

# State of South Dakota

SEVENTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 1998

825B0016

## HOUSE BILL NO. 1016

Introduced by: Representatives McNenny, Apa, Davis, Kooistra, Madden, Monroe, Napoli, and Van Gerpen and Senators Lange, Paisley, Shoener, and Vitter at the request of the Interim Taxation Study Committee

1 FOR AN ACT ENTITLED, An Act to provide for a discretionary assessment of certain  
2 nonagricultural property and to defer the payment of certain property taxes.

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

4 Section 1. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
5 follows:

6 The board of county commissioners may create a neighborhood tax assessment district for  
7 nonagricultural property classified pursuant to § 10-6-31 if there is evidence that unique and  
8 special circumstances exist causing the market value of the property to be twenty percent more  
9 than the value of the property if the income or cost approach is used to determine the value.  
10 If a neighborhood tax assessment district is created, the board of county commissioners shall  
11 require the director of equalization to separately assess the property using the market approach.  
12 The assessed value determined by the income or cost approach shall be used as the taxable value  
13 for the property. The assessed value determined by the market approach shall be used as the  
14 deferred taxable value for the property to determine the amount of deferred taxes due on the  
15 property when it is sold.

1 Section 2. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
2 follows:

3 The assessment procedure in section 1 of this Act may be applied to nonagricultural property  
4 if the owner of the property has owned, in fee or by contract to purchase, for at least three years.  
5 The owner of the property in a neighborhood established pursuant to section 1 of this Act shall  
6 apply by September first to the director of equalization to have the owner's property assessed and  
7 taxed pursuant to this Act.

8 Section 3. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
9 follows:

10 Capacity of the property to produce income shall be based on actual income for the five-year  
11 period immediately preceding the tax year in issue. In determining the capacity to produce  
12 income, the director of equalization or the county board of equalization may take into  
13 consideration the income produced from and value of similar property in other areas in the  
14 county.

15 Section 4. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 The director of equalization shall assess the property using the market approach to determine  
18 the deferred taxable value. The assessor shall maintain a record of the deferred taxable value until  
19 the property is sold or use is changed. After the property is sold the director of equalization shall  
20 provide the deferred taxable value for the previous five years to determine the amount of the  
21 deferred taxes due. The property tax levies for the previous five years shall be applied to the  
22 market value to calculate the total amount of property tax due during that period. The owner  
23 shall receive credit for the property taxes paid based on the income or cost approach during that  
24 five-year period. The owner of the property during the property tax deferment shall pay the  
25 amount of deferred property taxes upon the sale of the property to the county treasurer. The

1 deferred property taxes are not payable if the owner sells or conveys the property to a person  
2 related to the owner by blood, marriage, or adoption, the property passes to a person related to  
3 the decedent by blood, marriage, or adoption by will or intestacy, or a corporation transfers or  
4 passes the property to a principal shareholder.

5 Section 5. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 Property taxes which the county defers pursuant to this Act shall become a lien on the  
8 property for which the taxes are deferred. The county shall file a copy of the lien with the register  
9 of deeds. No property on which the county deferred payment of property taxes may be  
10 transferred unless the property taxes are paid in full.

11 Section 6. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
12 follows:

13 The owner of the property may appeal the taxable value and the deferred taxable value of the  
14 property in the same manner as other property values are appealed.

15 Section 7. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
16 follows:

17 The secretary of revenue may enter into contracts for the collection of rent and income  
18 information by county for nonagricultural property. The secretary of revenue may promulgate  
19 rules pursuant to chapter 1-26 concerning the:

- 20 (1) Collection and analyzation of rent and income information;
- 21 (2) Definition of comparable property pursuant to this Act;
- 22 (3) Procedure to determine and record the deferred taxable value of property; and
- 23 (4) Application and collection of the deferred taxes.

24 Section 8. That chapter 10-6 be amended by adding thereto a NEW SECTION to read as  
25 follows:

1        Any revenue received by the county from the payment of deferred property taxes shall be  
2        offset by a corresponding decrease in revenue payable from taxes on real property that the  
3        county levies for its next budget. The county may include the amount in the budget from the  
4        payment of deferred property taxes pursuant to section 4 of this Act to calculate the amount of  
5        revenue payable from taxes on real property in the following year.