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

5722

2015-2016 Regular Sessions

I N S E N A T E

June 1, 2015

Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the county law, in relation to accepting for recording instruments affecting real estate or chattels real; to amend the criminal procedure law, in relation to proceedings relating to certain instruments affecting real property; to amend the executive law, in relation to the appointment of notaries public and to certain acts of notaries public and commissioners of deeds involving conveyances of residential real property in the city of New York; to amend the penal law, in relation to the crime of offering a false instrument for filing in the first degree; and to amend the administrative code of the city of New York, in relation to accepting for recording instruments affecting real estate or chattels real and to the return required to be filed upon the transfer of property

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

Section 1. Section 918 of the county law is amended by adding a new subdivision 5 to read as follows:

5. IN ACCORDANCE WITH SECTION TWO HUNDRED NINETY-ONE-I OF THE REAL PROPERTY LAW, THE CLERK OF THE COUNTY OF RICHMOND SHALL ACCEPT FOR RECORDING AN INSTRUMENT AFFECTING REAL ESTATE OR CHATTELS REAL BY ELECTRONIC MEANS.

S 2. Subdivision 1 of section 255.10 of the criminal procedure law, as added by chapter 763 of the laws of 1974, paragraph (a) as amended by chapter 209 of the laws of 1990, is amended and a new subdivision 2 is added to read as follows:

1. "Pre-trial motion" as used in SECTION 255.20 OF this article means any motion by a defendant which seeks an order of the court:

(a) dismissing or reducing an indictment pursuant to article 210 or removing an action to the family court pursuant to section 210.43; or

