

3482--A

2013-2014 Regular Sessions

I N S E N A T E

February 4, 2013

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.