

# State of South Dakota

NINETY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 2017

913Y0112

## HOUSE BILL NO. 1059

Introduced by: Representatives Bartels, Lust, and Mills and Senators Maher, Partridge, Sutton, and White

1 FOR AN ACT ENTITLED, An Act to provide for the perfection of liens upon application for  
2 duplicate certificates of title.

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

4 Section 1. That § 32-3A-25 be amended to read:

5 32-3A-25. The county treasurer shall charge a ~~ten-dollar~~ ten-dollar fee for issuance of a  
6 certificate of title, a transfer of title, or a corrected certificate of title. Five dollars of the fee shall  
7 be deposited in the state general fund and five dollars shall be deposited in the county general  
8 fund. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the owner  
9 named in the certificate shall obtain a duplicate by applying to the county treasurer. The  
10 applicant shall furnish information the department requires concerning the original certificate  
11 and the circumstances of its loss, mutilation, or destruction, and any lien to be noted on the  
12 certificate of title as evidenced by a copy of the security agreement. ~~Mutilated~~ Any mutilated  
13 or illegible certificates certificate shall be returned to the department with the application for a  
14 duplicate. The duplicate certificate of title shall be marked plainly, duplicate, across its face and  
15 mailed or delivered to the applicant or as otherwise directed by the owner. If a lost or stolen



1 original certificate of title for which a duplicate has been issued is recovered, the original shall  
2 be surrendered promptly to the department for cancellation.

3 A fee of ten dollars shall be paid to the department for each duplicate title issued.

4 Section 2. That § 32-3A-30 be amended to read:

5 32-3A-30. A security interest created in this state on a large boat is not perfected until the  
6 security interest is noted on the manufacturer's statement of origin, on the manufacturer's  
7 certificate of origin, ~~or on the original certificate of title, or when a person applies for a duplicate~~  
8 certificate of title pursuant to § 32-3A-25. To perfect the security interest, a copy of the security  
9 agreement shall be presented along with the manufacturer's statement of origin, the  
10 manufacturer's certificate of origin, ~~or the original title, or as otherwise provided in § 32-3A-25~~.

11 The secretary of revenue, the county treasurer, or the seller, buyer, owner, or holder of the  
12 manufacturer's statement of origin, the manufacturer's certificate of origin, or the certificate of  
13 title shall note the security interest at any place on the manufacturer's statement of origin, the  
14 manufacturer's certificate of origin, or the certificate of title. ~~If so noted Pursuant to the~~  
15 provisions of this section, the lien is perfected against the creditors of the debtor, is valid against  
16 the creditors of the debtor, whether armed with process or not, and subsequent purchasers and  
17 other lien holders or claimants, but otherwise is not valid against them. The fee for noting the  
18 lien is ten dollars. The fees shall be deposited in the county general fund. ~~The~~ Except as  
19 otherwise provided in § 32-3A-25, the certificate of title shall be presented to the county  
20 treasurer if a lien is to be noted on an existing certificate of title.

21 The owner shall present the certificate of title to the county treasurer when a release  
22 statement is filed.

23 Section 3. That § 32-3-29 be amended to read:

24 32-3-29. In the case of lost certificates of title, duplicates may be issued if the loss is

1 accounted for to the satisfaction of the secretary. Any lien to be noted on a certificate of title  
2 shall be evidenced by a copy of the security interest when a person applies for a duplicate  
3 certificate of title. A fee of ten dollars shall be paid to the secretary for each duplicate issued.

4 Section 4. That § 32-3-41 be amended to read:

5 32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing  
6 statement covering a motor vehicle, trailer, or semitrailer, or any vehicle required to be titled  
7 under the provisions of this chapter, is valid against the creditors of the debtor, whether armed  
8 with process or not, and subsequent purchasers and other lien holders or claimants, but  
9 otherwise is not valid against them if notation of ~~same~~ the lien has been made by the seller,  
10 buyer, owner, holder of the instrument, or an agent of the secretary on the manufacturer's  
11 statement of origin or the manufacturer's certificate of origin, ~~or in.~~ In the case of ~~the~~ a  
12 certificate of title, if a notation of ~~same~~ the lien has been made by the secretary, an agent of the  
13 secretary, or a county treasurer on the face ~~thereof~~ of the certificate of title, or if notation of  
14 ~~same~~ the lien has been made by the seller, buyer, owner, holder of the instrument, or agent of  
15 the secretary on the reverse ~~thereof~~, of the certificate of title, the lien is valid against the  
16 creditors of the debtor, whether armed with process or not, and subsequent purchasers and other  
17 lien holders or claimants, but otherwise is not valid against them. A lien is perfected if it has  
18 been noted on the title ~~as provided by law~~ pursuant to this section, § 32-3-29, or § 32-3-70 and  
19 entered into the electronic title file system.

20 Section 5. That § 32-3-44 be amended to read:

21 32-3-44. If a lien is discharged, the lienholder shall execute a release within twenty days  
22 after final payment is received. The release shall contain the vehicle identification number or  
23 the certificate of title number, and the owner's name. The lienholder shall deliver the release  
24 ~~(and along with the certificate of title if held by the lienholder)~~, to any county treasurer. The

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

13 Section 6. That § 32-3-70 be amended to read:

14 32-3-70. Notwithstanding any other provision of this title, the department may provide for  
15 an electronic lien filing system. If a lien has been noted electronically in the electronic lien filing  
16 system, no paper title may be issued to the owner of record or the lienholder. A paper title shall  
17 be issued under the following circumstances:

- 18 (1) The lien has been satisfied and the owner requests a title; or
- 19 (2) The owner is relocating to another state and the lienholder authorizes the issuance of  
20 a title with the lien noted.

21 A lien shall be noted or cancelled electronically if an electronic certificate of title exists and  
22 the lienholder is participating in the electronic lien filing system. A lien noted electronically is  
23 considered perfected as if a paper title were issued and a lien had been noted on it pursuant to  
24 § 32-3-29 or 32-3-41. A lienholder is liable for noting or canceling a lien in error.