

Meeting Agenda
SOUTH DAKOTA ABSTRACTERS BOARD OF EXAMINERS

Best Western Ramkota
1400 8th Ave. NW, Aberdeen, SD
June 13, 2019 3:30 p.m. CDT

Persons wishing to join the meeting by teleconference may do so by calling the Board office at (605) 642-1600 by June 12, 2019 to arrange for a call-in number.

- A. Call to Order
- B. Roll Call/Introductions
- C. Approval of the agenda
- D. Election of Officers
- E. Public Comment
- F. Approval of the Minutes of February 13, 2019
- G. FY Financial Update
- H. Update on South Dakota Land Title Guide/Addendum/Copyright
- I. Update on Rules changes
- J. Executive Session-Pursuant to SDCL 1-25-2
 - a. Complaints/Investigations-If any
- K. HB 1111
- L. Other Business
- M. Next Meeting Date
- N. Adjourn

Meeting Minutes
SOUTH DAKOTA ABSTRACTERS BOARD OF EXAMINERS
South Dakota Department of Labor and Regulation
123 W Missouri Ave., Pierre, SD
February 13, 2019 at 2:00 p.m. CST

President Wick called the meeting to order at 2:01 p.m.

Members Present: Yvon Burtz, Dan Roe, Greg Wick, Victoria Wilds (via teleconference)

Members Absent: Kara Semmler

Others Present: Via teleconference; Carol Tellinghuisen, Executive Secretary, Jill Lesselyoung, Executive Assistant, Brooke Tellinghuisen Geddes, Executive Assistant and Amber Mulder, Senior Staff Attorney, Department of Labor.

Wick conducted roll call; Wick, Burtz, Roe, Wilds in attendance. A quorum was present.

Burtz made a motion to approve the agenda as presented. Wilds seconded the motion.
MOTION PASSED by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes.

Wick asked for comments from the public. There were no comments offered.

Burtz made a motion to approve the October 24, 2018 and November 29, 2018 minutes. Roe seconded the motion. **MOTION PASSED** by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes.

Lesselyoung reported fiscal year-end figures as of June 29, 2018: revenue of \$53,790.37, expenditures of \$40,490.24 and cash on hand of \$294,052.85 and year to date figures as of December 31, 2018: revenue of \$8,427.51, expenditures of \$25,171.03 and cash on hand of \$277,309.33. Burtz moved to accept the financials as presented. Wilds seconded the motion.
MOTION PASSED by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes.

Wick advised he has been in contact with Bill Van Camp and he has signed the contract as presented. Due to time constraints, he is not able to re-copyright the Land Title Guide/Addendum. Discussion was held regarding legal counsel available to do to the copyright work. Mulder will talk to the Office of Risk Management for legal counsel on contract with the State.

Roe made a motion to enter executive session at 2:14 p.m. pursuant to SDCL 1-25-2. Burtz seconded the motion. **MOTION PASSED** by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes. Roe made a motion to exit executive session at 2:19 p.m. Burtz seconded the motion. **MOTION PASSED** by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes.

Burtz made a motion to renew the Executive Secretary Contract with Carol Tellinghuisen of Professional Licensing with a state cost of living increase if implemented. Roe seconded the motion. **MOTION PASSED** by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes.

Mulder advised the Department of Labor has been charged with reviewing all licensure boards for reduction and elimination of unnecessary barriers to licensure. HB1111 will require Boards to issue a license within 30 days of a completed application. She advised the Board will need to amend the administrative rules to be in compliance with HB1111. Following discussion, it was agreed to have all members review the current administrative rules and send suggested changes to the Board office. The Board office will draft rules for review and forward to Mulder.

Wick and Roe advised they had been contacted regarding an owner of a title plant that was now the Register of Deeds in that county. There were concerns regarding a potential conflict of interest. Mulder advised Wick and Roe to reach out and direct any questions to the County for a County Code of Conduct.

The next meeting date is set in conjunction with the South Dakota Land Title Association in Aberdeen. Testing will start at 12:00 p.m. CDT on June 12, 2019. The business meeting is set for June 13, 2019 at 4:00 p.m. CDT.

Burtz made a motion to adjourn. Wilds seconded the motion. **MOTION PASSED** by roll call vote. Wick, yes; Wilds, yes; Roe, yes; Burtz, yes. The meeting adjourned at 3:05 p.m.

Respectfully submitted,

Carol Tellinghuisen
Executive Secretary
Abstracters Board of Examiners

Meeting Minutes
SOUTH DAKOTA ABSTRACTERS BOARD OF EXAMINERS
South Dakota Department of Labor and Regulation
123 W Missouri Ave., Pierre, SD
February 13, 2019 at 8:00 a.m. CST

Meeting called to order at 8:00 a.m. by President Greg Wick, Rapid City, SD.

