

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

A Bill

SENATE BILL 431

4
5 By: Senator T. Smith
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For An Act To Be Entitled

8
9 AN ACT CONCERNING THE USE OF INSURANCE PROCEEDS
10 IN CONTRAVENTION OF A SECURITY AGREEMENT; AND FOR
11 OTHER PURPOSES.
12

Subtitle

13
14 CONCERNING THE USE OF INSURANCE PROCEEDS
15 IN CONTRAVENTION OF A SECURITY
16 AGREEMENT.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 5-37-203 is amended to read as follows:
22 5-37-203. Defrauding a secured creditor.

23 (a) A person commits the offense of defrauding a secured creditor if
24 he or she:

25 (1) ~~destroys~~ Destroys, removes, cancels, encumbers, transfers,
26 or otherwise disposes of property subject to a security interest with the
27 purpose to hinder enforcement of the security interest; or

28 (2) Uses motor vehicle insurance policy proceeds in excess of
29 one thousand dollars (\$1,000) obtained from a settlement of a property damage
30 claim on a motor vehicle subject to a security interest in contravention of
31 the security agreement that creates or provides for the security interest in
32 the motor vehicle.

33 (b) Defrauding a secured creditor is a Class D felony.
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35 SECTION 2. Arkansas Code Title 23, Chapter 89, Subchapter 2 is amended
36 to add an additional section to read as follows:



1 23-89-216. Notice concerning use of insurance proceeds.

2 (a) When making payment on a claim under a motor vehicle insurance
3 policy for damage to a motor vehicle, a motor vehicle liability insurer shall
4 provide a written notice to the insured in substantially the following form:

5 "Failure to use the insurance proceeds in accordance with a security
6 agreement between you and a lienholder, if any, may constitute the criminal
7 offense of defrauding a secured creditor in violation of Arkansas Code § 5-
8 37-203. If you have any questions, contact your lienholder."

9 (b) The written notice required by subsection (a) of this section may
10 be provided by including the written notice on each loss estimate prepared in
11 connection with the claim.

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