

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

393M0363

HOUSE BILL NO. 1229

Introduced by: Representatives Novstrup, Cutler, Dennert, Elliott, Jensen, McLaughlin, and Weems and Senators Gray and Greenfield

1 FOR AN ACT ENTITLED, An Act to revise the classification of certain real property used for
2 residential purposes.

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

4 Section 1. That § 10-13-39 be amended to read as follows:

5 10-13-39. Each ~~owner-occupied~~ single-family dwelling in this state is specifically classified
6 for the purpose of taxation. For the purposes of this section, ~~an owner-occupied~~ a single-family
7 dwelling is a house, condominium apartment, residential housing consisting of four or less
8 family units, town house, town home, housing cooperatives where membership in the
9 cooperative is strictly limited to stockholder occupants of the building, dwelling as classified
10 in § 10-13-39.1, and manufactured or mobile home as defined in § 32-3-1, which is assessed and
11 taxed as a separate unit, including an attached or unattached garage and the parcel of land upon
12 which the structure is situated as recorded in the records of the director of equalization. ~~A~~
13 ~~person may only have one dwelling, which is the person's principal place of residence as defined~~
14 ~~in § 12-1-4, classified as an owner-occupied single-family dwelling. If the owner occupies fifty~~
15 ~~percent or more of the living space within the dwelling, the entire dwelling is classified as an~~



1 ~~owner-occupied single-family dwelling. If the owner occupies a duplex, triplex, or fourplex,~~
2 ~~or less than fifty percent of the living space within the dwelling, the portion of the dwelling so~~
3 ~~occupied shall be classified as an owner-occupied single-family dwelling.~~

4 Section 2. That § 10-13-39.1 be amended to read as follows:

5 10-13-39.1. Any person may request the director of equalization before August first to
6 specifically classify certain property for the purpose of taxation if a portion of any property,
7 building, or structure is occupied by the owner. If the director of equalization determines that
8 such portion is occupied by the owner and meets the requirements of § 10-13-39, the director
9 of equalization shall assess as a separate unit the portion of the property, building, or structure
10 occupied and it shall be specifically classified for the purpose of taxation as a single-family
11 dwelling. An aggrieved person may appeal the decision of the director pursuant to chapter 1-
12 26D. The director shall act upon the request within thirty days of the date of the request.

13 Section 3. That § 10-13-43 be amended to read as follows:

14 10-13-43. By November first of each year, each county auditor shall provide to the
15 Department of Revenue and Regulation the following information:

- 16 (1) Such county's property levy sheet;
- 17 (2) Such county's recapitulation of tax lists which includes total amount of taxes and
18 valuations by agricultural, ~~owner-occupied~~ single-family, non-ag which is not
19 ~~owner-occupied~~ single-family and utilities.

20 By December first of each year, the Department of Revenue and Regulation shall approve
21 the levies of all property taxing jurisdictions in the state certifying that the property tax
22 jurisdictions have not exceeded the maximums prescribed in law before any tax levies are
23 extended by the county auditor.

24 Section 4. That § 10-13-39.2 be repealed.

1 ~~10-13-39.2. No amendment to § 10-13-40 made pursuant to SL 2005, ch 62, § 1, compels~~
2 ~~the director of equalization to review any owner-occupied single-family classifications~~
3 ~~determined before July 1, 2005. However, the director of equalization may review such~~
4 ~~classifications if information is provided or discovered concerning the eligibility of any dwelling~~
5 ~~that is classified as an owner-occupied single-family dwelling.~~

6 Section 5. That § 10-13-40 be repealed.

7 ~~10-13-40. To be eligible for a property classification pursuant to § 10-13-39, the owner of~~
8 ~~each owner-occupied dwelling, as defined in § 10-13-39, shall submit a certificate to the county~~
9 ~~director of equalization stating such person is the owner and occupant of the dwelling as of the~~
10 ~~assessment date pursuant to § 10-6-2 and that the dwelling is the owner's principal place of~~
11 ~~residence as defined in § 12-1-4. If the owner occupies two or more dwellings during an~~
12 ~~assessment year, the owner shall provide the location of any other dwellings that the owner~~
13 ~~occupies when submitting the certificate. The director of equalization may request additional~~
14 ~~documentation from the owner when making the determination of eligibility. If any person~~
15 ~~submits information to the director of equalization contesting the eligibility of a dwelling to be~~
16 ~~classified as an owner-occupied single-family dwelling, the director of equalization shall review~~
17 ~~the classification and make a determination of eligibility. The owner shall state on the certificate~~
18 ~~the portion of the dwelling so occupied by the owner if it is less than fifty percent of the~~
19 ~~dwelling or if the dwelling is a duplex, triplex, or fourplex. The owner-occupant shall submit~~
20 ~~the certificate by March fifteenth. The owner of each manufactured or mobile home as defined~~
21 ~~in § 32-3-1, shall submit a certificate to the county director of equalization stating such person~~
22 ~~is the owner and occupant of the dwelling as of the assessment date. The owner-occupant of~~
23 ~~each manufactured or mobile home shall submit the certificate during the time of registration~~
24 ~~pursuant to §§ 10-9-3 to 10-9-4, inclusive. If the owner-occupant of a manufactured or mobile~~

