



General Assembly

February Session, 2002

Raised Bill No. 5727

LCO No. 2495

Referred to Committee on Judiciary

Introduced by:
(JUD)

***AN ACT CONCERNING FRAUDULENT LEGAL PROCESS AND
FRAUDULENT FILINGS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2002*) (a) As used in this
2 section:

3 (1) "Legal process" means a document or order issued by a court or
4 filed or recorded for the purpose of exercising jurisdiction or
5 representing a claim against a person or property, or for the purpose of
6 directing a person to appear before a court or tribunal, or to perform or
7 refrain from performing a specified act, including, but not limited to, a
8 summons, lien, complaint, warrant, injunction, writ, notice, pleading,
9 subpoena or order; and

10 (2) "Person" means an individual, a public or private group,
11 incorporated or otherwise, a legitimate or illegitimate legal tribunal or
12 entity, an informal organization, an official or unofficial agency or
13 body, or any assemblage of individuals.

14 (b) Any person who (1) deliberately impersonates or falsely acts as a

15 public officer or tribunal or a public employee, including, but not
16 limited to, deliberately impersonating or falsely acting as a marshal,
17 judge, prosecutor or other court personnel or law enforcement
18 authority, in connection with or relating to any legal process affecting
19 any person or property, or otherwise takes any action under color of
20 law against any person or property, (2) simulates legal process,
21 including, but not limited to, actions affecting title to real estate or
22 personal property, indictments, subpoenas, warrants, injunctions,
23 liens, orders, judgments or any legal documents or proceedings, and
24 knowing or having reason to know that the contents of any such
25 documents or proceedings or the basis for any action to be fraudulent,
26 or (3) falsely under color of law attempts in any way to influence,
27 intimidate, or hinder a public official or law enforcement officer in the
28 discharge of his or her official duties by means of, but not limited to,
29 threats of or actual physical abuse, harassment or through the use of
30 simulated legal process, shall be guilty of a class D felony.

31 (c) Nothing in this section shall: (1) Make unlawful any act of any
32 law enforcement officer or legal tribunal which is performed under
33 lawful authority; (2) prohibit individuals from assembling freely to
34 express opinions or designate group affiliation or association; or (3)
35 prohibit or in any way limit a person's lawful and legitimate access to
36 the courts or prevent a person from instituting or responding to
37 legitimate and lawful legal process.

38 Sec. 2. Subsection (b) of section 87 of public act 01-132 is repealed
39 and the following is substituted in lieu thereof (*Effective October 1,*
40 *2002*):

41 (b) Filing does not occur with respect to a record that a filing office
42 refuses to accept because:

43 (1) The record is not communicated by a method or medium of
44 communication authorized by the filing office;

45 (2) An amount equal to or greater than the applicable filing fee is

46 not tendered;

47 (3) The filing office is unable to index the record because:

48 (A) In the case of an initial financing statement, the record does not
49 provide a name for the debtor;

50 (B) In the case of an amendment or correction statement, the record:

51 (i) Does not identify the initial financing statement as required by
52 section 83 or 89 of [this act] public act 01-132, as amended by this act,
53 as applicable; or

54 (ii) Identifies an initial financing statement whose effectiveness has
55 lapsed under section 86 of [this act] public act 01-132; or

56 (C) In the case of an initial financing statement that provides the
57 name of a debtor identified as an individual or an amendment that
58 provides a name of a debtor identified as an individual which was not
59 previously provided in the financing statement to which the record
60 relates, the record does not identify the debtor's last name;

61 (4) In the case of an initial financing statement or an amendment
62 that adds a secured party of record, the record does not provide a
63 name and mailing address for the secured party of record;

64 (5) In the case of an initial financing statement or an amendment
65 that provides a name of a debtor which was not previously provided in
66 the financing statement to which the amendment relates, the record
67 does not:

68 (A) Provide a mailing address for the debtor;

69 (B) Indicate whether the debtor is an individual or an organization;
70 or

71 (C) If the financing statement indicates that the debtor is an
72 organization, provide:

73 (i) A type of organization for the debtor; and

74 (ii) A jurisdiction of organization for the debtor;

