

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

As Engrossed: H1/20/11
A Bill

HOUSE BILL 1045

5 By: Representative D. Hutchinson
6

7 **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; DECLARING AN EMERGENCY* AND FOR OTHER
12 PURPOSES.
13

14 **Subtitle**

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

26 5-37-226. Filing instruments affecting title or interest in real
27 property.

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

31 (1) Clouding or adversely affecting:

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

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

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

36 (A) Clouding, adversely affecting, impairing, or



1 discrediting the title or other interest in the real property which may
 2 prevent the true owner, lessee, or assignee from disposing of the real
 3 property or transferring or granting any interest in the real property; or

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

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

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

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

16 (A) A judge or other court personnel;

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

18 (C) A state, county, or municipal law enforcement officer
 19 or jailer;

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

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

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

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

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

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

36 (d) ~~The provisions of this section do~~ This section does not apply to a

1 bona fide filing of lis pendens, materialmen's lien, laborer's lien, or other
2 legitimate notice or protective filing as provided by law.

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

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

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

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

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20 /s/D. Hutchinson
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