

HB 1412 -- FRAUDULENT FINANCING STATEMENTS

SPONSOR: Phillips

This bill modifies the law relating to the filing of fraudulent financing statements with the Secretary of State. In its main provisions the bill;

(1) Creates a class A misdemeanor for any person who knowingly or intentionally files, or attempts to file a financing statement with the Secretary of State that is to be used to harass or defraud any other person or that is materially false or fraudulent. If the person commits the offense with the intent to influence; or retaliate against a current or former employee or officer of a federal, state, county, or other local governmental unit because of that employee or officer's performance of his or her public duties the violation is a class C felony;

(2) Allows the court, upon conviction, to find the financing statement ineffective and the court can order the secretary of state to terminate the financing statement and to order restitution;

(3) Allows a debtor named in the financing statement to file an action against the person that filed the financing statement to seek appropriate equitable relief or damages;

(4) Provides that a document is presumed to be false or fraudulent if it is filed by or on behalf of an inmate in the custody of the Department of Corrections. This presumption may be rebutted by providing the Secretary of State with a sworn and notarized document signed by the obligor, debtor or owner of the collateral stating that the person entered into a security agreement with the inmate; and

(5) Requires the Secretary of State to determine if a contested record was wrongfully filed when someone files an information statement alleging that a record was wrongfully filed. The Secretary of State may require the person filing the statement or the secured party to provide additional information. If the statement is found to be wrongfully filed, the record shall be terminated and is void and ineffective. The secured party named in the record shall be notified of the termination.