

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 14

Introduced by Wightman, 36.

Read first time January 06, 2011

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to registers of deeds; to amend sections 25-529,
2 25-531, 25-2154, 33-109, 52-1004, 60-169, and 77-3903,
3 Reissue Revised Statutes of Nebraska; to change and
4 eliminate fees received by registers of deeds and clerks;
5 to harmonize provisions; to provide an operative date; to
6 repeal the original sections; and to outright repeal
7 section 33-112, Reissue Revised Statutes of Nebraska.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 25-529, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 25-529 The register of deeds of each county shall record
4 such appointment as shall be filed under the provisions of section
5 25-528 and any revocation thereof in the Miscellaneous Record, shall
6 enter such instruments in the numerical index against the lands
7 described therein, and shall be entitled to demand and receive fees
8 ~~as provided in sections 33-109 and 33-112.~~ the fee provided in
9 section 33-109.

10 Sec. 2. Section 25-531, Reissue Revised Statutes of
11 Nebraska, is amended to read:

12 25-531 When the summons has been served or publication
13 made, the action is pending so as to charge third persons with notice
14 of pendency. While the action is pending no interest can be acquired
15 by third persons in the subject matter thereof, as against the
16 plaintiff's title. In all actions brought to affect the title to real
17 property, the plaintiff may either at the time of filing his or her
18 complaint or afterwards, file, or in case any defendant sets up an
19 affirmative cause of action and demands relief which shall affect the
20 title to real estate, he or she may, at the time of filing such
21 answer or at any time afterwards, file with the clerk or register of
22 deeds of each county in which the real estate thus to be affected, or
23 any part thereof, is situated, a notice of the pendency of such
24 action. The notice shall contain the names of the parties, the object
25 of the action, and a description of the property in such county

1 sought to be affected thereby. If the action is for foreclosure of a
2 mortgage, such notice shall contain the date of the mortgage, the
3 parties thereto, and the time and place of recording the same. The
4 clerk or register of deeds of such county shall record the notice
5 thus filed and enter the same upon the numerical index of all lands,
6 any part of which is included in the description in the notice, for
7 which he or she shall be entitled to receive ~~filing fees in~~
8 ~~accordance with sections 33-109 and 33-112,~~ the fee provided in
9 section 33-109, to be paid by the person filing such notice, and
10 which shall be taxed as part of the costs in the action. From the
11 time of filing such notice the pendency of such action shall be
12 constructive notice to any purchaser or encumbrancer to be affected
13 thereby. Every person whose conveyance or encumbrance is subsequently
14 executed or subsequently recorded shall be deemed to be a subsequent
15 purchaser or encumbrancer and shall be bound by all proceedings taken
16 in the action after the filing of such notice to the same extent as
17 if he or she were made a party to the action. The court in which such
18 action was commenced or any judge thereof may at any time thereafter
19 on the application of any person aggrieved, on good cause shown, and
20 on such notice as the court or judge may determine, order the notice
21 to be canceled by the clerk or register of deeds of any county in
22 which the notice may have been filed or recorded by filing a notice
23 of release. In actions in which such notice is filed in a county or
24 counties, other than the county in which the action is pending, the
25 county clerk or the register of deeds of the county in which the

1 action was begun may cancel such notice by executing a written
2 release under his or her hand and seal by reason of the order of the
3 court or judge, and forward such release by mail to the county clerk
4 or register of deeds of the county in which the notice has been filed
5 or recorded, and which certificate such county clerk or register of
6 deeds shall record in the records of his or her office. At any time
7 after such notice of pendency is recorded, the party on whose behalf
8 the same was filed or the party's attorney of record may cause the
9 notice to be canceled in the office of the county clerk or register
10 of deeds of any county in which the notice has been filed or
11 recorded. Such cancellation may be made by written release in the
12 same manner as such cancellations are entered on order of the court.
13 For the service required by this section, the county clerk or
14 register of deeds shall be entitled to charge and receive fees ~~in~~
15 ~~accordance with sections 33-109 and 33-112, a fee in accordance with~~
16 section 33-109, to be paid by the party causing the service to be
17 performed.

18 Sec. 3. Section 25-2154, Reissue Revised Statutes of
19 Nebraska, is amended to read:

20 25-2154 In all cases of foreclosure of mortgages in the
21 several counties in the state, it shall be the duty of the clerk of
22 the district court, on the satisfaction or payment of the amount of
23 the decree, to forward to the register of deeds a certificate setting
24 forth the names of parties, plaintiff and defendant, descriptions of
25 the premises mentioned in the decree, and the book and page where the

1 mortgage foreclosed is recorded, for which certificate such clerk
2 shall collect ~~a fee of three dollars,~~ the fee required pursuant to
3 section 33-109 for recording the certificate, which amount shall be
4 taxed as part of the costs in the case, and ~~said such sum~~ shall be
5 paid to the register of deeds as ~~his~~ the fee for recording the
6 certificate.