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

LBD11132-01-5

(b) dismissing an information, prosecutor's information, simplified information or misdemeanor complaint pursuant to article 170; or
(c) granting discovery pursuant to article 240; or
(d) granting a bill of particulars pursuant to [sections] SECTION 100.45 or [200.90] 200.95; or
(e) removing the action pursuant to [sections] SECTION 170.15, 230.20 or 230.30; or
(f) suppressing the use at trial of any evidence pursuant to article 710; or
(g) granting separate trials pursuant to article 100 or 200.
2. "PRE-TRIAL MOTION" AS USED IN SECTION 255.25 OF THIS ARTICLE MEANS ANY MOTION BY THE DISTRICT ATTORNEY WHICH SEEKS AN ORDER OF THE COURT VOIDING AN INSTRUMENT AFFECTING REAL PROPERTY IN ACCORDANCE WITH SUCH SECTION.
S 3. The criminal procedure law is amended by adding a new section 255.25 to read as follows:
S 255.25 PRE-TRIAL MOTION RELATING TO CERTAIN INSTRUMENTS AFFECTING REAL PROPERTY.
1. WHEN THE DISTRICT ATTORNEY FILES A CRIMINAL INFORMATION OR INDICTMENT ALLEGING THAT A DEFENDANT HAS VIOLATED SUBDIVISION TWO OF SECTION 175.35 OF THE PENAL LAW, THE DISTRICT ATTORNEY MAY FILE A MOTION TO VOID THE INSTRUMENT THAT IS THE SUBJECT OF SUCH CRIMINAL INFORMATION OR INDICTMENT. SUCH MOTION MUST BE IN WRITING AND PROVIDE REASONABLE NOTICE TO ALL PERSONS WHO HAVE AN INTEREST IN THE PROPERTY AFFECTED BY SUCH INSTRUMENT. THE MOTION PAPERS MUST STATE THE BOROUGH, IF IN THE CITY OF NEW YORK, AND BLOCK, LOT, AND STREET ADDRESS, IF AVAILABLE, OF SUCH PROPERTY AND A DESCRIPTION OF SUCH PROPERTY. THE MOTION PAPERS MUST STATE THE GROUNDS OF THE MOTION AND MUST CONTAIN SWORN ALLEGATIONS OF FACT SUPPORTING SUCH GROUNDS. THE MOTION PAPERS MUST NOTIFY ALL PERSONS WHO HAVE AN INTEREST IN THE PROPERTY AFFECTED BY SUCH INSTRUMENT OF THEIR RIGHT TO BE HEARD.
2. WITHIN TEN DAYS AFTER FILING A MOTION PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE DISTRICT ATTORNEY SHALL RECORD A COPY OF THE NOTICE OF MOTION IN THE OFFICE OF THE CLERK OF THE COUNTY IN WHICH THE PROPERTY IS SITUATED. THE NOTICE SHALL BE INDEXED BY THE CLERK IN THE MANNER PRESCRIBED BY SUBDIVISION (C) OF RULE SIXTY-FIVE HUNDRED ELEVEN OF THE CIVIL PRACTICE LAW AND RULES FOR A NOTICE OF PENDENCY OF ACTION AND SHALL HAVE THE SAME EFFECT AS SUCH NOTICE.
3. THE COURT MUST CONDUCT A HEARING AND MAKE FINDINGS OF FACT ESSENTIAL TO THE DETERMINATION WHETHER TO DECLARE THE INSTRUMENT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION VOID AB INITIO. ALL PERSONS GIVING FACTUAL INFORMATION AT SUCH HEARING MUST TESTIFY UNDER OATH, EXCEPT THAT UNSWORN EVIDENCE PURSUANT TO SUBDIVISION TWO OF SECTION 60.20 OF THIS CHAPTER MAY ALSO BE RECEIVED. UPON SUCH HEARING, HEARSAY EVIDENCE IS ADMISSIBLE TO ESTABLISH ANY MATERIAL FACT.
4. AFTER CONDUCTING A HEARING PURSUANT TO SUBDIVISION THREE OF THIS SECTION, AND UPON THE CONVICTION OF THE DEFENDANT FOR VIOLATING SUBDIVISION TWO OF SECTION 175.35 OF THE PENAL LAW, A COURT MAY ORDER THAT THE INSTRUMENT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION BE DECLARED VOID AB INITIO. THE ORDER OF THE COURT SHALL DESCRIBE THE NATURE OF THE FALSE STATEMENT OR FALSE INFORMATION CONTAINED IN SUCH INSTRUMENT. A COPY OF SUCH INSTRUMENT SHALL BE ATTACHED TO THE ORDER OF THE COURT.
5. IF THE COURT, UPON CONSIDERING THE MOTION, FINDS THAT THE MATTER IS MORE APPROPRIATELY DETERMINED IN A CIVIL PROCEEDING, THE COURT MAY DECLINE TO MAKE A DETERMINATION.

6. IF, PRIOR TO THE HEARING DESCRIBED IN SUBDIVISION THREE OF THIS SECTION, ANY PERSON FILES A QUIET TITLE ACTION PURSUANT TO ARTICLE FIFTEEN OF THE REAL PROPERTY ACTIONS AND PROCEEDINGS LAW THAT SEEKS A JUDICIAL DETERMINATION OF THE VALIDITY OF THE INSTRUMENT THAT IS THE SUBJECT OF THE MOTION, THE COURT MAY CONSIDER SUCH ACTION AS AN ADDITIONAL BUT NOT DISPOSITIVE FACTOR IN MAKING ITS DETERMINATION PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

7. IF THE ORDER RELATES TO AN INSTRUMENT THAT HAS BEEN FILED WITH, REGISTERED OR RECORDED IN A PUBLIC OFFICE, THE DISTRICT ATTORNEY SHALL RECORD A CERTIFIED COPY OF SUCH ORDER IN THE OFFICE OF THE RECORDING OFFICER OF THE COUNTY IN WHICH SUCH PROPERTY IS SITUATED, IN THE SAME MANNER AS A CONVEYANCE DULY ACKNOWLEDGED OR PROVED AND CERTIFIED SO AS TO ENTITLE IT TO BE RECORDED. SUCH RECORDING OFFICER SHALL RECORD THE SAME IN HIS OR HER SAID OFFICE.

