S T A T E O F N E W Y O R K

5946--A

2013-2014 Regular Sessions

I N A S S E M B L Y

March 8, 2013

Introduced by M. of A. SCHIMMINGER, MAGNARELLI, WEISENBERG, MONTESANO -- Multi-Sponsored by -- M. of A. ABBATE, ARROYO, COOK -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- 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:

Section 1. Section 175.35 of the penal law, as amended by chapter 99 of the laws of 1998, is amended to read as follows:

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

A person is guilty of offering a false instrument for filing in the first degree when[,]:

1. knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he OR SHE offers or presents it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation[.]; OR

2. HE OR SHE KNOWINGLY FILES A FALSE LIEN OR ENCUMBRANCE IN A PUBLIC RECORD OR PRIVATE RECORD THAT IS GENERALLY AVAILABLE TO THE PUBLIC AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC OFFICER OR PUBLIC EMPLOYEE ON ACCOUNT OF THE PERFORMANCE OF SUCH PUBLIC OFFICER'S OR PUBLIC EMPLOYEE'S OFFICIAL DUTIES, OR WITH THE INTENT TO HARASS, INTIMIDATE OR OTHERWISE ATTEMPT TO AFFECT THE ACTIONS OF THE PUBLIC OFFICIAL OR PUBLIC EMPLOYEE, KNOWING OR HAVING REASON TO KNOW THAT SUCH LIEN OR

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

LBD08396-03-4

ENCUMBRANCE IS FALSE OR CONTAINS MATERIALLY FALSE, FICTITIOUS, OR FRAUDULENT STATEMENTS OR REPRESENTATIONS.

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

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

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

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

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

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

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

3. HE OR SHE KNOWINGLY FILES A FALSE LIEN OR ENCUMBRANCE IN A PUBLIC RECORD OR PRIVATE RECORD THAT IS GENERALLY AVAILABLE TO THE PUBLIC AGAINST THE REAL OR PERSONAL PROPERTY OF A PUBLIC OFFICER OR PUBLIC EMPLOYEE ON ACCOUNT OF THE PERFORMANCE OF SUCH PUBLIC OFFICER'S OR PUBLIC EMPLOYEE'S OFFICIAL DUTIES, OR WITH THE INTENT TO HARASS, INTIMIDATE OR OTHERWISE ATTEMPT TO AFFECT THE ACTIONS OF THE PUBLIC OFFICIAL OR PUBLIC EMPLOYEE, KNOWING OR HAVING REASON TO KNOW THAT SUCH LIEN OR ENCUMBRANCE IS FALSE OR CONTAINS MATERIALLY FALSE, FICTITIOUS, OR FRAUDULENT STATEMENTS OR REPRESENTATIONS.

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

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