

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SECOND LEGISLATURE  
SECOND SESSION  
**LEGISLATIVE BILL 14**

Final Reading

Introduced by Wightman, 36; Krist, 10.

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 fees  
4 received by registers of deeds, county clerks, clerks of  
5 the district court, and the Secretary of State; to  
6 harmonize provisions; to provide an operative date; to  
7 repeal the original sections; and to outright repeal  
8 section 33-112, Reissue Revised Statutes of Nebraska.  
9 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~~ section 33-109. ~~and 33-112.~~

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

11           25-531 When the summons has been served or publication  
12 made, the action is pending so as to charge third persons with notice  
13 of pendency. While the action is pending no interest can be acquired  
14 by third persons in the subject matter thereof, as against the  
15 plaintiff's title. In all actions brought to affect the title to real  
16 property, the plaintiff may either at the time of filing his or her  
17 complaint or afterwards, file, or in case any defendant sets up an  
18 affirmative cause of action and demands relief which shall affect the  
19 title to real estate, he or she may, at the time of filing such  
20 answer or at any time afterwards, file with the clerk or register of  
21 deeds of each county in which the real estate thus to be affected, or  
22 any part thereof, is situated, a notice of the pendency of such  
23 action. The notice shall contain the names of the parties, the object  
24 of the action, and a description of the property in such county  
25 sought to be affected thereby. If the action is for foreclosure of a

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

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

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

18           25-2154 In all cases of foreclosure of mortgages in the  
19 several counties in the state, it shall be the duty of the clerk of  
20 the district court, on the satisfaction or payment of the amount of  
21 the decree, to forward to the register of deeds a certificate setting  
22 forth the names of parties, plaintiff and defendant, descriptions of  
23 the premises mentioned in the decree, and the book and page where the  
24 mortgage foreclosed is recorded. For such , for which certificate  
25 ~~such the clerk of the district court shall collect, until January 1,~~

1 2018, the fee required pursuant to section 33-109 for recording the  
2 certificate or, on and after January 1, 2018, a fee of three dollars.  
3 Such, which amount shall be taxed as part of the costs in the case,  
4 and said such sum shall be paid to the register of deeds as his the  
5 fee for recording the certificate.

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

8 33-109 (1)(a) This subdivision applies until January 1,  
9 2018. The register of deeds and the county clerk shall receive for  
10 recording a deed, mortgage, or release, recording and indexing of a  
11 will, recording and indexing of a decree in a testate estate,  
12 recording proof of publication, or recording any other instrument, a  
13 fee of five dollars per page. ten dollars for the first page and six  
14 dollars for each additional page. Two dollars and fifty cents of the  
15 ten-dollar fee for recording the first page and fifty cents of the  
16 six-dollar fee for recording each additional page shall be used  
17 exclusively for the purposes of preserving and maintaining public  
18 records of the office of the register of deeds and for modernization  
19 and technology needs relating to such records. The funds allocated  
20 under this subdivision shall not be substituted for other allocations  
21 of county general funds to the register of deeds for the purposes  
22 enumerated in this subdivision.

23 (b) This subdivision applies on and after January 1,  
24 2018. The register of deeds and the county clerk shall receive for  
25 recording a deed, mortgage, or release, recording and indexing of a

1 will, recording and indexing of a decree in a testate estate,  
2 recording proof of publication, or recording any other instrument, a  
3 fee of five dollars per page. For entering each instrument presented  
4 for record in the numerical index, the clerk or register of deeds  
5 shall receive the sum of fifty cents for each lot and each single  
6 block without lots in platted areas and fifty cents for each section  
7 in unplatted areas to be paid in advance by the person offering the  
8 instrument for record.

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

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

14           52-1004 (1)(a) This subdivision applies until January 1,  
15 2018. The Beginning July 1, 1999, the uniform fee, payable to the  
16 Secretary of State, for presenting for filing and indexing and for  
17 filing and indexing each notice of lien or certificate or notice  
18 affecting the lien pursuant to the Uniform Federal Lien Registration  
19 Act shall be six dollars. two times the fee required for recording  
20 instruments with the register of deeds as provided in section 33-109.  
21 There shall be no fee for the filing of a termination statement. The  
22 uniform fee for each county more than one designated pursuant to  
23 subsection (1) of section 52-1001 shall be ~~three dollars.~~ the fee  
24 required for recording instruments with the register of deeds as  
25 provided in section 33-109. The Secretary of State shall deposit each

1 fee received pursuant to this ~~section~~subdivision in the Uniform  
2 Commercial Code Cash Fund. Of the fees received and deposited  
3 pursuant to this ~~section~~subdivision, the Secretary of State shall  
4 remit ~~three dollars~~the fee required for recording instruments with  
5 the register of deeds as provided in section 33-109 to the register  
6 of deeds of a county for each designation of such county in a filing  
7 pursuant to subsection (1) of section 52-1001.

8 (b) This subdivision applies on and after January 1,  
9 2018. The uniform fee, payable to the Secretary of State, for  
10 presenting for filing and indexing and for filing and indexing each  
11 notice of lien or certificate or notice affecting the lien pursuant  
12 to the Uniform Federal Lien Registration Act shall be six dollars.  
13 There shall be no fee for the filing of a termination statement. The  
14 uniform fee for each county more than one designated pursuant to  
15 subsection (1) of section 52-1001 shall be three dollars. The  
16 Secretary of State shall deposit each fee received pursuant to this  
17 subdivision in the Uniform Commercial Code Cash Fund. Of the fees  
18 received and deposited pursuant to this subdivision, the Secretary of  
19 State shall remit three dollars to the register of deeds of a county  
20 for each designation of such county in a filing pursuant to  
21 subsection (1) of section 52-1001.

