

§7 - C.2C:21-42
Title 2A.
Subtitle 6.
Chapter 37B.
(New)
False or
Fraudulent
Financing
Statements
§§8 -9 -
C.2A:37B-1 &
2A:37B-2
§10 - Note

P.L.2015, CHAPTER 59, *approved May 11, 2015*
Assembly Committee Substitute (*Second Reprint*) for
Assembly, No. 2481

1 AN ACT concerning fraudulent financing statements, amending
2 various parts of the statutory law and supplementing Titles 2A
3 and 2C of the New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1995, c.23 (C.47:1A-1.1) is amended to
9 read as follows:

10 1. As used in P.L.1963, c.73 (C.47:1A-1 et seq.) as amended
11 and supplemented:

12 "Biotechnology" means any technique that uses living
13 organisms, or parts of living organisms, to make or modify
14 products, to improve plants or animals, or to develop micro-
15 organisms for specific uses; including the industrial use of
16 recombinant DNA, cell fusion, and novel bioprocessing techniques.

17 "Custodian of a government record" or "custodian" means in the
18 case of a municipality, the municipal clerk and in the case of any
19 other public agency, the officer officially designated by formal
20 action of that agency's director or governing body, as the case may
21 be.

22 "Government record" or "record" means any paper, written or
23 printed book, document, drawing, map, plan, photograph,
24 microfilm, data processed or image processed document,
25 information stored or maintained electronically or by sound-
26 recording or in a similar device, or any copy thereof, that has been
27 made, maintained or kept on file in the course of his or its official

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted November 13, 2014.

²Senate SCM committee amendments adopted March 9, 2015.

1 business by any officer, commission, agency or authority of the
2 State or of any political subdivision thereof, including subordinate
3 boards thereof, or that has been received in the course of his or its
4 official business by any such officer, commission, agency, or
5 authority of the State or of any political subdivision thereof,
6 including subordinate boards thereof. The terms shall not include
7 inter-agency or intra-agency advisory, consultative, or deliberative
8 material.

9 A government record shall not include the following information
10 which is deemed to be confidential for the purposes of P.L.1963,
11 c.73 (C.47:1A-1 et seq.) as amended and supplemented:

12 information received by a member of the Legislature from a
13 constituent or information held by a member of the Legislature
14 concerning a constituent, including but not limited to information in
15 written form or contained in any e-mail or computer data base, or in
16 any telephone record whatsoever, unless it is information the
17 constituent is required by law to transmit;

18 any memorandum, correspondence, notes, report or other
19 communication prepared by, or for, the specific use of a member of
20 the Legislature in the course of the member's official duties, except
21 that this provision shall not apply to an otherwise publicly-
22 accessible report which is required by law to be submitted to the
23 Legislature or its members;

24 any copy, reproduction or facsimile of any photograph, negative
25 or print, including instant photographs and videotapes of the body,
26 or any portion of the body, of a deceased person, taken by or for the
27 medical examiner at the scene of death or in the course of a post
28 mortem examination or autopsy made by or caused to be made by
29 the medical examiner except:

30 when used in a criminal action or proceeding in this State which
31 relates to the death of that person,

32 for the use as a court of this State permits, by order after good
33 cause has been shown and after written notification of the request
34 for the court order has been served at least five days before the
35 order is made upon the county prosecutor for the county in which
36 the post mortem examination or autopsy occurred,

37 for use in the field of forensic pathology or for use in medical or
38 scientific education or research, or

39 for use by any law enforcement agency in this State or any other
40 state or federal law enforcement agency;

41 criminal investigatory records;

42 victims' records, except that a victim of a crime shall have access
43 to the victim's own records;

44 any written request by a crime victim for a record to which the
45 victim is entitled to access as provided in this section, including,
46 but not limited to, any law enforcement agency report, domestic

1 violence offense report, and temporary or permanent restraining
2 order;

