

AN ACT

ENTITLED, An Act to provide for the perfection of liens upon application for duplicate certificates of title.

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

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

32-3A-25. The county treasurer shall charge a ten-dollar fee for issuance of a certificate of title, a transfer of title, or a corrected certificate of title. Five dollars of the fee shall be deposited in the state general fund and five dollars shall be deposited in the county general fund. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the owner named in the certificate shall obtain a duplicate by applying to the county treasurer. The applicant shall furnish information the department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction, and any lien to be noted on the certificate of title as evidenced by a copy of the security agreement. Any mutilated or illegible certificate shall be returned to the department with the application for a duplicate. The duplicate certificate of title shall be marked plainly, duplicate, across its face and mailed or delivered to the applicant or as otherwise directed by the owner. If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the department for cancellation.

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

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

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

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

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

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

32-3-29. In the case of lost certificates of title, duplicates may be issued if the loss is accounted for to the satisfaction of the secretary. Any lien to be noted on a certificate of title shall be evidenced by a copy of the security interest when a person applies for a duplicate certificate of title. A fee of ten dollars shall be paid to the secretary for each duplicate issued.

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

32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing statement covering a motor vehicle, trailer, or semitrailer, or any vehicle required to be titled under the provisions of this chapter, is valid against the creditors of the debtor, whether armed with process or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid against them if notation of the lien has been made by the seller, buyer, owner, holder of the instrument, or an agent of the secretary on the manufacturer's statement of origin or the

manufacturer's certificate of origin. In the case of a certificate of title, if a notation of the lien has been made by the secretary, an agent of the secretary, or a county treasurer on the face of the certificate of title, or if notation of the lien has been made by the seller, buyer, owner, holder of the instrument, or agent of the secretary on the reverse of the certificate of title, the lien is valid against the creditors of the debtor, whether armed with process or not, and subsequent purchasers and other lien holders or claimants, but otherwise is not valid against them. A lien is perfected if it has been noted on the title pursuant to this section, § 32-3-29, or § 32-3-70 and entered into the electronic title file system.

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

32-3-44. If a lien is discharged, the lienholder shall execute a release within twenty days after final payment is received. The release shall contain the vehicle identification number or the certificate of title number, and the owner's name. The lienholder shall deliver the release along with the certificate of title if held by the lienholder, to any county treasurer. The treasurer shall note the cancellation of the lien on the face of the certificate of title and on the same day shall notify the secretary. The secretary shall cancel the lien on the state's computer system, if the county treasurer has not done so. If the certificate of title is lost as set forth in § 32-3-29, application for duplicate title may be forwarded along with the release to the department. The department shall cancel the lien. For failure to comply with these provisions relating to releasing a lien, the lienholder is liable to the owner for all damages sustained by the owner. The county treasurer shall mail or deliver the certificate of title to the owner, or as otherwise directed by the owner. Upon the satisfaction of a security interest in a motor vehicle, trailer, or semitrailer for which the certificate of title is in the possession of the owner, the secured party shall within twenty days after final payment is received, execute a release of security interest on the form prescribed by the department and mail or deliver such release to the owner or as otherwise directed by the owner.

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

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

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

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

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I certify that the attached Act  
originated in the

HOUSE as Bill No. 1059

\_\_\_\_\_  
Chief Clerk

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\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1059

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