

IACA 2010 Survey on Bogus Filings

State	Does your state have a Bogus Filing Statute?	If yes, what is the reference?	When was it enacted?	Is your adopted version the same as NASS/IACAs Recommendations?	Are there any plans to add/change legislation?	Comments
Alabama	AL has some Adm Rules that allow rejection for certain filings	They are already on the current filing chart.	2000 or 2001	No.	Not immediately.	
Alaska	No					AK has no plans to enact such a change..
Arizona						
Arkansas	It is now a criminal offense to file a fraudulent UCC financing statement.	Arkansas Code 5-37-215	Effective July 1, 2009	No	No	
California						
Colorado	Yes, but CO/SOS has not implemented any policies or procedures to reject bogus filings.	Spurious Liens and Documents, Part 2 of Article 35 of Title 38 of the Colorado Revised Statutes (or § 38-35-201 et seq., C.R.S.)	The Spurious Liens and Documents statute was enacted by House Bill 97-1143 and became effective on March 20, 1997.	No.	None that we are aware of.	
Connecticut						
Delaware	No				Not at this time.	
District of Columbia	No					There is no such statute in the District of Columbia.
Florida	No					FL does not have a "bogus filing statute" but needs one. Will pass along the Task Force Recommendations for consideration.
Georgia	No					There have been informal discussions but nothing concrete.
Hawaii						
Idaho	Amendments have been made to several statutes to prevent various types of bogus filings.	http://legislature.idaho.gov/idstat/Title28/T28CH9SECT28-9-516A.htm and http://legislature.idaho.gov/idstat/Title45/T45CH17.htm	To the best of my knowledge, this happened in 2003.	No	None that I am aware of.	
Illinois	No	No	No	N/A	Yes, IL has this subject under legal review at this time.	

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Indiana						
Iowa	No current statute in IA.				To the best of their knowledge, no current plans at the moment to enact one.	IA believes they are getting to the point where they should do something because they are getting more & more junk UCCs.
Kansas	Somewhat					Kansas has enacted somewhat of a bogus filer statute in that we have a provision for expedited proceedings under KSA 58-4301 for any fraudulent Article 9 filings that are done in our office (provided). Note, though, that the statute says that the courts order acts as a termination statement, so we don't actually remove the filing. There is also legislation that is being introduced this session that has stricter penalties for filing a fraudulent lien, including a \$10,000 penalty, attorneys fees, a restraining order against the person filing, and potential jail time for contempt. This, though, is also not being done in Article 9, although it clearly applies to Article 9 filings.
Kentucky	KY does not currently have any legislation in place.				KY has reviewed other state's legislation as well as the NASS/IACA Joint Task Force for consideration to have a statute enacted. However, they currently will not be introducing any for the 2010 session.	
Louisiana	No					LA does not have a Bogus Filing statute.
Maine	Yes	http://www.mainelegislature.org/legis/statutes/5/title5sec90-E.html				ME proudly does...adopted the NASS/IACA recommendations.
Maryland						
Massachusetts	No				No	

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Michigan	Yes	Michigan Compiled Laws 440.9501a, 440.9515, 440.9516, 440.9520 at <u>http://www.michigan.gov/documents/article9_18815_7.pdf</u>	2008, with effective date of 03/29/2009	No.	There is proposed legislation in the Michigan House Committee on Banking and Financial Services. It represents an initiative driven by a NCCUSL representative, not the Michigan Department of State, and would eliminate many of the changes put into effect in last year's statute. The Department of State does not support the bill.	
Minnesota	Yes	Minnesota Statutes, sections 545.05, 604.17, 609.7475	2006	Mostly	No	
Mississippi	No	N/A		N/A	Not this legislative session.	
Missouri	MO does not currently have any legislation in place.				MO has reviewed other state's legislation as well as the NASS/IACA Joint Task Force for consideration to have a statute enacted. However, they currently will not be introducing any for the 2010 session.	

