

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 804,  
2 Page 7, Section 304.351, Line 77, by inserting after all of said section and line the following:

3  
4 "400.9-516. (a) Except as otherwise provided in subsection (b), communication of a record  
5 to a filing office and tender of the filing fee or acceptance of the record by the filing office  
6 constitutes filing.

7 (b) Filing does not occur with respect to a record that a filing office refuses to accept  
8 because:

9 (1) The record is not communicated by a method or medium of communication authorized  
10 by the filing office;

11 (2) An amount equal to or greater than the applicable filing fee is not tendered;

12 (3) The filing office is unable to index the record because:

13 (A) In the case of an initial financing statement, the record does not provide a name for the  
14 debtor;

15 (B) In the case of an amendment or information statement, the record:

16 (i) Does not identify the initial financing statement as required by section 400.9-512 or  
17 400.9-518, as applicable; or

18 (ii) Identifies an initial financing statement whose effectiveness has lapsed under section  
19 400.9-515;

20 (C) In the case of an initial financing statement that provides the name of a debtor identified  
21 as an individual or an amendment that provides a name of a debtor identified as an individual which  
22 was not previously provided in the financing statement to which the record relates, the record does  
23 not identify the debtor's surname; or

24 (D) In the case of a record filed or recorded in the filing office described in section 400.9-  
25 501(a)(1), the record does not provide a sufficient description of the real property to which it  
26 relates;

27 (4) In the case of an initial financing statement or an amendment that adds a secured party  
28 of record, the record does not provide a name and mailing address for the secured party of record;

29 (5) In the case of an initial financing statement or an amendment that provides a name of a  
30 debtor which was not previously provided in the financing statement to which the amendment  
31 relates, the record does not:

32 (A) Provide a mailing address for the debtor; or

33 (B) Indicate whether the name provided as the name of the debtor is the name of an  
34 individual or an organization;

35 (6) In the case of an assignment reflected in an initial financing statement under section  
36 400.9-514(a) or an amendment filed under section 400.9-514(b), the record does not provide a name

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1 and mailing address for the assignee; or

2 (7) In the case of a continuation statement, the record is not filed within the six-month  
3 period prescribed by section 400.9-515(d);

4 (8) The secretary of state has reasonable cause to believe the record is materially false or  
5 fraudulent; or

6 (9) The record on its face reveals, based on factors such as whether the debtor and the  
7 secured party are substantially the same person, the individual debtor is a transmitting utility, or  
8 whether the collateral described is within the scope of this chapter, that the record is being filed for  
9 a purpose other than a transaction that is within the scope of this chapter. This includes a record that  
10 asserts a claim against a current or former employee or officer of a federal, state, county, or other  
11 local governmental unit that relates to the performance of the officer's or employee's public duties,  
12 and for which the filer does not hold a properly executed security agreement or judgment from a  
13 court of competent jurisdiction.

14 (c) For purposes of subsection (b):

15 (1) A record does not provide information if the filing office is unable to read or decipher  
16 the information; and

17 (2) A record that does not indicate that it is an amendment or identify an initial financing  
18 statement to which it relates, as required by section 400.9-512, 400.9-514 or 400.9-518, is an initial  
19 financing statement; and

20 (3) A document, instrument, or record shall be presumed to be materially false or fraudulent  
21 if the document, instrument, or record is filed by an offender or on behalf of an offender. This  
22 presumption may be rebutted by providing the secretary of state the original or a copy of a sworn  
23 and notarized document signed by the obligor, debtor, or owner of the property designated as  
24 collateral stating that the person entered into a security agreement with the offender and authorized  
25 the filing of the instrument as provided in section 400.9-509. For the purposes of this subdivision  
26 the term "offender" shall have the same definition as provided in section 217.010, except, it shall  
27 only include inmates in the custody of the department of corrections.

28 (d) A record that is communicated to the filing office with tender of the filing fee, but  
29 which the filing office refuses to accept for a reason other than one set forth in subsection (b), is  
30 effective as a filed record except as against a purchaser of the collateral which gives value in  
31 reasonable reliance upon the absence of the record from the files.