Members Present: President Wick noted Board members in attendance as Board members Yvon Burtz of Winner, SD; Dan Roe of Spearfish, SD.

Members Absent: Victoria Wilds of Canton, SD and Kara Semmler, Lay Board member from Pierre, SD.

At 8:03 a.m. President Wick asked for a motion to adjourn to executive session to conduct abstracter licensing examinations. 9 applicants were present. Roe made a motion to adjourn to executive session. Burtz seconded the motion. **MOTION PASSED.**

At 12:45 p.m. President Wick called for a motion to re-convene the meeting from executive session upon completion of examinations. Roe made a motion to re-convene from executive session. Burtz seconded the motion. **MOTION PASSED.**

With no other matters before the Board, Roe made a motion to adjourn the meeting. Burtz seconded. **MOTION PASSED.** Meeting adjourned at 12:45 p.m.

/s/ Greg Wick, President

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 04/30/2019

PAGE

30

AGENCY	10	LABOR & REGULATION			
BUDGET UNIT	1038	ABSTRACTERS BD OF EXAMINERS			
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503				
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS				
1038000698	6503	4596001	EDUCATIONAL MATERIAL-NHA	950.00	7,653.66
ACCT:	4596			950.00	7,653.66 *
ACCT:	45		CHARGES FOR SALES & SERVICES	950.00	7,653.66 **
1038000698	6503	4920045	NONOPERATING REVENUES	.00	3,623.85
ACCT:	4920		NONOPERATING REVENUE	.00	3,623.85 *
ACCT:	49		OTHER REVENUE	.00	3,623.85 **
CNTR:	1038000698			950.00	11,277.51 ***
COMP:	6503			950.00	11,277.51 ****
B UNIT:	1038			950.00	11,277.51 *****

BA0215V1 05/04/2019

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 04/30/2019

PAGE

414

AGENCY BUDGET UNIT CENTER-5	10 10380	LABOR & REGULATION ABSTRACTERS BD OF EXAMINERS ABSTRACTERS BOARD OF EXAMINERS				
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE	
COMPANY NO	6503		PROFESSIONAL & LICENSING BOARDS			
COMPANY NAME	6503		PROFESSIONAL & LICENSING BOARDS			
1038000698	6503	51010100	F-T EMP SAL & WAGES	144.39	1,249.46	
1038000698	6503	51010300	BOARD & COMM MBRS FEES	.00	1,800.00	
ACCT: 5101			EMPLOYEE SALARIES	144.39	3,049.46	*
1038000698	6503	51020100	OASI-EMPLOYER'S SHARE	10.88	233.31	
1038000698	6503	51020200	RETIREMENT-ER SHARE	8.66	74.92	
1038000698	6503	51020600	HEALTH/LIFE INS.-ER SHARE	16.43	138.80	
1038000698	6503	51020800	WORKER'S COMPENSATION	.30	2.53	
1038000698	6503	51020900	UNEMPLOYMENT COMPENSATION	.05	.34	
ACCT: 5102			EMPLOYEE BENEFITS	36.32	449.90	*
ACCT: 51			PERSONAL SERVICES	180.71	3,499.36	**
1038000698	6503	52030300	AUTO-PRIV (IN-ST.) H/RTE	.00	1,617.84	
1038000698	6503	52031000	LODGING/IN-STATE	.00	718.78	
1038000698	6503	52031400	TAXABLE MEALS/IN-STATE	.00	22.00	
1038000698	6503	52031500	NON-TAXABLE MEALS/IN-ST	.00	395.00	
ACCT: 5203			TRAVEL	.00	2,753.62	*
1038000698	6503	52040900	MANAGEMENT CONSULTANT	2,229.68	23,836.94	
1038000698	6503	52042000	CENTRAL SERVICES	137.05	1,581.54	
1038000698	6503	52044900	RENTS-PRIVATE OWNED PROP.	100.00	1,000.00	
1038000698	6503	52045300	TELECOMMUNICATIONS SVCS	16.00	16.00	
1038000698	6503	52045800	TRUCK-DRAVAGE & FREIGHT	56.12	56.12	
1038000698	6503	52049600	OTHER CONTRACTUAL SERVICE	65.98	479.03	
ACCT: 5204			CONTRACTUAL SERVICES	2,604.83	26,969.63	*
1038000698	6503	52050280	OFFICE SUPPLIES	.00	21.48	
ACCT: 5205			SUPPLIES & MATERIALS	.00	21.48	*
1038000698	6503	5228000	OPER TRANS OUT -NON BUDGT	40.90	5,129.06	
ACCT: 5228			NONOP EXP/NONBGTD OP TR	40.90	5,129.06	*
ACCT: 52			OPERATING EXPENSES	2,645.73	34,873.79	**
COMP: 6503			PROFESSIONAL & LICENSING BOARDS	2,826.44	38,373.15	***
CENTER: 1038000698				2,826.44	38,373.15	***
B UNIT: 1038				2,826.44	38,373.15	****

