

HB 2932 --FALSE LIENS FILED WITH THE COUNTY RECORDERS OFFICE

SPONSOR: Aune

This bill specifies that any State or local official or employee may accept or reject for recording or filing any document that he or she reasonably believes is not presented by a financial or lending institution and may be a spurious lien or document. A State or local official or employee is not liable to a person for accepting or rejecting for recording or filing a document, and he or she is not obligated to accept for recording or filing any lien against a Federal, State, or local official or employee based upon the performance or nonperformance of his or her official duties unless the lien or claim is accompanied by a specific order issued by a State or Federal court authorizing the recording or filing of the lien or claim of lien.

The bill specifies that no spurious lien or document will hold or affect any real or personal property longer than 35 days after being recorded or filed, unless within the 35 days a court action has commenced to enforce the lien or document or a notice of lis pendens stating that the action has commenced and the notice has been recorded or filed in the office where the lien or document was recorded or filed.

A person whose real or personal property is affected by a recorded or filed lien or document that the person believes is spurious may petition the court to show cause why the lien or document should be declared invalid. The order to show cause may be granted ex parte. Information the order must contain is specified in the bill.

If, after the hearing, the court determines the lien or document is spurious, then the court must make findings of fact and enter an order declaring the lien or document to be spurious and enter a monetary judgment in the amount of the petitioner's costs, including reasonable attorney fees, against any respondent and in favor of the petitioner. However, if the court determines the lien or document is not spurious, the court must enter an order and enter a monetary judgment in the amount of any respondent's costs, including reasonable attorney fees, against any petitioner and in favor of the respondent.

"Spurious document" and "spurious lien" are defined in the bill.

Currently, the crime of simulating legal process, as specified in the bill, is a class B misdemeanor. The bill provides that if the victim of a violation is law enforcement officer, peace officer, or first responder, the crime will be a class D felony.

The bill creates the crime of filing a false lien, a class D felony. A person commits the crime if he or she files, attempts to file, or conspires to file in any public or private record a false lien or encumbrance against the real or personal property of a State or local elected official, judge, law enforcement officer, peace officer, firefighter, or first responder; targets the victim as a result of the official duties or title of the victim; and has knowledge or should have knowledge that the lien or encumbrance is false or contains materially false, fictitious, or fraudulent statements or representations.