
SENATE BILL No. 382

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-1-9.1; IC 35-44-2.

Synopsis: Fraudulent financing statements and liens. Provides that certain individuals may file a motion for judicial review of a financing statement to determine if the document is fraudulent. Allows a court to order certain actions if the court finds a financing statement is fraudulent. Makes it a Class D felony for a person to knowingly or intentionally file a fraudulent financing statement to perfect a security interest. Makes it a Class C felony for a person to file a financing statement for the purpose of hindering, harassing, or wrongfully interfering with another person. Makes it a Class D felony for a person to file a false lien or a false encumbrance against a public servant's real or personal property. Makes it a Class C felony if the person who commits the offense has a prior unrelated conviction.

Effective: July 1, 2012.

Glick, Head

January 9, 2012, read first time and referred to Committee on Judiciary.

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Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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SENATE BILL No. 382



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 26-1-9.1-900 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 900. A financing statement filed**
4 **under this chapter is fraudulent if:**
5 **(1) it is filed:**
6 **(A) without the consent of the:**
7 **(i) obligor named in the financing statement;**
8 **(ii) person named in the financing statement as debtor;**
9 **and**
10 **(iii) owner of collateral described or indicated in the**
11 **financing statement;**
12 **(B) in the case of an amendment or termination, by consent**
13 **of an agent, a fiduciary, or another representative of the**
14 **secured party of record without the consent of the secured**
15 **party of record; or**
16 **(C) for the purpose of hindering, harassing, or wrongfully**
17 **interfering with another person or entity; or**



1 **(2) it is forged.**

2 SECTION 2. IC 26-1-9.1-901 IS ADDED TO THE INDIANA
3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2012]: **Sec. 901. (a) A person described in**
5 **section 900 of this chapter who believes that a financing statement**
6 **pertaining to the person as described in section 900 of this chapter**
7 **is fraudulent may file a motion for judicial review of the financing**
8 **statement.**

9 **(b) If a court determines that a financing statement is**
10 **fraudulent, the court may:**

11 **(1) award the prevailing party all costs related to the review,**
12 **including:**

13 **(A) filing fees;**

14 **(B) attorney's fees;**

15 **(C) administrative costs; and**

16 **(D) other reasonable costs;**

17 **(2) declare the financing statement ineffective; and**

18 **(3) order the office or agency that possesses the financing**
19 **statement to terminate or purge the financing statement.**

20 **(c) The secretary of state shall create and post on its Internet**
21 **web site a form to assist pro se individuals with a filing described**
22 **in this section.**

23 SECTION 3. IC 35-44-2-7 IS ADDED TO THE INDIANA CODE
24 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
25 1, 2012]: **Sec. 7. A person who knowingly or intentionally files with**
26 **the secretary of state a financing statement that is fraudulent**
27 **under IC 26-1-9.1-900 commits a Class D felony. However, the**
28 **offense is a Class C felony if the financing statement is filed for the**
29 **purpose of hindering, harassing, or wrongfully interfering with**
30 **another person or entity.**

31 SECTION 4. IC 35-44-2-8 IS ADDED TO THE INDIANA CODE
32 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2012]: **Sec. 8. (a) As used in this section, "a false lien or a false**
34 **encumbrance" means a lien or encumbrance that is false or**
35 **contains a false, fictitious, or fraudulent statement or**
36 **representation.**

37 **(b) A person who knowingly or intentionally files in a:**

38 **(1) public record; or**

39 **(2) private record that is generally available to the public;**
40 **a false lien or a false encumbrance, with the knowledge that the**
41 **lien or encumbrance is false, against a public servant's real or**
42 **personal property, commits a Class D felony. However, the offense**

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1 is a Class C felony if the person who commits the offense has a
2 prior unrelated conviction under this section or under section 7 of
3 this chapter.

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