



2021 South Dakota Legislature

Senate Bill 59

Introduced by: The Committee on Appropriations at the request of the Bureau of Administration

1 **An Act to revise the allocation of fees collected by the obligation recovery center**
 2 **and to revise certain venue, jurisdiction, and collection efforts regarding the**
 3 **co-owners of titled motor vehicles, motorcycles, and boats.**

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

5 **Section 1.** That § 1-55-4 be AMENDED.

6 **1-55-4. Cost recovery fees.**

7 For any bad debt referred to the center for collection after July 1, 2015, the center
 8 shall collect a cost recovery fee in addition to the debt referred to the center for collection.
 9 The cost recovery fee is calculated by multiplying the principal amount of the debt referred
 10 to the center by twenty percent. All debt collection methods available to collect any bad
 11 debt referred to the center may be used by the center to collect the cost recovery fee.
 12 The cost recovery fee shall be deposited into ~~the general fund~~ a fund within the Bureau of
 13 Administration and the operations of the center ~~and~~ shall be subject to the annual
 14 budgeting process specified in chapter 4-7.

15 **Section 2.** That § 1-55-8 be AMENDED.

16 **1-55-8. Confidentiality of records--Exceptions.**

17 All data, records, and files utilized for debt collection as provided for in this chapter
 18 shall be confidential and privileged, and no person may divulge or disclose any information
 19 obtained from such records and files except in the administration and enforcement of this
 20 chapter, or as otherwise required by law. Nothing in this section prohibits the disclosure
 21 of debt information, as it relates to the administration and enforcement of this chapter, to
 22 a co-owner of a titled motor vehicle, motorcycle, or boat that is subject to subdivision 1-
 23 55-11(1).

24 **Section 3.** That § 1-55-11 be AMENDED.

1 **1-55-11. Licenses, registrations, and permits withheld from person owing**
2 **debt referred to center.**

3 No person that owes a debt that is referred to the center may renew, obtain, or
4 maintain:

5 (1) Any registration for any motor vehicle, motorcycle, or boat, in which the person's
6 name appears on the title of the motor vehicle, motorcycle, or boat;

7 (2) Any driver license as defined by subdivision 32-12-1(1); or

8 (3) Any hunting license, fishing license, state park permit, or camping permit;

9 unless the debt and cost recovery fee is either paid in full or the debtor has entered into
10 a payment plan with the center and payment pursuant to the plan is current.

11 The Department of Revenue shall notify a person who is a co-owner of a motor
12 vehicle, motorcycle, or boat described in subdivision (1), that the person's registration
13 has been affected by the debt referred to the center. The notification shall be by United
14 States mail.

15 **Section 4.** That § 1-55-12 be AMENDED.

16 **1-55-12. Hearing on debt determination dispute--Temporary license,**
17 **registration, or permit.**

18 No agency, board, or entity of the State of South Dakota may issue, renew, or
19 allow an individual to maintain any motor vehicle, motorcycle, or boat registration, driver
20 license, hunting license, fishing license, state park permit, or camping permit, after
21 receiving notice from the center that the applicant, registrant, or licensee has a debt that
22 is being collected by the center, unless the applicant, registrant, or licensee has paid the
23 debt and cost recovery fee in full or the debtor has entered into a payment plan with the
24 center and payment pursuant to the plan is current.

25 An applicant, registrant, or licensee who disputes a determination by the center that
26 the applicant, registrant, or licensee has a debt that has been referred to the center for
27 collection ~~shall, upon request, be given a due process hearing by the center~~ may, in
28 writing, request an administrative hearing before the Office of Hearing Examiners,
29 conducted pursuant to chapter 1-26. A co-owner of a titled motor vehicle, motorcycle, or
30 boat that is described in subdivision 1-55-11(1) may request an administrative hearing
31 before the Office of Hearing Examiners, conducted pursuant to chapter 1-26, on the sole
32 issue of whether the co-owner or the debtor is a titled owner of the motor vehicle,
33 motorcycle, or boat.

1 A written request for an administrative hearing must be received by the center
2 within fourteen days from the date notice is sent pursuant to § 1-55-11. No court shall
3 have jurisdiction if a written request for an administrative hearing is not received by the
4 center within the time prescribed. For purposes of this section, if a written request for an
5 administrative hearing is sent by United States mail, the date of the postmark placed by
6 the United States postal service shall be considered the date received by the center.

7 Upon recommendation by the center, the agency or entity may issue a temporary
8 license, registration, certification, or permit to the applicant, registrant, or licensee
9 pending final resolution of the ~~due process~~ administrative hearing.

10 **Section 5.** That § 15-39-69 be AMENDED.

11 **15-39-69. Venue.**

12 The venue is limited to the county of the residence of the defendant, if the
13 defendant is a natural person, or the county in which the cause of action arose. If the
14 defendant is a corporation, limited liability company, or a partnership, the proceedings
15 shall be commenced in any county in which the defendant has its place of business.
16 ~~However, if the plaintiff in an action brought by the Bureau of Administration pursuant to~~
17 ~~§ 1-14-14.3 is the State of South Dakota, an agency, as defined in subdivision 1-26-1(1),~~
18 ~~or employee of the state or any agency acting within the scope of the employee's~~
19 ~~employment, the proceedings may only be commenced in Hughes County. No change of~~
20 venue may be recognized except by stipulations of the parties, or by order of the court on
21 a showing of good cause by the defendant. Nothing in this section waives the common
22 law doctrine of sovereign immunity or acts as a consent to suit by the State of South
23 Dakota, its agencies, or its employees acting within the scope of their employment.