

AMENDMENTS TO LB 3

Introduced by Judiciary

1 1. Strike original section 1 and insert the following new
2 sections:

3 Section 1. Section 28-101, Revised Statutes Cumulative
4 Supplement, 2012, is amended to read:

5 28-101 Sections 28-101 to 28-1356 and section 2 of this
6 act shall be known and may be cited as the Nebraska Criminal Code.

7 Sec. 2. (1) A person commits the offense of fraudulently
8 filing a financing statement, lien, or document if the person
9 directly, or through an intermediary, submits for filing or
10 recording in the public record, as defined in section 28-911:

11 (a) Any document purporting to create a nonconsensual
12 common-law lien, as defined in section 52-1901, knowing or having
13 reason to know that the lien is a nonconsensual common-law lien;

14 (b) A financing statement pursuant to article 9,
15 Uniform Commercial Code, knowing or having reason to know that
16 the financing statement is not based on a bona fide security
17 agreement or was not authorized or authenticated by the alleged
18 debtor identified in the financing statement or an authorized
19 representative of the alleged debtor; or

20 (c) Any document filed in an attempt to harass an entity,
21 individual, or public official or obstruct a government operation
22 or judicial proceeding, knowing or having reason to know such
23 document contained false information.

1 (2) Fraudulently filing a financing statement, lien, or
2 document is a Class IV felony.

3 (3) Lack of belief in the jurisdiction or authority of
4 the state or of the government of the United States is no defense
5 to prosecution under this section.

6 Sec. 3. Section 52-1901, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 52-1901 For purposes of sections 52-1901 to 52-1904 and
9 sections 4 to 6 of this act, nonconsensual common-law lien means a
10 document that purports to assert a lien against real or personal
11 property of any person or entity and:

12 (1) Is not expressly provided for by a specific state or
13 federal statute;

14 (2) Does not depend on the consent of the owner of the
15 real or personal property affected; and

16 (3) Is not an equitable or constructive lien imposed by a
17 state or federal court of competent jurisdiction.

18 Sec. 4. A nonconsensual common-law lien is not binding or
19 enforceable at law or in equity. Any nonconsensual common-law lien
20 that is recorded is void and unenforceable.

21 Sec. 5. In order that the owner of real property upon
22 which a nonconsensual common-law lien is recorded shall have notice
23 of the recording of the lien, the claimant shall cause the sheriff
24 to serve a copy of the recorded lien upon the owner of the
25 real property upon which the nonconsensual common-law lien is
26 recorded and the sheriff shall make return thereof without delay by
27 filing proof of service with the register of deeds as provided in

1 subsection (1) of section 25-507.01. There shall be no filing fee
2 for filing the proof of service. A judicial proceeding to enforce
3 a nonconsensual common-law lien shall be instituted by the claimant
4 within ten days after recording the lien. Failure to serve a copy
5 of the recorded lien upon the owner or failure to file a judicial
6 proceeding to enforce the lien shall cause the lien to lapse and be
7 of no legal effect.

8 Sec. 6. Section 52-1902, Reissue Revised Statutes of
9 Nebraska, is amended to read:

10 ~~52-1902~~ If a person submits for filing or recording to
11 the Secretary of State, county clerk, register of deeds, or clerk
12 of any court any document purporting to create a nonconsensual
13 common-law lien against real or personal property in violation of
14 ~~this section 52-1901 and sections 4 to 6 of this act or section~~
15 76-296 and such document is so filed or recorded, the ~~person~~
16 claimant submitting the document is liable to the person or entity
17 against whom the lien is claimed for actual damages plus costs and
18 reasonable attorney's fees.

19 Sec. 7. Original sections 52-1901 and 52-1902, Reissue
20 Revised Statutes of Nebraska, and section 28-101, Revised Statutes
21 Cumulative Supplement, 2012, are repealed.

22 Sec. 8. Since an emergency exists, this act takes effect
23 when passed and approved according to law.