8. IF THE COURT DOES NOT ISSUE AN ORDER PURSUANT TO SUBDIVISION FOUR OF THIS SECTION, THE DISTRICT ATTORNEY SHALL RECORD A WITHDRAWAL OF THE NOTICE OF MOTION IN THE COUNTY IN WHICH THE PROPERTY IS SITUATED.

9. FOR PURPOSES OF THIS SECTION, "ALL PERSONS WHO HAVE AN INTEREST IN THE PROPERTY AFFECTED BY SUCH INSTRUMENT" MEANS ALL PARTIES WHO HAVE RECORDED AN INSTRUMENT AFFECTING THE REAL PROPERTY THAT IS THE SUBJECT OF THE INSTRUMENT DESCRIBED IN SUBDIVISION ONE OF THIS SECTION AS OF THE DATE OF THE FILING OF THE CRIMINAL INFORMATION OR INDICTMENT.

S 4. Section 131 of the executive law is amended by adding a new subdivision 1-a to read as follows:

1-A. EACH APPLICANT FOR A NOTARY PUBLIC COMMISSION SHALL SUBMIT TO THE DIVISION OF CRIMINAL JUSTICE SERVICES TWO SETS OF FINGERPRINT IMAGES TO ASSIST IN DETERMINING THE IDENTITY OF THE APPLICANT AND WHETHER SUCH APPLICANT HAS BEEN CONVICTED OF A FELONY OR ANY OFFENSES SET FORTH IN SECTION ONE HUNDRED THIRTY OF THIS ARTICLE. THE DIVISION SHALL FORWARD ONE SET OF FINGERPRINT IMAGES TO THE FEDERAL BUREAU OF INVESTIGATION FOR A NATIONAL CRIMINAL HISTORY RECORD CHECK. AFTER CONDUCTING A STATE CRIMINAL RECORDS HISTORY SEARCH AND REVIEWING THE INFORMATION RETURNED FROM THE FEDERAL BUREAU OF INVESTIGATION, THE DIVISION SHALL COMPILE THE RELEVANT REQUESTED STATE AND FEDERAL CRIMINAL HISTORY INFORMATION AND SUBMIT A RESPONSE TO THE SECRETARY OF STATE. THE DIVISION SHALL CHARGE A FEE SUFFICIENT TO COVER THE COST OF PROCESSING THE REQUESTS DESCRIBED IN THIS SUBDIVISION.

S 5. The executive law is amended by adding a new section 135-c to read as follows:

S 135-C. REQUIREMENTS OF NOTARIES PUBLIC AND COMMISSIONERS OF DEEDS RELATED TO CERTAIN INSTRUMENTS AFFECTING REAL PROPERTY. 1. APPLICATION. THIS SECTION SHALL APPLY TO NOTARIES PUBLIC APPOINTED PURSUANT TO SECTION ONE HUNDRED THIRTY OF THIS ARTICLE AND TO COMMISSIONERS OF DEEDS APPOINTED PURSUANT TO SECTION ONE HUNDRED FORTY OF THIS ARTICLE WHEN SUCH NOTARIES PUBLIC AND COMMISSIONERS OF DEEDS PERFORM ACTS INVOLVING CONVEYANCES OF RESIDENTIAL REAL PROPERTY IN THE CITY OF NEW YORK.

2. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CONVEYANCE" MEANS EVERY WRITTEN INSTRUMENT BY WHICH THE TITLE TO ANY RESIDENTIAL REAL PROPERTY IN THE CITY OF NEW YORK MAY BE TRANSFERRED, EXCLUDING:

(I) A COURT-ORDERED OR COURT-AUTHORIZED TRANSFER OF RESIDENTIAL REAL PROPERTY, INCLUDING BUT NOT LIMITED TO A TRANSFER BETWEEN SPOUSES OR FORMER SPOUSES AS A RESULT OF A DECREE OF DIVORCE, DISSOLUTION OF MARRIAGE, ANNULMENT, OR LEGAL SEPARATION OR AS A RESULT OF PROPERTY SETTLEMENT, AGREEMENT INCIDENTAL TO A DECREE OF DIVORCE, DISSOLUTION OF