7 Sec. 4. Section 33-109, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 33-109 (1) The register of deeds and the county clerk
10 shall receive for recording a deed, mortgage, or release, recording
11 and indexing of a will, recording and indexing of a decree in a
12 testate estate, recording proof of publication, or recording any
13 other instrument, a fee of ~~five dollars per page.~~ ten dollars for the
14 first page and six dollars for each additional page. Two dollars and
15 fifty cents of the ten-dollar fee for recording the first page and
16 fifty cents of the six-dollar fee for recording each additional page
17 shall be used exclusively for the purposes of preserving and
18 maintaining public records of the office of the register of deeds and
19 for modernization and technology needs relating to such records. The
20 funds allocated under this subsection shall not be substituted for
21 other allocations of county general funds to the register of deeds
22 for the purposes enumerated in this subsection.

23 (2) The cost for a certified copy of any instrument filed
24 or recorded in the office of county clerk or register of deeds shall
25 be one dollar and fifty cents per page.

1 Sec. 5. Section 52-1004, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 52-1004 (1) ~~Beginning July 1, 1999, the~~ The uniform fee,
4 payable to the Secretary of State, for presenting for filing and
5 indexing and for filing and indexing each notice of lien or
6 certificate or notice affecting the lien pursuant to the Uniform
7 Federal Lien Registration Act shall be ~~six dollars.~~ two times the fee
8 required for recording instruments with the register of deeds as
9 provided in section 33-109. There shall be no fee for the filing of a
10 termination statement. The uniform fee for each county more than one
11 designated pursuant to subsection (1) of section 52-1001 shall be
12 ~~three dollars.~~ the fee required for recording instruments with the
13 register of deeds as provided in section 33-109. The Secretary of
14 State shall deposit each fee received pursuant to this section in the
15 Uniform Commercial Code Cash Fund. Of the fees received and deposited
16 pursuant to this section, the Secretary of State shall remit ~~three~~
17 ~~dollars~~ the fee required for recording instruments with the register
18 of deeds as provided in section 33-109 to the register of deeds of a
19 county for each designation of such county in a filing pursuant to
20 subsection (1) of section 52-1001.

21 (2) The Secretary of State shall bill the district
22 directors of internal revenue or other appropriate federal officials
23 on a monthly basis for fees for documents presented or filed by them.

24 Sec. 6. Section 60-169, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 60-169 (1)(a) Except as otherwise provided in subdivision
2 (b) of this subsection, each owner of a vehicle and each person
3 mentioned as owner in the last certificate of title, when the vehicle
4 is dismantled, destroyed, or changed in such a manner that it loses
5 its character as a vehicle or changed in such a manner that it is not
6 the vehicle described in the certificate of title, shall surrender
7 his or her certificate of title to the county clerk or designated
8 county official of the county where such certificate of title was
9 issued or, if issued by the department, to the department. If the
10 certificate of title is surrendered to the county clerk or designated
11 county official, he or she shall, with the consent of any holders of
12 any liens noted thereon, enter a cancellation upon his or her records
13 and shall notify the department of such cancellation. If the
14 certificate is surrendered to the department, it shall, with the
15 consent of any holder of any lien noted thereon, enter a cancellation
16 upon its records.

17 (b)(i) In the case of a mobile home or manufactured home
18 for which a certificate of title has been issued, if such mobile home
19 or manufactured home is affixed to real property in which each owner
20 of the mobile home or manufactured home has any ownership interest,
21 the certificate of title may be surrendered for cancellation to the
22 county clerk or designated county official of the county where such
23 certificate of title is issued or, if issued by the department, to
24 the department, if at the time of surrender the owner submits to the
25 county clerk, the designated county official, or the department an

1 affidavit of affixture on a form provided by the department that
2 contains all of the following, as applicable:

3 (A) The names and addresses of all of the owners of
4 record of the mobile home or manufactured home;

5 (B) A description of the mobile home or manufactured home
6 that includes the name of the manufacturer, the year of manufacture,
7 the model, and the manufacturer's serial number;

8 (C) The legal description of the real property upon which
9 the mobile home or manufactured home is affixed and the names of all
10 of the owners of record of the real property;

11 (D) A statement that the mobile home or manufactured home
12 is affixed to the real property;

13 (E) The written consent of each holder of a lien duly
14 noted on the certificate of title to the release of such lien and the
15 cancellation of the certificate of title;

16 (F) A copy of the certificate of title surrendered for
17 cancellation; and

18 (G) The name and address of an owner, a financial
19 institution, or another entity to which notice of cancellation of the
20 certificate of title may be delivered.

