

State of South Dakota

SEVENTY-EIGHTH SESSION
LEGISLATIVE ASSEMBLY, 2003

545I0155

SENATE BILL NO. 59

Introduced by: Senator Napoli and Representative Haverly

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

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

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

5 32-3-28. The secretary shall issue the certificate of title in triplicate. One copy shall be
6 retained by the secretary and the other copy shall be transmitted either by mail or electronically
7 by computer, postage prepaid, on that day to the county ~~register of deeds~~ treasurer of the county
8 in which the motor vehicle, trailer, or semitrailer is to be kept. The secretary shall sign the
9 original certificate of title and deliver the certificate to the owner named on it or as otherwise
10 directed by the owner. If there are one or more liens on the motor vehicle, trailer, or semitrailer,
11 the secretary shall properly note the same in the order of their priority on the certificate of title
12 which shall be delivered or mailed to the owner named on it or as otherwise directed by the
13 owner. Secured parties, if any, shall be mailed or delivered conspicuous notification of their
14 security interest as filed and noted on the certificate of title.

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

16 32-3-33. If, after a certificate of title has been issued for a motor vehicle, trailer, or



1 semitrailer, the county in which it is kept for use shall be changed, then upon application of the
2 owner, so stating, the secretary may authorize the transfer of the duplicate certificate of title from
3 the office of the ~~county register of deeds~~ treasurer of the county in which it was formerly kept
4 to the county where the motor vehicle, trailer, or semitrailer is presently kept. Thereafter the
5 county ~~register of deeds~~ treasurer of the county in which such duplicate title certificate is
6 transferred shall perform the duties imposed by this chapter. However, the keeping of a duplicate
7 certificate of title in the office of the ~~county register of deeds~~ treasurer of a county in which the
8 motor vehicle, trailer, or semitrailer is not actually kept may not affect the validity of the title or
9 of any contract, lien, or encumbrance upon the motor vehicle, trailer, or semitrailer described in
10 the certificate.

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

12 32-3-34. The ~~register of deeds and the~~ county treasurer shall assist in the administration of
13 this chapter and perform such duties in connection therewith as may be required by the secretary.

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

15 32-3-38. The holder of a mortgage, trust receipt, conditional sales contract, mechanic's lien,
16 or similar instrument, upon presentation of the certificate of title to the office of the titled owner's
17 county ~~register of deeds~~ treasurer, together with the fee prescribed by this chapter, may have a
18 notation of the lien made on the certificate of title. The ~~county register of deeds~~ treasurer shall
19 enter the notation and the date thereof over the signature of the officer or deputy and the seal
20 of office. The ~~register of deeds~~ treasurer on that day shall notify the department, ~~which~~. The
21 department shall note the lien on the state's computer system, if the county ~~register of deeds~~
22 treasurer has not done so.

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

24 32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing

1 statement covering a motor vehicle, trailer, or semitrailer if notation of same has been made by
2 the seller, buyer, owner, holder of the instrument, or an agent of the secretary on the
3 manufacturer's statement of origin or the manufacturer's certificate of origin, or in the case of the
4 certificate of title, if a notation of same has been made by the secretary, an agent of the secretary,
5 ~~the county register of deeds~~, or a county treasurer on the face thereof or if notation of same has
6 been made by the seller, buyer, owner, holder of the instrument, or agent of the secretary on the
7 reverse thereof, shall be valid against the creditors of the debtor, whether armed with process
8 or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid
9 against them.

