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STATE OF KANSAS

Testimony: SB58 (PROPONENT)

Senate Judiciary Committee
Wednesday, February 3, 2021

Chairwoman Warren and members of the Committee:

SB58 would enhance penalties for the filing of a false lien in Kansas. Our office supports this legislation as we believe it would help reduce fraudulent Uniform Commercial Code (UCC) filings and protect public officials from nefarious actors wishing to cause harm. Like other states, Kansas receives UCC filings that we believe may be fraudulent. The National Association of Secretaries of State (NASS) has identified fraudulent filings as an issue filing agencies are facing across the country. Over a dozen states have laws that make it a crime to fraudulently submit a UCC filing. In supporting this bill, we are looking for tools to help deter fraudulent filings.

Currently, the office does not have a remedy or recourse to address filings that may be fraudulent. The Secretary of State's role with UCC filings is ministerial. Generally, a core tenant of the UCC and state law provides that if certain minimum requirements are met, the filing office must file the document. Filings that may or appear to be fraudulent often meet the basic filing requirements.

As the secretary for Kansas, our office is responsible for collecting and filing millions of documents a year. Among the filings our office routinely receives are fraudulent UCC filings. This is a tool commonly used by individuals who declare themselves as "sovereign" from the United States or Kansas. As part of their declaration of being "sovereign" they will file a fraudulent UCC lien against themselves out of the misguided belief it protects their assets from being seized by the government.

In addition, some fraudulent filings involve public officials who may have false liens placed on their personal or business assets. Although it is not yet a major problem in Kansas, our counterparts in other states have reported an increase in false liens against legislators, judges, other elected officials, government employees and prominent members of society. In most instances, disgruntled individuals will file the false lien against the public official who likely will not know about it until trying to complete a transaction involving the assets in question.

SB58 would increase penalties for those false filings, discouraging those who otherwise might be inclined to take such action against prominent or public officials. It also allows a court to prohibit an individual from filing future liens without court approval, a useful tool against inmates who file multiple liens with little concern of punishment.

Thank you for your consideration of this testimony.

Respectfully submitted,

Katie Koupal
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