

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

248V0427

SENATE BILL NO. 78

Introduced by: The Committee on Commerce and Energy at the request of the Office of the Governor

1 FOR AN ACT ENTITLED, An Act to repeal certain outdated and obsolete provisions regarding
2 the Commissioner of South Dakota.

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

4 Section 1. That § 18-2-1 be repealed.

5 ~~— 18-2-1. The Governor shall have power to appoint one or more commissioners in any state~~
6 ~~of the United States or any of the territories belonging to the United States, who shall continue~~
7 ~~in office during the pleasure of the Governor and shall have authority to take acknowledgment~~
8 ~~and proof of the execution of any deed or other conveyance, or lease of any lands lying in this~~
9 ~~state, and of any contract, letter of attorney, or any other writing under seal or not, to be used~~
10 ~~or recorded in this state.~~

11 Section 2. That § 18-2-2 be repealed.

12 ~~— 18-2-2. Each commissioner appointed pursuant to § 18-2-1 shall have an official seal on~~
13 ~~which shall be engraved the words, Commissioner of South Dakota, with his surname at length~~
14 ~~and at least the initials of his Christian name; also the name of the state or territory in which he~~
15 ~~has been commissioned to act, which seal must be so engraved as to make a clear impression.~~



1 Section 3. That § 18-2-3 be repealed.

2 ~~—18-2-3. Every such commissioner, before performing any duty or exercising any power by~~
3 ~~virtue of his appointment, must take and subscribe an oath or affirmation before some judge or~~
4 ~~clerk of some court of record having a seal of the state or territory in which such commissioner~~
5 ~~shall reside, well and faithfully to execute and perform all the duties of such commissioner~~
6 ~~under and by virtue of the laws of the State of South Dakota, with a description and impression~~
7 ~~of his seal of office to be filed in the Office of the Secretary of this State.~~

8 Section 4. That § 18-2-4 be repealed.

9 ~~—18-2-4. Every commissioner appointed as mentioned in § 18-2-1 shall have power to~~
10 ~~administer any oath which may be lawfully required in this state to any person willing to take~~
11 ~~the same, and to take and duly certify all depositions to be used in any of the courts of this state~~
12 ~~in conformity to the laws thereof, either on interrogatories proposed under a commission from~~
13 ~~any court in this state or by consent of the parties, or on legal notice given to the opposite party;~~
14 ~~and all such acts shall be as valid as if done and certified to according to law by a proper officer~~
15 ~~in this state.~~

16 Section 5. That § 18-2-5 be repealed.

17 ~~—18-2-5. All acknowledgments and proofs as provided in § 18-2-1, taken according to the~~
18 ~~laws of this state and certified to by such commissioner under his seal of office and annexed to~~
19 ~~or endorsed upon such instrument, shall have the same force and effect as if the same had been~~
20 ~~taken before any officer authorized to perform such acts in this state.~~

21 Section 6. That § 18-4-4 be repealed.

22 ~~—18-4-4. The proof or acknowledgment of an instrument may be made without the state, but~~
23 ~~within the United States, and within the jurisdiction of the officer, before either:~~

24 ~~—(1)—A justice, judge, or clerk of any court of record of the United States;~~

1 ~~—(2)— A justice, judge, or clerk of any court of record of any state or territory;~~

2 ~~—(3)— A notary public;~~

3 ~~—(4)— Any officer of the state or territory where the acknowledgment is made, authorized~~
4 ~~by its laws to take such proof or acknowledgment; or~~

5 ~~—(5)— A commissioner appointed for the purpose by the Governor of this state.~~

6 Section 7. That § 18-4-5 be repealed.

7 ~~—18-4-5. The proof or acknowledgment of an instrument may be made without the United~~
8 ~~States, before either:~~

9 ~~—(1)— An ambassador, a minister, commissioner, or charge d'affaires of the United States,~~
10 ~~resident and accredited in the country where the proof or acknowledgment is made;~~

11 ~~—(2)— A consul, vice consul, or consular agent of the United States, resident in the country~~
12 ~~where the proof or acknowledgment is made;~~

13 ~~—(3)— A judge, clerk, register, or commissioner of a court of record of the country where~~
14 ~~the proof or acknowledgment is made;~~

15 ~~—(4)— A notary public of such country;~~

16 ~~—(5)— An officer authorized by the laws of the country where the proof of acknowledgment~~
17 ~~is taken to take proof or acknowledgment; or~~

18 ~~—(6)— When any of the officers mentioned in this chapter are authorized to appoint a~~
19 ~~deputy, the acknowledgment or proof may be taken before such deputy.~~

20 ~~—All proofs or acknowledgments heretofore taken according to the provisions of this section~~
21 ~~are hereby declared to be sufficiently authenticated and to be entitled to record, and any such~~
22 ~~record hereafter made shall be notice of the contents of the instrument so recorded.~~