3 personal firearms records, except for use by any person
4 authorized by law to have access to these records or for use by any
5 government agency, including any court or law enforcement
6 agency, for purposes of the administration of justice;

7 personal identifying information received by the Division of Fish
8 and Wildlife in the Department of Environmental Protection in
9 connection with the issuance of any license authorizing hunting
10 with a firearm. For the purposes of this paragraph, personal
11 identifying information shall include, but not be limited to, identity,
12 name, address, social security number, telephone number, fax
13 number, driver's license number, email address, or social media
14 address of any applicant or licensee;

15 trade secrets and proprietary commercial or financial information
16 obtained from any source. For the purposes of this paragraph, trade
17 secrets shall include data processing software obtained by a public
18 body under a licensing agreement which prohibits its disclosure;

19 any record within the attorney-client privilege. This paragraph
20 shall not be construed as exempting from access attorney or
21 consultant bills or invoices except that such bills or invoices may be
22 redacted to remove any information protected by the attorney-client
23 privilege;

24 administrative or technical information regarding computer
25 hardware, software and networks which, if disclosed, would
26 jeopardize computer security;

27 emergency or security information or procedures for any
28 buildings or facility which, if disclosed, would jeopardize security
29 of the building or facility or persons therein;

30 security measures and surveillance techniques which, if
31 disclosed, would create a risk to the safety of persons, property,
32 electronic data or software;

33 information which, if disclosed, would give an advantage to
34 competitors or bidders;

35 information generated by or on behalf of public employers or
36 public employees in connection with any sexual harassment
37 complaint filed with a public employer or with any grievance filed
38 by or against an individual or in connection with collective
39 negotiations, including documents and statements of strategy or
40 negotiating position;

41 information which is a communication between a public agency
42 and its insurance carrier, administrative service organization or risk
43 management office;

44 information which is to be kept confidential pursuant to court
45 order;

46 any copy of form DD-214, or that form, issued by the United
47 States Government, or any other certificate of honorable discharge,

1 or copy thereof, from active service or the reserves of a branch of
2 the Armed Forces of the United States, or from service in the
3 organized militia of the State, that has been filed by an individual
4 with a public agency, except that a veteran or the veteran's spouse
5 or surviving spouse shall have access to the veteran's own records;

6 any copy of an oath of allegiance, oath of office or any
7 affirmation taken upon assuming the duties of any public office, or
8 that oath or affirmation, taken by a current or former officer or
9 employee in any public office or position in this State or in any
10 county or municipality of this State, including members of the
11 Legislative Branch, Executive Branch, Judicial Branch, and all law
12 enforcement entities, except that the full name, title, and oath date
13 of that person contained therein shall not be deemed confidential;
14 and

15 that portion of any document which discloses the social security
16 number, credit card number, unlisted telephone number or driver
17 license number of any person; except for use by any government
18 agency, including any court or law enforcement agency, in carrying
19 out its functions, or any private person or entity acting on behalf
20 thereof, or any private person or entity seeking to enforce payment
21 of court-ordered child support; except with respect to the disclosure
22 of driver information by the New Jersey Motor Vehicle
23 Commission as permitted by section 2 of P.L.1997, c.188 (C.39:2-
24 3.4); and except that a social security number contained in a record
25 required by law to be made, maintained or kept on file by a public
26 agency shall be disclosed when access to the document or
27 disclosure of that information is not otherwise prohibited by State
28 or federal law, regulation or order or by State statute, resolution of
29 either or both houses of the Legislature, Executive Order of the
30 Governor, rule of court or regulation promulgated under the
31 authority of any statute or executive order of the Governor.

