

AN ACT

ENTITLED, An Act to revise certain provisions relating to collateral real estate mortgages.

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

Section 1. That § 44-8-26 be amended to read as follows:

44-8-26. A mortgage which contains the following statement in printed or typed capital letters:
THE PARTIES AGREE THAT THIS MORTGAGE CONSTITUTES A COLLATERAL REAL ESTATE MORTGAGE PURSUANT TO SDCL 44-8-26, is subject to the provisions of this section. A mortgage executed pursuant to this section shall be entitled in printed or typed capital letters: MORTGAGE--COLLATERAL REAL ESTATE MORTGAGE. A mortgage made pursuant to this section shall, notwithstanding the fact that from time to time during the term thereof no indebtedness is due from the mortgagor to the mortgagee, constitute a continuing lien against the real property covered thereby for the amount stated in the mortgage. Any sums not exceeding the face amount of the mortgage, together with interest thereon as provided in the instrument secured by the mortgage, advanced by the mortgagee prior to or during the term of the mortgage have a lien priority as of the date the mortgage was filed. At any time the indebtedness due the mortgagee is zero, the mortgagor may demand in writing that the mortgage be satisfied, and the mortgagee shall within ten days thereafter execute and record a satisfaction thereof. Collateral real estate mortgages may be used to secure commercial, agricultural or consumer loans or lines of credit including, but not limited to, revolving notes and credits and over-draft checking plans.

A filed collateral real estate mortgage is effective for a period of five years from the date of filing and thereafter for a period of sixty days. No sums advanced subsequent to the end of the sixty-day period, save and except sums advanced for protection of the real estate collateral and for real property taxes or insurance, are secured by the collateral real estate mortgage unless an addendum to the collateral real estate mortgage extending its effective date is filed prior to the end of the sixty-

day period. An addendum continuing the effectiveness of the collateral real estate mortgage may be filed by the mortgagee within six months before and sixty days after the expiration of the five-year effective date.

An addendum to a collateral real estate mortgage for the sole purpose of continuing the effectiveness of its lien need be signed only by the mortgagee. Upon the timely filing of such an addendum to a collateral real estate mortgage, the effectiveness of the collateral real estate mortgage will be continued for five years after the stated maturity date in those instances where the original collateral real estate mortgage provided a maturity date or for five years after the expiration of the five-year period whereupon it shall lapse in the same manner as provided above unless another addendum to the collateral real estate mortgage continuing the effectiveness of its lien is filed prior to such lapse. Succeeding addendums to collateral real estate mortgages may be filed in the same manner to continue the effectiveness of the lien of the collateral real estate mortgage.

An Act to revise certain provisions relating to collateral real estate mortgages.

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I certify that the attached Act
originated in the

SENATE as Bill No. 84

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. 84

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
=====

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