and any waiver of the provisions of this section are void and unenforceable as contrary to public policy.

(g) Sections 580a, 580b, 580d, and 726 of the Code of Civil Procedure do not apply to any action brought under this title.

892. (a) Any person who engages in multiple acts of rent skimming is subject to criminal prosecution. Each act of rent skimming comprising the multiple acts of rent skimming shall be separately alleged. A person found guilty of five acts shall be punished by imprisonment in the state prison or by imprisonment in the county jail for not more than one year, by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment. A person found guilty of additional acts shall be separately punished for each additional act by imprisonment in the state prison or by imprisonment in the county jail for not more than one year, by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(b) If a defendant has been once previously convicted of a violation of subdivision (a), any subsequent knowing and willful act of rent skimming shall be punishable by imprisonment in the state prison or by imprisonment in the county jail for not more than one year, or by a fine of not more than ten thousand dollars (\$10,000), or by both that fine and imprisonment.

(c) A prosecution for a violation of this section shall be commenced within three years after the date of the acquisition of the last parcel of property that was the subject of the conduct for which the defendant is prosecuted.

(d) The penalties under this section are in addition to any other remedies or penalties provided by law for the conduct proscribed by this section.

893. (a) It is an affirmative defense for a natural person who is a defendant in a civil action brought under Section 891, or a criminal action brought under Section 892, if all of the following occurred:

(1) The defendant used the rental revenue due but not paid to holders of mortgages or deeds of trust to make payments to any of the following:

(A) Health care providers, as defined in paragraph (2) of subdivision (c) of Section 6146 of the Business and Professions Code, for the unforeseen and necessary medical treatment of the defendant or his or her spouse, parents, or children.

(B) Licensed contractors or material suppliers to correct the violation of any statute, ordinance, or regulation relating to the habitability of the premises.

(2) The defendant made the payments within 30 days of receiving the rental revenue.

(3) The defendant had no other source of funds from which to make the payments.

(b) The defendant has the burden of producing evidence of each element of the defense specified in subdivision (a) in a criminal action under Section 892 and the burden of proof of each element of the defense in a civil action under Section 891.

894. If any provision of this title or the application thereof to any person or circumstances is held to be unconstitutional, the remainder of the title and the application of its provisions to other persons and circumstances shall not be affected thereby.