AGENCY: 10 LABOR & REGULATION
BUDGET UNIT: 1038 ABSTRACTERS BD OF EXAMINERS

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	1038000698	1140000	267,013.33	DR	ABSTRACTERS BOARD OF EXAMINERS
COMPANY/SOURCE TOTAL			267,013.33	DR *	
COMP/BUDG UNIT TOTAL			267,013.33	DR **	
BUDGET UNIT TOTAL			267,013.33	DR ***	

2019 House Bill 1111 - Enrolled

AN ACT

ENTITLED, An Act to provide for professional or occupational licensure for certain active duty military personnel and spouses.

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

Section 1. That § 36-1B-1 be amended to read:

36-1B-1. Notwithstanding any other provision in law and unless an applicant is found by the board to have engaged in any act that may constitute grounds for disciplinary action, any licensing body under the provisions of this title shall, within thirty days of receiving a completed application, issue a license, certificate, registration, or permit required for the practice of any business, profession, or occupation in South Dakota to an applicant whose application has been deemed completed by the board and:

- (1) Who holds in good standing the same or similar valid license, certificate, registration, or permit required for the practice of any business, profession, or occupation issued by another state or the District of Columbia;
- (2) Who is an active duty member of the armed forces of the United States or the spouse of an active duty member of the armed forces of the United States; and
- (3) Who is the subject of a military transfer to South Dakota.

An application is considered complete once the applicable licensing board has received all required documentation necessary to process the application.

If a licensing body denies the issuance of a license, certificate, registration, or permit to an applicant pursuant to this section, the licensing body shall report the denial and the reasons for the denial to the Department of Labor and Regulation.

Section 2. That chapter 36-1B be amended by adding a NEW SECTION to read:

Any license, certificate, registration, or permit issued pursuant to § 36-1B-1 may be renewed until any of the following events occur:

- (1) Active duty orders transfer the applicant out of South Dakota;
- (2) The applicant no longer holds in good standing the same or similar valid license, certificate, registration, or permit required for the practice of any business, profession, or occupation issued by another state or the District of Columbia;
- (3) The applicant fails to adhere to the requirements of the applicable South Dakota licensing body to maintain license, certificate, registration, or permit; or
- (4) The full-time active duty status of the member of the armed forces stationed in South Dakota is terminated.

Section 3. That § 36-1B-4 be amended to read:

36-1B-4. No licensing body under this title may charge an application fee or any other fee payable to the licensing body for a license, certificate, registration, or permit issued pursuant to § 36-1B-1. For the purposes of this section, the term, permit, does not include any permit referenced in this title that is required to perform installation work subject to inspection.

Section 4. That § 36-1B-5 be amended to read:

36-1B-5. Each licensing body under the provisions of this title may promulgate rules pursuant to chapter 1-26 to establish procedures to provide for the expedited issuance of a license, certificate, registration, or permit pursuant to § 36-1B-1.

Section 5. That § 36-1B-2 be repealed.

Section 6. That § 36-1B-3 be repealed.

Section 7. That § 13-42-67 be amended to read:

13-42-67. Unless there is cause to refuse to issue the certificate pursuant to §§ 13-42-7 to 13-42-10, inclusive, the secretary shall, within thirty days of receiving a completed application, issue a teaching certificate to an applicant whose application has been deemed completed by the Department

of Education and:

- (1) Who holds in good standing a valid certificate issued by another state or the District of Columbia;
- (2) Who is an active duty member of the armed forces of the United States or the spouse of an active duty member of the armed forces of the United States; and
- (3) Who is the subject of a military transfer to South Dakota.

An application is considered complete once the department has received all required documentation necessary to process the application. No applicant for a certificate issued pursuant to this section is required to pay an application fee or any other fee payable to the department.

If the secretary denies the issuance of a certificate to an applicant pursuant to this section, the secretary shall report the denial and the reasons for the denial to the Department of Labor and Regulation.

