

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

843T0108

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1130** - 2/7/2012

Introduced by: Representatives Turbiville, Abdallah, Blake, Hickey, Hunt, Kirkeby, Lust, Novstrup (David), Olson (Betty), Rausch, Romkema, Sly, Tornow, Verchio, Wick, and Willadsen and Senators Schlekeway, Cutler, Gray, Haverly, Krebs, Maher, Nelson (Tom), Tieszen, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise the fee schedule for certain documents filed with
2 the county register of deeds, to create a county and statewide fund for the purpose of
3 modernizing and preserving records, and to distribute certain revenue.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 7-9-15 be amended to read as follows:

6 7-9-15. The register of deeds shall charge and receive the following fees:

7 (1) For recording deeds, mortgages, and all other instruments not specifically provided
8 for in this section or this code, the sum of ~~ten~~ thirty dollars for the first ~~page and~~ fifty
9 pages plus two dollars for each additional page or fraction thereof. ~~Each rider or~~
10 ~~addendum shall be considered as an additional page. If a~~ exceeding fifty pages. A real
11 estate document recorded with the register of deeds ~~does not~~ shall conform to § 43-
12 28-23, ~~the sum of ten dollars shall be charged in addition to the fees specified in this~~
13 ~~subdivision~~ but may not be rejected for recording if the document does not comply



1 with § 43-28-23 unless it is not sufficiently legible or cannot be reproduced as a
2 readable copy using the register of deeds' current method of reproduction;

3 (2) For a certified copy of any instrument of record, including certificate and official
4 seal, ~~two~~ the sum of five dollars for the first page plus twenty cents one dollar for
5 each additional page after five pages or fraction thereof, and for an uncertified copy;
6 one dollar, ~~plus twenty cents for each page after five pages. The board of county~~
7 ~~commissioners by resolution shall establish the fees charged for duplicate microfilm.~~
8 The fee applies to each copy whether it is a hard copy, microfilm, electronic copy, or
9 facsimile transmission. In addition to the fee for a certified copy of the record of any
10 birth, there is an additional charge of two dollars for each copy requested, which shall
11 be submitted on a monthly basis to the state treasurer to be deposited in the children's
12 trust fund;

13 (3) For filing and indexing a bill of sale, seed grain lien, or thresher's lien, the sum of ~~ten~~
14 thirty dollars for the first fifty pages plus two dollars for each page or fraction thereof
15 exceeding fifty pages. No fee may be charged for filing any satisfaction or
16 termination of any instrument as prescribed in this subdivision;

17 (4) For recording oil, gas, and mineral leases, and other recorded documents relating to
18 mineral or oil and gas lease exploration and development, ~~six dollars per page~~ the
19 sum of thirty dollars for the first fifty pages plus two dollars for each page or fraction
20 thereof exceeding fifty pages; and

21 (5) For recording an easement filed by any entity created by chapter 34A-5, 46A-3A, or
22 46A-9 or any nonprofit engaged in the treatment, distribution, and sale of water to
23 rural consumers or any document filed by the Department of Transportation
24 pertaining to the acquisition of highway right-of-way, the sum of twenty dollars for

1 the first three pages plus two dollars for each additional page or fraction thereof; and
2 ~~(5)~~(6) Notwithstanding the provisions of subdivision (2) of this section, the board of county
3 commissioners shall fix by resolution the fees to be paid by licensed abstracters of
4 the county or by any person who has passed the written examination established by
5 the Abstracters' Board of Examiners pursuant to § 36-13-11 for uncertified copies of
6 recorded instruments, which fee may not exceed the actual cost to the county for
7 providing such copies.

8 The register of deeds may not charge a fee for discharging or canceling any personal
9 property lien.

10 Section 2. That § 11-3-11 be amended to read as follows:

11 11-3-11. The register of deeds of the county recording any plat shall receive the sum of ~~ten~~
12 sixty dollars for the first page and five dollars for each additional page. The plat shall first be
13 examined and accepted by the authorized governing body.