75 (6) In the case of an assignment reflected in an initial financing
76 statement under subsection (a) of section 85 of [this act] public act 01-
77 132, or an amendment filed under subsection (b) of section 85 of [this
78 act] public act 01-132, the record does not provide a name and mailing
79 address for the assignee; [or]

80 (7) In the case of a continuation statement, the record is not filed
81 within the six-month period prescribed by subsection (d) of section 86
82 of [this act] public act 01-132; or

83 (8) In the case of a record presented for filing at the Office of the
84 Secretary of the State, the Secretary of the State determines that the
85 record is not created pursuant to article 9 of title 42a of the general
86 statutes, as amended by public act 01-132, or is otherwise intended for
87 an improper purpose, such as to hinder, harass or otherwise
88 wrongfully interfere with any person.

89 Sec. 3. Section 89 of public act 01-132 is repealed and the following is
90 substituted in lieu thereof (*Effective October 1, 2002*):

91 (a) A person may file in the filing office a correction statement with
92 respect to a record indexed there under the person's name if the person
93 believes that the record is inaccurate or was wrongfully filed.

94 (b) A correction statement must:

95 (1) Identify the record to which it relates by:

96 (A) The file number assigned to the initial financing statement to
97 which the record relates; or

98 (B) If the correction statement relates to a record recorded in a filing
99 office described in subdivision (1) of subsection (a) of section 42a-9-501

100 of the general statutes, as amended by [this act] public act 01-132, the
101 book and page on which or the date and time that the initial financing
102 statement was recorded;

103 (2) Indicate that it is a correction statement; and

104 (3) Provide the basis for the person's belief that the record is
105 inaccurate and indicate the manner in which the person believes the
106 record should be amended to cure any inaccuracy or provide the basis
107 for the person's belief that the record was wrongfully filed. A
108 correction statement that is subject to subsection (d) of this section
109 shall include a written certification, under oath, by the person that the
110 contents of the correction statement are true and accurate to the best of
111 the person's knowledge.

112 (c) The filing of a correction statement does not affect the
113 effectiveness of an initial financing statement or other filed record.

114 (d) In the case of a correction statement alleging that a previously
115 filed record was wrongfully filed and that it should have been refused
116 under subdivision (8) of subsection (b) of section 87 of public act 01-
117 132, as amended by this act, the Secretary of the State shall, without
118 undue delay, determine whether the contested record was wrongfully
119 filed and should have been refused. In order to determine whether the
120 record was wrongfully filed, the Secretary of the State may require the
121 person filing the correction statement and the secured party to provide
122 any additional relevant information requested by the Secretary of the
123 State, including an original or a copy of any security agreement that is
124 related to the record. If the Secretary of the State finds that the record
125 was wrongfully filed and should have been refused under subdivision
126 (8) of subsection (b) of section 87 of public act 01-132, as amended by
127 this act, the Secretary of the State shall cancel the record and it shall be
128 void and of no effect.

129 Sec. 4. Section 91 of public act 01-132 is repealed and the following is
130 substituted in lieu thereof (*Effective October 1, 2002*):

131 (a) A filing office shall refuse to accept a record for filing for a reason
132 set forth in subsection (b) of section 87 of [this act] public act 01-132, as
133 amended by this act, and may refuse to accept a record for filing only
134 for a reason set forth in subsection (b) of section 87 of [this act] public
135 act 01-132, as amended by this act.

136 (b) If a filing office refuses to accept a record for filing or cancels a
137 record under subsection (d) of section 89 of public act 01-132, as
138 amended by this act, it shall communicate to the person that presented
139 the record the fact of and reason for the refusal or cancellation and the
140 date and time the record would have been filed had the filing office
141 accepted it. The communication must be made at the time and in the
142 manner prescribed by filing-office regulation but, in the case of a filing
143 office described in subdivision (2) of subsection (a) of section 42a-9-501
144 of the general statutes, as amended by [this act] public act 01-132, in no
145 event more than five business days after the filing office receives or
146 cancels the record.