Section 8. That § 13-42-69 be amended to read:

13-42-69. Any certificate issued pursuant to § 13-42-67 shall be limited for a period not to exceed the applicant's length of tour during the time the holder of the certificate continues to meet the eligibility requirements of § 13-42-67. Nothing in this section prohibits the secretary from suspending or revoking the certificate for failure to fulfill the requirements of § 13-42-67.

Section 9. That chapter 36-1B be amended by adding a NEW SECTION to read:

Nothing in this Act may be construed to override, supersede, or invalidate any compact or agreement already in place within any profession regulated under titles 13 or 36.

Nothing in this Act prohibits any active duty military member or military spouse from seeking a professional license, certification, registration, or permit as otherwise provided in law for any profession regulated under titles 13 or 36.

An Act to provide for professional or occupational licensure for certain active duty military personnel and spouses.

<p>I certify that the attached Act originated in the HOUSE as Bill No. 1111</p> <p>_____</p> <p style="text-align: right;">Chief Clerk</p>	<p>Received at this Executive Office this _____ day of _____, 20____ at _____ M.</p> <p style="text-align: right;">By _____ for the Governor</p>
<p>_____</p> <p style="text-align: right;">Speaker of the House</p>	<p>The attached Act is hereby approved this _____ day of _____, A.D., 20____</p> <p style="text-align: right;">_____ Governor</p>
<p>Attest:</p> <p>_____</p> <p style="text-align: right;">Chief Clerk</p>	<p>STATE OF SOUTH DAKOTA,</p> <p style="text-align: right;">ss.</p> <p>Office of the Secretary of State</p>
<p>_____</p> <p style="text-align: right;">President of the Senate</p>	<p>Filed _____, 20____ at _____ o'clock ____ M.</p>
<p>Attest:</p> <p>_____</p> <p style="text-align: right;">Secretary of the Senate</p>	<p>_____</p> <p style="text-align: right;">Secretary of State</p>
<p>House Bill No. <u>1111</u></p> <p>File No. _____</p> <p>Chapter No. _____</p>	<p>By _____</p> <p style="text-align: right;">Asst. Secretary of State</p>

ADMINISTRATIVE RULES

of

SOUTH DAKOTA

Cite as ARSD _____

DEPARTMENT OF ~~REVENUE~~ LABOR AND REGULATION

ARTICLE 20:36

ABSTRACTERS

Published by
South Dakota Legislative Research Council

Revised through May 28, 2014

ADMINISTRATIVE RULES**DEPARTMENT OF ~~REVENUE~~ LABOR AND REGULATION**

Article

20:02	Savings and loans, Repealed.
20:04	Gaming commission -- Racing.
20:06	Insurance.
20:07	Banking.
20:08	Securities.
20:18	Gaming commission -- Deadwood gambling.
20:36	Abstracters.
20:69	Real estate brokers and salespersons.
20:74	Home inspectors.
48:01	Instant lottery requirements.
48:02	Video lottery requirements.
48:03	On-line lottery requirements.
61:24	Vehicle dealer licensing.
64:01	Administration.
64:02	Certification of assessing officers.
64:03	Property tax.
64:04	Assessor's handbook.
64:05	Sales ratio.
64:06	Sales tax.
64:07	Contractors' excise tax.
64:09	Use tax.
64:10	Amusement devices.
64:12	Bingo-lottery gaming products.
64:13	Ancillary fee collections.
64:16	Boat registration.
64:17	Mobile/manufactured home registration.

20:36:01:01. Terms defined. Terms used in this article mean:

- (1) "Abstract," a compilation in orderly arrangement of the materials and facts of record affecting the title to a specific piece of land, issued under a certificate certifying to the matters contained in such compilation;
- (2) "Abstracter," a person, firm, or corporation holding a certificate of registration from the Abstracters' Board of Examiners of the state of South Dakota;
- (3) "Abstracting," the abstracting and reporting upon public or other records under the provisions of SDCL 36-13;
- (4) "Board," the Abstracters' Board of Examiners of the state of South Dakota;
- (5) "Plant," the books, records, and indexes required by SDCL 36-13-10 and this article;
- (6) "Seal," the seal of the Abstracters' Board of Examiners or the seal of an abstracter as the context may indicate;
- (7) "Search," the process of examining all relevant records to document the legal owner of the property, including any liens and other claims on the real property, and any type of summary of facts of record affecting the title to a specific piece of land that does not purport to constitute an opinion as to the state of the title. The term does not include a title insurance commitment or policy or information or opinions given;
- (8) "Executive Secretary," the executive secretary of the board; an executive secretary who shall supervise the administrative activities of the board.
- (9) "Secretary-treasurer," the secretary-treasurer of the board.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 34 SDR 73, effective September 17, 2007.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

