

HB2905



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2905

by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

720 ILCS 5/32-13

Amends the Criminal Code of 2012. Increases the penalty for unlawful clouding of title from a Class A misdemeanor to a Class 4 felony for a first offense, a Class 3 felony for a second offense, a Class 2 felony for a third offense, a Class 1 felony for a fourth offense, and a Class X felony for a fifth or subsequent offense.

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CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 32-13 as follows:

6 (720 ILCS 5/32-13)

7 Sec. 32-13. Unlawful clouding of title.

8 (a) Any person who intentionally records or files or causes
9 to be recorded or filed any document in the office of the
10 recorder or registrar of titles of any county of this State
11 that is a cloud on the title of land in this State, knowing
12 that the theory upon which the purported cloud on title is
13 based is not recognized as a legitimate legal theory by the
14 courts of this State or of the United States, commits the
15 offense of unlawful clouding of title.

16 (b) Unlawful clouding of title is a Class 4 felony for a
17 first offense, a Class 3 felony for a second offense, a Class 2
18 felony for a third offense, a Class 1 felony for a fourth
19 offense, and a Class X felony for a fifth or subsequent offense
20 ~~A misdemeanor.~~

21 (c) In addition to any other sentence that may be imposed,
22 the court shall order any person convicted of a violation of
23 this Section, or placed on supervision for a violation of this

1 Section, to execute a release of the purported cloud on title
2 as may be requested by or on behalf of any person whose
3 property is encumbered or potentially encumbered by the
4 document filed. Irrespective of whether or not a person charged
5 under this Section is convicted of the offense of unlawful
6 clouding of title, when the evidence demonstrates that, as a
7 matter of law, the cloud on title is not a type of cloud
8 recognized or authorized by the courts of this State or the
9 United States, the court shall forthwith direct the recorder or
10 registrar of titles to expunge the cloud.

11 (c-5) This Section does not apply to an attorney licensed
12 to practice law in this State who in good faith files a lien on
13 behalf of his or her client and who in good faith believes that
14 the validity of the lien is supported by statutory law, by a
15 decision of a court of law, or by a good faith argument for an
16 extension, modification, or reversal of existing court
17 decisions relating to the validity of the lien.

18 (d) For purposes of this Section, "cloud on title" or
19 "cloud on the title" means an outstanding claim or encumbrance
20 that, if valid, would affect or impair the title of the owner
21 of an estate in land and on its face has that effect, but can be
22 shown by extrinsic proof to be invalid or inapplicable to that
23 estate.

24 (Source: P.A. 89-682, eff. 1-1-97.)