



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Details (With Text)

File #:	14-2921	Version:	1	Name:	Unlawful Filing of a Fraudulent Lien
Type:	Ordinance Amendment	Status:		Status:	Approved
File created:	4/30/2014	In control:		In control:	Board of Commissioners
On agenda:	5/21/2014	Final action:		Final action:	5/21/2014
Title:	PROPOSED ORDINANCE				

UNLAWFUL FILING OF A FRAUDULENT LIEN

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II. - OFFENSES INVOLVING PROPERTY RIGHTS, SECTION 58-46 and 58-80 of the Cook County Code is hereby amended and enacted as follows:

Sec. 58-46. Administrative adjudication. Unlawful Filing of Fraudulent Lien, Judgment or Encumbrance against Individuals and Organizations.

Violations of Article II, Sections 58-42 through 58-45 shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings, of this Code.

(a) Any person who knowingly or intentionally records or files or causes to be recorded or filed with the Office of the Cook County Recorder of Deeds any document which alleges to be a judgment, lien or encumbrance against a person or organization, not attached to real property, knowing that the theory upon which the purported lien, judgment or encumbrance is based is not recognized as a legitimate legal theory by the Courts of the United States, the State of Illinois, or any County within the State of Illinois, commits the offense of filing a fraudulent lien or judgment.

(b) Any person who commits the offense of filing of fraudulent judgment, lien or encumbrance shall be fined \$5,000.00 for the first offense. Any person who commits this offense a second time shall be fined \$7,500.00 or imprisoned for a period not to exceed thirty days or by both such fine and imprisonment. Any person who commits this offense a third or subsequent time shall be fined \$10,000 or imprisoned for a period not to exceed sixty days or by both such fine and imprisonment for each offense.

(c) This Section does not apply to any attorney licensed to practice law in the State of Illinois who, in good faith, files a lien or judgment or encumbrance on behalf of his or her client and who, in good faith, believes that the validity of the lien is supported by law or by a good faith argument for an extension, modification, or reversal of existing law relating to the validity of the lien or judgment or encumbrance.

(d) For the purposes of this Section, the term "a judgment, lien or encumbrance" means a document setting out a false claim of indebtedness or encumbrance which even if valid would not create a cloud on the title of real property; but is likely to impair the subject of the document in the subject's exercise of commerce, and can be shown by extrinsic proof to be invalid or inapplicable to the subject.

Sec. 58-80. Administrative adjudication.

Violations of Article II shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings, of this Code.

Effective date: This ordinance shall be in effect July 1, 2014...end

Sponsors: TONI PRECKWINKLE (President), ROBERT STEELE
Indexes: (Inactive) JOHN ALLEN, Director, Department of Administrative Hearings
Code sections:
Attachments:

Date	Ver.	Action By	Action	Result
5/21/2014	1	Board of Commissioners	approve as amended	Pass

PROPOSED ORDINANCE

UNLAWFUL FILING OF A FRAUDULENT LIEN

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 58 OFFENSES AND MISCELLANEOUS PROVISIONS, ARTICLE II. - OFFENSES INVOLVING PROPERTY RIGHTS, SECTION 58-46 and 58-80 of the Cook County Code is hereby amended and enacted as follows:

Sec. 58-46. Administrative adjudication. Unlawful Filing of Fraudulent Lien, Judgment or Encumbrance against Individuals and Organizations.

Violations of Article II, Sections 58-42 through 58-45 shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings, of this Code.

(a) Any person who knowingly or intentionally records or files or causes to be recorded or filed with the Office of the Cook County Recorder of Deeds any document which alleges to be a judgment, lien or encumbrance against a person or organization, not attached to real property, knowing that the theory upon which the purported lien, judgment or encumbrance is based is not recognized as a legitimate legal theory by the Courts of the United States, the State of Illinois, or any County within the State of Illinois, commits the offense of filing a fraudulent lien or judgment.

(b) Any person who commits the offense of filing of fraudulent judgment, lien or encumbrance shall be fined \$5,000.00 for the first offense. Any person who commits this offense a second time shall be fined \$7,500.00 or imprisoned for a period not to exceed thirty days or by both such fine and imprisonment. Any person who commits this offense a third or subsequent time shall be fined \$10,000 or imprisoned for a period not to exceed sixty days or by both such fine and imprisonment for each offense.

(c) This Section does not apply to any attorney licensed to practice law in the State of Illinois who, in good faith, files a lien or judgment or encumbrance on behalf of his or her client and who, in good faith, believes that the validity of the lien is supported by law or by a good faith argument for an extension, modification, or reversal of existing law relating to the validity of the lien or judgment or encumbrance.

(d) For the purposes of this Section, the term “a judgment, lien or encumbrance” means a document setting out a false claim of indebtedness or encumbrance which even if valid would not create a cloud on the title of real property; but is likely to impair the subject of the document in the subject’s exercise of commerce, and can be shown by extrinsic proof to be invalid or inapplicable to the subject.

Sec. 58-80. Administrative adjudication.

Violations of Article II shall be adjudicated pursuant to Chapter 2, Administration, Article IX, Administrative Hearings, of this Code.

Effective date: This ordinance shall be in effect July 1, 2014.