20:36:01:02. Chain of title. For the purposes of this article, chain of title means:

All documents of conveyance given in a continuous succession of title:

(1) With respect to unplatted lands, the smaller of:

(a) Each quarter section of land; or

(b) If a patent was issued for a portion of quarter section of land, then that portion for which that patent was issued; and

(2) With respect to platted lands, a lot as shown on the last subdivision plat recorded against the property. However, if all documents transferring ownership and given in a continuous succession of title ownership from the present owner back in time to the recording of the subdivision plat combine more than one lot, then those multiple lots included in the documents of conveyance shall be considered one chain;

(3) As used in this section, "lot" means the smallest intact areas into which land has been subdivided by a subdivision plat map, whether denoted a lot, parcel, tract, undivided block, or other similar designation.

Source: 34 SDR 73, effective September 17, 2007.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

20:36:02:02. Office of the board -- Address mail -- Notices and communications to the board. The office of the board shall be at the place established by the secretary-treasurer board of which notice of the same and its address shall be given in writing to the members of the board and publicly announced by them at the annual meeting of the South Dakota land title association and published in its report of such meeting. Mail, notices, and communications to the board shall be addressed to the secretary-treasurer of the board, at the office address established as above set forth, and such secretary-treasurer shall immediately communicate to all members of the board in writing information as to any matter of general concern to the board or on which action of the entire board is required. Any such mail, notice, or communications which may be addressed to and received by any individual member of the board shall be by him immediately communicated to the secretary-treasurer who shall file the same and then communicate it immediately to all members of the board.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

20:36:02:03. Seal, books, records, and documents of the board -- Where kept -- Inspection of -- Certified copies -- How obtained. The seal of the board shall be kept by the executive secretary-treasurer. All books, records, and documents of the board including correspondence shall be kept by the executive secretary-treasurer, in an orderly and systematic system and with a sufficient index, at the office of the board established as by these rules provided. Such books, records, and documents shall be open to public inspection during ordinary business hours of any business day. Certified copies of any of the said books, records, or documents or specified portions of the same may be obtained from the secretary-treasurer upon payment of 15 cents per 100 words for copying and a fee of one dollar for the certificate thereto, and out of which sums the secretary-treasurer shall first pay the cost of copying and proof reading, and the balance shall be deposited with the funds of board and accounted for as such. Such certified copies may be obtained upon written application of any person, firm, or corporation and payment in advance of the authorized charge thereof, as specified by the secretary-treasurer.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-4, 36-13-6.

20:36:02:04. Filing of papers. The ~~executive secretary-treasurer~~ shall file all such books, records, documents, and papers as are required by law or these rules to be filed, or which are of such importance to the operation of the board as to require such filing or which may be requested by any member of the board to be filed, ~~or by any person interested in the matter involved. Such filing shall be made upon receipt of the book, record, or document by the secretary endorsing the same as filed with the board, and the date and signed by the secretary as such; provided, that ordinary correspondence may be filed by stamp and dated without signature of the secretary.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-4, 36-13-6.

20:36:02:05. Meetings of the board -- Regular -- Special -- How called -- Unanimous consent meetings -- Quorum defined and required. The board shall hold one regular annual meeting at the same time and place as the annual meeting of the South Dakota land title association at which meeting the president and secretary-treasurer and a majority of the members of the board shall be present. The board meeting shall continue during the annual meeting of the said South Dakota land title association and the officers and members of the board who are present shall at such meeting elect their own officers, and act upon general affairs of the board, and participate in the meetings of the South Dakota land title association and be available for conferences with its members and committees and with applicants or other persons having business with the board within reasonable limits of the time available and the other duties of the board. ~~If, prior to the first day of December in any year, the South Dakota land title association shall have neither held nor set a date for an annual meeting, then the annual meeting of the board shall be held on the first day of December or the next following business day if such day is a holiday, at such place as the board shall provide in the state capitol building in Pierre, South Dakota, where the board shall proceed the same as hereinbefore specified.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-4, 36-13-6.

20:36:02:06. Special meetings of the board. Special meetings of the board may be held in accordance with SDCL chapter 1-25 ~~at any time or place within the state upon 10 days' advance notice, specifying the time and place and the matters to be acted upon at such meeting. Such meetings may be called either by the president, or the secretary-treasurer, or by any two members of the board joining in the call. The notices shall be given by the officers or members making the call for the meeting and shall be served on all members by first class mail, and proof of such service made by written or oral statement recorded in the minutes of the meeting by the person calling the meeting.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-4, 36-13-6.

