

## **CHAPTER 54-09**

### **SECRETARY OF STATE**

**54-09-01. Records in custody of secretary of state.** The secretary of state is charged with the custody of:

1. The enrolled copy of the Constitution of North Dakota.
2. All the acts and resolutions passed by the legislative assembly.
3. The journals of the legislative assembly.
4. The great seal.
5. All books, records, deeds, parchments, maps, and papers kept or deposited in the secretary of state's office pursuant to law.

**54-09-02. Duties of secretary of state.** In addition to the duties prescribed by the constitution, the secretary of state shall:

1. Receive bills and resolutions from every session of the legislative assembly, and shall perform such other duties as may devolve upon the secretary of state by resolution of the two houses, or either of them.
2. Keep a register of and attest the official acts of the governor.
3. Affix the great seal with the secretary of state's attestation to commissions and other public instruments to which the official signature of the governor is required.
4. Record and maintain records of all conveyances made to the state and all articles of incorporation filed in the secretary of state's office.
5. Maintain records for all books distributed by the secretary of state and direct the county auditor of each county to do the same as provided by law.
6. Furnish on demand to persons paying the fees therefor a certified copy of all or any part of any law, record, or other instrument filed, deposited, or recorded in the secretary of state's office.
7. Keep records of all the fees, commissions, and compensation of whatever nature or kind earned, collected, or charged by the secretary of state, with the date, name of payer, and the nature of the services in each case.
8. Biennially report to the governor with copies filed in the secretary of state's office as prescribed by section 54-06-04 all moneys received from any source for services performed and accompany the report with a detailed statement under oath of the manner in which the appropriations for the secretary of state's office have been expended during the preceding two fiscal years.
9. Immediately after the laws, resolutions, and journals of the legislative assembly are bound, distribute the laws, resolutions, and journals to the persons entitled thereto by law or rules of the senate and house of representatives.
10. Keep records of cities as prescribed by law.
11. Indicate on each bill passed by the legislative assembly the date of filing in the secretary of state's office.

12. Perform all other duties as are prescribed by law.

**54-09-03. Secretary of state to mark books distributed.** Repealed by S.L. 1999, ch. 449, § 1.

**54-09-04. Fees.** The secretary of state, unless otherwise provided by law, shall charge and collect the following fees:

1. For a copy of any law, resolution, record, or other document or paper on file in the secretary of state's office, fifty cents per page.
2. For affixing the signature of the secretary of state, certificate, or seal, or combination thereof to any document, ten dollars.
3. For filing a certificate of appointment of attorney, five dollars.
4. For searching records and archives of the state, five dollars. For the purposes of this section, a search of records conducted by the secretary of state for which a fee must be collected includes the following:
  - a. A search of a filed document that is active or archived, an archived index, or an index of business name changes to identify specific information to satisfy a request;
  - b. A search of any record for which written verification of the facts of the search is required; and
  - c. For every search of records when the request for the search is contained in a list compiled by the requester.

The secretary of state may provide, at no charge, information from publications or reference materials published or maintained by the secretary of state and verbal confirmation of any element of information maintained in a computer data base.

5. For filing any paper not otherwise provided for, ten dollars.
6. For filing utility property transfers, five dollars, and issuing a certificate of filing, five dollars.
7. For filing any process, notice, or demand for service, the fee provided in section 10-01.1-03.
8. For preparing any listing or compilation of any information recorded or filed in the office of the secretary of state, thirty-five dollars plus the actual cost for assembling and providing the information on the medium requested.

An individual required to file an oath of office with the secretary of state may not be charged for filing the oath of office, nor may a state or county officer be charged for filing any document with the secretary of state when acting in the officer's official capacity. All fees when collected must be paid by the secretary of state into the state treasury at the end of each month and placed to the credit of the state. Unless otherwise provided by law, the secretary of state shall retain a handling charge from filing fees tendered when a document submitted to the secretary of state under any law is rejected and not perfected. The handling charge is five dollars or fifty percent of the filing fee, whichever is greater, but may not exceed one hundred dollars.

If, upon due presentment, any check, draft, money order, or other form of lawful payment provisionally accepted in payment of any filing fee authorized to be charged and collected by the secretary of state, is not honored or paid, or if no lawful form of payment accompanies the filing, any record of credit or payment must be canceled or reversed as though no credit had been

given or payment attempted and the filing or action is void. The secretary of state may return to the last-known address of the filer any record or document that was attempted to be filed or may retain as unfiled the record or document for a reasonable time to permit proper payment and filing.

This section does not apply to fees submitted for filing in, or information obtained from, the computerized central notice system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base.

**54-09-04.1. Exception from fees.** A member of the legislative assembly or a state or county office may not be charged by the secretary of state for any search relative to matters appertaining to duties of office, any fee for a certified copy of any law or resolution passed by the legislative assembly relative to the individual's official duties, or for filing any process, notice, or demand for service relative to the individual's official duties.

**54-09-05. Salary of secretary of state.** The annual salary of the secretary of state is eighty-three thousand five hundred fifty dollars through June 30, 2010, and eighty-seven thousand seven hundred twenty-eight dollars thereafter.