32 (e) In the alternative to the provisions of sections 428.105 through 428.135, if an  
33 information statement filed with the secretary of state under section 400.9-518 alleges that a  
34 previously filed record was wrongfully filed, the secretary of state shall, without undue delay,  
35 determine whether the contested record was wrongfully filed. To determine whether the record was  
36 wrongfully filed, the secretary of state may require the person who filed the information statement  
37 or the secured party to provide any additional relevant information, including an original or copy of  
38 a security agreement that is related to the record. If the secretary of state finds that the record was  
39 wrongfully filed, the secretary of state shall terminate the record and the record shall be void and  
40 ineffective. The secretary of state shall notify the secured party named in the contested record of  
41 the termination.

42 486.245. 1. The county clerk shall keep a register, listing the name and address of each  
43 person to whom he awards a notary commission and the date upon which he awards the  
44 commission. Within thirty days after receiving a bond, signature and oath, the county clerk shall  
45 forward the bond, signature and oath to the secretary of state by certified mail. All such bonds,  
46 signatures and oaths shall be preserved permanently by the secretary of state.

47 2. The secretary of state shall maintain a database that includes but is not limited to  
48 information that is contained on each notary's seal or any lost seal of a notary public.

1        486.285. 1. (1) A manufacturer of a notary public's seal shall register with the secretary of  
 2 state and communicate to the secretary of state when it has issued a seal to a person in this state.  
 3 After such communication, the secretary of state shall approve any seal issued by the manufacturer  
 4 within ten days.

5        (2) A copy of the notary's commission shall be maintained by such manufacturer.

6        (3) If a manufacturer violates the provisions of this subsection, the manufacturer shall be  
 7 subject to a one thousand dollar fine for each violation.

8        2. Each notary public shall provide, keep, and use a seal which is either an engraved  
 9 embosser seal or a black inked rubber stamp seal to be used on the document being notarized. The  
 10 seal shall contain the notary's name exactly as indicated on the commission and the words "Notary  
 11 Seal", "Notary Public", and "State of Missouri" and, after August 28, 2004, the commission number  
 12 assigned by the secretary of state, provided that the notary public has been issued a commission  
 13 number by the secretary of state, all of which shall be in print not smaller than eight-point type.

14        [2.] 3. The indentations made by the seal embosser or printed by the black inked rubber  
 15 stamp seal shall not be applied on the notarial certificate or document to be notarized in a manner  
 16 that will render illegible or incapable of photographic reproduction any of the printed marks or  
 17 writing on the certificate or document.

18        [3.] 4. Every notary shall keep an official notarial seal that is the exclusive property of the  
 19 notary and the seal may not be used by any other person or surrendered to an employer upon  
 20 termination of employment.

21        486.305. 1. Any notary public who loses or misplaces his or her journal of notarial acts or  
 22 official seal shall [forthwith mail or deliver] immediately provide written notice of the fact to the  
 23 secretary of state. For a lost or misplaced official seal, upon receipt of the written notice, the  
 24 secretary of state shall issue the notary a new commission number for the notary to order a new seal.  
 25 The secretary of state may post notice on the secretary of state's website notifying the general public  
 26 that the lost or misplaced notary seal and commission number of such notary is invalid and is not an  
 27 acceptable notary commission number.

28        2. If a notary public's official seal is destroyed, broken, damaged, or otherwise rendered  
 29 inoperable, the notary shall immediately provide written notice of that fact to the secretary of state.  
 30 Upon receipt of the written notice, the secretary of state shall issue the notary a new commission  
 31 number for the notary to order a new seal. The secretary of state may post notice on the secretary of  
 32 state's website notifying the general public that the destroyed, broken, damaged, or otherwise  
 33 inoperable notary seal and commission number of such notary is invalid and is not an acceptable  
 34 notary commission number.

35        486.310. 1. If any notary public no longer desires to be a notary public, he or she shall  
 36 forthwith mail or deliver to the secretary of state a letter of resignation and his or her notary seal,  
 37 and his or her commission shall thereupon cease to be in effect. The secretary of state may post  
 38 notice on the secretary of state's website notifying the general public that the notary is no longer a  
 39 commissioned notary public in the state of Missouri. If a notary public resigns following the receipt  
 40 of a complaint by the secretary of state regarding the notary public's conduct, the secretary of state  
 41 may deny any future applications by such person for appointment and commission as a notary  
 42 public.