21 (ii) The person submitting an affidavit of affixture
22 pursuant to subdivision (b)(i) of this subsection shall swear or
23 affirm that all statements in the affidavit are true and material and
24 further acknowledge that any false statement in the affidavit may
25 subject the person to penalties relating to perjury under section

1 28-915.

2 (2) If a certificate of title of a mobile home or
3 manufactured home is surrendered to the county clerk or designated
4 county official, along with the affidavit required by subdivision (1)
5 (b) of this section, he or she shall enter a cancellation upon his or
6 her records, notify the department of such cancellation, forward a
7 duplicate original of the affidavit to the department, and deliver a
8 duplicate original of the executed affidavit under subdivision (1)(b)
9 of this section to the register of deeds for the county in which the
10 real property is located to be filed by the register of deeds. The
11 county clerk or designated county official shall be entitled to
12 collect ~~fees~~ a fee from the person submitting the affidavit in
13 accordance with ~~sections~~ section 33-109 ~~and 33-112~~ to cover the costs
14 of filing such affidavit. If the certificate of title is surrendered
15 to the department, along with the affidavit required by subdivision
16 (1)(b) of this section, the department shall enter a cancellation
17 upon its records and deliver a duplicate original of the executed
18 affidavit under subdivision (1)(b) of this section to the register of
19 deeds for the county in which the real property is located to be
20 filed by the register of deeds. The department shall be entitled to
21 collect ~~fees~~ a fee from the person submitting the affidavit in
22 accordance with ~~sections~~ section 33-109 ~~and 33-112~~ to cover the costs
23 of filing such affidavit. Following the cancellation of a certificate
24 of title for a mobile home or manufactured home, neither the county
25 clerk, the designated county official, nor the department shall issue

1 a certificate of title for such mobile home or manufactured home,
2 except as provided in subsection (5) of this section.

3 (3) If a mobile home or manufactured home is affixed to
4 real estate before June 1, 2006, a person who is the holder of a lien
5 or security interest in both the mobile home or manufactured home and
6 the real estate to which it is affixed on such date may enforce its
7 liens or security interests by accepting a deed in lieu of
8 foreclosure or in the manner provided by law for enforcing liens on
9 the real estate.

10 (4) A mobile home or manufactured home for which the
11 certificate of title has been canceled and for which an affidavit of
12 affixture has been duly recorded pursuant to subsection (2) of this
13 section shall be treated as part of the real estate upon which such
14 mobile home or manufactured home is located. Any lien thereon shall
15 be perfected and enforced in the same manner as a lien on real
16 estate. The owner of such mobile home or manufactured home may convey
17 ownership of the mobile home or manufactured home only as a part of
18 the real estate to which it is affixed.

19 (5)(a) If each owner of both the mobile home or
20 manufactured home and the real estate described in subdivision (1)(b)
21 of this section intends to detach the mobile home or manufactured
22 home from the real estate, the owner shall do both of the following:
23 (i) Before detaching the mobile home or manufactured home, record an
24 affidavit of detachment in the office of the register of deeds in the
25 county in which the affidavit is recorded under subdivision (1)(b) of

1 this section; and (ii) apply for a certificate of title for the
2 mobile home or manufactured home pursuant to section 60-147.

3 (b) The affidavit of detachment shall contain all of the
4 following:

5 (i) The names and addresses of all of the owners of
6 record of the mobile home or manufactured home;

7 (ii) A description of the mobile home or manufactured
8 home that includes the name of the manufacturer, the year of
9 manufacture, the model, and the manufacturer's serial number;

10 (iii) The legal description of the real estate from which
11 the mobile home or manufactured home is to be detached and the names
12 of all of the owners of record of the real estate;

13 (iv) A statement that the mobile home or manufactured
14 home is to be detached from the real property;

15 (v) A statement that the certificate of title of the
16 mobile home or manufactured home has previously been canceled;

17 (vi) The name of each holder of a lien of record against
18 the real estate from which the mobile home or manufactured home is to
19 be detached, with the written consent of each holder to the
20 detachment; and

21 (vii) The name and address of an owner, a financial
22 institution, or another entity to which the certificate of title may
23 be delivered.

24 (6) An owner of an affixed mobile home or manufactured
25 home for which the certificate of title has previously been canceled

1 pursuant to subsection (2) of this section shall not detach the
2 mobile home or manufactured home from the real estate before a
3 certificate of title for the mobile home or manufactured home is
4 issued by the county clerk, designated county official, or
5 department. If a certificate of title is issued by the county clerk,
6 designated county official, or department, the mobile home or
7 manufactured home is no longer considered part of the real property.
8 Any lien thereon shall be perfected pursuant to section 60-164. The
9 owner of such mobile home or manufactured home may convey ownership
10 of the mobile home or manufactured home only by way of a certificate
11 of title.

