

AN ACT

ENTITLED, An Act to transfer from the county register of deeds to the county treasurer certain administrative duties regarding titles for vehicles and boats.

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

Section 1. That § 32-3-28 be amended to read as follows:

32-3-28. The secretary shall issue the certificate of title in triplicate. One copy shall be retained by the secretary and the other copy shall be transmitted either by mail or electronically by computer, postage prepaid, on that day to the county treasurer of the county in which the motor vehicle, trailer, or semitrailer is to be kept. The secretary shall sign the original certificate of title and deliver the certificate to the owner named on it or as otherwise directed by the owner. If there are one or more liens on the motor vehicle, trailer, or semitrailer, the secretary shall properly note the same in the order of their priority on the certificate of title which shall be delivered or mailed to the owner named on it or as otherwise directed by the owner. Secured parties, if any, shall be mailed or delivered conspicuous notification of their security interest as filed and noted on the certificate of title.

Section 2. That § 32-3-33 be amended to read as follows:

32-3-33. If, after a certificate of title has been issued for a motor vehicle, trailer, or semitrailer, the county in which it is kept for use shall be changed, then upon application of the owner, so stating, the secretary may authorize the transfer of the duplicate certificate of title from the office of the treasurer of the county in which it was formerly kept to the county where the motor vehicle, trailer, or semitrailer is presently kept. Thereafter the county treasurer of the county in which such duplicate title certificate is transferred shall perform the duties imposed by this chapter. However, the keeping of a duplicate certificate of title in the office of the treasurer of a county in which the motor vehicle, trailer, or semitrailer is not actually kept may not affect the validity of the title or of any contract, lien, or encumbrance upon the motor vehicle, trailer, or semitrailer described in the certificate.

Section 3. That § 32-3-34 be amended to read as follows:

32-3-34. The county treasurer shall assist in the administration of this chapter and perform such duties in connection therewith as may be required by the secretary.

Section 4. That § 32-3-38 be amended to read as follows:

32-3-38. The holder of a mortgage, trust receipt, conditional sales contract, mechanic's lien, or similar instrument, upon presentation of the certificate of title to the office of the titled owner's county treasurer, together with the fee prescribed by this chapter, may have a notation of the lien made on the certificate of title. The treasurer shall enter the notation and the date thereof over the signature of the officer or deputy and the seal of office. The treasurer on that day shall notify the department. The department shall note the lien on the state's computer system, if the county treasurer has not done so.

Section 5. That § 32-3-41 be amended to read as follows:

32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing statement covering a motor vehicle, trailer, or semitrailer if notation of same has been made by the seller, buyer, owner, holder of the instrument, or an agent of the secretary on the manufacturer's statement of origin or the manufacturer's certificate of origin, or in the case of the certificate of title, if a notation of same has been made by the secretary, an agent of the secretary, or a county treasurer on the face thereof or if notation of same has been made by the seller, buyer, owner, holder of the instrument, or agent of the secretary on the reverse thereof, shall be valid against the creditors of the debtor, whether armed with process or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid against them.

Section 6. That § 32-3-43 be amended to read as follows:

32-3-43. The county treasurer, upon receipt of a lien or title instrument duly executed in the manner prescribed by law governing such instruments, together with the fee prescribed for notation

thereof which is nonrefundable, shall notify the holder of the certificate of title to deliver to the treasurer, within fifteen days from the date of notice, the certificate of title to permit notation of a lien, and, if necessary, the issuance of a new certificate of title provided in § 32-3-36. After the notation of lien the treasurer shall deliver the certificate of title to the owner or as otherwise directed by the owner. The secured party shall be mailed or delivered notification of the party's security interest as filed and noted on the certificate of title. The holder of a certificate of title who refuses to deliver a certificate of title to the treasurer for the purpose of showing the lien on the certificate of title within fifteen days from the date when notified to do so by the treasurer, is liable for damages to the lien holder for the amount of damages the lien holder suffered by reason of the holder of the certificate of title refusing to permit the showing of the lien on the certificate of title.