32 A government record shall not include, with regard to any public
33 institution of higher education, the following information which is
34 deemed to be privileged and confidential:

35 pedagogical, scholarly and/or academic research records and/or
36 the specific details of any research project conducted under the
37 auspices of a public higher education institution in New Jersey,
38 including, but not limited to research, development information,
39 testing procedures, or information regarding test participants,
40 related to the development or testing of any pharmaceutical or
41 pharmaceutical delivery system, except that a custodian may not
42 deny inspection of a government record or part thereof that gives
43 the name, title, expenditures, source and amounts of funding and
44 date when the final project summary of any research will be
45 available;

1 test questions, scoring keys and other examination data
2 pertaining to the administration of an examination for employment
3 or academic examination;
4 records of pursuit of charitable contributions or records
5 containing the identity of a donor of a gift if the donor requires non-
6 disclosure of the donor's identity as a condition of making the gift
7 provided that the donor has not received any benefits of or from the
8 institution of higher education in connection with such gift other
9 than a request for memorialization or dedication;
10 valuable or rare collections of books and/or documents obtained
11 by gift, grant, bequest or devise conditioned upon limited public
12 access;
13 information contained on individual admission applications; and
14 information concerning student records or grievance or
15 disciplinary proceedings against a student to the extent disclosure
16 would reveal the identity of the student.
17 "Personal firearms record" means any information contained in a
18 background investigation conducted by the chief of police, the
19 county prosecutor, or the Superintendent of State Police, of any
20 applicant for a permit to purchase a handgun, firearms identification
21 card license, or firearms registration; any application for a permit to
22 purchase a handgun, firearms identification card license, or firearms
23 registration; any document reflecting the issuance or denial of a
24 permit to purchase a handgun, firearms identification card license,
25 or firearms registration; and any permit to purchase a handgun,
26 firearms identification card license, or any firearms license,
27 certification, certificate, form of register, or registration statement.
28 For the purposes of this paragraph, information contained in a
29 background investigation shall include, but not be limited to,
30 identity, name, address, social security number, phone number, fax
31 number, driver's license number, email address, social media
32 address of any applicant, licensee, registrant or permit holder.
33 "Public agency" or "agency" means any of the principal
34 departments in the Executive Branch of State Government, and any
35 division, board, bureau, office, commission or other instrumentality
36 within or created by such department; the Legislature of the State
37 and any office, board, bureau or commission within or created by
38 the Legislative Branch; and any independent State authority,
39 commission, instrumentality or agency. The terms also mean any
40 political subdivision of the State or combination of political
41 subdivisions, and any division, board, bureau, office, commission or
42 other instrumentality within or created by a political subdivision of
43 the State or combination of political subdivisions, and any
44 independent authority, commission, instrumentality or agency
45 created by a political subdivision or combination of political
46 subdivisions.

1 "Law enforcement agency" means a public agency, or part
2 thereof, determined by the Attorney General to have law
3 enforcement responsibilities.

4 "Constituent" means any State resident or other person
5 communicating with a member of the Legislature.

6 "Member of the Legislature" means any person elected or
7 selected to serve in the New Jersey Senate or General Assembly.

8 "Criminal investigatory record" means a record which is not
9 required by law to be made, maintained or kept on file that is held
10 by a law enforcement agency which pertains to any criminal
11 investigation or related civil enforcement proceeding.

12 "Victim's record" means an individually-identifiable file or
13 document held by a victims' rights agency which pertains directly to
14 a victim of a crime except that a victim of a crime shall have access
15 to the victim's own records.

16 "Victim of a crime" means a person who has suffered personal or
17 psychological injury or death or incurs loss of or injury to personal
18 or real property as a result of a crime, or if such a person is
19 deceased or incapacitated, a member of that person's immediate
20 family.

21 "Victims' rights agency" means a public agency, or part thereof,
22 the primary responsibility of which is providing services, including
23 but not limited to food, shelter, or clothing, medical, psychiatric,
24 psychological or legal services or referrals, information and referral
25 services, counseling and support services, or financial services to
26 victims of crimes, including victims of sexual assault, domestic
27 violence, violent crime, child endangerment, child abuse or child
28 neglect, and the Victims of Crime Compensation Board, established
29 pursuant to P.L.1971, c.317 (C.52:4B-1 et seq.) and continued as
30 the Victims of Crime Compensation Office pursuant to P.L.2007,
31 c.95 (C.52:4B-3.2 et al.) and Reorganization Plan No. 001-2008.
32 (cf: P.L.2014, c.19, s.2)

33
34 2. N.J.S.12A:9-502 is amended to read as follows:

35 12A:9-502. Contents of Financing Statement; Record of
36 Mortgage as Financing Statement; Time of Filing Financing
37 Statement.

