

Topic: Bogus Filing Statutes

Question By: Kathy Berg

Jurisdiction: Utah

Date: 31 July 2012

Jurisdiction	Question(s)
Alabama	
Alaska	
Arizona	
Arkansas	
California	
Colorado	
Connecticut	
Delaware	
District of Columbia	
Florida	Section 817.155, Florida Statutes, states the following for matters within the jurisdiction of the Florida Department of State: 817.155 Matters within jurisdiction of Department of State; false, fictitious, or fraudulent acts, statements, and representations prohibited; penalty; statute of limitations.—A person may not, in any matter within the jurisdiction of the Department of State, knowingly and willfully falsify or conceal a material fact, make any false, fictitious, or fraudulent statement or representation, or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082 , s. 775.083 , or s. 775.084 . The statute of limitations for prosecution of an act committed in violation of this section is 5 years from the date the act was committed.
Georgia	
Hawaii	
Idaho	I don't know how much "teeth" this has, but it has allowed us to prevent many bogus filings, to the point where they have become somewhat rare. http://legislature.idaho.gov/idstat/Title28/T28CH9SECT28-9-516A.htm
Illinois	Please find attached the most recent success story from Illinois to combat Fraudulent UCC Financing Statements. Just signed by Governor Pat Quinn this month. http://ilga.gov/legislation/publicacts/fulltext.asp?Name=097-0836&GA=97
Indiana	
Iowa	

Kansas	.
Kentucky	
Louisiana	
Maine	
Maryland	
Massachusetts	
Michigan	Here is the link to Michigan's Article 9: http://www.michigan.gov/documents/article9_18815_7.pdf . Changes dealing with bogus filings are in 9501(a), 9515, 9516 and 9520. If I can be of further help, simply ask.
Minnesota	
Mississippi	
Missouri	
Montana	<p>Here is what Montana has in regards to statutory authority:</p> <p>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.</p> <p>(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.</p> <p>27-1-1505. Liens. (1) As used in this section, the following definitions apply:</p> <p>(a) "Lien" means an encumbrance on property as security for the payment of a debt.</p> <p>(b) "Nonconsensual common-law lien" means a lien that:</p> <p>(i) is not provided for by a specific state or federal statute;</p> <p>(ii) does not depend upon the consent of the owner of the property affected for its existence;</p> <p>(iii) is not an equitable or constructive lien imposed by a court; and</p> <p>(iv) is not of a type commonly used in legitimate commercial transactions.</p> <p>(c) "Person" means an individual, group of individuals, or any organization of individuals.</p> <p>(2) A person may not file a nonconsensual common-law lien upon the real or personal property of an individual or organization.</p> <p>(3) (a) If a nonconsensual common-law lien is filed against the real or personal property of an individual or organization, the individual or organization may petition the district court in the county in which the affected property is located to remove the nonconsensual common-law lien. If the district court determines that the lien in question is a nonconsensual common-law lien, the district court shall enter an order directing the appropriate public official to remove the nonconsensual common-law lien.</p> <p>(b) The legislature may provide other methods of removing nonconsensual common-law liens.</p> <p>(4) The person filing the nonconsensual common-law lien is liable for the costs of removing the nonconsensual common-law lien, including reasonable attorney fees, court costs, and actual damages sustained by the aggrieved individual or organization as a result of the nonconsensual common-law lien.</p>
Nebraska	

Nevada	If necessary we would use our forged or fraudulent filing statute (http://www.leg.state.nv.us/NRS/NRS-225.html#NRS225Sec083) with the associated regulations (http://www.leg.state.nv.us/NAC/NAC-225.html .) Generally, if it is clear that it is a bogus filing, we refuse to file as a policy matter, without specific statute. We have utilized this policy for years without challenge. If something gets through and filed and later verify that it is a bogus filing, we can reverse the filing, with notes in our system. We also accept court orders to expunge to filing. For those claiming to be transmitting utilities, we send them to the Public Utilities Commission for a cert of authority, and they never come back.
New Hampshire	
New Jersey	
New Mexico	
New York	
North Carolina	NC's bogus statute is simple, but works extremely well! NCGS § 25-9-516. NCGS § 25-9-520.
North Dakota	
Ohio	A link to Ohio's statute is below. It has worked for us. The only time our office will reject a UCC filing is when it names a government entity or public official as the debtor. When we do that, we list ORC 111.24 in the rejection letter. http://codes.ohio.gov/orc/111.24 .
Oklahoma	
Oregon	Depends on what you mean by teeth, Kathy, but our statute has been very successful for us. http://www.leg.state.or.us/ors/079.html First, we changed the transmitting utility definition to mean organization, not entity or person. Second, we changed added a rejection reason: 79.0516(2)(h) " In the case of a record presented for filing at the filing office described in ORS 79.0501 (1)(b), the record on its face reveals, based on factors such as whether the debtor and the secured party are the same person or whether the collateral described is within the scope of this chapter, that the record is being filed for a purpose other than a transaction that is within the scope of this chapter." Then, in 79.0520(5), we added a contested case procedure that puts the burden of proof on the sov. citizens that we should accept the filing: (5)(a) If the filing office described in ORS 79.0501 (1)(b) refuses to accept a record for filing under ORS 79.0516 (2)(h), the secured party may contest the refusal by filing with the Secretary of State, within 20 days after the date of the communication regarding the refusal, a written request for a hearing before the Secretary of State. The request need not be in any particular form, but the secured party shall specify the grounds upon which the secured party considers the refusal unlawful and shall attach the record to the request. (b) The Secretary of State may not grant a hearing unless a secured party files a request for a hearing within the period specified in paragraph (a) of this subsection. If a secured party files a timely request for a hearing, the Secretary of State shall hold a hearing in accordance with the applicable provisions of ORS chapter 183. (c) The Secretary of State may delegate to a hearing officer appointed by the Secretary of State all or part of the authority to conduct hearings under this subsection. (d) If the Secretary of State or the hearing officer determines that the record should not have been refused, the filing office shall index the record as of the date the record was originally presented for filing. (e) Final orders issued in a proceeding under this subsection are subject to review by the Court of Appeals as

	provided in ORS 183.480 and 183.482. We have never incorrectly rejected a filing for a -516(h) reason. We have administrative rules that further flesh out what is not "within the scope of this chapter" that I'd be happy to share, if you're interested.
Pennsylvania	
Rhode Island	
South Carolina	
South Dakota	
Tennessee	
Texas	Texas has several laws that relate to fraudulent filing of UCC documents. This one works especially well: Fraudulent Filers Effective September 1, 2005, under Section 405.022 of the Texas Government Code , the Office of the Secretary of State is requesting the assistance of the Attorney General to determine whether a document is fraudulent prior to filing. The Attorney General's office will determine if legal action should be taken against fraudulent filers. See also: §9.5185 of the UCC; chapter 12 of the Civil Practice & Remedies Code and §32.49 of the Penal Code.
Utah	
Vermont	
Virginia	
Washington	
West Virginia	
Wisconsin	
Wyoming	

Additional Comments:

Full Text of Original Email:

If any of the member jurisdictions have an effective bogus (or fraudulent) filer statute with even a little bit of teeth, could you send me the link to that statute?