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

11 32-3-43. The county ~~register of deeds~~ treasurer, upon receipt of a lien or title instrument duly
12 executed in the manner prescribed by law governing such instruments, together with the fee
13 prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate
14 of title to deliver to the ~~county register of deeds~~ treasurer, within fifteen days from the date of
15 notice, the certificate of title to permit notation of a lien, and, if necessary, the issuance of a new
16 certificate of title provided in § 32-3-36. After the notation of lien the ~~county register of deeds~~
17 treasurer shall deliver the certificate of title to the owner or as otherwise directed by the owner.
18 The secured party shall be mailed or delivered notification of ~~his~~ the party's security interest as
19 filed and noted on the certificate of title. The holder of a certificate of title who refuses to deliver
20 a certificate of title to the ~~county register of deeds~~ treasurer for the purpose of showing the lien
21 on the certificate of title within fifteen days from the date when notified to do so by the ~~county~~
22 ~~register of deeds~~ treasurer, is liable for damages to the lien holder for the amount of damages the
23 lien holder suffered by reason of the holder of the certificate of title refusing to permit the
24 showing of the lien on the certificate of title.

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

2 32-3-44. If a lien is discharged, the lien holder shall execute a release within twenty days after
3 final payment is received, the release shall contain the certificate of title number and the date of
4 the notation. The lien holder shall deliver the release (and certificate of title if held by him) to any
5 county ~~register of deeds~~ treasurer. ~~The treasurer~~ shall note the cancellation of the lien on
6 the face of the certificate of title and on the same day shall notify the secretary, ~~who~~. The
7 secretary shall cancel the lien on the state's computer system, if the county ~~register of deeds~~
8 treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29, application
9 for duplicate title may be forwarded along with the release to the department, ~~which~~. The
10 department shall cancel the lien. For failure to comply with these provisions relating to releasing
11 a lien, the lien holder shall be liable to the owner for all damages sustained by ~~him~~ the owner. The
12 county ~~register of deeds~~ treasurer shall mail or deliver the certificate of title to the owner, or as
13 otherwise directed by the owner. Upon the satisfaction of a security interest in a motor vehicle,
14 trailer or semitrailer for which the certificate of title is in the possession of the owner, the secured
15 party shall within twenty days after final payment is received, execute a release of security
16 interest on the form prescribed by the department and mail or deliver such release to the owner
17 or as otherwise directed by the owner.

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

19 32-3-45. The county ~~registers of deeds~~ treasurer shall charge a fee of five dollars for each
20 notation of any lien on a certificate of title. No fee may be charged for the cancellation of such
21 lien. The lien fee shall be accounted for in the same manner as other fees of their office.

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

23 32-3-46. Liens on motor vehicles, trailers, or semitrailers as defined in § 32-3-35 may be
24 enforced or foreclosed in accordance with the procedural law applicable to each kind of lien. It

1 ~~shall~~ is not be necessary that a lien be filed for record as a condition precedent to foreclosure if
2 ~~such~~ the lien has been duly noted on the certificate of the title of the motor vehicle, trailer, or
3 semitrailer; ~~and any.~~ Any notice of sale, sale, or report of sale required by the applicable
4 procedural law may be published, held, or filed in the county specified by ~~such~~ the law, or if not
5 there specified, then in the county where a copy of the certificate of title is kept by the ~~register~~
6 ~~of deeds~~ treasurer as provided by § 32-3-28. Further, if the lien holder verifies in writing that the
7 owner of the collateral did not surrender the certificate of title, ~~such~~ the affidavit shall be
8 accepted as prima facie evidence of the lien; and may be used in lieu of the certificate of title, and
9 the certificate of title need not be surrendered at the time of foreclosure.

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

11 32-3-49. Upon cancellation of any certificate of title, the secretary shall notify the county
12 ~~register of deeds~~ treasurer of the county where the duplicate certificate of title of the vehicle,
13 trailer, or semitrailer is involved was kept. The ~~county register of deeds~~ treasurer shall thereupon
14 enter the cancellation upon ~~his~~ the treasurer's records. The secretary shall also notify the person
15 to whom the certificate of title was issued as well as any lien holder appearing thereon of the
16 cancellation and shall demand the surrender of the certificate of title ~~but the.~~ However, the
17 cancellation may not affect the validity of any lien noted thereon. The holder of the certificate
18 shall return same to the secretary forthwith.

