

AN ACT

ENTITLED, An Act to revise certain fees collected by the secretary of state to make an appropriation for an online business registration and filing system, and to declare an emergency.

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

Section 1. That the code be amended by adding a NEW SECTION to read:

If a document, statement, or report is filed in the Office of the Secretary of State pursuant to §§ 47-1A-122, 47-28-6, 47-34A-212, 48-7-206.1, and 48-7A-1208 and the document, statement, or report is not filed electronically, but is able to be filed electronically and is allowed to be filed electronically, an additional fee of fifteen dollars shall be collected. The fee collected pursuant to this section shall be deposited in the general fund.

Section 2. That § 47-34A-212 be amended to read:

47-34A-212. The secretary of state shall charge and collect for:

- (a) Filing the articles of organization in the case of a domestic limited liability company, a filing fee of one hundred fifty dollars. Filing the articles of organization in the case of a foreign limited liability company, a filing fee of seven hundred fifty dollars;
- (b) A reporting fee of fifty dollars, due and payable with the filing of each annual report. Each entity that does not file or refuses to file its annual report within the time prescribed is subject to a penalty of fifty dollars to be assessed by the secretary of state.

Section 3. That § 1-8-12 be amended to read:

1-8-12. The secretary of state shall charge a fee of fifty dollars for any expedited service. Expedited service is defined as completion sooner than the normal course of business upon request. The office shall deposit any revenue from this fee into the financing statement and annual report filing fee fund.

Section 4. That chapter 1-8 be amended by adding a NEW SECTION to read:

The secretary of state may promulgate rules, pursuant to chapter 1-26, to establish a convenience fee. A convenience fee means a fee charged for the privilege of being able to file by paper or pay a fee by credit card, charge card, debit card, e-checks, or other form of electronic payment. The maximum fee that may be charged for the privilege of being able to file by paper is twenty dollars per filing. The maximum fee that may be charged for payment by credit card, charge card, debit card, e-checks, or other form of electronic payment shall be three percent of the transaction amount.

Section 5. That § 47-1A-122 be amended to read:

47-1A-122. The Office of the Secretary of State shall collect the following fees when the documents described in this section are delivered for filing:

- (1) Articles of incorporation, \$150;
- (2) Application for use of indistinguishable name, \$25;
- (3) Application for reserved name, \$25;
- (4) Notice of transfer of reserved name, \$15;
- (5) Application for registered name, \$25;
- (6) Application for renewal of registered name, \$15. A renewal application may be filed between the first day of October and the thirty-first day of December in each year and shall extend the registration for the following year;
- (7) to (9) Repealed by SL 2008, ch 275, § 27;
- (10) Articles of domestication, \$150;
- (11) Articles of charter surrender, \$150;
- (12) Articles of domestication and conversion, \$150;
- (13) Articles of entity conversion, \$150;
- (14) Amendment of articles of incorporation, \$60;
- (15) Restatement of articles of incorporation, \$60;

- (16) Articles of merger or share exchange, \$60;
- (17) Articles of dissolution, \$10;
- (18) Articles of revocation of dissolution, \$10;
- (19) Certificate of administrative dissolution, no charge;
- (20) Application for reinstatement following administrative dissolution, plus any delinquent annual report filing fees for the period before the reinstatement application, \$300;
- (21) Certificate of reinstatement, no charge;
- (22) Certificate of judicial dissolution, no charge;
- (23) Application for certificate of authority, \$750;
- (24) Application for amended certificate of authority, \$250;
- (25) Application for certificate of withdrawal, \$10;
- (26) Application for transfer of authority, \$25;
- (27) Certificate of revocation of authority to transact business, no charge;
- (28) Annual report, \$50. Each entity that does not file or refuses to file its annual report within the time prescribed is subject to a penalty of fifty dollars to be assessed by the secretary of state;
- (29) Articles of correction, \$25;
- (30) Application for certificate of existence or authorization, \$20;
- (31) Amended annual report, \$25;
- (32) Any other document required or permitted to be filed by this chapter, \$20.

The Office of the Secretary of State shall collect a fee of thirty dollars each time process is served on the Office of the Secretary of State under this chapter. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

Section 6. That § 48-7A-1208 be amended to read:

48-7A-1208. The provisions of § 1-8-10 notwithstanding, the fee for filing the statements and reports provided for in the following sections with the secretary of state is as follows:

- (1) Section 48-7A-303, Statement of Authority, one hundred twenty-five dollars;
- (2) Section 48-7A-304, Statement of Denial, ten dollars;
- (3) Section 48-7A-704, Statement of Dissociation, ten dollars;
- (4) Section 48-7A-805, Statement of Dissolution, ten dollars;
- (5) Section 48-7A-907, Statement of Merger, sixty dollars;
- (6) Section 48-7A-1001, Statement of Qualification, one hundred twenty-five dollars;
- (6A) Section 48-7A-1001, Statement of Change, ten dollars;
- (7) Section 48-7A-1003, Annual Report, fifty dollars. Each limited liability partnership, domestic or foreign, that does not file or refuses to file its annual report within the time prescribed is subject to a penalty of fifty dollars to be assessed by the secretary of state;
- (8) Section 48-7A-1001.1, Statement of Amendment, fifteen dollars;
- (9) Section 48-7A-1001.2, Statement of Cancellation, ten dollars;
- (10) Section 48-7A-1102, Statement of Foreign Qualification, one hundred twenty-five dollars;
- (11) Section 48-7A-1102.1, Statement of Amendment of Foreign Qualification, fifteen dollars;
- (12) Section 48-7A-1102.2, Statement of Cancellation, ten dollars; and
- (13) Filing any other statement, ten dollars.

