

3482--A

2013-2014 Regular Sessions

I N   S E N A T E

February 4, 2013

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Introduced by Sens. RANZENHOFER, BALL, DeFRANCISCO, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to filing false liens against public officers or public employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 175.35 of the penal law, as amended by chapter 99  
2     of the laws of 1998, is amended to read as follows:  
3     S 175.35 Offering a false instrument for filing in the first degree.  
4     A person is guilty of offering a false instrument for filing in the  
5     first degree when[,]:  
6     1. knowing that a written instrument contains a false statement or  
7     false information, and with intent to defraud the state or any political  
8     subdivision, public authority or public benefit corporation of the  
9     state, he OR SHE offers or presents it to a public office, public serv-  
10    ant, public authority or public benefit corporation with the knowledge  
11    or belief that it will be filed with, registered or recorded in or  
12    otherwise become a part of the records of such public office, public  
13    servant, public authority or public benefit corporation[.]; OR  
14    2. HE OR SHE KNOWINGLY FILES A FALSE LIEN OR ENCUMBRANCE IN A PUBLIC  
15    RECORD OR PRIVATE RECORD THAT IS GENERALLY AVAILABLE TO THE PUBLIC  
16    AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC OFFICER OR PUBLIC  
17    EMPLOYEE ON ACCOUNT OF THE PERFORMANCE OF SUCH PUBLIC OFFICER'S OR  
18    PUBLIC EMPLOYEE'S OFFICIAL DUTIES, OR WITH THE INTENT TO HARASS, INTIM-  
19    IDATE OR OTHERWISE ATTEMPT TO AFFECT THE ACTIONS OF THE PUBLIC OFFICIAL  
20    OR PUBLIC EMPLOYEE, KNOWING OR HAVING REASON TO KNOW THAT SUCH LIEN OR  
21    ENCUMBRANCE IS FALSE OR CONTAINS MATERIALLY FALSE, FICTITIOUS, OR FRAU-  
22    DULENT STATEMENTS OR REPRESENTATIONS.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

LBD08396-02-4

1 Offering a false instrument for filing in the first degree is a class  
2 E felony.

3 S 2. Section 175.35 of the penal law, as amended by chapter 490 of the  
4 laws of 2013, is amended to read as follows:

5 S 175.35 Offering a false instrument for filing in the first degree.

6 A person is guilty of offering a false instrument for filing in the  
7 first degree when:

8 1. knowing that a written instrument contains a false statement or  
9 false information, and with intent to defraud the state or any political  
10 subdivision, public authority or public benefit corporation of the  
11 state, he or she offers or presents it to a public office, public serv-  
12 ant, public authority or public benefit corporation with the knowledge  
13 or belief that it will be filed with, registered or recorded in or  
14 otherwise become a part of the records of such public office, public  
15 servant, public authority or public benefit corporation; or

16 2. (a) he or she commits the crime of offering a false instrument for  
17 filing in the second degree; and

18 (b) such instrument is a financing statement the contents of which are  
19 prescribed by section 9--502 of the uniform commercial code, the collat-  
20 eral asserted to be covered in such statement is the property of a  
21 person who is a state or local officer as defined by section two of the  
22 public officers law or who otherwise is a judge or justice of the  
23 unified court system, such financing statement does not relate to an  
24 actual transaction, and he or she filed such financing statement in  
25 retaliation for the performance of official duties by such person[.]; OR

26 3. HE OR SHE KNOWINGLY FILES A FALSE LIEN OR ENCUMBRANCE IN A PUBLIC  
27 RECORD OR PRIVATE RECORD THAT IS GENERALLY AVAILABLE TO THE PUBLIC  
28 AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC OFFICER OR PUBLIC  
29 EMPLOYEE ON ACCOUNT OF THE PERFORMANCE OF SUCH PUBLIC OFFICER'S OR  
30 PUBLIC EMPLOYEE'S OFFICIAL DUTIES, OR WITH THE INTENT TO HARASS, INTIM-  
31 IDATE OR OTHERWISE ATTEMPT TO AFFECT THE ACTIONS OF THE PUBLIC OFFICIAL  
32 OR PUBLIC EMPLOYEE, KNOWING OR HAVING REASON TO KNOW THAT SUCH LIEN OR  
33 ENCUMBRANCE IS FALSE OR CONTAINS MATERIALLY FALSE, FICTITIOUS, OR FRAU-  
34 DULENT STATEMENTS OR REPRESENTATIONS.

35 Offering a false instrument for filing in the first degree is a class  
36 E felony.

37 S 3. This act shall take effect on the ninetieth day after it shall  
38 have become a law; provided however, that section two of this act shall  
39 take effect on the same date and in the same manner as section 3 of  
40 chapter 490 of the laws of 2013, takes effect.