AN ACT

ENTITLED, An Act to allow the notation of a lien on the manufacturer's statement of origin or the manufacturer's certificate of origin for a motor vehicle or a boat and to remove the requirement that the notation of a lien be placed on certain documents.

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

Section 1. That § 32-3-41 be amended to read as follows:

32-3-41. A security interest, mechanic's lien, or similar instrument other than a financing statement covering a motor vehicle, trailer, or semitrailer if notation of same 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, or in the case of the certificate of title, if a notation of same has been made by the secretary, an agent of the secretary, the county register of deeds, or a county treasurer on the face thereof or if notation of same has been made by the seller, buyer, owner, holder of the instrument, or agent of the secretary on the reverse thereof, shall be 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.

Section 2. That § 42-8-82 be amended to read as follows:

42-8-82. A security interest created in this state in a large boat, and as defined by §§ 42-8-71 to 42-8-74, inclusive, and §§ 42-8-76 to 42-8-84, inclusive, on and after March 1, 1992, is not perfected until the security interest is noted on the certificate of title. On or after July 1, 1993, a security interest created in this state on a large boat, as defined in § 42-8-2, exclusive of a motorboat is not perfected until the security interest is noted on the certificate of title. On or after July 1, 1994, a security interest created in this state on a large boat, as defined in § 42-8-2, is not perfected until the security interest is noted on the manufacturer's statement of origin, on the manufacturer's certificate of origin, or on the certificate of title. 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,

or the original title. The secretary of revenue, an agent of the secretary, the county treasurer, the register of deeds, 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. If so noted, 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 five dollars. The fees shall be credited to the county general fund. The certificate of title shall be presented to the county register of deeds if a lien is to be noted on an existing certificate of title.

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

Section 3. That § 32-5-129 be amended to read as follows:

32-5-129. The secretary of revenue may license agents to perform the duties of county treasurers, including collecting fees and taxes, registering and titling vehicles or boats, and noting liens on titles, pursuant to this chapter, chapter 32-5A, chapter 32-5B, chapter 32-3, and chapter 42-8.

Section 4. That § 32-3-1 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Notation," a physical or electronic process of recording a lien on a certificate of title, a manufacturer's statement of origin, or a manufacturer's certificate of origin.

Section 5. That chapter § 42-8-2 be amended by adding thereto a NEW SUBDIVISION to read as follows:

"Notation," a physical or electronic process of recording a lien on a certificate of title, a manufacturer's statement of origin, or a manufacturer's certificate of origin.

Section 6. That § 32-3-38 be amended to read as follows:

32-3-38. The holder of a mortgage, trust receipt, conditional sales contract, mechanic's lien, or

similar instrument, upon presentation of the certificate of title to the office of the titled owner's county register of deeds, together with the fee prescribed by this chapter, may have a notation of the lien made on the certificate of title. The county register of deeds shall enter the notation and the date thereof over the signature of the officer or deputy and the seal of office. The register of deeds on that day shall notify the department, which shall note the lien on the state's computer system, if the county register of deeds has not done so.

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I certify that the attached Act originated in the

HOUSE as Bill No. 1204

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Chief Clerk

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Speaker of the House

Attest:

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Chief Clerk

_____
President of the Senate

Attest:

_____
Secretary of the Senate

House Bill No. 1204
File No. ____
Chapter No. _____

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Received at this Executive Office this ____ day of _____ ,

19___ at _____ M.

By _____
for the Governor

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The attached Act is hereby approved this _____ day of _____ , A.D., 19___

_____
Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____ , 19___ at _____ o'clock __ M.

_____
Secretary of State

By _____
Asst. Secretary of State