38 (a) Sufficiency of financing statement. Subject to subsection (b),
39 a financing statement is sufficient only if it:

40 (1) provides the name of the debtor;

41 (2) provides the ²**legal**² name of the secured party or ²**the**
42 legal name of² a representative of the secured party ², which
43 discloses the identity of the secured party or representative²; and

44 (3) indicates the collateral covered by the financing statement
45 and that the collateral is within the scope of this chapter ², pursuant
46 to 12A:9-102 and 12A:9-109².

1 (b) Real-property-related financing statements. Except as
2 otherwise provided in 12A:9-501(b), to be sufficient, a financing
3 statement that covers as-extracted collateral or timber to be cut, or
4 which is filed as a fixture filing and covers goods that are or are to
5 become fixtures, must satisfy subsection (a) and also:

- 6 (1) indicate that it covers this type of collateral;
7 (2) indicate that it is to be filed in the real property records;
8 (3) provide a description of the real property to which the
9 collateral is related; and
10 (4) if the debtor does not have an interest of record in the real
11 property, provide the name of a record owner.

12 (c) Record of mortgage as financing statement. A record of a
13 mortgage is effective, from the date of recording, as a financing
14 statement filed as a fixture filing or as a financing statement
15 covering as-extracted collateral or timber to be cut only if:

- 16 (1) the record indicates the goods or accounts that it covers;
17 (2) the goods are or are to become fixtures related to the real
18 property described in the record or the collateral is related to the
19 real property described in the record and is as-extracted collateral or
20 timber to be cut;
21 (3) the record satisfies the requirements for a financing
22 statement in this section, but:
23 (A) the record need not indicate that it is to be filed in the real
24 property records; and
25 (B) the record sufficiently provides the name of a debtor who is
26 an individual if it provides the individual name of the debtor or the
27 surname and first personal name of the debtor, even if the debtor is
28 an individual to whom 12A:9-503(a)(4) applies; and
29 (4) the record is recorded.

30 (d) Filing before security agreement or attachment. A financing
31 statement may be filed before a security agreement is made or a
32 security interest otherwise attaches.

33 (cf: P.L.2013, c.65, s.21)

34

35 3. N.J.S.12A:9-516 is amended to read as follows:

36 12A:9-516. What Constitutes Filing; Effectiveness of Filing.

37 (a) What constitutes filing. Except as otherwise provided in
38 subsection (b), communication of a record to a filing office and
39 tender of the filing fee or acceptance of the record by the filing
40 office constitutes filing.

41 (b) Refusal to accept record; filing does not occur. Filing does
42 not occur with respect to a record that a filing office refuses to
43 accept because:

- 44 (1) the record is not communicated by a method or medium of
45 communication authorized by the filing office;
46 (2) an amount equal to or greater than the applicable filing fee is
47 not tendered;