43        2. If any notary public seeks to amend his or her commission, he or she shall forthwith mail  
 44 or deliver to the secretary of state his or her notary seal unless a person, business, or manufacturer  
 45 alters the existing seal in compliance with subsection 4 of section 486.285.

46        486.375. Any person who acts as, or otherwise willfully impersonates, a notary public while  
 47 not lawfully appointed and commissioned to perform notarial acts is guilty of a [misdemeanor and  
 48 punishable upon conviction by a fine not exceeding five hundred dollars or by imprisonment for not

more than six months or both] class D felony."; and

Further amend said bill, Page 10, Section 566.213, Line 22, by inserting after all of said section and line the following:

"570.095. 1. A person commits the crime of filing false documents if:

(1) He or she files, causes to be filed, or attempts to file, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, or transferred to the secretary of state or his or her designee, any county recorder of deeds or his or her designee, any municipal, county, district, or state government entity or office, or any credit bureau or financial institution any of the following types of documents:

(a) Common law lien;

(b) Uniform commercial code filing or record;

(c) Real property recording;

(d) Financing statement;

(e) Contract;

(f) Warranty, special, or quitclaim deed;

(g) Quiet title claim or action;

(h) Deed in lieu of foreclosure;

(i) Legal affidavit;

(j) Legal process;

(k) Legal summons;

(l) Bills and due bills;

(m) Criminal charging documents;

(n) Any other document not stated in this subdivision that is related to real property;

(o) Any state, county, municipal, or financial institution form not otherwise delineated in this section; and

(2) Such documents listed in subdivision (1) of this subsection contain materially false information, or are fraudulent, or are a forgery, as defined in section 570.090, or lack the consent of all parties listed in documents where mutual consent is required, or are invalid under Missouri law.

2. Filing false documents under this section is a class D felony until December 31, 2016, and a class E felony beginning January 1, 2017, for the first offense except under the following circumstances where filing false documents is a class C felony:

(1) The defendant has been found guilty or pleaded guilty to a violation of this section;

(2) The victim or named party in the matter:

(a) Is an official elected to municipal, county, district, or statewide office;

(b) Is an official who was appointed to municipal, county, district, or statewide office; or

(c) Is an employee of an official who has been elected or appointed to municipal, county, district, or statewide office;

(3) The victim or named party in the matter is a judge or magistrate of:

(a) Any court or division of the court in this or any other state or an employee of any court of this state or any other state; or

(b) Any court system of the United States or is an employee of any court of the United States;

(4) The victim or named party in the matter is a full-time, part-time, or reserve or auxiliary peace officer licensed in this state or any other state; is an officer of federal job class 1811 who is empowered to enforce United States laws; or is a full-time or part-time firefighter in this state or any other state;

1       (5) The victim or named party in the matter is an employee of any law enforcement or legal  
 2 prosecution agency in this state or any other state or is an employee of a federal agency that has  
 3 agents or officers who are of job class 1811 who are empowered to enforce United States laws.

4       3. For a penalty enhancement as described in subsection 2 of this section to apply, the  
 5 occupation of the victim or named party shall be material to the subject matter of the document or  
 6 documents filed or the relief sought by the document or documents filed, and the occupation of the  
 7 victim or named party shall be materially connected to the apparent reason that the victim has been  
 8 named, victimized, or involved. For purposes of this subsection and subsection 2 of this section, a  
 9 person who has retired or resigned from any agency, institution, or occupation listed in subsection 2  
 10 of this section shall be considered the same fashion as a person who remains in employment and  
 11 shall also include the following family members of a person listed in subdivisions (2) to (5) of  
 12 subsection 2 of this section:

13       (1) Such person's spouse;

14       (2) Such person or such person's spouse's ancestor or descendant by blood or adoption; or

15       (3) Such person's stepchild, while the marriage creating that relationship exists.

