

**OFFERING A FALSE INSTRUMENT FOR FILING
IN THE FIRST DEGREE
Penal Law § 175.35 (2)
(Committed on or after Nov. 1, 2014)**

The (*specify*) count is Offering a False Instrument For Filing in the First Degree.

Under our law, a person is guilty of offering a false instrument for filing in the first degree when¹,

knowing that a written instrument contains a false statement or false information,

he or she offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant,

and such instrument is a financing statement,²

the collateral asserted to be covered in such statement³ is the property of a person who is a state or local officer³ [or who

¹ The statutory language “he or she commits the crime of offering a false instrument for filing in the second degree” has here been replaced with the definition of that crime.

² At this point the statute continues: “the contents of which are prescribed by section 9-502 of the uniform commercial code.” Thus, see that section if the sufficiency of the contents of the “financing instrument” is properly in issue. See *also* UCC § 9-102 (39) definition of “financing statement” as “a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.”

³ At this point, the statute states “as defined by section two of the public officers law.” If in issue, include the applicable definition in Public Officers Law § 2.

otherwise is a judge or justice of the unified court system⁴], such financing statement does not relate to an actual transaction, and he or she filed such financing statement in retaliation for the performance of official duties by such person.

The following terms used in that definition have a special meaning:

WRITTEN INSTRUMENT means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.⁵

PUBLIC SERVANT means any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or any person exercising the functions of any such public officer or employee. [The term public servant includes a person who has been elected or designated to become a public servant.]⁶

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, each of the following five elements:

1. That on or about (date), in the county of (County), the defendant, (defendant's name), offered or presented a written instrument to a public office or public servant, and that written instrument was a financing statement, and the collateral asserted to be

⁴ If in issue, those courts comprising the unified court system are set forth in Article VI, section 1 of the Constitution of the State of New York.

⁶ Penal Law § 175.00 (3).

⁷ Penal Law § 10.00 (15)

covered in such statement is the property of (name of person), who is a

Select appropriate alternative:

state officer
local officer; or
judge or justice of the unified court system;

2. That the defendant did so with the knowledge or belief that such financing statement would be filed with, registered, or recorded in, or otherwise become a part of the records of that public office or public servant,
3. That the defendant did so in retaliation for the performance of official duties by (name of person);
4. That the financing statement contained a false statement or false information and did not relate to an actual transaction; and
5. That the defendant knew that the financing statement contained a false statement or false information.

If you find the People have proven beyond a reasonable doubt each of those elements, you must find the defendant guilty of this crime.

If you find the People have not proven beyond a reasonable doubt any one or more of those elements, you must find the defendant not guilty of this crime.