- 1 (3) the filing office is unable to index the record because:
- 2 (A) in the case of an initial financing statement, the record does
- 3 not provide a name for the debtor;
- 4 (B) in the case of an amendment or information statement, the
- 5 record:
- 6 (i) does not identify the initial financing statement as required
- 7 by 12A:9-512 or 12A:9-518, as applicable; or
- 8 (ii) identifies an initial financing statement whose effectiveness
- 9 has lapsed under 12A:9-515;
- 10 (C) in the case of an initial financing statement that provides the
- 11 name of a debtor identified as an individual or an amendment that
- 12 provides a name of a debtor identified as an individual which was
- 13 not previously provided in the financing statement to which the
- 14 record relates, the record does not identify the debtor's surname; or
- 15 (D) in the case of a record filed or recorded in the filing office
- 16 described in 12A:9-501(a) (1), the record does not provide a
- 17 sufficient description of the real property to which it relates;
- 18 (4) in the case of an initial financing statement or an amendment
- 19 that adds a secured party of record, the record does not provide a
- 20 name and mailing address for the secured party of record;
- 21 (5) in the case of an initial financing statement or an amendment
- 22 that provides a name of a debtor which was not previously provided
- 23 in the financing statement to which the amendment relates, the
- 24 record does not:
- 25 (A) provide a mailing address for the debtor; or
- 26 (B) indicate whether the name provided as the name of the
- 27 debtor is the name of an individual or an organization;
- 28 (C) (Deleted by amendment, P.L.2013, c.65.)
- 29 (6) in the case of an assignment reflected in an initial financing
- 30 statement under 12A:9-514 (a) or an amendment filed under 12A:9-
- 31 514(b), the record does not provide a name and mailing address for
- 32 the assignee; **[or]**
- 33 (7) in the case of a continuation statement, the record is not filed
- 34 within the six-month period prescribed by 12A:9-515(d); or
- 35 (8) one or more of the following circumstances exist:
- 36 (A) the record is not required or authorized to be filed or
- 37 recorded with the filing office;
- 38 (B) the record on its face is being filed or recorded for a purpose
- 39 outside the scope of this chapter;
- 40 (C) the collateral described in the record is not within the scope
- 41 of this chapter;
- 42 (D) the filing office reasonably believes that the filer is
- 43 attempting to file under a fictitious name ¹with the intent to harass
- 44 or defraud the person identified as the debtor ²because:
- 45 (i) names are written in all capital or all lowercase letters or
- 46 interspersed with colons;

- 1 (ii) signatures or names are followed by the words “sui juris,”
2 “under duress,” “living soul,” or a copyright symbol;
- 3 (iii) the presence of personal seals, stamps, thumb prints, or
4 other embossed logos; or
- 5 (iv) the words “accepted for value” or “all rights reserved”
6 appear anywhere on the documents¹² ;
- 7 (E) the filing office reasonably believes that the record is
8 materially false or fraudulent because:
- 9 (i) the record asserts a claim against a current or former officer
10 or employee of any federal, state, county, or other local
11 governmental unit, including members of the Legislative Branch,
12 Executive Branch, Judicial Branch, and all law enforcement
13 entities, and relates to the performance or non-performance of the
14 officer's or employee's public duties, and for which the filer does
15 not hold a properly executed security agreement or judgment from a
16 court of competent jurisdiction;
- 17 (ii) the record indicates that the debtor and the secured party are
18 ¹substantially¹ the same;
- 19 (iii) the record indicates that an individual is a transmitting
20 utility; or
- 21 (iv) the filer is incarcerated.
- 22 The provisions of this paragraph (8) ¹do not apply to a record
23 communicated to the filing office by a properly documented
24 regulated financial institution] are not subject to the “mandatory
25 refusal to accept record” requirement of 12A:9-520(a). However,
26 upon discovery of a filed record that meets the provisions of this
27 paragraph (8), the filing office shall remove that record as per
28 procedures established in rules promulgated in accordance with
29 12A:9-526(a)¹.
- 30 The filing office and the employees of the filing office may not
31 be held liable for the filing or non-filing of any record described
32 within this paragraph (8).
- 33 (c) Rules applicable to subsection (b). For purposes of
34 subsection (b):
- 35 (1) a record does not provide information if the filing office is
36 unable to read or decipher the information; and
- 37 (2) a record that does not indicate that it is an amendment or
38 identify an initial financing statement to which it relates, as required
39 by 12A:9-512, 12A:9-514, or 12A:9-518, is an initial financing
40 statement.
- 41 (d) Refusal to accept record; record effective as filed record. A
42 record that is communicated to the filing office with tender of the
43 filing fee, but which the filing office refuses to accept for a reason
44 other than one set forth in subsection (b), is effective as a filed
45 record except as against a purchaser of the collateral which gives

1 value in reasonable reliance upon the absence of the record from the
2 files.

