

1 HB17
2 133971-1
3 By Representative Galliher
4 RFD: Judiciary
5 First Read: 07-FEB-12
6 PFD: 09/15/2011

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8 SYNOPSIS: This bill would allow a public servant to
9 request to remove a false instrument that has been
10 filed against the public servant to be removed to
11 circuit court and be expedited.

12 This bill would establish the crime of
13 falsely removing a recording and would provide
14 penalties.

15 Amendment 621 of the Constitution of Alabama
16 of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of
18 Alabama of 1901, as amended, prohibits a general
19 law whose purpose or effect would be to require a
20 new or increased expenditure of local funds from
21 becoming effective with regard to a local
22 governmental entity without enactment by a 2/3 vote
23 unless: it comes within one of a number of
24 specified exceptions; it is approved by the
25 affected entity; or the Legislature appropriates
26 funds, or provides a local source of revenue, to
27 the entity for the purpose.

1 The purpose or effect of this bill would be
2 to require a new or increased expenditure of local
3 funds within the meaning of the amendment. However,
4 the bill does not require approval of a local
5 governmental entity or enactment by a 2/3 vote to
6 become effective because it comes within one of the
7 specified exceptions contained in the amendment.

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9 A BILL
10 TO BE ENTITLED
11 AN ACT

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13 To amend Section 13A-9-12 of the Code of Alabama
14 1975, to establish the crimes of falsely removing a recording
15 and offering a false instrument for recording against a public
16 servant; to provide for penalties; and in connection therewith
17 would have as its purpose or effect the requirement of a new
18 or increased expenditure of local funds within the meaning of
19 Amendment 621 of the Constitution of Alabama of 1901, now
20 appearing as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended.

22 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

23 Section 1. Section 13A-9-12 of the Code of Alabama
24 1975, is amended to read as follows:

25 "§13A-9-12.

26 "(a) A person commits the crime of offering a false
27 instrument for recording if, knowing that a written instrument

1 relating to or affecting real or personal property, or an
2 interest therein, or directly affecting contractual
3 relationships contains a material false statement or material
4 false information, and with intent to defraud, he presents or
5 offers it to a public office or a public employee, with the
6 knowledge that it will be registered, filed or recorded or
7 become a part of the records of that public office or public
8 employee.

9 "(b) Offering a false instrument for recording is a
10 Class A misdemeanor.

11 "(c) A public servant as defined in Section 13A-10-1
12 commits the crime of falsely removing an instrument from
13 recording if, knowing that a written instrument relating to or
14 affecting real or personal property, or an interest therein,
15 or directly affecting contractual relationships is valid, he
16 or she attempts to have the instrument removed from recording.

17 "(d) Falsely removing an instrument from recording
18 is a Class C felony.

19 "(e) A person commits the crime of offering a false
20 instrument for recording against a public servant if the
21 person offers, for recording, a written instrument which
22 relates to or affects the real or personal property, or an
23 interest therein, or a contractual relationship of a public
24 servant, knowing that the written instrument contains a
25 materially false statement or materially false information,
26 with the intent to defraud, intimidate, or harass the public
27 servant, or to impede the public servant in the performance of

1 his or her duties. For the purposes of this subsection, public
2 servant is defined as in Section 13A-10-1.

3 "(f) Offering a false instrument for recording
4 against a public servant is a Class C felony.

5 "(g) If a false instrument has been filed against a
6 public servant as defined in Section 13A-10-1, the request to
7 remove the false instrument may be removed to circuit court
8 and expedited. If the request cannot be heard in circuit court
9 within 45 days, the request may be heard by a magistrate. The
10 Alabama Rules of Civil Procedure shall apply to any
11 proceedings heard pursuant to this subsection."

12 Section 2. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 3. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.