



2024 South Dakota Legislature

Senate Bill 85

Introduced by: **Senator Schoenbeck**

1 **An Act to revise a provision related to an action to quiet title to real property.**

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

3 **Section 1. That § 21-41-3 be AMENDED:**

4 ~~21-41-3. If a party, twenty days or more before bringing suit to quiet a title to~~
 5 ~~real estate shall request of the person holding an apparent adverse interest or right therein~~
 6 ~~the execution of a quitclaim deed or other instrument necessary to divest said person of~~
 7 ~~such apparent adverse interest therein, and shall also tender to him one dollar and~~
 8 ~~twenty five cents to cover the expense of the execution and delivery of the deed or such~~
 9 ~~other instrument, and if he shall refuse or neglect to comply therewith, the filing of a~~
 10 ~~disclaimer of interest or right shall not avoid the costs in an action afterwards brought,~~
 11 ~~and the court may in its discretion, if the plaintiff succeeds, tax in addition to the ordinary~~
 12 ~~costs of court, an attorney fee for plaintiff's attorney not exceeding forty dollars. A person~~
 13 ~~or entity is liable for costs, disbursements, and reasonable attorney's fees if the party~~
 14 ~~seeking to quiet title is successful, and at least twenty days before bringing suit, the party~~
 15 ~~seeking to quiet title:~~

16 ~~(1) Delivers to the person or entity, and requests the person or entity to execute and~~
 17 ~~return, a quitclaim deed or other instrument necessary to divest the person or~~
 18 ~~entity of an apparent adverse interest or right;~~

19 ~~(2) Tenders to the person or entity one hundred dollars for costs associated with the~~
 20 ~~handling and notarization of the instrument; and~~

21 ~~(3) The person or entity refuses or neglects to comply with the request.~~