

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 88th General Assembly
3 Regular Session, 2011

A Bill

HOUSE BILL 1045

4
5 By: Representative D. Hutchinson
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For An Act To Be Entitled

8 AN ACT REGARDING A PERSON INCARCERATED IN A COUNTY
9 JAIL OR IN THE DEPARTMENT OF CORRECTION FILING
10 INSTRUMENTS AFFECTING TITLE OR INTEREST IN REAL
11 PROPERTY; AND FOR OTHER PURPOSES.
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Subtitle

14 REGARDING A PERSON INCARCERATED IN A
15 COUNTY JAIL OR IN THE DEPARTMENT OF
16 CORRECTION FILING INSTRUMENTS AFFECTING
17 TITLE OR INTEREST IN REAL PROPERTY.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code § 5-37-226 is amended to read as follows:

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

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

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

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

11 (A) A judge or other court personnel;

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

13 (C) A state, county, or municipal law enforcement officer
 14 or jailer;

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

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

17 or

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

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

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

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