

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Bill No. 503, Page 1, Section A, Line 2, by inserting immediately after all of said
2 section and line the following:

3
4 "400.9-501. (a) Except as otherwise provided in subsection (b), if the local law of this state
5 governs perfection of a security interest or agricultural lien, the office in which to file a financing
6 statement to perfect the security interest or agricultural lien is:

7 (1) The office designated for the filing or recording of a record of a mortgage on the related
8 real property, if:

9 (A) The collateral is as-extracted collateral or timber to be cut; or

10 (B) The financing statement is filed as a fixture filing and the collateral is goods that are or
11 are to become fixtures; or

12 (2) The office of the secretary of state in all other cases, including a case in which the
13 collateral is goods that are or are to become fixtures and the financing statement is not filed as a
14 fixture filing.

15 (b) The office in which to file a financing statement to perfect a security interest in
16 collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The
17 financing statement also constitutes a fixture filing as to the collateral indicated in the financing
18 statement which is or is to become fixtures.

19 ~~[(c) A person shall not knowingly or intentionally file, attempt to file, or record any~~
20 ~~document related to real property with a recorder of deeds under chapter 59 or a financing statement~~
21 ~~with the secretary of state under subdivision (2) of subsection (a) or subsection (b) of this section,~~
22 ~~with the intent that such document or statement be used to harass or defraud any other person or~~
23 ~~knowingly or intentionally file, attempt to file, or record such a document or statement that is~~
24 ~~materially false or fraudulent.~~

25 ~~———(1) A person who violates this subsection shall be guilty of a class E felony.~~

26 ~~———(2) If a person is convicted of a violation under this subsection, the court may order~~
27 ~~restitution.~~

28 ~~———(d) In the alternative to the provisions of sections 428.105 through 428.135, if a person files~~
29 ~~a false or fraudulent financing statement with the secretary of state under subdivision (2) of~~
30 ~~subsection (a) or subsection (b) of this section, a debtor named in that financing statement may file~~
31 ~~an action against the person that filed the financing statement seeking appropriate equitable relief,~~
32 ~~actual damages, or punitive damages, including, but not limited to, reasonable attorney fees.]~~

33 570.095. 1. A person commits the offense of filing false documents if:

34 (1) With the intent to defraud, deceive, harass, alarm, or negatively impact financially, or in
35 such a manner reasonably calculated to deceive, defraud, harass, alarm, or negatively impact
36 financially, he or she files, causes to be filed or recorded, or attempts to file or record, creates, uses

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1 as genuine, transfers or has transferred, presents, or prepares with knowledge or belief that it will be
 2 filed, presented, recorded, or transferred to the secretary of state or his or her designee, or any
 3 county or independent city recorder of deeds or his or her designee, any municipal, county, district,
 4 or state government entity, division, agency, or office, or any credit bureau or financial institution
 5 any of the following types of documents:

- 6 (a) Common law lien;
- 7 (b) Uniform commercial code filing or record;
- 8 (c) Real property recording;
- 9 (d) Financing statement;
- 10 (e) Contract;
- 11 (f) Warranty, special, or quitclaim deed;
- 12 (g) Quiet title claim or action;
- 13 (h) Deed in lieu of foreclosure;
- 14 (i) Legal affidavit;
- 15 (j) Legal process;
- 16 (k) Legal summons;
- 17 (l) Bills and due bills;
- 18 (m) Criminal charging documents or materially false criminal charging documents;
- 19 (n) Any other document not stated in this subdivision that is related to real property; or
- 20 (o) Any state, county, district, federal, municipal, credit bureau, or financial institution form
 21 or document; and

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

25 2. Filing false documents under this section is a class D felony for the first offense except
 26 under the following circumstances where filing false documents is a class C felony:

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

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

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

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

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

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

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

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

40 (4) The victim or named party in the matter is a full-time, part-time, or reserve or auxiliary
 41 peace officer, as defined in section 590.010, licensed in this state or any other state;

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

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

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

48 (8) The victim or named party in the matter is an employee of any law enforcement or legal

1 prosecution agency in this state or any other state or the United States;

2 (9) The victim or named party in the matter 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 or is
4 an employee of a federal agency that has law enforcement officers as defined in 5 U.S.C.
5 8401(17)(A) or (D);

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

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

17 (1) Such person's spouse;

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

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

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

24 5. (1) Nothing in this section shall limit the power of the state to investigate, charge, or
25 punish any person for any conduct that constitutes a crime by any other statute of this state or the
26 United States.

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

30 6. (1) Any statewide or county agency or similar agency that functions in independent cities
31 of this state, which is responsible for or receives document filings or records, including county
32 recorders of deeds and the secretary of state's office, shall, by January 1, 2018, impose a system in
33 which the documents that have been submitted to the receiving agency or in the case of the secretary
34 of state those filings rejected under its legal authority, are logged or noted in a ledger, spreadsheet,
35 or similar recording method if the filing or recording officer or employee believes the filings or
36 records appear to be fraudulent or contain suspicious verbiage. The receiving agency shall make
37 available noted documents for review by the:

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

39 (b) County sheriff or his or her designee;

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

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

42 (e) Commissioned peace officers as defined in section 590.010.

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

1 spreadsheet.

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

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

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

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

21 8. A filed petition under this section shall have an initial hearing date within twenty
22 business days of the petition being filed with the court. A court ruling of "invalid" shall be evidence
23 that the original filing or record was not accurate, true, or correct. A court ruling of "invalid" shall
24 be retained or recorded at the original receiving entity. The receiving entity shall waive all filing or
25 recording fees associated with the filing or recording of the court ruling document in this
26 subsection. This ruling may be forwarded to credit bureaus or other institutions at the request of the
27 petitioner via motion to the applicable court at no additional cost to the petitioner.

28 9. If a filing or record is deemed invalid, the prevailing party shall be awarded all
29 reasonable costs and fees incurred by that party in the action. If the filing or record is deemed valid,
30 no court costs or fees, in addition to standard filing fees, shall be assessed."; and

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