

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

348B0042

## SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB214** - 2/5/98

Introduced by: Senators Whiting, Aker, and Flowers and Representatives Windhorst, Apa, Belatti, Duniphan, Moore, and Schrempp

1 FOR AN ACT ENTITLED, An Act to expedite the release of counterfeit liens, court  
2 documents, or other instruments on public record.

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

4 Section 1. That chapter 7-9 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 If a register of deeds has reason to believe that a document or instrument previously recorded  
7 is counterfeit pursuant to § 22-11-29, the register of deeds shall provide written notice of the  
8 recording of the document or instrument to the stated or last known address of the person who  
9 owns any interest in the real property as the obligor or debtor and to any person who owns any  
10 interest in the real property described in the document or instrument.

11 Section 2. That chapter 21-51 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 A person who is the purported debtor or obligor or who owns real or personal property or  
14 an interest in real or personal property and who has reason to believe that the document  
15 purporting to create a lien or a claim against the real or personal property or an interest in the

1 real or personal property previously recorded is counterfeit pursuant to chapter 22-11, may file  
2 an action in circuit court pursuant to § 22-11-30 or 22-11-33 to have the purported lien  
3 removed. The filing of such an action does not bar the injured party from recovering damages  
4 as part of the action, in addition to fees, costs, or expenses allowed by those sections.

5 Section 3. That chapter 16-2 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 If a clerk of courts has reason to believe that a document or instrument previously filed is  
8 counterfeit pursuant to § 22-11-29, the clerk of courts shall provide written notice of the filing  
9 of the document or instrument to the stated or last known address of the person named in the  
10 document, instrument, or judgment.

11 Section 4. That chapter 21-51 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 A person against whom a purported judgment was rendered who has reason to believe that  
14 a document previously filed is counterfeit pursuant to § 22-11-29, may file an action in circuit  
15 court pursuant to § 22-11-33 to have the purported judgment vacated. The filing of such an  
16 action does not bar the injured party from recovering damages as part of the action, in addition  
17 to any fees, costs, or expenses allowed by that section.

1 **BILL HISTORY**

2 1/26/98 First read in Senate and referred to Judiciary. S.J. 199

3 2/4/98 Scheduled for Committee hearing on this date.

4 2/4/98 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 323