Section 7. That § 47-28-8 be amended to read:

47-28-8. The secretary of state shall charge and collect for furnishing a certified copy of any document, instrument, or paper relating to a corporation, two dollars per page, and fifteen dollars for the certificate and affixing the seal.

Section 8. That § 1-8-10 be amended to read:

1-8-10. The secretary of state shall charge the following fees for services performed in the Office

of the Secretary of State and shall collect the fees in advance:

- (1) For making a copy or transcript of any record, instrument, or paper on file in the office, two dollars per page;
- (2) For filing and safekeeping of any instrument or paper required by law to be filed only, ten dollars; except the oath of office of members of the Legislature and legislative officers, employees and governmental officers, employees and agencies, there is no fee;
- (3) For each commission, requisition, passport, or other document, signed by the Governor and attested by the secretary of state, under the great seal of the state, except commissions issued for executive appointment and extraditions, and making the proper record for the same, five dollars;
- (4) For filing application, bond, and issuing commission of notary public, thirty dollars;
- (5) For official certificate, attestation, and impression of the great seal, twenty-five dollars;
- (6) For filing or recording any other instrument or document, ten dollars; and
- (7) For a certified copy of any document, instrument, or paper on file in the office, two dollars per page and fifteen dollars for the certificate and affixing the seal.

Section 9. That § 37-11-1 be amended to read:

37-11-1. Any person regularly engaging in or conducting a business in this state shall file a fictitious name statement unless one of the following apply:

- (1) The name of the business plainly shows the true surname of each person interested in the business; or
- (2) The name of the business is on file with the secretary of state in a required business filing.

The fictitious name statement shall include the name, post office address, and residence address of each person interested in the business and the address where the main office of the business is to be maintained. The fictitious name statement shall be electronically filed with the secretary of state,

or filed in paper form with any register of deeds in the state. The filing shall be renewed every fifth year thereafter. A fee of ten dollars shall be paid with each new filing and renewal. The fee shall be deposited into the financing statement and annual report filing fee fund.

Section 10. That § 37-11-2 be amended to read:

37-11-2. A verified statement as described in § 37-11-1 shall be similarly filed upon any change of twenty-five percent or more of the ownership interest in the business. A fee of ten dollars shall be paid with each filing under this section. The fee shall be deposited into the financing statement and annual report filing fee fund.

Section 11. All fees collected by the secretary of state that are not specifically dedicated to the financing and annual report filing fee fund or for administering the concealed carry program pursuant to § 23-7-53 or for administering any concealed carry programs enacted by the Legislature after 2015, shall be deposited in the state general fund.

Section 12. That § 57A-9-525 be amended to read:

57A-9-525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under this part, other than an initial financing statement of the kind described in subsection (b), is the amount specified in subsection (c), if applicable, plus:

- (1) Twenty-five dollars if the record is communicated in writing and consists of one page, and five dollars for additional pages. One dollar of this fee shall be deposited into the financing statement and annual report filing fee fund;
- (2) Twenty dollars if the record is communicated by internet. One dollar of this fee shall be deposited into the financing statement and annual report filing fee fund; and
- (3) Twenty-five dollars if the record is communicated by another medium authorized by filing-office rule.

(b) The secretary of state may request a fee for on-line services for UCC data images available

on a subscription basis. The office shall deposit any revenue from this fee into the financing statement and annual report filing fee fund.

(c) Except as otherwise provided in subsection (e), the fee for filing, whether communicated in writing, electronically, or another medium authorized by filing-office rule, and indexing an initial financing statement of the following kind is the amount specified in subsection (c), if applicable, plus:

- (1) Forty dollars if the financing statement indicates that it is filed in connection with a public-finance transaction;
- (2) Forty dollars if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(d) Except as otherwise provided in subsection (e), if a record is communicated in writing or electronically, the fee for each name more than one required to be indexed is three dollars.

(e) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is:

- (1) Twenty dollars if the request is communicated in writing; and
- (2) Ten dollars if the request is communicated by internet authorized by filing-office rule.

Upon request the filing officer shall furnish a copy of any filed financing statement or statement of assignment for a uniform fee of one dollar per page.

(f) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under § 57A-9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Section 13. There is hereby appropriated from the general fund the sum of seven hundred sixteen

thousand dollars (\$716,000), or so much thereof as may be necessary, to the secretary of state for the purpose of purchasing and developing software for an online business registration and filing system.

Section 14. The secretary of state shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by section 13 of this Act.

Section 15. Any amounts appropriated in this Act not lawfully expended or obligated shall revert in accordance with the procedures prescribed in chapter 4-8.

Section 16. Whereas, sections 13 to 15, inclusive, of this Act are necessary for the support of the state government and its existing public institutions, an emergency is hereby declared to exist, and sections 13 to 15, inclusive, of this Act shall be in full force and effect from and after its passage and approval.

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I certify that the attached Act originated in the

SENATE as Bill No. 49

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. 49
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