

# State of South Dakota

SEVENTY-SECOND SESSION  
LEGISLATIVE ASSEMBLY, 1997

483A0681

## SENATE BILL NO. 230

Introduced by: Senators Lange, Aker, Dennert, Dunn (Rebecca), Everist, Flowers, Hainje, Hunhoff, Hutmacher, Kloucek, Morford-Burg, Munson (David), Reedy, Staggers, and Thompson and Representatives Peterson (Bill), Barker, Belatti, Chicoine, Haley, Koetzle, Lucas, Madden, McNenny, Moore, Napoli, Rost, Schaunaman, Weber, and Windhorst

1 FOR AN ACT ENTITLED, An Act to provide for a refund of taxes attributed to the  
2 construction of new or existing residential housing.

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

4 Section 1. Terms used in this chapter mean:

5 (1) "Department," the Department of Revenue;

6 (2) "New or existing residential housing," new residential housing or realty improvement  
7 or addition to existing residential housing, the construction of which is subject to  
8 contractors' excise tax pursuant to chapter 10-46A;

9 (3) "Project," the construction of new or addition to existing residential housing at a  
10 single site;

11 (4) "Project cost," the amount paid in money, credits, property, or other money's worth  
12 for a project;

13 (5) "Secretary," the secretary of the Department of Revenue.

14 Section 2. Any person may apply for and obtain a refund or credit for contractors' excise

1 taxes imposed and paid under the provisions of chapter 10-46A for the construction of new or  
2 additions to residential housing.

3 Section 3. The refund pertains only to project costs incurred and paid after July 1, 1997. The  
4 refund pertains only to project costs that were incurred and paid within twenty-four months of  
5 the approval of the application required by section 5 of this Act. No refund may be made unless  
6 the person applying for the refund obtains a permit from the secretary as set forth in section 5  
7 of this Act.

8 Section 4. The amount of the tax refund shall be one hundred percent of the contractor's  
9 excise taxes attributed to the project cost. The total project costs eligible for a tax refund  
10 pursuant to this Act may be for an amount not to exceed one hundred thousand dollars for each  
11 project.

12 Section 5. Any person desiring to claim a refund pursuant to section 2 of this Act shall apply  
13 for a permit from the secretary at least thirty days prior to commencement of the project. The  
14 application for a permit shall be submitted on a form prescribed by the secretary. A separate  
15 application shall be made and submitted for each project. Upon approval of the application, the  
16 secretary shall issue a permit entitling the applicant to submit refund claims as provided by  
17 section 6 and section 7 of this Act. Such permit or refund claims are not assignable or  
18 transferable except as collateral or security pursuant to chapter 57A-9.

19 Section 6. Any claim for refund shall be submitted on forms prescribed by the secretary and  
20 shall be supported by such documentation as the secretary may require. The secretary may deny  
21 any claim where the claimant has failed to provide information or documentation requested or  
22 considered necessary by the secretary to determine the validity of the claim.

23 Section 7. Any claim for refund shall be submitted to the department on or before the last day  
24 of the month following each quarterly period. The secretary shall determine the amount of the  
25 tax refund. Ninety percent of the amount of refund shall be paid to the claimant in accordance

1 with §§ 10-59-22 and 10-59-23, and ten percent shall be withheld by the department.

2 Section 8. The amounts withheld by the department in accordance with section 7 of this Act  
3 shall be retained until the project has been completed and the claimant has met all the conditions  
4 of section 3 of this Act, at which time all sums retained shall be paid to claimant.

5 Section 9. If any claim has been fraudulently presented or supported as to any item in the  
6 claim, or if the claimant fails to meet all the conditions of section 3 of this Act, then such claim  
7 may be rejected in its entirety and all sums previously refunded to the claimant shall constitute  
8 a debt to the state and a lien in favor of the state upon all property and rights to property whether  
9 real or personal belonging to the claimant and may be recovered in an action of debt.

10 Section 10. Any person aggrieved by the denial in whole or in part of a refund claimed under  
11 this chapter may, within thirty days after service of the notice of such denial by the secretary,  
12 demand and is entitled to a hearing, upon notice, before the secretary. The hearing shall be  
13 conducted pursuant to chapter 1-26.

14 Section 11. The secretary shall promulgate rules, pursuant to chapter 1-26, concerning the  
15 procedures for filing refund claims and the requirements necessary to qualify for a refund.