

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

726P0067

HOUSE BILL NO. 1169

Introduced by: Representatives Turbiville, Brunner, DeVries, Elliott, Gosch, Krebs, Miles,
Peters, and Street and Senators Lintz, Albers, Duenwald, Garnos, and Hauge

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions applying the contractor's excise
2 tax to certain realty improvements made without a realty improvement contract based on the
3 sale price and to repeal certain provisions concerning effective dates of the tax.

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

5 Section 1. That § 10-46A-5 be repealed.

6 ~~—10-46A-5. If any person, except for a person making an isolated or occasional realty~~
7 ~~improvement and who does not hold himself out as engaging in the business of making realty~~
8 ~~improvements, makes a realty improvement without a realty improvement contract and~~
9 ~~subsequently sells the property containing the realty improvement or the realty improvement at~~
10 ~~any time subsequent to the commencement of the project and within four years of its~~
11 ~~completion, the gross receipts from the sale of the realty improvement shall be subject to the~~
12 ~~excise tax imposed on the gross receipts of contractors engaged in realty improvement contracts.~~
13 ~~In determining the gross receipts from the sale of such realty improvements when land or land~~
14 ~~and improvements completed four years prior to sale are included in the sale, land and such~~
15 ~~improvements shall be valued at cost or fair market value, whichever is greater, and the portion~~



1 ~~of the gross receipts attributable to land or land and improvements completed four years prior~~
2 ~~to sale shall be deducted from the sale price.~~

3 Section 2. That § 10-46A-1.1 be repealed.

4 ~~— 10-46A-1.1. This chapter is effective on May 1, 1984, and applies to:~~

5 ~~— (1) — All realty improvement contracts bid after April 30, 1984;~~

6 ~~— (2) — All realty improvement contracts under which construction commences after April~~
7 ~~30, 1984, if there is no bid;~~

8 ~~— (3) — Receipts from sales of real property pursuant to § 10-46A-5 if the contract to sell the~~
9 ~~property is executed after April 30, 1984.~~

10 ~~— Change orders or other amendments, made after April 30, 1984, to realty improvement~~
11 ~~contracts or purchase contracts entered into prior to May 1, 1984, shall be taxed at the rate and~~
12 ~~under the provisions of this chapter which were in effect on the date of the original contract.~~

13 Section 3. That § 10-46A-5.1 be amended to read as follows:

14 10-46A-5.1. There is imposed a tax at the rate provided in § 10-46A-1, on the fair market
15 value of the improvement upon any person who builds a building for lease to himself, herself,
16 or others, with a value of over one hundred thousand dollars. ~~If the realty improvement becomes~~
17 ~~subject to tax under § 10-46A-5, credit for tax due under that section is given for any tax paid~~
18 ~~under this section.~~ The tax imposed by this section is due the next reporting date after the
19 improvement is used or leased. The tax imposed by this section does not apply to the United
20 States, the State of South Dakota and its subdivisions, or public or municipal corporation in the
21 State of South Dakota. ~~This section applies only to buildings substantially completed after April~~
22 ~~30, 1984.~~

23 Section 4. That § 10-46B-5 be repealed.

24 ~~— 10-46B-5. If any person, except for a person making an isolated or occasional realty~~

1 ~~improvement and who does not hold himself out as engaging in the business of making realty~~
2 ~~improvements, makes a realty improvement without a realty improvement contract and~~
3 ~~subsequently sells the property containing the realty improvement or the realty improvement at~~
4 ~~any time subsequent to the commencement of the project and within four years of its~~
5 ~~completion, the gross receipts from the sale of the realty improvement shall be subject to the~~
6 ~~excise tax imposed on the gross receipts of contractors engaged in realty improvement contracts.~~
7 ~~In determining the gross receipts from the sale of such realty improvements when land or land~~
8 ~~and improvements completed four years prior to sale are included in the sale, land and such~~
9 ~~improvements shall be valued at cost or fair market value, whichever is greater, and the portion~~
10 ~~of the gross receipts attributable to land or land and improvements completed four years prior~~
11 ~~to sale shall be deducted from the sale price.~~