

State of South Dakota

SEVENTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2004

663J0336

SENATE BILL NO. 86

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3 repeal certain outdated provisions concerning the property tax relief program.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 After July 1, 2004, if the owner occupies two or more dwellings during an assessment year, the
11 owner shall provide the location of any other dwelling that the owner occupies when submitting
12 the certificate. If any dwelling that owner occupies during an assessment year is in another state
13 or country, the owner may submit a driver license as prima facie evidence that the dwelling
14 located in South Dakota may be the owner's principal residence. The director of equalization
15 may request additional documentation from the owner when making the determination of



1 eligibility. Any person may submit information to the director of equalization that contests
2 whether a dwelling is eligible to be classified as an owner-occupied single-family dwelling. The
3 director of equalization shall review such information and make a determination of eligibility.

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

1 to the county board of equalization pursuant to § 10-11-23.

2 Section 2. That § 10-13-40.1 be repealed.

3 ~~—10-13-40.1. Any person who physically delivered a certificate before August 1, 1995, to the~~
4 ~~county director of equalization or other county office located within the county courthouse~~
5 ~~stating such person was the owner and occupant of the dwelling as of July first of that year, and~~
6 ~~if such application was subsequently lost at the courthouse, the person may submit an affidavit~~
7 ~~under oath identifying the person who physically delivered the certificate and the specific~~
8 ~~location of delivery as well as the individual who received the certificate, either by name or~~
9 ~~physical description, and further affirming the following:~~

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

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

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

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

20 Section 3. That § 10-13-40.2 be repealed.

21 ~~—10-13-40.2. The county auditor shall submit a list to the Department of Revenue and~~
22 ~~Regulation of the owner-occupied dwellings that are classified pursuant to § 10-13-40.1 to be~~
23 ~~eligible for the property tax credit. The Department of Revenue and Regulation shall refund the~~
24 ~~property tax credit to the owner-occupant after November 1, 1996, upon confirmation from the~~

1 ~~county auditor or county treasurer that the owner-occupant has paid the property taxes in full~~
2 ~~for the dwelling.~~

3 Section 4. That § 10-13-41 be repealed.

4 ~~— 10-13-41. An owner of agricultural property shall receive a twenty percent credit toward the~~
5 ~~property taxes payable in 1996, excluding special assessments payable in 1996. For the purposes~~
6 ~~of this section, agricultural property includes agricultural structures located on agricultural land.~~