14 Section 3. That § 43-15A-9 be amended to read as follows:

15 43-15A-9. The register of deeds of the county recording any master deed or lease shall
16 receive the sum of seventy-five dollars for the first fifty pages plus two dollars per page for each
17 page or fraction thereof exceeding fifty pages. A master deed or lease shall be recorded in the
18 same manner and subject to the same provisions of law as are deeds; ~~provided, that.~~ However,
19 no state or local recordation tax upon the value of the property transferred shall apply to ~~any~~
20 ~~such~~ the deed or portion thereof recorded solely for the purpose of complying with the
21 provisions of § 43-15A-3.

22 Section 4. That § 44-8-13 be amended to read as follows:

23 44-8-13. An assignment of a mortgage on real property may be recorded in like manner as
24 a mortgage when it is acknowledged or proved according to the statutes relating to proof of

1 instruments for record and contains the name of the mortgagor, the mortgagee, the assignee and
2 ~~his~~ the assignee's post-office address, the date of the mortgage, the date, county, state, book, and
3 page of record of the mortgage and full description of the premises as described in the mortgage.
4 This record serves as notice to all parties in interest or parties subsequently dealing with the
5 property. ~~If No~~ more than one assignment is may be listed on the instrument, ~~the register of~~
6 ~~deeds is entitled to collect one dollar for each assignment listed after the first assignment.~~

7 Section 5. That § 44-9-50 be amended to read as follows:

8 44-9-50. Any owner or any person entering into a direct agreement with the owner, or the
9 duly authorized agent or representative of the owner, may file with the register of deeds of the
10 county in which the improved premises are situated a notice of project commencement. The
11 notice of project commencement shall contain the following information:

- 12 (1) The name and address of the person filing the notice of project commencement;
- 13 (2) The name and address of the owner or developer;
- 14 (3) A general description of the improvement; and
- 15 (4) The location of the project, including the legal description of the property.

16 The notice shall be filed within thirty days of the commencement of work and shall be
17 accompanied by a filing fee ~~of ten dollars to be deposited in the county's general fund as~~
18 provided in subdivision 7-9-15(3). The register of deeds in each county shall maintain an index
19 of all notices of project commencements.

20 Section 6. That § 43-20-10 be amended to read as follows:

21 43-20-10. The register of deeds of the county in which the corner is located shall charge a
22 recording fee ~~as set forth in subdivision 7-9-15(1) for the first page and two dollars for each~~
23 ~~additional page indexed~~ of ten dollars.

24 Section 7. That § 43-28-23 be amended to read as follows:

1 43-28-23. Any real estate document recorded with the register of deeds, except for plats,
2 shall:

3 (1) Consist of one or more individual sheets measuring no larger than 8.5 inches by 14
4 inches and no smaller than 8.5 inches by 11 inches. No sheet may be attached or
5 affixed to a page that covers up any information or printed material on the document:
6 ~~Any continuous document or any document sheets that are stapled, glued, or bound~~
7 ~~together are subject to the additional fee established pursuant to subdivision 7-9-~~
8 ~~15(1);~~

9 (2) Be printed, typewritten, or computer generated in black ink and the print type of the
10 document may not be smaller than 10-point type. However, dates, notarial
11 acknowledgments, signatures, and other items may be completed in black or blue ink
12 if the document is predominantly completed in black ink and if the items that are
13 completed in blue ink are sufficiently dark to meet the requirements of subdivision
14 (6);

15 (3) Be on white paper of not less than twenty pound weight;

16 (4) Contain a blank space at the top measuring no less than three inches as measured
17 from the top of the first page. The right half shall be used by the register of deeds for
18 recording information and the left half shall be used by the document preparer as
19 required pursuant to § 7-9-1 and may include other document information. All other
20 margins shall be a minimum of one inch;

21 (5) Have a title prominently displayed at the top of the first page below the blank space
22 referred to in subdivision (4) of this section; and

23 (6) Be sufficiently legible to reproduce a readable copy using the register of deed's
24 current method of reproduction; ~~and~~

