

State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

465X0067

HOUSE LOCAL GOVERNMENT ENGROSSED NO. **HB 1005** - 01/21/2016

Introduced by: Representatives Duvall, Conzet, Feickert, Heinemann (Leslie), Klumb, May, and Schaefer and Senators Peterson (Jim), Ewing, Haggar (Jenna), and Vehle at the request of the Interim Committee on County Government

1 FOR AN ACT ENTITLED, An Act to revise and repeal certain fees that are established to
2 compensate counties for services provided by county officials.

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

4 Section 1. That § 3-5-10 be repealed.

5 ~~— 3-5-10. The register of deeds shall be entitled to charge and receive a fee of fifty cents for~~
6 ~~recording each official bond, except the bond of township officers, recorded by him pursuant~~
7 ~~to this chapter, to be paid by the principal in such bond.~~

8 Section 2. That § 7-10-8 be repealed.

9 ~~— 7-10-8. The county auditor is authorized to charge and receive the following fees: for taking~~
10 ~~and certifying to the acknowledgment of any instrument, twenty-five cents; for administering~~
11 ~~an oath and certifying to the same, ten cents. All such fees received by the auditor shall be paid~~
12 ~~into the county treasury and credited to the special salary fund.~~

13 Section 3. That § 7-25-15 be repealed.

14 ~~— 7-25-15. The county auditor, county treasurer, and some qualified voter and freeholder of~~



1 ~~such county appointed by the board of county commissioners, not a member thereof, shall act~~
2 ~~as a board of auditors to audit accounts of such board of county commissioners in connection~~
3 ~~with the erection of county buildings pursuant to the provisions of §§ 7-25-6 to 7-25-14,~~
4 ~~inclusive, and such board of auditors shall receive for their services the sum of three dollars~~
5 ~~each for every day actually and necessarily employed in such capacity to be paid upon the~~
6 ~~warrant of the board of county commissioners.~~

7 Section 4. That § 32-3-18 be amended to read:

8 32-3-18. Application for a certificate of title shall be made to the ~~secretary~~ county treasurer,
9 upon a form prescribed by the secretary. The application shall contain a listing of all owners
10 along with either a South Dakota driver license number or social security number, or, if a
11 business, the federal employer identification number; the address of the applicant; a full
12 description of the vehicle with vehicle identification numbers, if any; a statement of applicant's
13 title and all liens and encumbrances ~~thereon~~ on the vehicle; the county in which the vehicle is
14 to be kept; and the names and addresses of the holders of all liens, title reservations, and
15 encumbrances ~~thereon~~ on the vehicle. The application shall be accompanied by a fee of ~~five~~ ten
16 dollars. Five dollars of the fee shall be deposited in the state motor vehicle fund and five dollars
17 shall be deposited in the county general fund. If a certificate of title has previously been issued
18 for the motor vehicle, trailer, or semitrailer in this state, it shall be accompanied by the
19 certificate of title duly assigned, unless provided for in this chapter.

20 Section 5. That § 32-3-45 be amended to read:

21 32-3-45. The county treasurer shall charge a fee of ~~five~~ ten dollars for each notation of any
22 lien on a certificate of title. No fee may be charged for the cancellation of such lien. ~~The lien fee~~
23 ~~shall be accounted for in the same manner as other fees of their office.~~ The fee shall be
24 deposited in the county general fund.

Section 6. That § 32-3A-15 be amended to read:

32-3A-15. The county treasurer may charge the boat owner an administrative fee not to exceed ~~one dollar~~ three dollars for each boat license sold pursuant to this chapter. The fee shall be deposited in the county general fund.

Section 7. That § 32-3A-25 be amended to read:

32-3A-25. The county treasurer shall charge a ~~five~~ 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 ~~register of deeds~~ treasurer.

The applicant shall furnish information the ~~Department of Revenue~~ department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction.

