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# HOUSE BILL No. 1373

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 26-1-9.1; IC 35-44-2-7.

**Synopsis:** Fraudulent financing statements. 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 a financing statement is fraudulent. Makes it a Class A misdemeanor for a person to knowingly or intentionally file a fraudulent financing statement to perfect a security interest. Makes it a Class D felony for a person to file a financing statement for the purposes of hindering, harassing, or wrongfully interfering with another person.

**Effective:** July 1, 2012.

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## Steuerwald, Noe

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January 12, 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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## HOUSE BILL No. 1373



A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

*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 **is fraudulent may file a motion for judicial review of the financing**  
7 **statement.**

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

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

12               **(A) filing fees;**

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

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

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

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

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

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

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

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