

REFERENCE TITLE: false filings; UCC; penalty

State of Arizona
House of Representatives
Fifty-fifth Legislature
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2022

HB 2645

Introduced by
Representatives Diaz: Biasiucci, Blackman, Bolick, Carroll, Carter,
Chaplik, Fernandez B, Fillmore, Finchem, Grantham, Griffin, Martinez,
Nguyen, Parker, Toma, Wilmeth

AN ACT

AMENDING SECTION 47-9527, ARIZONA REVISED STATUTES; RELATING TO THE
UNIFORM COMMERCIAL CODE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 47-9527, Arizona Revised Statutes, is amended to
3 read:

4 47-9527. Unauthorized records; material misstatements; false
5 claims; liability; special action; damages;
6 violation; classification

7 A. A person who causes a record to be filed or recorded in a filing
8 office and who knows or has reason to know that the record is unauthorized
9 under section 47-9509 or that the record contains a material misstatement
10 or false claim is liable to a debtor, a consumer obligor, a person named
11 as a debtor or the owner or holder of collateral affected by the record
12 for the sum of at least ~~five hundred dollars~~ \$500 or for treble the actual
13 damages caused by the record, whichever is more, and reasonable attorney
14 fees and costs of the action, if the person who causes the record to be
15 filed or recorded wilfully refuses to terminate or correct the record
16 within twenty days after the date of a written request from the debtor,
17 the consumer obligor, the person named as a debtor or the owner or holder
18 of collateral affected by the record.

19 B. Any debtor, any consumer obligor, any person named as a debtor
20 or the owner or holder of collateral affected by a record that is
21 unauthorized under section 47-9509 or that contains a material
22 misstatement or false claim may bring an action pursuant to this section
23 in the superior court for any temporary or permanent relief as is
24 necessary to clear or otherwise correct the records of the filing office
25 of the record as provided for in the rules of procedure for special
26 actions. The relief shall be consistent with the practical limitations of
27 the filing system used by the filing office. This special action may be
28 brought based on the ground that the record is not authorized under
29 section 47-9509 or contains a material misstatement or false claim. A
30 debtor, a consumer obligor, a person named as a debtor or the owner or
31 holder of collateral affected by the record may bring a separate special
32 action to clear or otherwise correct the records of a filing office of the
33 record or join the special action with an action for damages as described
34 in this section.

35 C. If a debtor, a consumer obligor, a person named as a debtor or
36 the owner or holder of collateral affected by a record that is
37 unauthorized under section 47-9509 or that contains a material
38 misstatement or false claim prevails in a special action pursuant to this
39 section, **BOTH OF THE FOLLOWING APPLY:**

40 1. The court may mandate any legal or equitable remedy that is
41 consistent with the practical limitations of the filing system used by the
42 filing office and that is necessary to immediately and effectively clear
43 or otherwise correct the records of the filing office of the record,
44 including ordering the person responsible for filing the record to file a

1 termination statement or take any other action as is necessary to clear or
2 otherwise correct the records of a filing office of the record. ~~;~~ ~~and~~

3 2. The debtor, the obligor, the person named as a debtor or the
4 owner or holder of collateral affected by the record may recover
5 reasonable attorney fees and costs of the action.

6 D. The remedies provided in this section are cumulative and are not
7 exclusive to and do not limit any other legal or equitable remedies that
8 may be available to any debtor, any obligor, any person named as a debtor
9 or the owner or holder of collateral affected by a record that is
10 unauthorized under section 47-9509 or contains a material misstatement or
11 false claim.

12 E. A person who is not entitled to file a record under section
13 47-9509, who causes a record to be filed in the records of a filing office
14 and who knows or has reason to know that the record is unauthorized under
15 section 47-9509 or the record contains a material misstatement or false
16 claim is guilty of a class ~~1 misdemeanor~~ **3 FELONY**.