Mutilated or illegible certificates 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 8. That § 32-3A-30 be amended to read:

~~32-3A-30. A security interest created in this state in a large boat, and as defined by §§ 32-3A-20 to 32-3A-32, 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~~

1 created in this state on a large boat, ~~as defined in § 42-8-2,~~ is not perfected until the security
2 interest is noted on the manufacturer's statement of origin, on the manufacturer's certificate of
3 origin, or on the certificate of title. To perfect the security interest, a copy of the security
4 agreement shall be presented along with the manufacturer's statement of origin, the
5 manufacturer's certificate of origin, or the original title. The secretary of revenue, ~~an agent of~~
6 ~~the secretary,~~ the county treasurer, ~~the register of deeds,~~ or the seller, buyer, owner, or holder
7 of the manufacturer's statement of origin, the manufacturer's certificate of origin, or the
8 certificate of title shall note the security interest at any place on the manufacturer's statement of
9 origin, the manufacturer's certificate of origin, or the certificate of title. If so noted, the lien is
10 perfected against the creditors of the debtor, is valid against the creditors of the debtor, whether
11 armed with process or not, and subsequent purchasers and other lien holders or claimants, but
12 otherwise is not valid against them. The fee for noting the lien is ~~five~~ ten dollars. The fees shall
13 be ~~credited to~~ deposited in the county general fund. The certificate of title shall be presented to
14 the county treasurer if a lien is to be noted on an existing certificate of title.

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

17 Section 9. That § 32-9-21 be amended to read:

18 32-9-21. Each motor carrier desiring to discontinue using a vehicle as a commercial motor
19 vehicle, may, on or before the termination of any year as provided in § 32-9-17, return the
20 commercial motor vehicle plates and certificates to the county treasurer of the county where the
21 vehicle was registered together with an application for the discontinuance. Upon satisfactory
22 evidence that the carrier will not further operate the vehicle as a commercial motor vehicle, the
23 county treasurer shall issue to the person, corporation, or limited liability company, so applying,
24 a warrant for the amount due for the remaining months of that year less a ~~five~~ ten dollar

1 administrative fee which shall be retained by the county. The commercial motor vehicle plates
2 and certificates shall be in the possession of the county treasurer on or before the fifth day of the
3 month to receive credit for that month.

4 Section 10. That § 7-12-23 be amended to read:

5 7-12-23. ~~Whenever~~ If any person accused of a public offense is taken before a judge in
6 chambers for the purpose of entering a plea of guilty, and ~~shall receive~~ receives a penitentiary
7 sentence, the sheriff shall be ~~allowed the same fees and expenses as are provided for in~~
8 reimbursed pursuant to §§ 7-12-21 and 7-12-22, to be paid as therein provided.

9 ~~In all such cases when~~ If a penitentiary sentence is not imposed, ~~he shall be allowed his~~ the
10 sheriff shall be reimbursed for the actual expenses ~~and four dollars per day for the time~~
11 ~~necessarily employed in~~ for conveying ~~such~~ the person to and from the judge by the nearest
12 traveled route; ~~to be paid. This payment shall be made~~ by the county ~~wherein~~ where the alleged
13 offense was committed.

14 Section 11. That § 7-12-18 be amended to read:

15 7-12-18. The sheriff shall charge and remit the following:

- 16 (1) For serving an order of arrest with commitment or bail bond and return, twenty-five
17 dollars;
- 18 (2) For serving summons, complaint, warrant of attachment, affidavit, notice and
19 undertaking in claim and delivery, or injunction, order to show cause, citation, or
20 other process, and return of the instrument, ~~twenty-five~~ fifty dollars for all such
21 process or instruments served at the same time upon the same person regardless of
22 the capacities in which such person is served. However, for all such process or
23 instruments served upon another such person at approximately the same time at the
24 same place, ~~five~~ ten dollars;

