

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

615P0113

## HOUSE BILL NO. 1182

Introduced by: Representatives Noem, Burg, Faehn, Moore, Novstrup (Al), Olson (Russell), Olson (Ryan), Peters, Turbiville, and Weems and Senators Hansen (Tom), Abdallah, Bartling, McNenny, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to property tax  
2 assessments for elderly and disabled persons.

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

4 Section 1. That § 10-6A-1 be amended to read as follows:

5 10-6A-1. Terms as used in this chapter, ~~unless the context otherwise clearly requires,~~ mean:

6 (1) "Base year," for ~~those heads of households~~ any property owner who reached  
7 sixty-five years of age or became disabled in or prior to 1981, the base year is 1977.  
8 For ~~those heads of households who reach~~ any property owner who reaches sixty-five  
9 years of age or ~~become disabled subsequent to~~ becomes disabled after 1981, the base  
10 year is the year in which ~~they reach~~ the property owner reaches the age of sixty-five  
11 or the year in which the property owner becomes disabled. In the case of a surviving  
12 spouse, the base year is the year ~~which~~ that would have been the base year of the  
13 deceased spouse;

14 (2) "Base year assessment," the actual assessed value of a single-family dwelling in the



1 base year or, at the applicant's election, a year subsequent to the base year. The  
2 applicant need not have been the owner of the dwelling during the base year;

3 (3) "Department," the South Dakota Department of Revenue and Regulation;

4 (4) "Disabled," ~~persons receiving or having~~ any person who receives or is qualified to  
5 receive monetary payments, pursuant to Title II, X, XIV, or XVI of the Social  
6 Security Act, as amended, ~~and in effect on January 1, 1981 to January 1, 2008,~~ for all  
7 or part of the year for which a property tax assessment freeze application is made;

8 (5) ~~"Head of household," a married person, a single person, a widow or widower, or a~~  
9 ~~divorced person;~~

10 ~~(6)~~ "Household," the association of persons who live in the same dwelling, sharing its  
11 furnishings, facilities, and accommodations, but not including bona fide lessees,  
12 tenants, or roomers and boarders on contract;

13 ~~(7)~~(6) "Household income," all income received during the preceding calendar year by all  
14 persons of a household while members of the household;

15 ~~(8)~~(7) "Income," the sum of adjusted gross income as defined in the United States Internal  
16 Revenue Code of 1954, as amended, ~~and in effect on December 31, 1989 to~~  
17 January 1, 2008, and all nontaxable income, including ~~but not limited to~~ IRA  
18 disbursements, the amount of capital gains excluded from adjusted gross income,  
19 alimony, support money, nontaxable strike benefits, cash public assistance and relief,  
20 the gross amount of any pension or annuity, including Railroad Retirement Act  
21 benefits and veterans disability pensions, all payments received under the federal  
22 social security and state unemployment insurance laws, nontaxable interest received  
23 from the federal government or any of its instrumentalities, and workers'  
24 compensation, ~~and the gross amount of "loss of time" insurance, but not including~~

1 gifts from nongovernmental sources, food stamps, or surplus foods or other relief in  
2 kind provided by a public agency;

3 (8) "Property owner," the owner of a dwelling as recorded by the register of deeds in the  
4 county where the dwelling is located. A joint tenant, an owner of a life estate, a  
5 beneficiary of a trust, and a vendee of a contract for deed as filed with the register of  
6 deeds in the county where the dwelling is located is considered to be an owner;

7 (9) "Real property tax assessment freeze," for tax purposes, the assessment of a  
8 single-family dwelling as recorded in the base year on the county assessment roll and  
9 held constant at that value;

10 (10) "Secretary," the secretary of the South Dakota Department of Revenue and  
11 Regulation;

12 (11) "Single-family dwelling," a house, condominium apartment, or manufactured home  
13 as defined in § 32-3-1 ~~which~~ that is assessed and taxed as a separate unit including  
14 the platted lot upon which the structure is situated or one acre, whichever is less, and  
15 the garage, whether attached or unattached;

16 (12) "Surviving spouse," the spouse of a deceased ~~head of household~~ property owner who  
17 has not remarried.

18 Section 2. That § 10-6A-2 be amended to read as follows:

19 10-6A-2. Any person making an application under the provisions of this chapter is entitled  
20 to a real property tax assessment freeze upon the person's single-family dwelling if the following  
21 conditions are met. The person:

22 (1) Has a household income of less than twenty thousand dollars if the household is a  
23 single-member household; ~~or~~

24 ~~(2) Has~~ or the person has a household income of less than twenty-five thousand dollars

1 if the household is a multiple-member household; and

2 ~~(3)(2)~~ Has owned a single-family dwelling, in fee or by contract to purchase, for at least one  
3 year and has been a property owner and a resident of South Dakota for at least one  
4 year; and

5 ~~(4)(3)~~ Has resided for at least two hundred days of the previous calendar year in the  
6 single-family dwelling; and

7 ~~(5)(4)~~ Has established a base year.

8 The surviving spouse of a person who has previously qualified is entitled to the real property  
9 tax assessment freeze if the surviving spouse meets the other conditions of this chapter.

10 Beginning on January 1, 2005, the household income listed in ~~subdivisions (1) and (2)~~  
11 subdivision (1) of this section shall increase by the index factor. The index factor is the annual  
12 percentage change in the consumer price index for urban wage earners and clerical workers as  
13 computed by the Bureau of Labor Statistics of the United States Department of Labor for the  
14 year before the year immediately preceding the year of adjustment or the annual percentage  
15 change in federal social security payments for the preceding year, whichever is greater.

16 Section 3. That § 10-6A-4 be amended to read as follows:

17 10-6A-4. The application for the real property tax assessment freeze provided under this  
18 chapter shall be annually submitted on or before April first on forms prescribed by the secretary  
19 of revenue and regulation. The form shall be made available to the county treasurer who shall,  
20 upon request of an applicant, assist the applicant in completing the form. The property owner  
21 shall sign the certificate under penalty of perjury. A person failing to comply with the April first  
22 deadline for the previous year, but otherwise qualifying for the real property tax assessment  
23 freeze provided under this chapter, may petition the board of county commissioners to  
24 recalculate the taxes based on the valuation the person would have received under this program

1 and abate the difference in taxes.

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

4 Any person who receives a reduction in value due to false application for the real property  
5 tax assessment freeze by misrepresenting the facts as to the person's ownership or income shall  
6 be assessed the amount of tax reduction received due to the assessment freeze. The assessment  
7 is a perpetual lien on the property pursuant to § 10-21-33. The person is barred from receiving  
8 the assessment freeze reduction on any property in the state for the following three years.