

ASSEMBLY BILL

No. 1698

Introduced by Assembly Member Wagner

February 13, 2014

An act to amend Section 115 of the Penal Code, relating to falsified public documents.

LEGISLATIVE COUNSEL'S DIGEST

AB 1698, as introduced, Wagner. Falsified public records.

Under existing law, a person who knowingly procures or offers any false or forged instrument to be filed, registered, or recorded in any public office within this state, which instrument, if genuine, might be filed, registered, or recorded under any law of this state or of the United States, is guilty of a felony.

This bill would provide that after a person is convicted of a violation of that law, or a plea is entered whereby a charge alleging a violation of that law is dismissed and a waiver is obtained as specified, the court is required to issue a written order that the false or forged instrument be adjudged void ab initio. The bill would require the order to state whether the instrument is false or forged, or both false and forged, and describe the nature of the falsity or forgery. The bill would require a copy of the instrument to be attached to the order and a certified copy of the order to be filed, registered, or recorded.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 115 of the Penal Code is amended to
2 read:

3 115. (a) Every person who knowingly procures or offers any
4 false or forged instrument to be filed, registered, or recorded in
5 any public office within this state, which instrument, if genuine,
6 might be filed, registered, or recorded under any law of this state
7 or of the United States, is guilty of a felony.

8 (b) Each instrument which is procured or offered to be filed,
9 registered, or recorded in violation of subdivision (a) shall
10 constitute a separate violation of this section.

11 (c) Except in unusual cases where the interests of justice would
12 best be served if probation is granted, probation shall not be granted
13 to, nor shall the execution or imposition of sentence be suspended
14 for, any of the following persons:

15 (1) Any person with a prior conviction under this section who
16 is again convicted of a violation of this section in a separate
17 proceeding.

18 (2) Any person who is convicted of more than one violation of
19 this section in a single proceeding, with intent to defraud another,
20 and where the violations resulted in a cumulative financial loss
21 exceeding one hundred thousand dollars (\$100,000).

22 (d) For purposes of prosecution under this section, each act of
23 procurement or of offering a false or forged instrument to be filed,
24 registered, or recorded shall be considered a separately punishable
25 offense.

26 (e) *After a person is convicted of a violation of this section, or*
27 *a plea is entered whereby a charge alleging a violation of this*
28 *section is dismissed and waiver is obtained pursuant to People v.*
29 *Harvey (1979) 25 Cal.3d 754, the court shall issue a written order*
30 *that the false or forged instrument be adjudged void ab initio. The*
31 *order shall state whether the instrument is false or forged, or both*
32 *false and forged, and describe the nature of the falsity or forgery.*
33 *A copy of the instrument shall be attached to the order and a*
34 *certified copy of the order shall be filed, registered, or recorded.*

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