3 (cf: P.L.2013, c.65, s.25)

4

5 ²4. N.J.S.12A:9-520 is amended to read as follows:

6 12A:9-520. Acceptance and refusal to accept record.

7 (a) Mandatory refusal to accept record. A filing office shall
8 refuse to accept a record for filing for a reason set forth in 12A:9-
9 516 (b) and may refuse to accept a record for filing only for a
10 reason set forth in 12A:9-516 (b).

11 (b) Communication concerning refusal. If a filing office refuses
12 to accept a record for filing, it shall communicate to the person that
13 presented the record the fact of and reason for the refusal and the
14 date and time the record would have been filed had the filing office
15 accepted it. The communication must be made at the time and in
16 the manner prescribed by filing-office rule but, in the case of a
17 filing office described in 12A:9-501 (a) (2), in no event more than
18 two business days after the filing office receives the record.

19 (c) When filed financing statement effective. A filed financing
20 statement satisfying 12A:9-502 (a) and (b) is effective, even if the
21 filing office is required to refuse to accept it for filing under
22 subsection (a). However, 12A:9-338 applies to a filed financing
23 statement providing information described in 12A:9-516 (b) (5)
24 which is incorrect at the time the financing statement is filed.

25 (d) Separate application to multiple debtors. If a record
26 communicated to a filing office provides information that relates to
27 more than one debtor, this part applies as to each debtor separately.

28 (e) The provisions of 12A:9-516(b)(8)(A) through (E) do not
29 apply to a financing statement filed by a registered organization or a
30 representative of a registered organization. If a registered
31 organization that is attempting to file a financing statement is
32 organized under the law of a governmental unit other than this State
33 and the filing office reasonably believes the record is submitted to
34 harass, defraud, or for any other unlawful purpose, the filing office
35 may require the registered organization or its representative to
36 provide verification from the jurisdiction under whose law the
37 institution is organized. As used in this subsection, “registered
38 organization” means that term as defined in 12A:9-102.²

39 (cf: P.L. 2001, c.386, s.84)

40

41 ²[4.] ²5. N.J.S.12A:9-525 is amended to read as follows:

42 12A:9-525. Fees.

43 (a) Initial financing statement or other record: general rule.
44 Except as otherwise provided in **[subsection]** subsections (d) and
45 (e), the fees for filing and indexing records under this part are:

46 (1) \$25 for financing statement;

- 1 (2) \$25 for continuation statement;
2 (3) \$25 for amendment statement;
3 (4) \$25 for partial release;
4 (5) \$25 for assignment;
5 (6) \$25 termination statement; and
6 (7) \$1 per page for copy of any filed financing statement.
7 (b) Number of names. Except as otherwise provided in
8 subsection (d), the number of names required to be indexed does not
9 affect the amount of the fee in subsection (a).
10 (c) Response to information request. The fee for responding to
11 a request for information from the filing office, including for
12 issuing a certificate of search showing whether there is on file any
13 financing statement naming a particular debtor, is \$25.
14 (d) Record of mortgage. This section does not require a fee
15 with respect to a record of mortgage which is effective as a
16 financing statement filed as a fixture filing or as a financing
17 statement covering as-extracted collateral or timber to be cut under
18 12A:9-502 (c). However, the recording and satisfaction fees that
19 otherwise would be applicable to the record of the mortgage apply.
20 (e) No fee shall be paid for any correction statement,
21 termination statement, or other documentation filed by any current
22 or former officer or employee of any federal, state, county, or other
23 local governmental unit, including members of the Legislative
24 Branch, Executive Branch, Judicial Branch, and all law
25 enforcement entities, or the officer's or employee's immediate
26 family or estate, filing for the purpose of removing a fraudulent or
27 otherwise improper filing or record related to the performance or
28 non-performance of that officer's or employee's public duties for
29 which the initial filer did not hold a properly executed security
30 agreement or judgment from a court of competent jurisdiction ²or
31 for which the initial filer was not entitled to file the initial financing
32 statement under 12A:9-509².
33 (cf: P.L.2002, c.34, s.19)
34

35 ²[5.] 6.² N.J.S.12A:9-625 is amended to read as follows:

36 12A:9-625. Remedies for Secured Party's Failure to Comply with
37 Chapter.