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

25 Sec. 6. Section 60-169, Reissue Revised Statutes of

1 Nebraska, is amended to read:

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

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



1 county clerk, the designated county official, or the department an  
2 affidavit of affixture on a form provided by the department that  
3 contains all of the following, as applicable:

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

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

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

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

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

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

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

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

1 subject the person to penalties relating to perjury under section  
2 28-915.

3 (2) If a certificate of title of a mobile home or  
4 manufactured home is surrendered to the county clerk or designated  
5 county official, along with the affidavit required by subdivision (1)  
6 (b) of this section, he or she shall enter a cancellation upon his or  
7 her records, notify the department of such cancellation, forward a  
8 duplicate original of the affidavit to the department, and deliver a  
9 duplicate original of the executed affidavit under subdivision (1)(b)  
10 of this section to the register of deeds for the county in which the  
11 real property is located to be filed by the register of deeds. The  
12 county clerk or designated county official shall be entitled to  
13 collect fees from the person submitting the affidavit in accordance  
14 with ~~sections~~ section 33-109 and ~~33-112~~ to cover the costs of filing  
15 such affidavit. If the certificate of title is surrendered to the  
16 department, along with the affidavit required by subdivision (1)(b)  
17 of this section, the department shall enter a cancellation upon its  
18 records and deliver a duplicate original of the executed affidavit  
19 under subdivision (1)(b) of this section to the register of deeds for  
20 the county in which the real property is located to be filed by the  
21 register of deeds. The department shall be entitled to collect fees  
22 from the person submitting the affidavit in accordance with ~~sections~~  
23 section 33-109 and ~~33-112~~ to cover the costs of filing such  
24 affidavit. Following the cancellation of a certificate of title for a  
25 mobile home or manufactured home, neither the county clerk, the

1 designated county official, nor the department shall issue a  
2 certificate of title for such mobile home or manufactured home,  
3 except as provided in subsection (5) of this section.

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

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

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

1 county in which the affidavit is recorded under subdivision (1)(b) of  
2 this section; and (ii) apply for a certificate of title for the  
3 mobile home or manufactured home pursuant to section 60-147.

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

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

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

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

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

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

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

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

25 (6) An owner of an affixed mobile home or manufactured

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

13 (7) For purposes of this section:

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

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

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

1 certificates and all memorandum certificates in that chain of title.

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

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

25           (b) A notice of lien provided for in the Uniform State

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

13 (2)(a) This subdivision applies until January 1, 2018.  
14 The Beginning July 1, 1999, the uniform fee, payable to the Secretary  
15 of State, for presenting for filing, releasing, continuing, or  
16 subordinating or for filing, releasing, continuing, or subordinating  
17 each tax lien pursuant to the Uniform State Tax Lien Registration and  
18 Enforcement Act shall be ~~six dollars.~~ two times the fee required for  
19 recording instruments with the register of deeds as provided in  
20 section 33-109. There shall be no fee for the filing of a termination  
21 statement. The uniform fee for each county more than one designated  
22 pursuant to subdivision (1)(a) of this section shall be ~~three~~  
23 ~~dollars.~~ the fee required for recording instruments with the register  
24 of deeds as provided in section 33-109. The Secretary of State shall  
25 deposit each fee received pursuant to this ~~section-subdivision~~ in the

1 Uniform Commercial Code Cash Fund. Of the fees received and deposited  
2 pursuant to this ~~section, subdivision,~~ the Secretary of State shall  
3 remit ~~three dollars~~ the fee required for recording instruments with  
4 the register of deeds as provided in section 33-109 to the register  
5 of deeds of a county for each designation of such county in a filing  
6 pursuant to subdivision (1)(a) of this section.

7 (b) This subdivision applies on and after January 1,  
8 2018. The uniform fee, payable to the Secretary of State, for  
9 presenting for filing, releasing, continuing, or subordinating or for  
10 filing, releasing, continuing, or subordinating each tax lien  
11 pursuant to the Uniform State Tax Lien Registration and Enforcement  
12 Act shall be six dollars. There shall be no fee for the filing of a  
13 termination statement. The uniform fee for each county more than one  
14 designated pursuant to subdivision (1)(a) of this section shall be  
15 three dollars. The Secretary of State shall deposit each fee received  
16 pursuant to this subdivision in the Uniform Commercial Code Cash  
17 Fund. Of the fees received and deposited pursuant to this  
18 subdivision, the Secretary of State shall remit three dollars to the  
19 register of deeds of a county for each designation of such county in  
20 a filing pursuant to subdivision (1)(a) of this section.

21 (3) The Secretary of State shall bill the Tax  
22 Commissioner or Commissioner of Labor on a monthly basis for fees for  
23 documents presented to or filed with the Secretary of State. No  
24 payment of any fee shall be required at the time of presenting or  
25 filing any such lien document.



1                   Sec. 8. This act becomes operative on January 1, 2013.

2                   Sec. 9. Original sections 25-529, 25-531, 25-2154,  
3 33-109, 52-1004, 60-169, and 77-3903, Reissue Revised Statutes of  
4 Nebraska, are repealed.

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