

1 SB64  
2 133971-1  
3 By Senator Ward  
4 RFD: Judiciary  
5 First Read: 07-FEB-12  
6 PFD: 11/21/2011

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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.