

HOUSE AMENDMENT NO. ____
TO
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Offered By _____

AMEND House Amendment No. ____ to Senate Committee Substitute No. 2 for Senate Bill No. 128, Page 1, Line 22, by deleting all of said line and inserting in lieu thereof the following:

~~"provided in subsection 1 of this section].~~

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

(1) With the intent to defraud, deceive, harass, alarm, or negatively impact financially, or in such a manner reasonably calculated to deceive, defraud, harass, alarm, or negatively impact financially, he or she files, causes to be filed or recorded, or attempts to file or record, creates, uses as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be filed, presented, recorded, or transferred to the secretary of state or his or her designee, or any county or independent city recorder of deeds or his or her designee, any municipal, county, district, or state government entity, division, agency, 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 or materially false criminal charging documents;

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

(o) Any state, county, district, federal, municipal, credit bureau, or financial institution form or document; 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 for the first offense except

Action Taken _____ Date _____

under the following circumstances where filing false documents is a class C felony:

(1) The defendant has been previously 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, federal, or statewide office;

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

(c) Is an employee of an official who has been elected or appointed to municipal, county, district, federal, 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, as defined in section 590.010, licensed in this state or any other state;

(5) The victim or named party in the matter is a full-time, part-time, or volunteer firefighter in this state or any other state;

(6) The victim or named party in the matter is an officer of federal job class 1811 who is empowered to enforce United States laws;

(7) The victim or named party in the matter is a law enforcement officer of the United States as defined in 5 U.S.C. 8401(17)(A) or (D);

(8) The victim or named party in the matter is an employee of any law enforcement or legal prosecution agency in this state or any other state or the United States;

(9) The victim or named party in the matter is an employee of a federal agency that has agents or officers who are of job class 1811 who are empowered to enforce United States laws or is an employee of a federal agency that has law enforcement officers as defined in 5 U.S.C. 8401(17)(A) or (D);

(10) The victim or named party in the matter is an officer of the railroad police as defined in section 388.600.

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

(1) Such person's spouse;

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

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

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

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

1 United States.

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

5 6. (1) Any statewide or county agency or similar agency that functions in independent cities
 6 of this state, which is responsible for or receives document filings or records, including county
 7 recorders of deeds and the secretary of state's office, shall, by January 1, 2018, impose a system in
 8 which the documents that have been submitted to the receiving agency or in the case of the secretary
 9 of state those filings rejected under its legal authority, are logged or noted in a ledger, spreadsheet,
 10 or similar recording method if the filing or recording officer or employee believes the filings or
 11 records appear to be fraudulent or contain suspicious verbiage. The receiving agency shall make
 12 available noted documents for review by the:

- 13 (a) Jurisdictional prosecuting or circuit attorney or his or her designee;
- 14 (b) County sheriff or his or her designee;
- 15 (c) County police chief or his or her designee;
- 16 (d) City police chief or his or her designee in independent cities; or
- 17 (e) Commissioned peace officers as defined in section 590.010.

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 19 Review of such documents is permissible for the agent or agencies under this subdivision without
 20 the need of a grand jury subpoena or court order. No fees or monetary charges shall be levied on
 21 the investigative agents or agencies for review of documents noted in the ledger or spreadsheet. The
 22 ledger or spreadsheet and its contents shall be retained by the agency that controls entries into such
 23 ledger or spreadsheet for a minimum of three years from the earliest entry listed in the ledger or
 24 spreadsheet.

25 (2) The receiving entity shall, upon receipt of a filing or record that has been noted as a
 26 suspicious filing or record, notify the chief law enforcement officer or his or her designee of the
 27 county and the prosecutor or his or her designee of the county of the filing's or record's existence.
 28 Such notification shall be made within two business days of the filing or record having been
 29 received. Notification may be accomplished via electronic mail or via paper memorandum.

30 (3) There shall be no requirement imposed by this section that the agency receiving the
 31 filing or record make notification to the person conducting the filing or record that the filing or
 32 record has been entered as a logged or noted filing or record.

33 (4) Reviews to ensure compliance with the provisions of this section shall be the
 34 responsibility of any commissioned peace officer. Findings of noncompliance shall be reported to
 35 the jurisdictional prosecuting or circuit attorney or his or her designee by any commissioned peace
 36 officer who has probable cause to believe that the noncompliance has taken place purposely,
 37 knowingly, recklessly, or with criminal negligence, as described under section 562.016.

38 7. To petition for a judicial review of a filing or record that is believed to be fraudulent,
 39 false, misleading, forged, or contains materially false information, a petitioner may file a probable
 40 cause statement which delineates the cause to believe that the filing or record is materially false,
 41 contains materially false information, is a forgery, is fraudulent, or is misleading. This probable
 42 cause statement shall be filed in the associate or circuit court of the county in which the original
 43 filing or record was transferred, received, or recorded.

44 8. A filed petition under this section shall have an initial hearing date within twenty
 45 business days of the petition being filed with the court. A court ruling of "invalid" shall be evidence
 46 that the original filing or record was not accurate, true, or correct. A court ruling of "invalid" shall
 47 be retained or recorded at the original receiving entity. The receiving entity shall waive all filing or
 48 recording fees associated with the filing or recording of the court ruling document in this

1 subsection. This ruling may be forwarded to credit bureaus or other institutions at the request of the
2 petitioner via motion to the applicable court at no additional cost to the petitioner.

3 9. If a filing or record is deemed invalid, the prevailing party shall be awarded all
4 reasonable costs and fees incurred by that party in the action. If the filing or record is deemed valid,
5 no court costs or fees, in addition to standard filing fees, shall be assessed."; and"; and
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7 Further amend said bill by amending the title, enacting clause, and intersectional references
8 accordingly.
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10 THIS AMENDMENT AMENDS 0528S03.13H
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