

1 SB225
2 133842-1
3 By Senator Waggoner
4 RFD: Judiciary
5 First Read: 07-FEB-12

2
3
4
5
6
7
8 SYNOPSIS: This bill would establish the crimes of
9 falsely removing an instrument from recording and
10 offering a false instrument for recording against a
11 public official.

12 This bill would also allow a proceeding to
13 remove a false instrument filed by a public servant
14 to be transferred to circuit court and for the
15 proceeding to be expedited.

16 Amendment 621 of the Constitution of Alabama
17 of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of
19 Alabama of 1901, as amended, prohibits a general
20 law whose purpose or effect would be to require a
21 new or increased expenditure of local funds from
22 becoming effective with regard to a local
23 governmental entity without enactment by a 2/3 vote
24 unless: it comes within one of a number of
25 specified exceptions; it is approved by the
26 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

10
11 A BILL
12 TO BE ENTITLED
13 AN ACT
14

15 To amend Section 13A-9-12 of the Code of Alabama
16 1975, to establish the crimes of falsely removing an
17 instrument from recording and offering a false instrument for
18 recording against a public servant; to provide for penalties;
19 to provide a procedure for the removal of false instruments
20 filed against a public official; and in connection therewith
21 would have as its purpose or effect the requirement of a new
22 or increased expenditure of local funds within the meaning of
23 Amendment 621 of the Constitution of Alabama of 1901, now
24 appearing as Section 111.05 of the Official Recompilation of
25 the Constitution of Alabama of 1901, as amended.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 13A-9-12 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§13A-9-12.

4 "(a) A person commits the crime of offering a false
5 instrument for recording if, knowing that a written instrument
6 relating to or affecting real or personal property, or an
7 interest therein, or directly affecting contractual
8 relationships contains a material false statement or material
9 false information, and with intent to defraud, he presents or
10 offers it to a public office or a public employee, with the
11 knowledge that it will be registered, filed or recorded or
12 become a part of the records of that public office or public
13 employee.

14 "(b) Offering a false instrument for recording is a
15 Class A misdemeanor.

16 "(c) (1) A public servant, as defined in Section
17 13A-10-1, commits the crime of falsely removing an instrument
18 from recording if, knowing that a written instrument relating
19 to or affecting real or personal property or an interest
20 therein or directly affecting a contractual relationship is
21 valid, he or she attempts to have the instrument removed from
22 recording.

23 "(2) Falsely removing an instrument from recording
24 is a Class C felony.

25 "(d) (1) A person commits the crime of offering a
26 false instrument for recording against a public servant if the
27 person offers for recording a written instrument which relates

1 to or affects the real or personal property or an interest
2 therein or a contractual relationship of a public servant
3 knowing that the written instrument contains a material false
4 statement or material false information, with the intent to
5 defraud, intimidate, or harass the public servant or to impede
6 the public servant in the performance of his or her duties.
7 For the purposes of this subsection, a public servant is
8 defined as provided in Section 13A-10-1.

9 "(2) Offering a false instrument for recording
10 against a public servant is a Class C felony.

11 "(e) If a false instrument has been filed against a
12 public servant, the request to remove the false instrument may
13 be transferred to circuit court and the proceeding may be
14 expedited. If the request cannot be heard in circuit court
15 within 45 days, the request may be heard by a magistrate. The
16 Alabama Rules of Civil Procedure shall apply to any
17 proceedings heard pursuant to this subsection."

18 Section 2. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 3. This act shall become effective
2 immediately following its passage and approval by the
3 Governor, or its otherwise becoming law.