1 ~~home fails to submit the certificate by the date or time frame required pursuant to §§ 10-9-3 to~~
2 ~~10-9-4, inclusive, it does not affect the eligibility of the property to be classified as an owner-~~
3 ~~occupied dwelling. The owner-occupant shall sign the certificate under penalty of perjury. If the~~
4 ~~director of equalization classifies the property, mobile home, or manufactured home as owner-~~
5 ~~occupied single-family dwelling, it shall retain the classification until such time as the property~~
6 ~~ownership is transferred or the property has a change in use. The new owner-occupant of~~
7 ~~transferred property which is already classified as owner-occupied may meet the requirements~~
8 ~~of this section by completing and filing the certificate of value required pursuant to § 7-9-7 at~~
9 ~~the time of the transfer of the property. If the legal description of property is changed or~~
10 ~~amended and the owner continues to reside in the dwelling that is classified as a owner-~~
11 ~~occupied single-family dwelling, the owner shall retain the owner-occupied single-family~~
12 ~~dwelling classification. The Department of Revenue and Regulation shall prescribe the form of~~
13 ~~the certificate and the certificate of value required pursuant to § 7-9-7. Appeals regarding the~~
14 ~~owner-occupied classification shall be made directly to the county board of equalization~~
15 ~~pursuant to § 10-11-23.~~

16 Section 6. That § 10-13-40.3 be repealed.

17 ~~—10-13-40.3. Any person who receives an owner-occupied single-family dwelling~~
18 ~~classification by misrepresenting the facts as to the person's ownership or occupancy of the~~
19 ~~dwelling shall be assessed a penalty equal to ten dollars per thousand dollars of valuation on the~~
20 ~~subject dwelling, which assessment shall become a perpetual lien on the property pursuant to~~
21 ~~§ 10-21-33. The person shall be barred from receiving the owner-occupied single-family~~
22 ~~dwelling classification for any property in the state for the following three years.~~

23 Section 7. That § 10-12-42 be amended to read as follows:

24 10-12-42. For taxes payable in 2006 and each year thereafter, the levy for the general fund

1 of a school district shall be as follows:

2 (1) The maximum tax levy shall be eleven dollars per thousand dollars of taxable
3 valuation subject to the limitations on agricultural property as provided in
4 subdivision (2) of this section, ~~owner-occupied~~ single-family property as provided
5 for in subdivision (3) of this section, and nonagricultural acreage property as
6 provided for in subdivision (4) of this section;

7 (2) The maximum tax levy on agricultural property for such school district shall be three
8 dollars and nineteen cents per thousand dollars of taxable valuation. If the district's
9 levies are less than the maximum levies as stated in this section, the levies shall
10 maintain the same proportion to each other as represented in the mathematical
11 relationship at the maximum levies;

12 (3) The maximum tax levy for ~~an owner-occupied~~ a single-family dwelling as defined
13 in § 10-13-40, for such school district may not exceed five dollars and thirteen cents
14 per thousand dollars of taxable valuation. If the district's levies are less than the
15 maximum levies as stated in this section, the levies shall maintain the same
16 proportion to each other as represented in the mathematical relationship at the
17 maximum levies; and

18 (4) The maximum tax levy on nonagricultural acreage property as defined in § 10-6-
19 33.14, for such school district shall be four dollars and nineteen cents per thousand
20 dollars of taxable valuation. If the district's levies are less than the maximum levies
21 as stated in this section, the levies shall maintain the same proportion to each other
22 as represented in the mathematical relationship at the maximum levies.

23 All levies in this section shall be imposed on valuations where the median level of
24 assessment represents eighty-five percent of market value as determined by the Department of

1 Revenue and Regulation. These valuations shall be used for all school funding purposes. If the
2 district has imposed an excess levy pursuant to § 10-12-43, the levies shall maintain the same
3 proportion to each other as represented in the mathematical relationship at the maximum levies
4 in this section. The school district may elect to tax at less than the maximum amounts set forth
5 in this section.