CHAPTER 41-10
FRAUDULENT AND HARASSING FINANCING STATEMENT RECORDS

41-10-01. Definitions.

As used in this chapter:

1. "Authorized", when used with reference to a financing statement record, means that the financing statement record was filed by a person authorized to do so as provided in sections 41-09-80 and 41-09-130.
2. "Debtor" means a natural person whose name was provided in a financing statement record as an individual debtor or one of the types of persons listed in section 41-09-76.
3. "Filing office" or "filing officer" refers to the central indexing system, which must be provided by the secretary of state, where a financing statement record is to be filed electronically as provided by section 41-09-72.
4. "Financing statement record" means an initial financing statement, an amendment that adds collateral covered by a financing statement, and an amendment that adds a debtor to a financing statement as such terms are used in this title.

41-10-02. Criminal penalty.

1. A person commits an offense if the person knowingly causes to be presented for filing in a filing office, or promotes the filing in a filing office, of a financing statement record that the person knows:
   a. Not to be authorized under section 41-09-80 or 41-09-130 by the natural person whose name was provided as an individual debtor in the financing statement; and
   b. Was filed or presented for filing with the intent that:
      (1) The financing statement record be used to harass or hinder the natural person whose name was provided as an individual debtor in the financing statement record without that person's authorization; or
      (2) The financing statement record be used to defraud any person.
2. An offense under this section is a class A misdemeanor, unless it is alleged and shown at the trial of the offense that the person had previously been convicted under this provision on two or more occasions, in which event the offense is a class C felony.

41-10-03. Civil penalty.

1. A person shall not knowingly cause to be presented for filing in a filing office or promote the filing of a financing statement record in a filing office that the person knows:
   a. Not to be authorized under section 41-09-80 or 41-09-130 by the natural person whose name was provided as an individual debtor in the financing statement record; and
   b. Was filed or presented for filing with the intent that:
      (1) The financing statement record be used to harass or hinder the natural person whose name was provided as an individual debtor in the financing statement record without that person's authorization; or
      (2) The financing statement record be used to defraud any person.
2. A person who violates subsection 1 is liable to each such debtor for:
   a. The greater of ten thousand dollars or the actual damages caused by the violation;
   b. Court costs;
   c. Reasonable attorney's fees;
   d. Related expenses of bringing the action, including investigative expenses; and
   e. Exemplary damages in the amount determined by the court.

41-10-04. Cause of action - Injunction.

1. The following persons may bring an action to enjoin violation of this chapter or to recover civil damages under this chapter:

a. The natural person whose name was provided as an individual debtor in the financing statement record filed without that person's authorization under section 41-09-80, any person who owns an interest in the collateral described or indicated in the financing statement record, or any person directly harmed by the filing of the financing statement record;
b. The attorney general;
c. A state's attorney;
d. A municipal attorney; and
e. A person who has been damaged as a result of an action taken in reliance on the filed financing statement record.

2. A filing officer may refer a matter to the attorney general or other appropriate person for filing the legal action under this chapter.

41-10-05. Venue.

An action under this chapter may be brought in any district court in a county where any of the persons who may bring an action under this chapter reside.

41-10-06. Other remedies.

This law is cumulative of other law under which a person may obtain judicial relief with respect to any filed or recorded document.