12 (7) For purposes of this section:

13 (a) A mobile home or manufactured home is affixed to real
14 estate if the wheels, towing hitches, and running gear are removed
15 and it is permanently attached to a foundation or other support
16 system; and

17 (b) Ownership interest means the fee simple interest in
18 real estate or an interest as the lessee under a lease of the real
19 property that has a term that continues for at least twenty years
20 after the recording of the affidavit under subsection (2) of this
21 section.

22 (8) Upon cancellation of a certificate of title in the
23 manner prescribed by this section, the county clerk or designated
24 county official and the department may cancel and destroy all
25 certificates and all memorandum certificates in that chain of title.

1 Sec. 7. Section 77-3903, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 77-3903 (1)(a) A notice of lien provided for in the
4 Uniform State Tax Lien Registration and Enforcement Act upon real
5 property shall be presented in the office of the Secretary of State.
6 Such notice of lien shall be transmitted by the Secretary of State to
7 and filed in the office of the register of deeds by the register of
8 deeds of the county or counties in which the real property subject to
9 the lien is situated as designated in the notice of lien. The
10 register of deeds shall enter the notice in the alphabetical state
11 tax lien index, showing on one line the name and residence of the
12 person liable named in such notice, the last four digits of the
13 social security number or the federal tax identification number of
14 such person, the Tax Commissioner's or Commissioner of Labor's serial
15 number of such notice, the date and hour of filing, and the amount
16 due. Such presentments to the Secretary of State may be made by
17 direct input to the Secretary of State's data base or by other
18 electronic means. All such notices of lien shall be retained in
19 numerical order in a file designated state tax lien notices, except
20 that in offices filing by the roll form of microfilm pursuant to
21 section 23-1517.01, the original notices need not be retained. A lien
22 subject to this subsection shall be effective upon real property when
23 filed by the register of deeds as provided in this subsection.

24 (b) A notice of lien provided for in the Uniform State
25 Tax Lien Registration and Enforcement Act upon personal property

1 shall be filed in the office of the Secretary of State. The Secretary
2 of State shall enter the notice in the state's central tax lien
3 index, showing on one line the name and residence of the person
4 liable named in such notice, the last four digits of the social
5 security number or the federal tax identification number of such
6 person, the Tax Commissioner's or Commissioner of Labor's serial
7 number of such notice, the date and hour of filing, and the amount
8 due. Such filings with the Secretary of State may be filed by direct
9 input to the Secretary of State's data base or by other electronic
10 means. All such notices of lien shall be retained in numerical order
11 in a file designated state tax lien notices.

12 (2) ~~Beginning July 1, 1999, the~~ The uniform fee, payable
13 to the Secretary of State, for presenting for filing, releasing,
14 continuing, or subordinating or for filing, releasing, continuing, or
15 subordinating each tax lien pursuant to the Uniform State Tax Lien
16 Registration and Enforcement Act shall be ~~six dollars.~~ two times the
17 fee required for recording instruments with the register of deeds as
18 provided in section 33-109. There shall be no fee for the filing of a
19 termination statement. The uniform fee for each county more than one
20 designated pursuant to subdivision (1)(a) of this section shall be
21 ~~three dollars.~~ the fee required for recording instruments with the
22 register of deeds as provided in section 33-109. The Secretary of
23 State shall deposit each fee received pursuant to this section in the
24 Uniform Commercial Code Cash Fund. Of the fees received and deposited
25 pursuant to this section, the Secretary of State shall remit ~~three~~

1 ~~dollars~~ the fee required for recording instruments with the register
2 of deeds as provided in section 33-109 to the register of deeds of a
3 county for each designation of such county in a filing pursuant to
4 subdivision (1)(a) of this section.

5 (3) The Secretary of State shall bill the Tax
6 Commissioner or Commissioner of Labor on a monthly basis for fees for
7 documents presented to or filed with the Secretary of State. No
8 payment of any fee shall be required at the time of presenting or
9 filing any such lien document.

10 Sec. 8. This act becomes operative on January 1, 2012.

11 Sec. 9. Original sections 25-529, 25-531, 25-2154,
12 33-109, 52-1004, 60-169, and 77-3903, Reissue Revised Statutes of
13 Nebraska, are repealed.

14 Sec. 10. The following section is outright repealed:
15 Section 33-112, Reissue Revised Statutes of Nebraska.