

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

165L0578

HOUSE BILL NO. 1198

Introduced by: Representatives Fryslie, Koistinen, and Nelson and Senator Greenfield

1 FOR AN ACT ENTITLED, An Act to include records of the county weed and pest board with
2 certain records maintained by the register of deeds related to real property.

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

4 Section 1. That § 43-28-4 be amended to read as follows:

5 43-28-4. In addition to all other instruments affecting the title to real property which are now
6 eligible for record in the office of a register of deeds in this state, the following mentioned
7 original instruments, together with copies of such other original instruments, records,
8 proceedings, entries, orders, decrees, and appointments as are hereinafter mentioned, or portions
9 thereof or excerpts therefrom, if such copies are duly certified to by the person or officer having
10 the legal custody thereof as being true copies thereof, or of portions thereof or excerpts
11 therefrom, are eligible for record in the office of the register of deeds of the county wherein the
12 real property affected is situated, and shall be indexed against such property, and such record,
13 or a copy thereof duly certified to by the register of deeds, or included as a part of a duly
14 prepared and certified abstract of title to real property affected, shall be received and accepted
15 as prima facie evidence of the facts or matters therein contained or set forth:

16 (1) Affidavits of publication of notices of sale, affidavits of sale, and every other



1 instrument executed or used in connection with the making of a sale and conveyance
2 of real property by any board, department, officer, or officers of the State of South
3 Dakota, or of any county, township, school district, or municipality of the State of
4 South Dakota;

5 (2) Affidavits explaining the presence in the deed, mortgage, or other records of any
6 county of any interloping deed, mortgage, or other instrument purporting to have
7 been executed by a person or persons who are not shown of records as having owned
8 any right or title to, interest or estate in or lien upon the real property described in
9 such interloping instrument at the time the same purports to have been executed;

10 (3) Affidavits explanatory of recitals contained in deeds, mortgages, or other instruments
11 to the effect that the real property described in such instruments is subject to certain
12 mortgages or other liens, when such recitals leave in doubt the amount of the
13 indebtedness or the extent to which the real property in question is affected thereby;

14 (4) Copies of orders and appointments made by any officer, department, or board of the
15 State of South Dakota, pursuant to law, appointing any appointive officer, agent, or
16 employee of the State of South Dakota, or of any department thereof, and defining
17 the powers and authority of such officer, agent, or employee;

18 (5) Copies of the original minutes and records of meetings held and official action taken
19 by any board of county commissioners, school board, board of education, township
20 board, county weed and pest board, or governing body of any municipality, within
21 the State of South Dakota, or by the members, officers, or directors of any federal
22 bureau, board, department, or corporation created by, or by authority of, an act of
23 Congress;

24 (6) Copies of orders and appointments made by any federal bureau, board, department,

1 or officer, pursuant to law, appointing receivers for corporations which have been
2 created or organized by, or by authority of, an act of Congress, and copies of any
3 order or other instrument of record defining the powers and authority of any such
4 receiver;

5 (7) Copies of letters testamentary, of administration, and of conservatorship, and of
6 orders appointing receivers and trustees, issued by any court, foreign or domestic,
7 when used to show the authority of an executor, administrator, conservator, receiver,
8 or trustee to execute a satisfaction or assignment of, or to foreclose, a mortgage or
9 other lien against real property; and the officer who certifies to any such copy as
10 being a true copy of the original instrument on file and in his custody may include in
11 his certificate a statement that the original instrument is, or at any given time was, in
12 full force and effect and unrevoked, which statement shall be accepted as prima facie
13 evidence of the facts so recited;

14 (8) Certified copies of any petition, order, notice, or other document on file in the office
15 of the clerk of any bankruptcy court or any United States district court offered for
16 record by any person.