

SECOND REGULAR SESSION

HOUSE BILL NO. 2932

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE AUNE.

5906H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 575.130, RSMo, and to enact in lieu thereof six new sections relating to legal processes, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 575.130, RSMo, is repealed and six new sections enacted in lieu thereof, to be known as sections 429.371, 429.373, 429.376, 429.379, 575.130, and 575.135, to read as follows:

429.371. As used in sections 429.371 to 429.379, the following terms mean:

- (1) "Federal official or employee", an appointed or elected official or any employee of the government of the United States or of any agency of such government as defined under 28 U.S.C. Section 2671, as amended;**
- (2) "Lien", an encumbrance on real or personal property as security for the payment of a debt or performance of an obligation;**
- (3) "Spurious document", any document that is forged or groundless, contains a material misstatement or false claim, or is otherwise patently invalid;**
- (4) "Spurious lien", a purported lien or claim of a lien that is not:
 - (a) Provided for by a specific state or federal statute or by a specific municipal ordinance;**
 - (b) Created, suffered, assumed, or agreed to by the owner of the property it purports to encumber; or**
 - (c) Imposed by order, judgment, or decree of a state or federal court;****
- (5) "State or local official or employee", an appointed or elected official or any employee of:**

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (a) The state of Missouri;

18 (b) Any agency, board, commission, or state department in any branch of state
19 government;

20 (c) Any institution of higher education; or

21 (d) Any school district, political subdivision, county, municipality,
22 intergovernmental agency, or other unit of local government in this state.

429.373. 1. Any state or local official or employee may accept or reject for
2 recording or filing any document that the state or local official or employee reasonably
3 believes is not presented by a financial or lending institution and in good faith may be a
4 spurious lien or spurious document.

5 2. No state or local official or employee shall be:

6 (1) Liable to any person or claimant for either the acceptance or rejection for
7 recording or filing of any document that the state or local official or employee
8 reasonably believes in good faith may be a spurious lien or spurious document; or

9 (2) Obligated to accept for recording or filing any lien against a federal official
10 or employee or a state or local official or employee based upon the performance or
11 nonperformance of that official's or employee's duties unless such lien or claim of lien is
12 accompanied by a specific order issued by a state or federal court authorizing the
13 recording or filing of such lien or claim of lien.

429.376. 1. No spurious lien or spurious document shall hold or affect any real
2 or personal property longer than thirty-five days after the lien or document has been
3 recorded or filed in the office of any state or local official or employee unless within the
4 thirty-five days:

5 (1) An action has been commenced to enforce such lien or document in either the
6 state circuit court for the county or city not within a county in which the lien or
7 document was recorded or filed or a federal district court in this state; or

8 (2) A notice of lis pendens stating that such an action has been commenced and
9 has been recorded or filed in the office where the lien or document was recorded or filed.

10 2. The notice of lis pendens required by subdivision (2) of subsection 1 of this
11 section shall comply with the Missouri rules of civil procedure and shall include the civil
12 action number of the action that has been commenced to enforce the lien or document.
13 Failure to comply with the requirements of this subsection shall render the notice of lis
14 pendens invalid.

429.379. 1. Any person whose real or personal property is affected by a recorded
2 or filed lien or document that the person believes is spurious may petition either the
3 circuit court for the county or city not within a county in which the lien or document
4 was recorded or filed or a federal district court in this state for an order to show cause

5 **why the lien or document should not be declared invalid. The petition shall set forth a**
6 **concise statement of the facts upon which the petition is based and shall be supported by**
7 **an affidavit of the petitioner. The order to show cause may be granted ex parte and**
8 **shall:**

9 (1) **Direct any lien claimant and any person who recorded or filed the lien or**
10 **document to appear as respondent before the court at a certain time and place, not less**
11 **than fourteen days nor more than twenty-one days after service of the order, to show**
12 **cause why the lien or document should not be declared invalid and why such other relief**
13 **provided by this section should not be granted;**

14 (2) **State that, if the respondent fails to appear at the time and place specified,**
15 **the spurious lien or spurious document will be declared invalid and released; and**

16 (3) **State that the court shall award costs, including reasonable attorney's fees, to**
17 **the prevailing party.**

18 2. **If, following the hearing on the order to show cause, the court determines that**
19 **the lien or document is spurious, the court shall make findings of fact and enter an order**
20 **and decree declaring the spurious lien or spurious document and entering a monetary**
21 **judgment in the amount of the petitioner's costs, including reasonable attorney's fees,**
22 **against any respondent and in favor of the petitioner. A certified copy of such order**
23 **may be recorded or filed in the office of any state or local official or employee.**

24 3. **If, following the hearing on the order to show cause, the court determines that**
25 **the lien or document is not spurious, the court shall issue an order and enter a monetary**
26 **judgment in the amount of any respondent's costs, including reasonable attorney's fees,**
27 **against any petitioner and in favor of the respondent.**

575.130. 1. A person commits the offense of simulating legal process if, with
2 purpose to mislead the recipient and cause him or her to take action in reliance thereon, he or
3 she delivers or causes to be delivered:

4 (1) A request for the payment of money on behalf of any creditor that in form and
5 substance simulates any legal process issued by any court of this state; or

6 (2) Any purported summons, subpoena or other legal process knowing that the
7 process was not issued or authorized by any court.

8 2. This section shall not apply to a subpoena properly issued by a notary public.

9 3. The offense of simulating legal process is a class B misdemeanor, **unless the**
10 **victim of a violation of this section is a law enforcement officer, peace officer, or first**
11 **responder, in which case simulating legal process is a class D felony.**

575.135. 1. A person commits the offense of filing a false lien if such person:

2 (1) **Files, attempts to file, or conspires to file in any public or private record that**
3 **is available to the public any false lien or encumbrance against the real or personal**

4 **property of a state or local elected official, judge, law enforcement officer, peace officer,**
5 **firefighter, or first responder;**

6 **(2) Targets the victim as a result of the official duties or official title of that**
7 **individual; and**

8 **(3) Has knowledge or should have knowledge that the lien or encumbrance is**
9 **false or contains materially false, fictitious, or fraudulent statements or representations.**

10 **2. The offense of filing a false lien is a class D felony.**

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