

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  
4

# A Bill

HOUSE BILL 1161

5 By: Representative L. Smith  
6 By: Senator D. Johnson  
7

## For An Act To Be Entitled

10 AN ACT TO CREATE THE OFFENSE OF FRAUDULENT FILING  
11 OF A UNIFORM COMMERCIAL CODE FINANCING STATEMENT;  
12 AND FOR OTHER PURPOSES.  
13

## Subtitle

14  
15 TO CREATE THE OFFENSE OF FRAUDULENT  
16 FILING OF A UNIFORM COMMERCIAL CODE  
17 FINANCING STATEMENT.  
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20  
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 5, Chapter 37, Subchapter 2 is amended  
24 to add a new section to read as follows:

25 5-37-215. Fraudulently filing a Uniform Commercial Code financing  
26 statement.

27 (a) A person commits the offense of fraudulently filing a Uniform  
28 Commercial Code financing statement if, with the purpose to defraud or harass  
29 an alleged debtor or any other person, the person knowingly presents or  
30 conspires with another person to present a financing statement under the  
31 Uniform Commercial Code for filing that the person knows:

32 (1) Is not based on a bona fide security agreement; or

33 (2) Was not authorized or authenticated by the alleged debtor  
34 identified in the financing statement or an authorized representative of the  
35 alleged debtor.

36 (b)(1) Fraudulently filing a Uniform Commercial Code financing



1 statement is a Class A misdemeanor.

2 (2)(A) A subsequent offense of fraudulently filing a Uniform  
3 Commercial Code financing statement is a Class C felony.

4 (B)(i) Subdivision (b)(2)(A) of this section includes a  
5 subsequent offense by a defendant who has previously pleaded guilty or nolo  
6 contendere to or been found guilty of a similar offense to fraudulently  
7 filing a Uniform Commercial Code financing statement under any other state's  
8 law or federal law.

9 (ii) The trial judge shall determine whether an  
10 offense under another state's law or federal law is a similar offense under  
11 subdivision (b)(2)(B)(i) of this section.

12 (c) In addition to the criminal penalties provided under subsection  
13 (b) of this section and in addition to any other laws under which a person  
14 may obtain relief, a person aggrieved or damaged by the filing of a Uniform  
15 Commercial Code financing statement in violation of subsection (a) of this  
16 section has a civil cause of action against the defendant for injunctive and  
17 other curative relief and may also recover:

18 (1) The greater of ten thousand dollars (\$10,000) or the actual  
19 damages caused by the violation;

20 (2) Court costs;

21 (3) Reasonable attorney's fees;

22 (4) Costs and expenses reasonably related to the expenses of  
23 investigating and bringing the civil action; and

24 (5) Exemplary or punitive damages in an amount determined by the  
25 fact finder.

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