20:36:02:07. ~~Unanimous consent meetings of the board.~~ ~~Unanimous consent meetings of the board may be held at any time and place within the state, and the board may act upon any subject within the jurisdiction of the board; provided, such unanimous consent is in writing, specifying the time and place of the meeting and the matters consented to be acted upon, and signed by all members of the board and the secretary-treasurer, and such unanimous consent agreement and all proceedings thereunder are filed and recorded in the permanent records of the board.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-4, 36-13-6.

20:36:02:09. Conduct of meeting. The president, or in his absence the president pro tem, shall preside at all meetings and the executive secretary-treasurer shall keep the minutes thereof. If the executive secretary-treasurer is absent, the members present shall designate one to act as secretary of the meeting, and he shall keep the minutes and sign the same with the presiding officer and file them with the executive secretary-treasurer. Minutes shall be approved by reading, correction if any required, and by motion at a subsequent meeting of the board. If any member present requests the vote of the members on any decision of the board, it shall be taken by yeas and nays and the vote of each member recorded as made by him in the minutes. ~~If any member desires~~

~~to dissent from any action of the board, his dissent and reasons shall, upon his request, be entered in the minutes; provided, the request and reasons are written or signed by such member and filed with the secretary of the meeting before adjournment of the meeting.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

~~**20:36:02:10. Orders and decisions of the board.** All orders and decisions of the board shall be made as provided in SDCL 36-13-30, excepting that orders and decisions for routine matters of the board's administration of its own office and affairs may be made in the form of resolution or motions adopted in a meeting of the board, and recorded in its minutes, but no order or decision of the board shall affect any person other than officers or members of the board unless a certified copy of the same, issued in the name of the board and under its seal, is served upon him in the form and manner required by this article and the law applicable thereto.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented SDCL 36-13-6.

~~**Cross-Reference:** Minutes to be filed with auditor general, SDCL 1-25-3.~~

20:36:03:01. Eligibility. An applicant for registration as an abstracter must be a resident of the state of South Dakota, or an active duty member of the armed forces of the United States or the spouse of an active duty member of the armed forces of the United States and is the subject of a military transfer to South Dakota, and a person of good moral character and careful, temperate habits.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

20:36:03:02. Eligibility to qualify partnership, corporation, and other firm. If the applicant for registration seeks registration for the purpose of qualifying a partnership, corporation, or other permitted firm to engage in abstracting, ~~he~~ the applicant must have the qualifications provided in § 20:36:03:01, and also show by ~~under oath~~ notarized signature either in ~~his~~ the application for registration or by separate document to be filed with the board that ~~he~~ the applicant or some other legally registered abstracter will have personal contact with or responsible supervision of the operations of such partnership, corporation, or firm at all times. No partnership, corporation, or firm not registered prior to the effective date of these rules shall be qualified for registration unless its eligibility is established as herein provided. No partnership subject to SDCL 37-11, the fictitious names statute, shall be qualified until it has complied therewith.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-8, 36-13-11.

20:36:03:03. Examinations of applicant -- Time, place, and fee. The board shall conduct a regular examination each year, either before or immediately following the annual convention of the South Dakota Land Title Association. Other written examinations shall be offered to approved applicants at a the time and place set approved by the board. A fee of \$50 a section shall be charged to each applicant each time the examination is written. A fee of \$25 a section shall be charged to each applicant on any section that is re-taken by an applicant following an initial examination.

Source: SL 1975, ch 16, § 1; 3 SDR 49, effective January 17, 1977; 7 SDR 72, effective February 1, 1981; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 34 SDR 73, effective September 17, 2007.

General Authority: SDCL 36-13-6, 36-13-6.1(1).

Law Implemented: SDCL 36-13-11, 36-13-12.

20:36:03:04. Examinations -- Method of conducting. A ~~majority of the members of the~~ board or a designated representative shall be present at all examinations.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

20:36:03:07. Examination questions kept secret. ~~Prior to any examination the board shall conduct a meeting of which notice shall be given to all members or written consent of members obtained and filed, at which meeting the board shall formulate the written examination questions to be used at such examination. Such~~ Questions, which shall be prepared by the board, shall be held secret at all times by all members of the board except when same are distributed to the applicants at the examinations and shall not be publicly released except by official action of the board. The board shall vary its questions from time to time in such manner as may seem advisable to conduct examinations in the most effective and impartial manner.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6.

20:36:03:08. Grading of examination. The examination papers of applicants shall be graded on the scale of percentage, 100 percent being considered perfect and a percentage of 80 being required for passing approval. If an applicant shall fail in any section the board may establish his credits on the sections in which he passed and permit him to be examined only on the sections in which he failed, at any regular or special examination held within one year thereafter.