1 ~~(7) Conform to the standards provided in this section or be subject to the increased fees~~
2 ~~as provided in § 7-9-15.~~

3 ~~However, the register of deeds may not charge an increased fee for any document that has~~
4 ~~any portion of a notary or corporate seal or stamp, a page number, an initial, or a partial~~
5 ~~signature in a margin. Any document that does not conform to the requirements of subdivisions~~
6 ~~(1) to (5), inclusive, has the same effect as conforming documents for all recording purposes,~~
7 ~~including establishing priority. Any affidavit of publication, corner record, survey, certified~~
8 ~~court or governmental document, and UCC form recorded against real estate is exempt from the~~
9 ~~provisions of this section. Any plat or survey and certified vital record attached to documents~~
10 ~~is also exempt from the provisions of this section.~~

11 The provisions of this section do not apply to any real estate document prepared and
12 executed prior to July 1, 2002.

13 Section 8. That chapter 7-9 be amended by adding thereto a NEW SECTION to read as
14 follows:

15 There is hereby established a county register of deeds modernization and preservation relief
16 fund to be administered by the county register of deeds. The fund shall be used for
17 modernization of information systems and preservation of property and records. The register of
18 deeds may purchase or enter into agreements for software, training, equipment, maintenance,
19 supplies, and contract services. The fund may not be used for salaries. Any money deposited in
20 the county register of deeds modernization and preservation relief fund may not be reverted or
21 transferred to the county general fund or any other county fund.

22 Section 9. That chapter 7-9 be amended by adding thereto a NEW SECTION to read as
23 follows:

24 Five dollars of each recording or filing fee collected by the register of deeds, pursuant to

1 subdivisions 7-9-15(1), (3), (4), and (5) and §§ 11-3-11, 43-15A-9, and 43-20-10, shall be
2 deposited into the county register of deeds modernization and preservation relief fund. Sixty
3 percent of the money deposited in the fund pursuant to this section shall remain in the fund for
4 use by the register of deeds pursuant to section 8 of this Act. Forty percent of the money
5 deposited in the fund pursuant to this section shall be remitted before the last working day of
6 each month for the previous month's collections to the South Dakota association of county
7 officials register of deeds modernization and preservation relief fund created pursuant to section
8 11 of this Act.

9 Section 10. That chapter 7-9 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The county register of deeds modernization and preservation relief fund may not be
12 construed to diminish the duty of the county governing body to provide for funding for salaries,
13 personnel, supplies, equipment and other expenses for the register of deeds, even if the funding
14 is relative to technology and preservation in the performance of the duties of the register of
15 deeds and any other laws relating thereto. The register of deeds may accept and fully retain any
16 gifts, grants, contributions, or funds obtained from any other source for the purpose of carrying
17 out the provisions of sections 8 and 9 of this Act. The gifts, grants, contributions, or funds shall
18 remain entirely with the respective county register of deeds modernization and preservation
19 relief fund.

20 Section 11. That chapter 7-9 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 There is hereby established a South Dakota association of county officials register of deeds
23 modernization and preservation relief fund to be administered by the South Dakota Association
24 of County Officials. Distributions, including the cost to administer the fund, shall be approved

1 by the executive board of the association of county officials.

2 Section 12. That chapter 7-9 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The fiscal year for the South Dakota association of county officials register of deeds
5 modernization and preservation relief fund begins on July first and ends on June thirtieth.
6 Before July thirty-first of each year, the association of county officials shall compute each
7 county's share of the deposits from the previous fiscal year. The association shall certify each
8 county's share of the total fund and remit the share to the county auditor on or before August
9 thirty-first of each year. The money in the fund shall be divided equally among each of the sixty-
10 six counties, less the administrative fee to be determined by the board of directors for the South
11 Dakota Association of County Officials. The administrative fee may not exceed one percent of
12 the total annual remittance to the fund. The county auditor shall deposit the money received
13 pursuant to this section in the county register of deeds modernization and preservation relief
14 fund.