147 (c) A filed financing statement satisfying subsections (a) and (b) of
148 section 42a-9-502 of the general statutes, as amended by [this act]
149 public act 01-132, is effective, even if the filing office is required to
150 refuse to accept it for filing under subsection (a). However, section 58
151 of [this act] public act 01-132 applies to a filed financing statement
152 providing information described in subdivision (5) of subsection (b) of
153 section 87 of [this act] public act 01-132 which is incorrect at the time
154 the financing statement is filed.

155 (d) If a record communicated to a filing office provides information
156 that relates to more than one debtor, sections 42a-9-501 to 42a-9-507,
157 inclusive, of the general statutes, as amended by [this act] public act
158 01-132, and sections 79 to 97, inclusive, of [this act] public act 01-132,
159 apply as to each debtor separately.

160 (e) (1) If the Secretary of the State refuses to accept a record for filing
161 pursuant to subdivision (8) of subsection (b) of section 87 of public act

162 01-132, as amended by this act, or cancels a wrongfully filed record
163 pursuant to subsection (d) of section 89 of public act 01-132, as
164 amended by this act, the secured party may file an appeal in the
165 Superior Court within thirty days after the refusal or cancellation. The
166 petition for such appeal shall be filed with the court and with the
167 Secretary of the State and shall have the record attached to it. Upon the
168 filing of such appeal, the court shall hold a hearing on the petition at
169 the earliest possible time and such appeal shall take precedence over
170 all matters except older matters of the same character. An appeal to the
171 Superior Court under this subsection shall be determined upon such
172 further notice and opportunity to be heard, if any, as the court may
173 deem appropriate under the circumstances. The court shall permit the
174 joinder of any interested party that would be allowed under applicable
175 rules of civil procedure.

176 (2) After hearing and upon consideration of the petition and other
177 appropriate pleadings, the court may order the Secretary of the State to
178 file the record or may take such other action as the court considers
179 appropriate, including the entry of orders affirming, reversing or
180 otherwise modifying the decision of the Secretary of the State. The
181 court may order any other relief, including equitable relief, as may be
182 appropriate.

183 (3) The court's final decision may be appealed as in other civil
184 proceedings.

185 Sec. 5. (NEW) (Effective October 1, 2002) (a) A person is guilty of
186 filing a false security agreement if the person presents a record for
187 filing under the provisions of article 9 of title 42a of the general
188 statutes, as amended by public act 01-132 and this act, with knowledge
189 that the record is not related to a valid security agreement or with the
190 intention that the record be filed for an improper purpose, such as to
191 hinder, harass or otherwise wrongfully interfere with any person.

192 (b) Filing a false security agreement is a class B misdemeanor.

193 Sec. 6. (NEW) (*Effective October 1, 2002*) If a town clerk or registrar of
194 vital statistics of any municipality determines on receipt of an
195 instrument for record that such instrument is intended for an improper
196 purpose, such as to hinder, harass or otherwise wrongfully interfere
197 with any person, the town clerk or registrar may refuse to accept such
198 instrument until such time as (1) an opinion stating that such
199 instrument should be accepted for recording is issued by the municipal
200 attorney or the Attorney General, or (2) a court of competent
201 jurisdiction orders such instrument to be accepted for recording. No
202 town clerk, registrar of vital statistics, municipal attorney or
203 municipality may be held liable for any refusal of an instrument or
204 delay in recording an instrument pursuant to this section.

205 Sec. 7. (NEW) (*Effective October 1, 2002*) (a) A person is guilty of
206 filing a false instrument for record if the person presents an instrument
207 to a town clerk or registrar of vital statistics for filing with the intention
208 that the instrument be filed for an improper purpose, such as to
209 hinder, harass or otherwise wrongfully interfere with any person.

210 (b) Filing a false instrument for record is a class B misdemeanor.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>October 1, 2002</i>
Sec. 3	<i>October 1, 2002</i>
Sec. 4	<i>October 1, 2002</i>
Sec. 5	<i>October 1, 2002</i>
Sec. 6	<i>October 1, 2002</i>
Sec. 7	<i>October 1, 2002</i>

Statement of Purpose:

To deter fraudulent legal process and the filing of fraudulent instruments.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]