Source: SL 1975, ch 16, § 1; 3 SDR 49, effective January 17, 1977; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6, 36-13-12.

20:36:03:09. Examination grades sent to each applicant. The board shall complete its grading of the examination papers of all applicants within three-eight weeks of the date of examination and send notice by certified mail -- return receipt requested to each applicant at any post office address specified in writing to the board for such purpose by the applicant. The notice of

the board as to the result of the examination shall specify to each applicant the grade made by him in each section which he wrote for the examination, and also the percentage attained by him as determined by the board on his oral examination.

Source: SL 1975, ch 16, § 1; 3 SDR 49, effective January 17, 1977; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-12.

Law Implemented: SDCL 36-13-12.

20:36:04:01. General requirements for books, records, and indexes. Before any person is entitled to a certificate of registration to engage in abstracting under the laws of South Dakota, the person shall have an approved abstract plant containing the following:

(1) A complete index showing every instrument recorded in the register of deeds office in the county wherein the person proposes to operate, properly listed against the specific property which it affects, ~~and~~ also a separate miscellaneous index showing all recorded instruments which do not affect specific property, ~~And, a general index~~ showing all county aid, state, and federal tax liens as recorded in the Register of Deeds Office in the county wherein the person proposes to operate, ~~and in addition to~~ all unsatisfied judgments as filed with the South Dakota Unified Judicial System in the county wherein the person proposes to operate. ~~This~~ Each index may be compiled on cards, in bound books, in electronic form, or a loose leaf form, but must be made from an actual check of each page of each book of recorded instruments in said office, and in no case will a copy or film of the numerical index in the Register of Deeds ~~register's~~ Office be accepted;

(2) If a numerical index is used showing only the book and page of each instrument, then such index must be supplemented by a take-off of each instrument properly arranged in the abstract plant so that it can be located from the person's own numerical index. Such take-off shall be sufficiently complete to show all essential parts of each instrument, such names, dates, descriptions, acknowledgments, filings, and any special or unusual recitals, covenants, warranties, exceptions, or reservations. Such take-off may be made on cards on loose leaf form or in bound books or film or any other archivable form as approved by the board;

(3) If the form of index is a card, a loose leaf sheet, an electronic form, or the page of a bound book showing all instruments affecting a particular piece of farm land, or town lot or block, then such index must be in such form as to show all names, dates, acknowledgments, seals, and filings, and also a column to show any special or unusual recitals in each instrument.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 34 SDR 73, effective September 17, 2007.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:04:01.01. Penalty for failure to comply with § 20:36:04:01. The ~~penalty for~~ failure to comply with § 20:36:04:01 is suspension or denial of a certificate of registration until such time as compliance is demonstrated.

Source: 7 SDR 72, effective February 1, 1981; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:04:04. Examination of new and purchased plants. Before any person begins assembly of an abstract plant for the purpose of qualifying for a certificate or registration the person shall contact the board. The board shall advise as to procedure and observe the methods used during the construction of the plant. Whenever any person has completed assembly of an abstract plant or intends to purchase an already registered plant the person shall notify the board in writing that such plant is ready for examination and state the place at which it may be examined. The executive secretary-treasurer shall immediately communicate its contents to all members of the board and the board shall fix a date for examination of such plant, said examination to be held within 60 days of notification, and notify the applicant thereof. The examination may be conducted by one or more members of the board as may be ordered by the board and such member or members shall then make their examinations and report within 60 days after date of such order. During such period different examinations may be made at different times by the member or members of the board and the applicant shall cooperate with them fully in showing the condition of the plant and explaining

anything required of the applicant in connection with it and the applicant shall also afford the member or members full opportunity to examine such plant privately and without the applicant's presence if they or any of them so desire. After the member or members of the board have completed their examination of the plant they shall make a joint report or individual reports in writing to the board together with their recommendations and the same shall be filed with and become an official record of the board. The board shall then make its official decisions as to the sufficiency of the plant, and file the same in the office of the board and a copy of the report and the decision shall then be sent by certified mail -- return receipt requested to the address of the plant at the place where the same was located at time of examination thereof. If the decision of the board is to the effect that certain corrections or additions, or both to the plant are necessary, the decisions shall specify the same and may in the discretion of the board, fix additional time within which the applicant may make the same and notify the board and the board shall then examine the plant and make its decision as hereinbefore provided.

Source: SL 1975, ch 16, § 1; 3 SDR 49, effective January 17, 1976; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 34 SDR 73, effective September 17, 2007.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:04:04.03. Grading of plant examination. Plants shall be graded on the scale of percentage, 100 being considered perfect and 80 being required for approval. If the plant fails in any of the areas set forth in § 20:36:04:04.01, the board may establish the plant's sufficiency in the areas in which it passed and permit it to be reexamined only in the areas in which it failed.