MARRIAGE, ANNULMENT OR LEGAL SEPARATION; A TRANSFER ORDER BY A PROBATE COURT DURING THE ADMINISTRATION OF A DECEDENT'S ESTATE; A JUDGMENT OF A FORECLOSURE AND SALE, OR A LEVY PURSUANT TO AN EXECUTION;

(II) A COURT-ORDERED VOIDING OF AN INSTRUMENT AFFECTING REAL PROPERTY PURSUANT TO SUBDIVISION FOUR OF SECTION 225.25 OF THE CRIMINAL PROCEDURE LAW;

(III) A TRANSFER OF PROPERTY IN TRUST IN WHICH THE BENEFICIARY IS OR INCLUDES THE GRANTOR;

(IV) A DEED FROM A GRANTOR TO HIMSELF OR HERSELF FOR THE PURPOSE OF CHANGING THE TENANCY BY WHICH THE PROPERTY IS HELD; AND

(V) A TRANSFER TO A MORTGAGEE BY A MORTGAGOR BY DEED IN LIEU OF FORECLOSURE OR IN SATISFACTION OF THE MORTGAGE DEBT.

(B) "FINANCIAL INSTITUTION" SHALL MEAN A BANK, TRUST COMPANY, SAVINGS INSTITUTION, OR CREDIT UNION, CHARTERED AND SUPERVISED UNDER STATE OR FEDERAL LAW.

(C) "NOTARIAL RECORD" SHALL MEAN THE DOCUMENT CREATED IN CONFORMITY WITH THE REQUIREMENTS OF SUBDIVISION THREE OF THIS SECTION.

(D) "RESIDENTIAL REAL PROPERTY" SHALL MEAN A BUILDING CONSISTING OF ONE TO THREE DWELLING UNITS OR AN INDIVIDUAL RESIDENTIAL CONDOMINIUM UNIT.

(E) "SIGNATORY" SHALL MEAN THE PERSON WHOSE SIGNATURE IS BEING ACKNOWLEDGED BY A NOTARY PUBLIC OR COMMISSIONER OF DEEDS.

3. NOTARIAL RECORD REQUIREMENT. A NOTARIAL RECORD MUST BE CREATED FOR ANY ACT OF A NOTARY PUBLIC OR COMMISSIONER OF DEEDS RELATED TO A CONVEYANCE. SUCH NOTARIAL RECORD SHALL BE ON A FORM PRESCRIBED BY THE DEPARTMENT OF FINANCE OF THE CITY OF NEW YORK AND SHALL CONTAIN THE FOLLOWING INFORMATION:

(A) THE DATE OF THE ACT;

(B) THE TYPE, TITLE, OR DESCRIPTION OF THE INSTRUMENT SWORN TO, AFFIRMED, ACKNOWLEDGED, OR PROVED BEFORE THE NOTARY;

(C) THE BOROUGH, BLOCK, LOT, AND STREET ADDRESS OF THE RESIDENTIAL REAL PROPERTY THAT IS THE SUBJECT OF THE CONVEYANCE;

(D) THE FULL PRINTED NAME, SIGNATURE, AND RESIDENTIAL STREET ADDRESS OF EACH PERSON WHOSE SIGNATURE IS BEING NOTARIZED;

(E) A DESCRIPTION OF THE SATISFACTORY EVIDENCE REVIEWED BY THE NOTARY PUBLIC OR COMMISSIONER OF DEEDS TO DETERMINE THE IDENTITY OF EACH PERSON WHOSE SIGNATURE IS BEING NOTARIZED;

(F) THE FEE CHARGED FOR THE ACT OF THE NOTARY PUBLIC;

