



2021 South Dakota Legislature

Senate Bill 41

Introduced by: The Committee on Taxation at the request of the Department of Revenue

1 **An Act to to revise certain requirements for contesting certificates of assessment.**

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

3 **Section 1.** That § 10-59-9 be AMENDED.

4 **10-59-9. Hearing--Request in writing--Court jurisdiction--Amended or**
 5 **additional statements of fact--Payment and appeal.**

6 Any taxpayer against whom a certificate of assessment is issued may in writing
 7 request a hearing before the secretary if the taxpayer believes that the assessment is
 8 based upon a mistake of fact or an error of law. ~~A~~ The written request for hearing shall
 9 must be made in writing received by the secretary within sixty days from the date of the
 10 certificate of assessment was mailed to the taxpayer by certified mail, and shall must
 11 contain a statement indicating the portion of the assessment being contested and the
 12 mistake of fact or error of law the taxpayer believes resulted in an invalid assessment. If
 13 the written request for hearing is not received by the secretary within sixty days from the
 14 date the certificate of assessment was mailed to the taxpayer by certified mail, no court
 15 has jurisdiction over a suit to contest the certificate of assessment. For purposes of this
 16 section, if a written request for hearing is sent by United States mail, the date of the
 17 postmark placed by the United States postal service shall be considered the date received
 18 by the secretary.

19 Amended or additional statements of facts or errors of law may be made not less
 20 than fourteen days prior to the hearing if the hearing examiner determines such additional
 21 or amended statements are in the interest of justice and do not prejudice either party.
 22 Hearings are conducted and appeals taken pursuant to the provisions of chapters 1-26
 23 and 1-26D. A copy of the hearing examiner's proposed decision, and findings of fact and
 24 conclusions of law, shall be served on all parties when furnished to the secretary. If the
 25 secretary, pursuant to chapter 1-26D, accepts the ~~final~~ proposed decision of the hearing
 26 examiner, no court has jurisdiction over an appeal from a ~~the~~ final decision of the secretary

1 ~~upon an assessment may be taken~~ unless any amount ordered paid by the secretary is
2 paid or a bond is filed to insure payment of such amount. However, if the final decision of
3 the secretary, pursuant to chapter 1-26D, rejects or modifies the decision of the hearing
4 examiner regarding the amount due on the assessment, an appeal may be taken without
5 payment of the amount ordered to be paid and without filing of a bond. If the secretary's
6 decision is affirmed by the circuit court, no court has jurisdiction over an appeal ~~may be~~
7 ~~taken from the circuit court's decision~~ unless any amount ordered to be paid by the
8 secretary is paid or a bond is filed to insure payment of such amount.