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

20 32-3A-45. The county ~~register of deeds~~ treasurer, upon receipt of a lien or title instrument
21 duly executed in the manner prescribed by law governing such instruments, together with the fee
22 prescribed for notation thereof which is nonrefundable, shall notify the holder of the certificate
23 of title to deliver to the ~~county register of deeds~~ treasurer, within fifteen days from the date of
24 notice, the certificate of title to permit notation of the lien, and if necessary, the issuance of a new

1 certificate of title. After the notation of the lien, the ~~county register of deeds~~ treasurer shall
2 deliver the certificate of title to the owner or as otherwise directed by the owner. The secured
3 party shall be mailed or delivered notification of ~~his~~ the party's security interest as filed and noted
4 on the certificate of title. ~~The~~ Any holder of the certificate of title who refuses to deliver the
5 certificate of title to the ~~county register of deeds~~ treasurer for purposes of showing the lien on
6 the certificate of title within fifteen days from the date notified to do so by the ~~county register~~
7 ~~of deeds~~ treasurer is liable for damages to the lien holder for the amount of damage the lien
8 holder suffered by reason of the holder of the certificate of title refusing to permit the showing
9 of the lien on the certificate of title.

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

11 32-3A-46. If a lien is discharged, the lien holder shall execute a release, ~~which shall contain~~
12 ~~the certificate of title number and the date of the notation~~, within twenty days after the final
13 payment is received. The release shall contain the certificate of title number and the date of the
14 notation. The lien holder shall deliver the release and certificate of title if held by ~~him~~ the lien
15 holder to any county ~~register of deeds~~ who treasurer. The treasurer shall note the cancellation
16 of the lien on the face of the certificate of title, and on the same day shall notify the secretary;
17 ~~who~~. The secretary shall cancel the lien on the state's computer system, if the ~~county register of~~
18 ~~deeds~~ treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29,
19 application for duplicate title may be forwarded along with the release to the department;
20 ~~which~~. The department shall cancel the lien. Upon the satisfaction of a security interest on a large
21 boat for which the certificate of title is in the possession of the owner, the secured party shall
22 within twenty days after final payment is received, execute a release of security interest on the
23 form prescribed by the department and mail or deliver ~~such~~ the release to the owner or as
24 otherwise directed by the owner.

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

2 32-3A-48. The ~~register of deeds and the~~ county treasurer shall assist in the administration
3 of this chapter and perform such duties in connection therewith as may be required by the
4 secretary.

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

6 32-4-8. No person may have in ~~his~~ possession any blank or partially executed "certificate of
7 title and registration," "certificate of registration," "certificate of title," or other similarly styled
8 form or document, whether genuine or counterfeit, of this or any other state or country, which
9 is of a type that, when genuine and properly issued, evidences ownership of a vehicle under the
10 laws of this or another state or country, and surrender of which is required in order to sell,
11 transfer, register, or title a motor vehicle or trailer in this state.

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

13 (1) An employee of a manufacturer or printer of the form or document and possesses the
14 form or document in the normal course of the business of design or manufacture in
15 connection with bid invitation, bid, or contract with a government agency related to
16 supplying the forms for governmental use;

17 (2) An employee of a shipper or agency under whose direction the forms are being
18 shipped or delivered to a state or local agency charged with receiving, distributing,
19 or issuing the forms or documents, when they are in a container sealed under
20 governmental direction;

21 (3) An employee of a state agency who possesses the forms or documents in the course
22 of carrying out ~~his~~ the employee's official duties;

23 (4) A county treasurer or ~~register of deeds or their employees~~ any employee of the
24 treasurer whose official work duties require the handling of the forms or documents

1 and ~~he~~ the treasurer or employee possesses them within the confines of the county's
2 official storage space or immediately incidental to placing them in such places;

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

5 A violation of this section is a Class 6 felony.