(G) THE BUSINESS PHONE NUMBER AND STREET ADDRESS OF THE NOTARY PUBLIC OR COMMISSIONER OF DEEDS, AND THE COMMISSION OR APPOINTMENT EXPIRATION DATE;

(H) THE RIGHT THUMBPRINT OF EACH PERSON WHOSE SIGNATURE IS BEING NOTARIZED, PROVIDED THAT IF THE RIGHT THUMBPRINT IS NOT AVAILABLE, THEN THE LEFT THUMBPRINT, OR ANY AVAILABLE FINGERPRINT, WHICH SHALL BE INDICATED IN THE NOTARIAL RECORD, AND FURTHER PROVIDED THAT IF THE SIGNATORY IS PHYSICALLY UNABLE TO PROVIDE A THUMBPRINT OR FINGERPRINT, THE NOTARY PUBLIC OR COMMISSIONER OF DEEDS SHALL INDICATE THE SAME IN THE NOTARIAL RECORD AND DESCRIBE THE PHYSICAL DISABILITY.

4. SATISFACTORY EVIDENCE. FOR THE PURPOSES OF THIS SECTION, "SATISFACTORY EVIDENCE" MEANS THE ABSENCE OF ANY EVIDENCE OR INFORMATION THAT WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT THE PERSON WHOSE SIGNATURE IS BEING NOTARIZED IS NOT THE INDIVIDUAL HE OR SHE CLAIMS TO BE, TOGETHER WITH ANY OF THE FOLLOWING:

(A) PRESENTATION OF ANY ONE OF THE FOLLOWING DOCUMENTS IDENTIFYING THE SIGNATORY:

(I) A VALID DRIVER'S LICENSE OR NON-DRIVER IDENTIFICATION CARD ISSUED BY THE COMMISSIONER OF MOTOR VEHICLES, THE FEDERAL GOVERNMENT, ANY UNITED STATES TERRITORY, COMMONWEALTH OR POSSESSION, THE DISTRICT OF COLUMBIA, OR A STATE GOVERNMENT WITHIN THE UNITED STATES; OR

(II) A VALID PASSPORT ISSUED BY THE UNITED STATES GOVERNMENT.

(B) PRESENTATION OF ANY ONE OF THE FOLLOWING DOCUMENTS IDENTIFYING THE SIGNATORY, PROVIDED THAT SUCH DOCUMENT HAS BEEN ISSUED WITHIN THE PAST FIVE YEARS, CONTAINS A PHOTOGRAPH OF THE PERSON IDENTIFIED, HAS BEEN SIGNED BY THE PERSON IDENTIFIED, AND BEARS AN IDENTIFICATION OR SERIAL NUMBER:

(I) A PASSPORT ISSUED BY A FOREIGN GOVERNMENT, PROVIDED THAT SUCH PASSPORT HAS BEEN STAMPED BY THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES;

(II) A DRIVER'S LICENSE OR IDENTIFICATION CARD ISSUED BY A CANADIAN PROVINCE;

(III) AN IDENTIFICATION CARD ISSUED BY ANY BRANCH OF THE ARMED FORCES OF THE UNITED STATES:

(IV) A MUNICIPAL IDENTIFICATION CARD ISSUED PURSUANT TO SECTION 3-115 OF THE ADMINISTRATIVE CODE OF THE CITY OF NEW YORK; OR

(V) AN EMPLOYEE IDENTIFICATION CARD ISSUED BY THE STATE OF NEW YORK OR THE CITY OF NEW YORK.

5. RETENTION OF THE NOTARIAL RECORD. THE NOTARIAL RECORD SHALL BE RETAINED FOR SEVEN YEARS IN ACCORDANCE WITH THE PROCEDURES SET FORTH IN THIS SUBDIVISION.