Section 7. That § 32-3-44 be amended to read as follows:

32-3-44. If a lien is discharged, the lien holder shall execute a release within twenty days after final payment is received, the release shall contain the certificate of title number and the date of the notation. The lien holder shall deliver the release (and certificate of title if held by him) to any county treasurer. The treasurer shall note the cancellation of the lien on the face of the certificate of title and on the same day shall notify the secretary. The secretary shall cancel the lien on the state's computer system, if the county treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29, application for duplicate title may be forwarded along with the release to the department. The department shall cancel the lien. For failure to comply with these provisions relating to releasing a lien, the lien holder shall be liable to the owner for all damages sustained by the owner. The county treasurer shall mail or deliver the certificate of title to the owner, or as otherwise directed by the owner. Upon the satisfaction of a security interest in a motor vehicle, trailer or semitrailer for which the certificate of title is in the possession of the owner, the secured party shall within twenty days after final payment is received, execute a release of security interest on the form prescribed by the

department and mail or deliver such release to the owner or as otherwise directed by the owner.

Section 8. That § 32-3-45 be amended to read as follows:

32-3-45. The county treasurer shall charge a fee of five dollars for each notation of any lien on a certificate of title. No fee may be charged for the cancellation of such lien. The lien fee shall be accounted for in the same manner as other fees of their office.

Section 9. That § 32-3-46 be amended to read as follows:

32-3-46. Liens on motor vehicles, trailers, or semitrailers as defined in § 32-3-35 may be enforced or foreclosed in accordance with the procedural law applicable to each kind of lien. It is not necessary that a lien be filed for record as a condition precedent to foreclosure if the lien has been duly noted on the certificate of the title of the motor vehicle, trailer, or semitrailer. Any notice of sale, sale, or report of sale required by the applicable procedural law may be published, held, or filed in the county specified by the law, or if not there specified, then in the county where a copy of the certificate of title is kept by the treasurer as provided by § 32-3-28. Further, if the lien holder verifies in writing that the owner of the collateral did not surrender the certificate of title, the affidavit shall be accepted as prima facie evidence of the lien and may be used in lieu of the certificate of title, and the certificate of title need not be surrendered at the time of foreclosure.

Section 10. That § 32-3-49 be amended to read as follows:

32-3-49. Upon cancellation of any certificate of title, the secretary shall notify the county treasurer of the county where the duplicate certificate of title of the vehicle, trailer, or semitrailer is involved was kept. The treasurer shall thereupon enter the cancellation upon the treasurer's records. The secretary shall also notify the person to whom the certificate of title was issued as well as any lien holder appearing thereon of the cancellation and shall demand the surrender of the certificate of title. However, the cancellation may not affect the validity of any lien noted thereon. The holder of the certificate shall return same to the secretary forthwith.

Section 11. That § 32-3A-45 be amended to read as follows:

32-3A-45. The county treasurer, upon receipt of a lien or title instrument duly executed in the manner prescribed by law governing such instruments, together with the fee prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate of title to deliver to the treasurer, within fifteen days from the date of notice, the certificate of title to permit notation of the lien, and if necessary, the issuance of a new certificate of title. After the notation of the lien, the treasurer shall deliver the certificate of title to the owner or as otherwise directed by the owner. The secured party shall be mailed or delivered notification of the party's security interest as filed and noted on the certificate of title. Any holder of the certificate of title who refuses to deliver the certificate of title to the treasurer for purposes of showing the lien on the certificate of title within fifteen days from the date notified to do so by the treasurer is liable for damages to the lien holder for the amount of damage the lien holder suffered by reason of the holder of the certificate of title refusing to permit the showing of the lien on the certificate of title.

Section 12. That § 32-3A-46 be amended to read as follows:

32-3A-46. If a lien is discharged, the lien holder shall execute a release within twenty days after the final payment is received. The release shall contain the certificate of title number and the date of the notation. The lien holder shall deliver the release and certificate of title if held by the lien holder to any county treasurer. The treasurer shall note the cancellation of the lien on the face of the certificate of title, and on the same day shall notify the secretary. The secretary shall cancel the lien on the state's computer system, if the treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29, application for duplicate title may be forwarded along with the release to the department. The department shall cancel the lien. Upon the satisfaction of a security interest on a large boat for which the certificate of title is in the possession of the owner, the secured party shall within twenty days after final payment is received, execute a release of security interest on the form

prescribed by the department and mail or deliver the release to the owner or as otherwise directed by the owner.

Section 13. That § 32-3A-48 be amended to read as follows:

32-3A-48. The county treasurer shall assist in the administration of this chapter and perform such duties in connection therewith as may be required by the secretary.