38 (a) Judicial orders concerning noncompliance. If it is
39 established that a secured party is not proceeding in accordance
40 with this chapter, a court may order or restrain collection,
41 enforcement, or disposition of collateral on appropriate terms and
42 conditions.

43 (b) Damages for noncompliance. Subject to subsections (c), (d)
44 and (f), a person is liable for damages in the amount of any loss
45 caused by a failure to comply with this chapter. Loss caused by a

1 failure to comply may include loss resulting from the debtor's
2 inability to obtain, or increased costs of, alternative financing.

3 (c) Persons entitled to recover damages; statutory damages if
4 collateral is consumer goods. Except as otherwise provided in
5 12A:9-628:

6 (1) a person that, at the time of the failure, was a debtor, was an
7 obligor, or held a security interest in or other lien on the collateral
8 may recover damages under subsection (b) for its loss; and

9 (2) if the collateral is consumer goods, a person that was a
10 debtor or a secondary obligor at the time a secured party failed to
11 comply with this part may recover for that failure in any event an
12 amount not less than the credit service charge plus 10 percent of the
13 principal amount of the obligation or the time-price differential plus
14 10 percent of the cash price.

15 (d) Recovery when deficiency eliminated or reduced. A debtor
16 whose deficiency is eliminated under 12A:9-626 may recover
17 damages for the loss of any surplus. However, a debtor or
18 secondary obligor whose deficiency is eliminated or reduced under
19 12A:9-626 may not otherwise recover under subsection (b) for
20 noncompliance with the provisions of this part relating to
21 collection, enforcement, disposition, or acceptance.

22 (e) Statutory damages: noncompliance with specified
23 provisions. In addition to any damages recoverable under
24 subsection (b), the debtor, consumer obligor, or person named as a
25 debtor in a filed record, as applicable, may recover \$500 in each
26 case from a person that:

27 (1) fails to comply with 12A:9-207;

28 (2) fails to comply with 12A:9-208;

29 (3) files a record that the person is not entitled to file under
30 12A:9-509 (a);

31 (4) fails to cause the secured party of record to file or send a
32 termination statement as required by 12A:9-513 (a) or (c);

33 (5) fails to comply with 12A:9-616 (b) (1) and whose failure is
34 part of a pattern, or consistent with a practice, of noncompliance; or

35 (6) fails to comply with 12A:9-616 (b) (2).

36 (f) Statutory damages: noncompliance with 12A:9-210. A
37 debtor or consumer obligor may recover damages under subsection
38 (b) and, in addition, \$500 in each case from a person that, without
39 reasonable cause, fails to comply with a request under 12A:9-210.
40 A recipient of a request under 12A:9-210 which never claimed an
41 interest in the collateral or obligations that are the subject of a
42 request under that section has a reasonable excuse for failure to
43 comply with the request within the meaning of this subsection.

44 (g) Limitation of security interest: noncompliance with 12A:9-
45 210. If a secured party fails to comply with a request regarding a
46 list of collateral or a statement of account under 12A:9-210, the
47 secured party may claim a security interest only as shown in the list

1 or statement included in the request as against a person that is
2 reasonably misled by the failure.