(A) EXCEPT AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE NOTARIAL RECORD SHALL BE DELIVERED NO LATER THAN FOURTEEN DAYS AFTER IT IS CREATED TO THE OFFICE OF THE REGISTER OF THE CITY OF NEW YORK IN THE COUNTY WITHIN WHICH THE RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF THE CONVEYANCE IS LOCATED, PROVIDED THAT WHEN SUCH RESIDENTIAL PROPERTY IS LOCATED IN RICHMOND COUNTY, SUCH NOTARIAL RECORD SHALL BE DELIVERED TO THE OFFICE OF THE COUNTY CLERK OF RICHMOND COUNTY.

(B) IF THE NOTARIAL RECORD WAS CREATED BY A NOTARY PUBLIC IN THE SCOPE OF HIS OR HER EMPLOYMENT WITH A TITLE INSURANCE CORPORATION, FINANCIAL INSTITUTION, LAW FIRM, OR ATTORNEY AT LAW, THE NOTARY PUBLIC SHALL DELIVER THE NOTARIAL RECORD NO LATER THAN FOURTEEN DAYS AFTER IT IS CREATED TO SUCH TITLE INSURANCE CORPORATION, FINANCIAL INSTITUTION, LAW FIRM, OR ATTORNEY AT LAW. SUCH TITLE INSURANCE CORPORATION, FINANCIAL INSTITUTION, LAW FIRM, OR ATTORNEY AT LAW, OR ANY SUCCESSOR OR ASSIGNEE OF SUCH TITLE INSURANCE CORPORATION, FINANCIAL INSTITUTION, LAW FIRM, OR ATTORNEY AT LAW WITHIN THE SEVEN-YEAR RETENTION PERIOD, SHALL RETAIN THE NOTARIAL RECORD AND MAY DISCLOSE SUCH RECORD ONLY AS PERMITTED UNDER SUBDIVISION SIX OF THIS SECTION.

6. DISCLOSURE OF THE NOTARIAL RECORD. THE NOTARIAL RECORD SHALL NOT BE DISCLOSED NOR SHALL ITS CONTENTS BE MADE KNOWN EXCEPT AS PROVIDED IN THIS SUBDIVISION:

(A) A CERTIFIED COPY OF A NOTARIAL RECORD SHALL BE PROVIDED TO THE UNITED STATES OR ANY DEPARTMENT THEREOF, THE STATE OF NEW YORK OR ANY DEPARTMENT THEREOF, AND THE CITY OF NEW YORK OR ANY DEPARTMENT THEREOF, PROVIDED THAT SUCH NOTARIAL RECORD IS REQUIRED FOR OFFICIAL BUSINESS.

(B) A CERTIFIED COPY OF A NOTARIAL RECORD RELATED TO A CONVEYANCE SHALL BE PROVIDED UPON WRITTEN REQUEST TO A GRANTOR OR GRANTEE OF THE RESIDENTIAL PROPERTY THAT IS THE SUBJECT OF THE CONVEYANCE OR OF AN ECONOMIC INTEREST IN SUCH PROPERTY, OR TO SUCH GRANTOR'S OR GRANTEE'S DULY AUTHORIZED REPRESENTATIVE. A REPRESENTATIVE WHO REQUESTS A CERTIFIED COPY OF THE NOTARIAL RECORD SHALL FILE A POWER OF ATTORNEY WITH THE APPLICATION. WHEN A CERTIFIED COPY OF THE NOTARIAL RECORD IS PROVIDED

TO A GRANTEE, THE INFORMATION INCLUDED ON SUCH NOTARIAL RECORD PURSUANT TO PARAGRAPH (H) OF SUBDIVISION THREE OF THIS SECTION SHALL BE REDACTED.

(C) A CERTIFIED COPY OF A NOTARIAL RECORD SHALL BE PROVIDED IN ACCORDANCE WITH A JUDICIAL ORDER.

7. PENALTIES. ANY PERSON OR ENTITY VIOLATING THE PROVISIONS OF THIS SECTION SHALL, IN ADDITION TO ALL OTHER PENALTIES PROVIDED BY LAW, PAY TO THE PEOPLE OF THIS STATE AS A PENALTY THE SUM OF TWO HUNDRED FIFTY DOLLARS FOR EACH SUCH VIOLATION.