- 1 (3) For serving subpoena for witness, each person, ~~ten~~ twenty dollars;
- 2 (4) For traveling expenses in a motor vehicle, a ~~minimum~~ mileage allowance of ~~at least~~
3 ~~three cents over and above the rate set for state employees by the State Board of~~
4 ~~Finance but not more than six~~ eight cents above the rate set for state employees by
5 the State Board of Finance, ~~as determined by the board of county commissioners~~, for
6 each mile actually and necessarily traveled by motor vehicle. For traveling expenses
7 in a private plane, a mileage allowance of ten cents above the rate set for state
8 employees by the State Board of Finance for each mile actually and necessarily
9 traveled by private plane. However, actual cost may be paid for travel by train, bus,
10 plane, or other commercial vehicle;
- 11 (5) For serving writ of execution and return of the instrument, whether satisfied or
12 unsatisfied, ~~thirty-five~~ ninety-five dollars;
- 13 (6) For levying writ of possession, ~~twenty-five~~ fifty dollars. However, if the sale of the
14 property levied upon is not subsequently held, the actual costs or expenses associated
15 with levying writ of possession shall be paid;
- 16 (7) For advertisement of sale in newspaper, in addition to printing, twenty-five dollars;
- 17 (8) For posting notices of sale of real property, twenty-five dollars, and mileage;
- 18 (9) For executing writ or order of partition, twenty-five dollars;
- 19 (10) For making deed for land sold on execution or order of sale, ~~fifty~~ one hundred dollars
20 except no fee is charged when the deed only requires the sheriff's signature;
- 21 (11) In addition to the applicable fees and expenses, a commission of six percent on all
22 money received and disbursed by the sheriff on execution or order of sale, order of
23 attachment, decree or on sale of real property or personal property, ~~for each dollar not~~
24 ~~exceeding four hundred dollars, eleven cents; for each dollar above four hundred~~

dollars, and not exceeding one thousand dollars, seven cents; for each dollar above one thousand dollars, and not exceeding fifteen thousand dollars, five cents; for each dollar above fifteen thousand dollars, and not exceeding twenty-five thousand dollars, three cents. However, in no case may the commission be less than ~~twenty-five~~ fifty dollars or more than three thousand five hundred dollars. If the execution or order of sale is a foreclosure of a real estate mortgage, the commission may not be more than one thousand five hundred dollars. The commissions shall be included as a part of the cost of execution, order of sale, order of attachment, decree, or on sale of real or personal property, which shall be paid by the debtor out of the proceeds. However, in ~~all cases~~ each case of redemption prior to the sale, the sheriff is entitled to the commission as stated above, to be paid by the redemptioner as a cost of the redemption;

(12) For ~~cases~~ a case in the circuit court, if ~~persons~~ a person, in whose favor an execution or order of sale is issued, ~~bid in~~ bids on the property sold on execution or decree, the sheriff or officer making the sale shall receive the following compensation: ~~If~~ if the amount for which the property is bid ~~in~~ on is one thousand dollars or less, the sum of ~~twenty~~ forty dollars. ~~If;~~ and if the amount for which the property is bid ~~in~~ on is more than one thousand dollars, the sum of ~~fifty~~ one hundred dollars;

(13) For making a sale of real property under a foreclosure of mortgage by advertisement, the same fees as for the sale of real property under a judgment of foreclosure and sale of real property; and

(14) If personal property is taken by the sheriff on execution or warrant of attachment and applied in the satisfaction of the debt without sale, the same percentage on the appraised value of the property as in the case of a sale and all additional reasonable

1 and necessary costs and expenses incurred in executing the duties of sheriff including
2 expenses associated with the removal of property from the premises.

3 No fee may be charged in any action under § 25-10-3, 25-10-6, 22-19A-8, or 22-19A-12.

4 The fees established pursuant to this section shall be used for law enforcement purposes.

5 Section 12. That § 14-6-1 be amended to read:

6 14-6-1. Upon order of the presiding judge of the circuit court made and filed in the office
7 of the clerk of courts of any county within the circuit of which such county is a part, the clerk
8 of courts of such county shall collect in each civil action, proceeding for judicial remedy, and
9 probate proceeding, as a county lawbook and county law library fee, a sum of ~~two~~ three dollars
10 in actions commenced pursuant to chapter 15-39 and a sum of ~~five~~ seven dollars in all other
11 civil actions, proceedings for judicial remedy, and probate proceedings. The clerk shall collect
12 the fee in the manner in which other fees are collected from the plaintiff or person instituting
13 ~~such~~ the action or proceeding, at the time of filing the first paper in ~~such~~ the action or
14 proceeding. However, no surcharge may be collected for any petition or motion to modify final
15 orders for child support, child custody, child visitation, or spousal support or in any civil action
16 or proceeding for judicial remedy commenced by the state, a county, a municipality, or a school
17 district.

