

REFERENCE TITLE: recorded documents; false filings; liability

State of Arizona  
Senate  
Fifty-first Legislature  
Second Regular Session  
2014

# **SB 1471**

Introduced by  
Senator Driggs; Representative Brophy McGee

AN ACT

AMENDING SECTION 33-420, ARIZONA REVISED STATUTES; RELATING TO RECORDED DOCUMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 33-420, Arizona Revised Statutes, is amended to  
3 read:

4 33-420. False documents; liability; special action; damages;  
5 violation; classification

6 A. A person ~~purporting~~ WHO PURPORTS to claim an interest in, ~~or a~~  
7 lien or encumbrance against, ~~real property,~~ INCLUDING ANY CLAIM OF EASEMENT  
8 AND ANY CLAIM BASED ON A PROVISION IN A DECLARATION OF RESTRICTIVE COVENANTS  
9 AGAINST REAL PROPERTY, AND who causes a document asserting such claim to be  
10 recorded in the office of the county recorder, knowing or having reason to  
11 know that the document is forged, ~~OR~~ groundless, contains a material  
12 misstatement or false claim or is otherwise invalid is liable to the owner or  
13 beneficial title holder of the real property for the sum of not less than  
14 five thousand dollars, or for treble the actual damages caused by the  
15 recording, whichever is greater, and reasonable attorney fees and costs of  
16 the action.

17 B. The owner or beneficial title holder of the real property may bring  
18 an action pursuant to this section in the superior court in the county in  
19 which the real property is located for such relief as is required to  
20 immediately clear title to the real property as provided for in the rules of  
21 procedure for special actions. This special action may be brought based on  
22 the ground that the lien OR OTHER DOCUMENT is forged, ~~OR~~ groundless,  
23 contains a material misstatement or false claim or is otherwise invalid. The  
24 owner or beneficial title holder may bring a separate special action to clear  
25 title to the real property or join such action with an action for damages as  
26 described in this section. In either case, the owner or beneficial title  
27 holder may recover reasonable attorney fees and costs of the action if he  
28 prevails.

29 C. A person who is named in a document ~~which~~ THAT purports to create  
30 an interest in, ~~or a lien or encumbrance against,~~ real property AS PRESCRIBED  
31 IN SUBSECTION A OF THIS SECTION and who knows that the document is forged, ~~OR~~  
32 OR groundless, contains a material misstatement or false claim or is  
33 otherwise invalid shall be liable to the owner or title holder for the sum of  
34 not less than one thousand dollars, or for treble actual damages, whichever  
35 is greater, and reasonable attorney fees and costs as provided in this  
36 section, if he wilfully refuses to release or correct such document of record  
37 within twenty days from the date of a written request from the owner or  
38 beneficial title holder of the real property.

39 D. A document ~~purporting~~ THAT PURPORTS to create an interest in, ~~or a~~  
40 ~~lien or encumbrance against,~~ real property AS PRESCRIBED IN SUBSECTION A OF  
41 THIS SECTION AND THAT IS not authorized by statute, judgment or other  
42 specific legal authority is presumed to be groundless and invalid.

1           E. A person ~~purporting~~ WHO PURPORTS to claim an interest in, ~~or a lien~~  
2 ~~or encumbrance against,~~ real property, ~~— AS PRESCRIBED IN SUBSECTION A OF THIS~~  
3 ~~SECTION AND~~ who causes a document asserting such claim to be recorded in the  
4 office of the county recorder, knowing or having reason to know that the  
5 document is forged, ~~— OR~~ groundless, contains a material misstatement or false  
6 claim or is otherwise invalid, is guilty of a class 1 misdemeanor.