

# How Do You Handle the Bogus Filer? What Are the Filing Officer's Responsibilities?

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# Panel Members

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# What Is a Bogus Filing?

- **bo-gus** [boh-guh s]—*adjective*: not genuine; counterfeit; spurious; sham.
- **Two Types:**
  - Strawman - defraud third parties into providing value for worthless instruments
  - Harassment - to harass individuals through the placement of what appear to be 'holds' on their assets to inhibit those individuals in obtaining future credit.

# Why Has the Bogus Filing Issue Returned to IACA?



# NASS/IACA 2006 Recommendations

- Expedited Judicial Process – Harassment
- Criminal Penalties – Harassment and Strawman
- Gave Consideration For Those Jurisdictions...
  - Without a Bogus Filing Problem
  - With an Existing Solution in Place

# 2010 JRC A9 Draft: 9-513A

- IACA's Position:

- Keep the Bogus Filing Issue Out of Article 9
- Jurisdictions Are Handling it on Their Own

- Where Does This Stand Today?

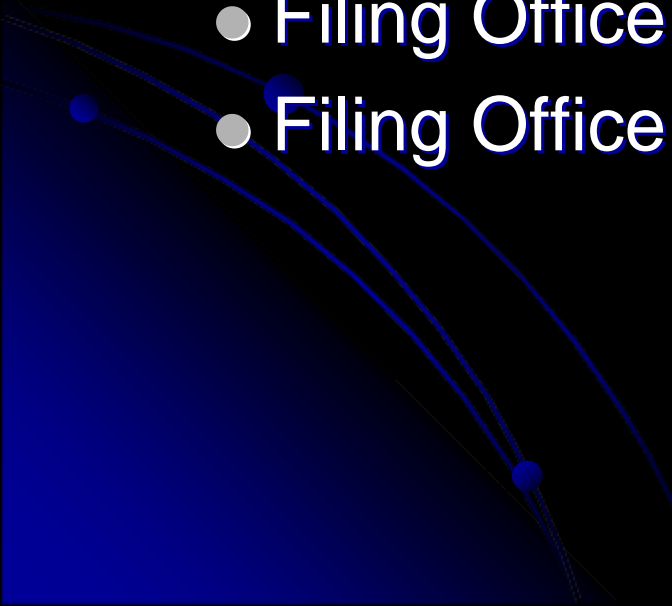


# How Are They Handling it on the Federal Level?



- **Title 18, USC 15.21: False Lien, against Federal Employee**
- **Title 18, USC 13.41: Mail Fraud**

# What Can We Learn From Each Other?

- **Various Approaches:**
    - Expedited Judicial Process
    - Criminal Penalties
    - Filing Office Termination
    - Filing Office Rejection
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# Maine

- Adopted NASS/IACA Recommendation
- Title 5: Administrative Procedures and Services
  - §90-E: Expedited review and determination of the authorization of financing statement records filed under the Uniform Commercial Code; criminal penalties; civil penalties and injunctive relief

# Michigan

- Michigan Compiled Law (MCL) 440.9501 –  
Written Notice
- Bogus Filers:
  - MCL 440.9501a
  - MCL 440.9515
  - MCL 440.9516
  - MCL 440.9520

# Minnesota

- Minnesota Statute Section 545.05 – Expedited Review Process
- 604.17 – Civil Liability for Fraudulent/Improper Financing Statements
- 609.7475 – Fraudulent/Improper Financing Statements
- 514.99 – Nonconsensual Common Law Liens.

# Washington

- RCW 60.70.030 - No duty to accept filing of common law lien - Filing of a notice of invalid lien (since 1986)
- RCW 60.70.060 - Petition for order directing common law lien claimant to appear before court (since 1995)
  - [Expedited process that results in a court order to expunge]

# Discussion

