LAWS OF ALASKA

2005

AN ACT

Relating to the wrongful recording of a notice of pendency of an action relating to title to or right to possession of real property.

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

THE ACT FOLLOWS ON PAGE 1

AN ACT

1   Relating to the wrongful recording of a notice of pendency of an action relating to title to or

2   right to possession of real property.

3   _____

4   *** Section 1.** AS 11.46.560(a) is amended to read:

5   (a) A person commits the crime of offering a false instrument for recording in

6   the second degree if [,]

7   (1)   under AS 40.17, the person presents a lien to the recorder for

8   registration, filing, or recording with reckless disregard that the lien is not

9   (A) provided for by a specific state or federal statute; or

10   (B) a lien imposed or authorized by a court recognized under

11   state or federal law; [OR]

12   (2)   under a law authorizing the receipt and filing of a document, the

13   person presents a lien to a department or person having responsibility to accept a lien

14   for filing with reckless disregard that the lien is not

1   (A) provided for by a specific state or federal statute; or

2   (B) a lien imposed or authorized by a court recognized under

3   state or federal law**; or**

4   **(3) the person presents to the recorder a notice of the pendency of**

5   **an action affecting title to real property or the right to possession of real property**

6   **with reckless disregard of the fact that the action specified does not concern the**

7   **title to or right to possession of the real property referred to in the notice, or with**

8   **reckless disregard of the fact that there is no pending action concerning the title**

9   **to or right to possession of the real property referred to in the notice**.

10   *** Sec. 2.** AS 11.46.560(b) is amended to read:

11   (b) In a prosecution under (a) of this section, it is an affirmative defense that

12   the owner of the property affected has consented **in writing** to the lien **or the filing of**

13   **the notice**.