

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4

As Engrossed: H1/20/11 H1/26/11 S2/8/11

A Bill

HOUSE BILL 1045

5 By: Representative D. Hutchinson
6 By: Senator J. Hutchinson
7

For An Act To Be Entitled

9 AN ACT REGARDING A PERSON FILING INSTRUMENTS
10 AFFECTING TITLE OR INTEREST IN REAL *PROPERTY*;
11 *DECLARING AN EMERGENCY* AND FOR OTHER PURPOSES.
12
13

Subtitle

15 REGARDING A PERSON FILING INSTRUMENTS
16 AFFECTING TITLE OR INTEREST IN REAL
17 *PROPERTY AND DECLARING AN EMERGENCY.*
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code § 5-37-226 is amended to read as follows:

23 5-37-226. Filing instruments affecting title or interest in real
24 property.

25 (a) It is unlawful for ~~any a~~ a person with the knowledge of the
26 instrument's lack of authenticity or genuineness to have placed of record in
27 the office of the ~~recorder of any county~~ county recorder or the office of the
28 Secretary of State any instrument:

29 (1) Clouding or adversely affecting:

30 (A) The title or interest of the true owner, lessee, or
31 assignee in real property; or

32 (B) Any bona fide interest in real property; and

33 (2) With the ~~intent~~ purpose of:

34 (A) Clouding, adversely affecting, impairing, or
35 discrediting the title or other interest in the real property which may
36 prevent the true owner, lessee, or assignee from disposing of the real



1 property or transferring or granting any interest in the real property; or

2 (B) Procuring money or value from the true owner, lessee,
3 or assignee to clear the instrument from the records of the office of the
4 county recorder or the office of the Secretary of State.

5 ~~(b)(1)(A) Any A person violating who violates a provision of~~
6 ~~subsection (a) of this section is guilty of a Class A misdemeanor.~~

7 (B) A person who has a previous conviction under
8 subdivision (b)(1)(A) of this section upon conviction is guilty of a Class D
9 felony for a subsequent violation of subsection (a) of this section.

10 (2) However, a person who violates subsection (a) of this
11 section is guilty of a Class C felony if the person violates subsection (a)
12 of this section because of the performance of official duties by the victim
13 and the victim is:

14 (A) A judge or other court personnel;

15 (B) A prosecuting attorney or deputy prosecuting attorney;

16 (C) A state, county, or municipal law enforcement officer
17 or jailer;

18 (D) An employee of the Department of Correction;

19 (E) An employee of the Department of Community Correction;

20 (F) A judge, prosecuting attorney, deputy prosecuting
21 attorney, law enforcement officer, or jailer from another state, the District
22 of Columbia, the Commonwealth of Puerto Rico, or a territory of the United
23 States;

24 (G) A person elected to a federal, state, or local position; or

25 (H) A person employed by the Attorney General.

26 (c) ~~Any An~~ owner, lessee, or assignee of real property located in the
27 State of Arkansas who suffers loss or damages as a result of conduct that is
28 prohibited under subsection (a) of this section, and who must bring civil
29 action to remove any cloud from his or her title or interest in the real
30 property, or to clear his or her title or interest in the real property is
31 entitled to three (3) times actual damages, punitive damages, and costs,
32 including any reasonable attorney's fees or other costs of litigation
33 reasonably incurred.

34 ~~The provisions of this section do~~ This section does not apply to a
35 bona fide filing of lis pendens, materialmen's lien, laborer's lien, or other
36 legitimate notice or protective filing as provided by law.

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SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the filing of false liens by persons for vengeful reasons has become a large problem in these United States; that currently Arkansas has inadequate statutes to address this growing problem; and that this act is immediately necessary because citizens as well as persons engaged in law enforcement and the judiciary need immediate protection. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill;
or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/D. Hutchinson