18 Section 13. That § 7-31-10 be amended to read:

19 7-31-10. ~~In the event~~ If the parties concerned cannot agree upon ~~such~~ the value of the
20 improvements to county-owned land, the board of county commissioners shall appoint a board
21 of appraisal, to view the improvements and determine ~~their~~ the value. The ~~said~~ board of
22 appraisal shall be composed of three disinterested persons who shall file with the board of
23 county commissioners an itemized report of ~~such~~ the appraisal, signed by at least two members
24 of ~~such~~ the board of appraisal. Members of the board of appraisal shall be paid at the state rate

1 ~~of three dollars per diem and five cents per mile for the miles~~ established pursuant to chapter
2 3-9 for per diem and mileage necessarily traveled in making ~~such~~ the appraisal. The owner of
3 the improvements shall deposit a sum with the county treasurer, prior to ~~such~~ the appraisal
4 sufficient to cover the cost of appraisal as determined by the board of county commissioners.
5 The board of appraisal ~~to~~ shall be paid from ~~such~~ the deposit and any excess shall be refunded
6 to ~~such~~ the owner of the improvements.

7 Section 14. That § 48-7A-105 be amended to read:

8 48-7A-105. (a) A statement may be filed in the Office of the Secretary of State. A certified
9 copy of a statement that is filed in an office in another state may be filed in the Office of the
10 Secretary of State. Either filing has the effect provided in this chapter with respect to partnership
11 property located in or transactions that occur in this state.

12 (b) A certified copy of a statement that has been filed in the Office of the Secretary of State
13 and recorded in the office of the register of deeds has the effect provided for recorded statements
14 in this chapter. A recorded statement that is not a certified copy of a statement filed in the Office
15 of the Secretary of State does not have the effect provided for recorded statements in this
16 chapter.

17 (c) A statement filed by a partnership must be executed by at least two partners. Other
18 statements must be executed by a partner or other person authorized by this chapter. An
19 individual who executes a statement as, or on behalf of, a partner or other person named as a
20 partner in a statement shall personally declare under penalty of perjury that the contents of the
21 statement are accurate.

22 (d) A person authorized by this chapter to file a statement may amend or cancel the
23 statement by filing an amendment or cancellation that names the partnership, identifies the
24 statement, and states the substance of the amendment or cancellation.

1 (e) A person who files a statement pursuant to this section shall promptly send a copy of the
2 statement to every nonfiling partner and to any other person named as a partner in the statement.
3 Failure to send a copy of a statement to a partner or other person does not limit the effectiveness
4 of the statement as to a person not a partner.

5 The secretary of state may collect a fee for filing or providing a certified copy of a statement.
6 The register of deeds may collect a fee, ~~not to exceed ten dollars,~~ in accordance with
7 subdivisions 7-9-15(1) and (2) for recording a statement filed pursuant to this section.

8 Section 15. That § 32-11-29 be amended to read:

9 32-11-29. The following fees:

- 10 (1) Fees collected under §§ 32-3-57, 32-5-99, 32-5-111, and 32-7A-14.1;
11 (2) The two percent of motor vehicle license collections referred to in § 32-11-4.1; and
12 (3) The title fees collected under ~~§§ 32-3-18 and § 32-3-27;~~
13 shall be credited to the state motor vehicle fund. All revenues not appropriated from the special
14 revenue fund established by § 32-5-10.2 shall remain in the fund for the next fiscal year and be
15 used solely for purposes of motorcycle safety courses and motorcycle safety education.