Section 14. That § 32-4-8 be amended to read as follows:

32-4-8. No person may have in possession any blank or partially executed certificate of title and registration, certificate of registration, certificate of title, or other similarly styled form or document, whether genuine or counterfeit, of this or any other state or country, which is of a type that, when genuine and properly issued, evidences ownership of a vehicle under the laws of this or another state or country, and surrender of which is required in order to sell, transfer, register, or title a motor vehicle or trailer in this state.

Except, a person may possess such forms or documents if the person is:

- (1) An employee of a manufacturer or printer of the form or document and possesses the form or document in the normal course of the business of design or manufacture in connection with bid invitation, bid, or contract with a government agency related to supplying the forms for governmental use;
- (2) An employee of a shipper or agency under whose direction the forms are being shipped or delivered to a state or local agency charged with receiving, distributing, or issuing the forms or documents, when they are in a container sealed under governmental direction;
- (3) An employee of a state agency who possesses the forms or documents in the course of carrying out the employee's official duties;
- (4) A county treasurer or any employee of the treasurer whose official work duties require the handling of the forms or documents and the treasurer or employee possesses them within

the confines of the county's official storage space or immediately incidental to placing them in such places;

- (5) In possession of the form or document and it is prominently and indelibly marked on its face, either specimen, void, or sample.

A violation of this section is a Class 6 felony.

Section 15. That § 32-3A-30 be amended to read as follows:

32-3A-30. A security interest created in this state in a large boat, and as defined by §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84, inclusive, on and after March 1, 1992, is not perfected until the security interest is noted on the certificate of title. On or after July 1, 1993, a security interest created in this state on a large boat, as defined in § 42-8-2, exclusive of a motorboat is not perfected until the security interest is noted on the certificate of title. On or after July 1, 1994, a security interest created in this state on a large boat, as defined in § 42-8-2, is not perfected until the security interest is noted on the manufacturer's statement of origin, on the manufacturer's certificate of origin, or on the certificate of title. To perfect the security interest, a copy of the security agreement shall be presented along with the manufacturer's statement of origin, the manufacturer's certificate of origin, or the original title. The secretary of revenue, an agent of the secretary, the county treasurer, the register of deeds, or the seller, buyer, owner, or holder of the manufacturer's statement of origin, the manufacturer's certificate of origin, or the certificate of title shall note the security interest at any place on the manufacturer's statement of origin, the manufacturer's certificate of origin, or the certificate of title. If so noted, the lien is perfected against the creditors of the debtor, is valid against the creditors of the debtor, whether armed with process or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid against them. The fee for noting the lien is five dollars. The fees shall be credited to the county general fund. The certificate of title shall be presented to the county treasurer if a lien is to be noted on an existing certificate of title.

The owner shall present the certificate of title to the county treasurer when a release statement is filed.

Section 16. That § 32-3A-32 be amended to read as follows:

32-3A-32. The owner of a large boat not yet subject to the titling requirements of §§ 32-3A-20 to 32-3A-23, inclusive, and §§ 32-3A-24 to 32-3A-32, inclusive, may apply to the county treasurer of the owner's residence for a certificate of title for the large boat. If there are one or more liens on the large boat, the department shall note the liens on the certificate of title in order of their priority and shall deliver or mail the certificate of title to the owner or as otherwise directed by the owners.

Upon issuance of the certificate of title for the large boat, the large boat shall thereafter be subject to the requirements of §§ 32-3A-20 to 32-3A-23, inclusive, and §§ 32-3A-24 to 32-3A-32, inclusive, as though the boat was required to be titled.

The owner shall present the certificate of title to the county treasurer when a release statement is filed and a new or endorsed certificate shall be issued to the owner.

An Act to transfer from the county register of deeds to the county treasurer certain administrative duties regarding titles for vehicles and boats.

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I certify that the attached Act originated in the

SENATE as Bill No. 59

\_\_\_\_\_  
Secretary of the Senate

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\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

Senate Bill No. 59  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

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Received at this Executive Office this \_\_\_\_\_ day of \_\_\_\_\_ ,

20\_\_\_\_ at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

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The attached Act is hereby approved this \_\_\_\_\_ day of \_\_\_\_\_ , A.D., 20\_\_\_\_

\_\_\_\_\_  
Governor

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STATE OF SOUTH DAKOTA,  
ss.

Office of the Secretary of State

Filed \_\_\_\_\_ , 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State