3 (h) Additional damages for fraudulent filings: any current or
4 former officer or employee of any federal, state, county, or other
5 local governmental unit, including members of the Legislative
6 Branch, Executive Branch, Judicial Branch, and all law
7 enforcement entities, or the current or former officer's or
8 employee's immediate family or estate injured by a filing that
9 relates to the performance or non-performance of the officer's or
10 employee's public duties, and for which the filer does not hold a
11 properly executed security agreement or judgment from a court of
12 competent jurisdiction ²or for which the initial filer was not entitled
13 to file the initial financing statement under 12A:9-509², may bring
14 a civil action in the Superior Court against the person or entity who
15 filed or recorded the injuring documents. Upon a finding that a
16 filing is false or contains any materially false, fictitious, or
17 fraudulent statement or representation, or with the intent to harass,
18 hinder, defraud, retaliate against, or in any way impede the
19 performance of that officer's or employee's duties, the court may do
20 any one or more of the following:

21 (1) order the defendant to pay a sum of not less than \$2000 for
22 each fraudulent filing or, the actual damages caused by the filing or
23 recording, whichever is greater;

24 (2) enjoin the defendant from filing any future liens,
25 encumbrances, court actions, or claims against persons specified by
26 the court without approval of the court;

27 (3) award the defendant court costs and reasonable attorney's
28 fees; or

29 (4) order any other relief as is required to clear title to the real
30 or personal property.

31 (cf: P.L.2013, c.65, s.29)

32

33 ²**[6.] 7.²** (New section) A person commits a crime of the
34 second degree if he files or records, or directs another to file or
35 record, in any public record or in any private record which is
36 generally available to the public, any document, lien, encumbrance,
37 or court action against the real or personal property of a current or
38 former public servant, the public servant's immediate family or
39 estate, a current or former federal officer or employee, or the
40 officer's or employee's immediate family or estate, on account of
41 the performance or non-performance of that public servant's,
42 officer's or employee's official duties, knowing or having reason to
43 know that such document, lien, encumbrance, or court action is
44 false or contains any materially false, fictitious, or fraudulent
45 statement or representations, or with the intent to harass, hinder,

1 defraud, retaliate against, or in any way impede the performance of
2 that public servant's, officer's or employee's duties.

3 A person convicted of a violation of this section may, in addition
4 to any other penalty imposed by the court, be enjoined from filing
5 any future liens, encumbrances, or court actions against persons
6 specified by the court without approval of the court.

7
8 ²**[7.] 8.**² (New section) Any current or former officer or
9 employee of any federal, state, county, or other local governmental
10 unit, including members of the Legislative Branch, Executive
11 Branch, Judicial Branch, and all law enforcement entities, or the
12 current or former officer's or employee's immediate family or
13 estate injured by a filing or recording that relates to the performance
14 or non-performance of the officer's or employee's public duties, and
15 for which the filer does not hold a properly executed security
16 agreement or judgment from a court of competent jurisdiction ²or
17 for which the initial filer was not entitled to file the initial financing
18 statement under 12A:9-509² may bring a civil action against the
19 person or entity who filed or recorded the documents. Upon a
20 showing that a filing is false or contains any materially false,
21 fictitious, or fraudulent statement or representations, or with the
22 intent to harass, hinder, defraud, retaliate against, or in any way
23 impede the performance of that officer's or employee's duties, the
24 court may do any one or more of the following:

25 a. order the defendant to pay a sum of not less than \$2000 for
26 each fraudulent filing or, the actual damages caused by the filing or
27 recording, whichever is greater;

28 b. enjoin the defendant from making any future liens,
29 encumbrances, court actions, or claims against persons specified by
30 the court without approval of the court;

31 c. award the plaintiff court costs and reasonable attorney's fees;
32 or

33 d. order any other relief as is required to clear title to the real
34 or personal property.

35
36 ²9. (New section) The Division of Revenue in the Department
37 of the Treasury may adopt, pursuant to the "Administrative
38 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
39 regulations to effectuate the provisions of this act.²

40
41 ²**[8.] 10.**² This act shall take effect immediately ², and shall
42 apply only to documents filed on or after the effective date of this
43 act².

44
45
46 Provides remedies for certain fraudulent financing statements.