When grading areas in subdivisions 20:36:04:04.01(1) and (2), the board shall use the following criteria: If there are any discrepancies between the indexes in the plant and those in the office of the register of deeds or another registered plant in the county, the board shall check the recorded instruments in question to see whether the error or discrepancy is in the office of the register of deeds or in the plant. If an error is found in the chain from the plant being examined, it will result in a reduction in the credit given ~~failure~~ for that chain. If a chain from the plant being examined shows an instrument properly posted which is not shown on the chain from the office of the register

of deeds, additional credit will be given to the plant which will be used to offset a ~~chain failure~~ reduction in the credit given for that chain.

Source: 3 SDR 49, effective January 17, 1976; 6 SDR 11, effective August 14, 1979; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:04:04. Fee for plant examination. An examination fee of \$500 shall be charged for each examination of new and purchased plants for the purpose of qualifying for a certificate of registration. The fee shall be payable to the ~~treasurer of the~~ board when application is made for a certificate of registration.

Source: 7 SDR 72, effective February 1, 1981; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 34 SDR 73, effective September 17, 2007.

General Authority: SDCL 36-13-6, 36-13-6.1(2).

Law Implemented: SDCL 36-13-10, 36-13-11.

20:36:04:05. Examination for upkeep and maintenance of existing plants. The board may, upon its own election, not oftener than once each year, or at any time whenever a sworn complaint is deemed by the board sufficient for the purpose is filed with it, examine or reexamine any existing abstract plant for the purpose of ascertaining whether or not it is being kept current and maintained in accordance with the laws of South Dakota and rules and regulations made pursuant thereto. In such cases the board shall ~~by order entered in its minutes~~ fix a time and place for such examination and the method thereof and notify the person, firm, or corporation in charge of said examination. At least 10 days' notice shall be given such person in any of such cases and if the examination is being made pursuant to a sworn complaint a copy of the same shall be furnished to the applicant with the notice. Thereafter the board shall make its examination to whatever extent it deems advisable and the persons in charge of said plant shall cooperate with the board for such purpose as hereinbefore provided in these rules. The decision of the board shall be made and served upon the persons in charge of the plant in accordance with the provisions of SDCL 36-13-30.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:04:06. Examinations upon request -- When made -- Fees and expense. Any person, firm, or corporation in charge of an abstract plant which has theretofore been approved for operation by the board may file with the board a written request for a reexamination thereof, stating the reasons for requesting such examination and the board shall then grant such request upon condition that the applicant pay in advance the per diem and expense of the members of the board required to make such examination. ~~In its order fixing the time and place for such examination, the board shall specify the amount of per diem and expense required by it to be advanced for the purpose and notify the applicant to deposit the same with the secretary-treasurer of the board. If the amount specified by the board proves to be more than was necessary for the purpose after the examination is completed, the board shall refund the overpayment to the applicant. No person, firm, or corporation shall be entitled to such examination oftener than once each year.~~

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:04:07. Certificate of qualification of plant. Whenever the board has examined or reexamined any abstract plant after the effective date of these rules and regulations and has approved such plant, it shall issue and deliver to the person in charge of such plant by registered mail to the business address of the plant, person, firm, or corporation as registered with the board a certificate in appropriate form for public display, signed by the president ~~all~~, if all concur, or a majority of the members of the board and attested by the secretary-treasurer under the seal of the board, whether ~~he~~ the secretary-treasurer agrees or not to the decision, and which certificate shall state among other things the date to which the plant was found to be complete, the date of the examination, the date of issue of the certificate, and such other matters as to the board shall seem advisable to establish the legal qualification of the plant.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-10.

20:36:05:05. Complaint filed with board. The original resolution or complaint as the case may be shall be filed with the executive ~~secretary-treasurer~~ and remain a permanent record of the board, and a note of its filing shall be made in the journal or minutes of the board. The executive ~~secretary-treasurer~~ shall immediately submit the same to the board unless the charges shall, after consideration by the board, be dismissed as trivial or not within the jurisdiction of the board without a hearing, they shall be heard and determined by the board within 90 days after their filing with the executive ~~secretary-treasurer~~. The board shall fix a time and place within the county in which the person, firm, or corporation charged shall be engaged in business of abstracting, when and where the hearing on the charge shall be conducted.

Source: SL 1975, ch 16, § 1; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-13-6.

Law Implemented: SDCL 36-13-6, 36-13-10.