S 6. Section 136 of the executive law is amended by adding a new subdivision 3 to read as follows:

3. FOR PERFORMING AN ACT RELATED TO A CONVEYANCE FOR WHICH A NOTORIAL RECORD IS REQUIRED PURSUANT TO SECTION ONE HUNDRED THIRTY-FIVE-C OF THIS ARTICLE, NOT MORE THAN TWENTY-FIVE DOLLARS.

S 7. 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 KNOWINGLY PROCURES A WRITTEN INSTRUMENT AFFECTING REAL PROPERTY THAT CONTAINS A FALSE STATEMENT OR FALSE INFORMATION; AND

(B) HE OR SHE OFFERS OR PRESENTS SUCH INSTRUMENT TO A PUBLIC OFFICE, 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; OR

3. (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.

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

S 8. Section 7-607 of the administrative code of the city of New York is amended to read as follows:

S 7-607 Real estate instruments to be recorded. Every instrument affecting real estate or chattels real, situated in the counties within the city, shall be indexed pursuant to the provisions of this chapter. IN ACCORDANCE WITH SECTION TWO HUNDRED NINETY-ONE-I OF THE REAL PROPERTY LAW, THE CITY REGISTER SHALL ACCEPT FOR RECORDING AN INSTRUMENT AFFECTING REAL ESTATE OR CHATTELS REAL BY ELECTRONIC MEANS.

S 9. Subdivision a of section 11-2105 of the administrative code of the city of New York, as amended by chapter 385 of the laws of 2006, is amended to read as follows:

a. A joint return shall be filed by both the grantor and the grantee for each deed whether or not a tax is due thereon. Such return shall be filed with the commissioner of finance within thirty days after the delivery of the deed by the grantor to the grantee but before the recording of such deed. The commissioner of finance may, by rule, require that such returns be filed electronically. Filing shall be accomplished by delivering the return to the register for transmittal to the commissioner of finance or, where required by the commissioner of finance, by electronic filing of the return in a manner designated by the commissioner of finance. In the case of a transfer of an economic interest in real property, a joint return shall be filed in the above manner by both the grantor and the grantee for each instrument or transaction by which such transfer is effected, whether or not a tax is due thereon. Such return shall be filed with the commissioner of finance, at such place and in such manner as he or she may designate within thirty days after the transfer. The commissioner of finance shall prescribe the form of the return and the information which it shall contain. WHEN THE GRANTOR OR GRANTEE IS A LIMITED LIABILITY COMPANY, THE JOINT RETURN SHALL INCLUDE THE NAMES AND ADDRESSES OF ALL MEMBERS OF THE LIMITED LIABILITY COMPANY. IF ANY SUCH MEMBER IS ITSELF A LIMITED LIABILITY COMPANY, THE NAMES AND ADDRESSES OF ALL MEMBERS OF SUCH LIMITED LIABILITY COMPANY SHALL ALSO BE FURNISHED UNTIL FULL DISCLOSURE OF ULTIMATE OWNERSHIP IS ACHIEVED. The return shall be signed by both the grantor or the grantor's agent and the grantee or the grantee's agent. Where the commissioner of finance requires electronic filing, the return shall be signed electronically. Upon the filing of such return for a deed, evidence of the filing shall be affixed to the deed by the register. The commissioner of finance may provide for the use of stamps as evidence of payment and that they shall be affixed to the deed before it is recorded. Where either the grantor or grantee has failed to sign the return, it shall be accepted as a return, but the party who has failed to sign the return or file a separate return shall be subject to the penalties applicable to a person who has failed to file a return and the period of limitations for assessment of tax or of additional tax shall not apply to such party. For good cause, the commissioner of finance may waive any rule requiring electronic filing and may permit a return to be filed in such other manner as the commissioner of finance may designate.

S 10. This act shall take effect on the sixtieth day after it shall have become a law.