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Montana	Yes	30-9A-420. Removal of improper or fraudulent liens -- notice to secured party and debtor. (1) If a filing officer receives a complaint or has reason to believe that a lien submitted or filed with the filing officer's office is improper or fraudulent, the filing officer may reject the submission or remove the filing from existing files after giving notice and an opportunity to respond to the secured party and the debtor. (2) A person adversely affected by a lien that is determined to be improper or fraudulent by the filing officer may recover treble damages from the person responsible for submitting the lien.				
Nebraska	Yes	9-518 and 9-513 address this for us	1999			
Nevada						
New Hampshire	No				No, but NH wishes they did.	
New Jersey						
New Mexico	No	N/A	N/A	No	Not immediately.	
New York	NY does not have a Bogus Filing Statute.					
North Carolina	Yes	NCGS 25-9-515 (8)	2001	No	No, because NC's has worked well so far.	
North Dakota	Yes	North Dakota enacted NDCC 41-10 on August 1, 2007 regarding Fraudulent and Harassing Financing Statement Records.			There are no plans at this time to add or change this legislation.	
Ohio	No					OH does not have a statute that addresses bogus filings.
Oklahoma						

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Oregon	There are two: Noncommercial filings in RA9 and Invalid encumbrances (harassment liens) in the county recording statutes.	Noncommercial filings: ORS 79.0102 (bbb); 79.0516 (h); 79.0520 (5) and ORS 205.450 - 205.470.	Noncommercial filings - 2003, Invalid encumbrances - 1997.	No	No	
Pennsylvania						
Rhode Island	No	N/A	N/A	N/A	Although this is something they would like to do, they do not see this in the pipeline in the near future.	
South Carolina		In 2005, we enacted S.C. Code of Laws Section 36-9-516(b)(8) and (9) which uses the following language: (b) Filing does not occur with respect to a record that a filing office refuses to accept because: (8) in the case of a record presented for filing at the Office of the Secretary of State, the Secretary of State determines that the record is not created pursuant to this chapter or is otherwise intended for an improper purpose, such as to defraud, hinder, harass, or otherwise wrongfully interfere with a person; or (9) in the case of a record presented for filing at the Office of the Secretary of State, the same person or entity is listed as both debtor and secured party, the collateral described is not within the scope of this chapter, or that the record is being filed for a purpose other than a transaction that is within the scope of this chapter.		South Carolina has not adopted the NASS/IACA Joint Task Force Recommendations.	SC does not currently have any pending legislation relative to bogus filings.	

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South Dakota	No	N/A	N/A	N/A	Nothing has been introduced.	
Tennessee						
Texas	Texas has several bogus filing statutes relating to liens or UCC filings.	<p>The bogus filing statutes and years enacted are as follows:</p> <p>a. §9.5185, Texas Business & Commerce Code (originally adopted as 9.412 in 1995);</p> <p>b. §51.905, Texas Business & Commerce Code (1997);</p> <p>c. §405.022, Texas Government Code (2005);</p> <p>d. §37.101, Texas Penal Code (1997); and</p> <p>e. Chapter 12 of the Texas Civil Practice & Remedies Code (1997).</p>		There are some similarities but Texas statutes were adopted prior to the issuance of the NASS/IACA Joint Task Force Recommendations.	There are no plans to adopt additional bogus filing statutes. The ones in place seem to do a good job in discouraging filings. The OAG has actively enforced the provisions and working with local and federal prosecutors has secured several criminal convictions. Randy was the star witness in several successful prosecutions.	
Utah	No				No	
Vermont	No					VT does not have a bogus filing statute, and at this point, has no plans to do so.
Virginia	No	N/A	N/A	N/A	Not at this time. Made the following change outside of RA9 a few years back: § 12.1-21.1. Fees to be charged by clerk for certain information and certificates.	
Washington	Yes, but limited	RCW 60.70.030	1986	No.	WA State Bar Assn is considering it for proposal to the 2011 Legislative session.	
West Virginia						
Wisconsin	No					
Wyoming	No				Not in the near future.	

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International:						
Canada	No					Canada does not have a bogus filing statute at the federal level, though this type of filing might amount to a criminal offense under the Criminal Code provisions. Secured Transactions are a provincial responsibility in Canada.
Puerto Rico						