**54-09-06. Official bond.** Repealed by S.L. 1999, ch. 113, § 24.

**54-09-07. Service of process on secretary of state if agent not found.** If an agent other than the secretary of state has been appointed for receipt of service, but the affidavit of a sheriff or of an adult who is not a party to a proceeding establishes that diligent inquiry has been made and that personal service cannot be accomplished upon any registered agent, officer, or superintending, managing, or general agent of an entity, then the secretary of state may be deemed the agent of the entity for receiving service of process. Service on the secretary of state must be made as provided in section 10-01.1-13.

**54-09-08. Secretary of state's general services operating fund.** The secretary of state's general services operating fund is a special fund in the state treasury. Moneys in the fund are to be used pursuant to legislative appropriations for the provision of services under section 16.1-02-15, subsection 6 of section 41-09-94, subsection 8 of section 54-09-04, and sections 10-35-33, 54-09-10, and 54-09-11. At the close of each biennium, the secretary of state shall transfer any unobligated balance remaining in the fund exceeding seventy-five thousand dollars to the general fund.

**54-09-09. Computerized central indexing system - Rules.**

1. The secretary of state shall maintain a computerized central indexing system that contains the information filed with the office of the secretary of state or with any of the offices of the recorder in this state pursuant to sections 35-13-02, 35-17-04, 35-20-16, 35-30-02, 35-31-02, 35-34-04, 35-34-06, 41-09-72, 57-28-29, 57-38-49, 57-39.2-13, 57-40.2-16, 57-40.3-07.1, 57-43.1-17.4, 57-43.2-16.3, and 57-51-11. The system must connect each recorder's office to the secretary of state's office through the information technology department. The system must allow access to financing statement information by equipment that conforms to requirements determined by the information technology department. The system must have safeguards to allow access to information that is in the system relating to security interests or liens and to prevent unauthorized alteration or deletion of that information and to allow access to other information in the system as prescribed by the secretary of state.
2. Within two working days of receipt of a financing statement, continuation statement, amendment, or termination statement filed pursuant to chapter 41-09 or a statement filed pursuant to section 35-13-02, 35-17-04, 35-20-16, 35-30-02, or 35-31-02, the recorder or secretary of state shall file the information contained in the statement in the computerized central indexing system. A computer printout of information from the system is prima facie evidence of the existence or nonexistence of the filing of a

financing statement or lien. The secretary of state shall prescribe one form that can be used to perfect a security interest in farm products or gain protection under the central notice system, or both.

3. The secretary of state may adopt rules necessary to implement this section and sections 54-09-10 and 54-09-11.

**54-09-10. Secretary of state to compile lists for crops and livestock - Distribution of lists.**

1. From the computerized central indexing system, the secretary of state or a designee shall produce each month one list for crops and one list for livestock that each contain the information as filed on the forms pursuant to section 41-09-72. The secretary of state shall also include on the lists the information filed for crops and livestock pursuant to sections 35-17-04, 35-30-02, and 35-31-02. The lists must be in alphabetical order according to the last name of, or in numerical order according to the social security number of, the person engaged in farming operations. The lists may be prepared in categories according to county, regions as designated by the secretary of state, or on a statewide basis. If requested, the lists must be in printed form. Each list must conspicuously note the effective date of the list.
2. The secretary of state shall distribute monthly by mail the lists prepared pursuant to subsection 1, at least five business days in advance of the effective date of each of the lists. If requested, the secretary of state shall mail the lists to any person making a request at a fee as provided in section 54-09-11.
3. Upon a verbal request of any person, the secretary of state, a designee of the secretary of state, or a recorder shall verbally provide information contained on a list generated through the computerized central indexing system if the collateral is crops or livestock. The requesting party may request a certificate from the secretary of state or the recorder and the secretary of state or the recorder shall confirm the information given. Direct computer access is equivalent to oral confirmation, and a computer printout constitutes the written confirmation of the secretary of state, if use of this method of confirmation does not cause the central indexing system to lose federal certification. A computer printout from the computerized central indexing system constitutes the certificate of the secretary of state or the recorder as to whether there is on file, on the date and hour stated on the computer printout, a financing statement.

**54-09-11. Fees.**

1. The secretary of state shall establish fees for placing data in the computerized central indexing system; for obtaining computer access to the computerized central indexing system, to the computerized Uniform Commercial Code central filing data base, or to the computerized statutory liens data base; for receiving printouts; for direct access to all or parts of the central indexing system; for lists sold or licensed under subsection 6 of section 41-09-94; for any other list provided by the secretary of state; for any programming charges specifically incurred to provide information requested by persons which is related to the central indexing system; and for other services provided through the computerized system.
2. The fee for furnishing information on a verbal request pursuant to subsection 3 of section 54-09-10 is seven dollars, and the fee for furnishing a certificate under subsection 3 of section 54-09-10 is seven dollars.
3. The secretary of state shall establish the fee for furnishing lists under subsection 1 of section 54-09-10 based on actual costs to produce the lists for distribution.

4. Fees collected by the secretary of state under subsections 1 and 3 and under subsection 6 of section 41-09-94 must be deposited in the secretary of state's general services operating fund. Fees collected by the secretary of state under subsection 2 must be deposited in the general fund in the state treasury.
5. The secretary of state may adopt rules regarding what portion of the filing fees and search fees collected by the recorder under section 41-09-96 must be submitted to the secretary of state for deposit into the secretary of state's general operating fund to meet the cost of the provision of services required under sections 54-09-09 and 54-09-10.