16       4. Any person who pleads guilty or is found guilty under subsections 1 to 3 of this section  
 17 shall be ordered by the court to make full restitution to any person or entity that has sustained actual  
 18 losses or costs as a result of the actions of the defendants. Such restitution shall not be paid in lieu  
 19 of jail or prison time, but rather in addition to any jail or prison time imposed by the court.

20       5. (1) Nothing in this section shall limit the power of the state to investigate, charge, or  
 21 punish any person for any conduct that constitutes a crime by any other statute of this state or the  
 22 United States.

23       (2) There is no requirement under this section that the filing or record be retained by the  
 24 receiving entity for prosecution under this section. A filing or record being rejected by the  
 25 receiving entity shall not be used as an affirmative defense.

26       6. (1) Any statewide or county agency or similar agency that functions in independent cities  
 27 of this state, which is responsible for or receives document filings or records, including county  
 28 recorders of deeds and the secretary of state's office, shall, by January 1, 2017, impose a system in  
 29 which the documents that have been submitted to the receiving agency or in the case of the secretary  
 30 of state those filings rejected under its legal authority, are logged in a ledger, spreadsheet, note, or  
 31 similar recording method when the filing or recording officer believes the filings or records appear  
 32 to be fraudulent or contain suspicious verbiage. The receiving agency shall make available noted  
 33 documents for review by the:

34       (a) Jurisdictional prosecuting or circuit attorney or his or her designee;

35       (b) Sheriff or his or her designee;

36       (c) County police chief or his or her designee;

37       (d) City police chief or his or her designee in independent cities; or

38       (e) Active or commissioned peace officers, as defined in section 590.010.

39  
 40 Review of such documents is permissible for the agent or agencies under this subdivision without  
 41 the need of a grand jury subpoena or court order. No fees or monetary charges shall be levied on  
 42 the investigative agents or agencies for review of documents.

43       (2) The receiving entity shall, upon receipt of a filing or record that has been noted as a  
 44 suspicious filing or record, notify the chief law enforcement officer or his or her designee of the  
 45 county and the prosecutor or his or her designee of the county of the filing's or record's existence  
 46 within two business days of the filing or record having been received. This notification may be  
 47 accomplished via electronic mail or via paper memorandum.

48       7. To petition for a judicial review of a filing or record that is believed to be fraudulent,

1 false, misleading, forged, or contains materially false information, a petitioner may file a probable  
2 cause statement which delineates the cause to believe that the filing or record is materially false,  
3 contains materially false information, is a forgery, is fraudulent, or is misleading. This probable  
4 cause statement shall be filed in the associate or circuit court of the county in which the original  
5 filing or record was transferred, received, or recorded.

6 8. There shall be no requirement imposed by this section that the agency receiving the filing  
7 or record shall notify the person conducting the filing that the filing or record has been entered as a  
8 noted filing or record. If a filing or record is deemed invalid, court costs and fees are the  
9 responsibility of the party who initiated the filing or record. If the filing or record is deemed valid,  
10 no court costs or fees, in addition to standard filing fees, shall be assessed.

11 9. A filed petition under this section shall have an initial hearing date within twenty  
12 business days of the petition being filed with the court. A court ruling of "invalid" shall be evidence  
13 that the original filing or record was not accurate, true, or correct. A court ruling of "invalid" shall  
14 be retained or recorded at the original receiving entity. The receiving entity shall waive all filing or  
15 recording fees associated with the filing or recording of the court ruling document in this  
16 subsection. This ruling may be forwarded to credit bureaus or other institutions at the request of the  
17 petitioner via motion to the applicable court at no additional cost to the petitioner."; and  
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19 Further amend said bill, Page 13, Section 578.040, Line 22, by inserting after all of said section and  
20 line the following:  
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22 "Section 1. 1. If a law requires a signature or record to be notarized, acknowledged, verified  
23 or made under oath, the requirement is satisfied if the electronic signature of the person authorized  
24 to perform those acts, together with all other information required to be included by other applicable  
25 law, is attached to or logically associated with the signature or record.

26 2. The secretary of state is hereby authorized to promulgate rules and regulations  
27 establishing procedures for an electronic notarization."; and  
28

29 Further amend said bill by amending the title, enacting clause, and intersectional references  
30 accordingly.