

# State of South Dakota

SEVENTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2004

663J0336

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **SB 86** - 02/12/2004

Introduced by: Senators Symens, Dempster, Ham-Burr, Koskan, and Moore and  
Representatives Hanson, Pederson (Gordon), Sebert, and Sigdestad

1 FOR AN ACT ENTITLED, An Act to revise the requirements for determining whether  
2 dwellings are eligible to be classified as owner-occupied single-family dwellings and to  
3 repeal certain outdated provisions concerning the property tax relief program.

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

5 Section 1. That § 10-13-40 be amended to read as follows:

6 10-13-40. To be eligible for a property classification pursuant to § 10-13-39, the owner of  
7 each owner-occupied dwelling, as defined in § 10-13-39, shall submit a certificate to the county  
8 director of equalization stating such person is the owner and occupant of the dwelling as of the  
9 assessment date pursuant to § 10-6-2 and that the dwelling is the owner's principal residence.  
10 For purposes of this section, principal residence is the residence occupied by the owner for more  
11 than half of the year. If the owner occupies two or more dwellings during an assessment year,  
12 the owner shall provide the location of any other dwelling that the owner occupies when  
13 submitting the certificate. The director of equalization may request appropriate documentation  
14 from the owner when making the determination of eligibility. Any person may submit  
15 information to the director of equalization that contests whether a dwelling is eligible to be



1 classified as an owner-occupied single-family dwelling. The director of equalization shall  
2 review such information and make a determination of eligibility. The owner shall state on the  
3 certificate the portion of the dwelling so occupied by the owner if it is less than fifty percent of  
4 the dwelling or if the dwelling is a duplex, triplex, or fourplex. The owner-occupant shall submit  
5 the certificate by March fifteenth. The owner of each manufactured or mobile home as defined  
6 in § 32-3-1, shall submit a certificate to the county director of equalization stating such person  
7 is the owner and occupant of the dwelling as of the assessment date. The owner-occupant of  
8 each manufactured or mobile home shall submit the certificate during the time of registration  
9 pursuant to §§ 10-9-3 to 10-9-4, inclusive. If the owner-occupant of a manufactured or mobile  
10 home fails to submit the certificate by the date or time frame required pursuant to §§ 10-9-3 to  
11 10-9-4, inclusive, it does not affect the eligibility of the property to be classified as an  
12 owner-occupied dwelling. The owner-occupant shall sign the certificate under penalty of  
13 perjury. If the director of equalization classifies the property, mobile home, or manufactured  
14 home as owner-occupied single-family dwelling, it shall retain the classification until such time  
15 as the property ownership is transferred or the property has a change in use. The new  
16 owner-occupant of transferred property which is already classified as owner-occupied may meet  
17 the requirements of this section by completing and filing the certificate of value required  
18 pursuant to § 7-9-7 at the time of the transfer of the property. If the legal description of property  
19 is changed or amended and the owner continues to reside in the dwelling that is classified as a  
20 owner-occupied single-family dwelling, the owner shall retain the owner-occupied single-family  
21 dwelling classification. The Department of Revenue and Regulation shall prescribe the form of  
22 the certificate and the certificate of value required pursuant to § 7-9-7. Appeals regarding the  
23 owner-occupied classification shall be made directly to the county board of equalization  
24 pursuant to § 10-11-23.

1 Section 2. For the 2005 assessment year, the director of equalization in each county shall  
2 review all properties classified as owner-occupied to determine that the property is the owner's  
3 principal residence.

4 Section 3. That § 10-13-40.1 be repealed.

5 ~~10-13-40.1. Any person who physically delivered a certificate before August 1, 1995, to the~~  
6 ~~county director of equalization or other county office located within the county courthouse~~  
7 ~~stating such person was the owner and occupant of the dwelling as of July first of that year, and~~  
8 ~~if such application was subsequently lost at the courthouse, the person may submit an affidavit~~  
9 ~~under oath identifying the person who physically delivered the certificate and the specific~~  
10 ~~location of delivery as well as the individual who received the certificate, either by name or~~  
11 ~~physical description, and further affirming the following:~~

12 ~~(1) That a certificate was physically delivered to the county director of equalization or~~  
13 ~~other county officer located within the county courthouse before August 1, 1995;~~

14 ~~(2) That the certificate was subsequently lost at the courthouse; and~~

15 ~~(3) That the person meets the requirements defined in § 10-13-40:~~

16 ~~The owner-occupant shall submit the affidavit before April 1, 1996. Each owner-occupied~~  
17 ~~dwelling shall be reviewed and classified for the purpose of taxation in the same manner as the~~  
18 ~~certifications for owner-occupied dwellings submitted before August first to be eligible for the~~  
19 ~~property tax credit to be received in calendar year 1996. Any person who makes a false~~  
20 ~~statement in the affidavit is guilty of perjury and subject to a felony conviction pursuant to~~  
21 ~~§ 22-29-5.~~

22 Section 4. That § 10-13-40.2 be repealed.

23 ~~10-13-40.2. The county auditor shall submit a list to the Department of Revenue and~~  
24 ~~Regulation of the owner-occupied dwellings that are classified pursuant to § 10-13-40.1 to be~~

1 eligible for the property tax credit. The Department of Revenue and Regulation shall refund the  
2 property tax credit to the owner-occupant after November 1, 1996, upon confirmation from the  
3 county auditor or county treasurer that the owner-occupant has paid the property taxes in full  
4 for the dwelling.

5 Section 5. That § 10-13-41 be repealed.

6 ~~10-13-41. An owner of agricultural property shall receive a twenty percent credit toward the~~  
7 ~~property taxes payable in 1996, excluding special assessments payable in 1996. For the purposes~~  
8 ~~of this section, agricultural property includes agricultural structures located on agricultural land.~~