

State of South Dakota

NINETIETH SESSION LEGISLATIVE ASSEMBLY, 2015

609W0424

HOUSE TAXATION ENGROSSED NO. **SB 100** 03/05/2015

Introduced by: Senators Peters, Curd, Haggar (Jenna), Haverly, Heinert, Holien, Hunhoff (Bernie), Jensen (Phil), Lederman, Novstrup (David), Olson, Parsley, Rave, Solano, Tidemann, Van Gerpen, Vehle, and White and Representatives Haggar (Don), Conzet, Cronin, Deutsch, Dryden, Duvall, Gosch, Harrison, Hawks, Hawley, Jensen (Alex), Johns, Kirschman, Langer, McCleerey, Mickelson, Munsterman, Peterson (Kent), Rounds, Schoenfish, Solum, Stalzer, Verchio, Westra, Wink, and Zikmund

1 FOR AN ACT ENTITLED, An Act to create a leased residential property classification.

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

3 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 Each leased residential property in this state is specifically classified for the purpose of
6 taxation. For the purposes of this section, the term, leased residential property, means any real
7 estate or single-family dwelling or structure consisting of two or more family units that are
8 leased or rented and the structure or real estate is assessed and taxed as a separate property,
9 including any attached or unattached garage and the parcel of land upon which the structure is
10 situated as recorded in the records of the director of equalization. A person may have one or
11 more structures classified as a leased residential property. If the owner occupies less than fifty
12 percent of the living space within a residential property, the portion of the structure that is leased



1 as residential property may be classified as a leased residential property. Any structure that is
2 offered for lease or rent to a transient guest is not a leased residential property. For the purposes
3 of this section, the term, transient guest, means any person who resides in the structure less than
4 twenty-eight consecutive days.

5 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The director of equalization may review any leased residential property classification if
8 information is provided or discovered concerning the eligibility of any property that is classified
9 as a leased residential property.

10 Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 To be eligible for a property classification pursuant to section 1 of this Act, the owner of
13 each leased residential property, as defined in section 1 of this Act, shall submit a certificate to
14 the county director of equalization stating such person is the owner of the property as of the
15 assessment date pursuant to § 10-6-2. The director of equalization may request additional
16 documentation from the owner when making the determination of eligibility. If any person
17 submits information to the director of equalization contesting the eligibility of a property to be
18 classified as a leased residential property, the director of equalization shall review the
19 classification and make a determination of eligibility. The owner shall submit the certificate by
20 March fifteenth. The owner shall sign the certificate under penalty of perjury. If the director of
21 equalization classifies the property as a leased residential property, the property shall retain the
22 classification until such time as the property ownership is transferred or the property has a
23 change in use. The new owner of the transferred property which is already classified as a leased
24 residential property may meet the requirements of this section by completing and filing the

1 certificate of value required pursuant to § 7-9-7 at the time of the transfer of the property. If the
2 legal description of property is changed or amended and the owner continues to use the property
3 for the same use, the owner shall retain the leased residential property classification. The
4 Department of Revenue shall prescribe the form of the certificate and the certificate of value
5 required pursuant to § 7-9-7. Appeals regarding the leased residential property classification
6 shall be made directly to the county board of equalization pursuant to § 10-11-23.

7 Section 4. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Any person who receives a leased residential property classification by misrepresenting the
10 facts as to the person's ownership or use of the leased residential property shall be assessed a
11 penalty equal to ten dollars per thousand dollars of valuation on the subject property, which
12 assessment shall become a perpetual lien on the property pursuant to § 10-21-33. The person
13 shall be barred from receiving the leased residential property classification for any property in
14 the state for the following three years.

15 Section 5. That § 10-13-43 be amended to read as follows:

16 10-13-43. By November first of each year, each county auditor shall provide to the
17 Department of Revenue the following information:

- 18 (1) Such county's property levy sheet;
- 19 (2) Such county's recapitulation of tax lists which includes total amount of taxes and
20 valuations by agricultural, owner-occupied, ~~non-ag~~ leased residential property,
21 nonagricultural which is not owner-occupied or leased residential property, and
22 utilities.

23 By December first of each year, the Department of Revenue shall approve the levies of all
24 property taxing jurisdictions in the state certifying that the property tax jurisdictions have not

exceeded the maximums prescribed in law before any tax levies are extended by the county auditor.

Section 6. That § 10-6-31 be amended to read as follows:

10-6-31. For the purposes of taxation, all property is hereby classified into the following classes:

- (1) Agricultural property;
- (2) Nonagricultural property;
- (3) Owner-occupied single-family dwellings; and
- (4) ~~Nonagricultural acreage~~ Leased residential property.

Agricultural property includes all property and land used exclusively for agricultural purposes, both tilled and untilled, and the improvements on the land. However, agricultural property does not include any normally occupied dwelling or automobile garage or portion of a building used for that purpose by the occupant of such dwelling. Owner-occupied single-family dwellings include all property classified pursuant to § 10-13-39 and ~~nonagricultural acreage~~ leased residential property includes all property classified pursuant to ~~§ 10-6-33.14~~ section 1 of this Act.

Nonagricultural property includes all other property not otherwise classified.

The director of equalization in listing and assessing all property to which this section applies shall designate opposite each description the class to which the property belongs.

Section 7. That § 13-11-10 be amended to read as follows:

13-11-10. In implementing the terms of § 13-11-9, a separate weighted average tax levy of the receiving districts shall be calculated for agricultural property, owner-occupied single-family dwelling property, leased residential property, and for nonagricultural property for each sending school district as follows:

- 1 (1) The levy per thousand dollars of taxable valuation for agricultural property for each
2 receiving school district shall be multiplied by the number of children from the
3 sending school district to whom the receiving school district is providing educational
4 services;
- 5 (2) Add together the products from subdivision (1) for each receiving school district;
- 6 (3) Divide the sum from subdivision (2) by the total number of students that the
7 contracting school district is sending to the receiving school districts pursuant to
8 § 13-15-1.3. The quotient is the weighted average tax levy per one thousand dollars
9 of taxable valuation for agricultural property;
- 10 (4) The weighted average tax levy per thousand dollars of taxable valuation for owner-
11 occupied single-family dwellings, leased residential property, and nonagricultural
12 property shall be obtained by repeating the procedure outlined in subdivisions (1) to
13 (3), inclusive, for each class of property; and
- 14 (5) The sum of the levies assessed for all funds in the sending district shall be equal to
15 or greater than the sum of all levies for all funds in the receiving district.

16 The above calculations do not include students receiving educational services from an out-
17 of-state school district nor the tax levy of any out-of-state school district.

18 Section 8. That § 13-13-72.1 be amended to read as follows:

19 13-13-72.1. Any adjustments in the levies specified in § 10-12-42 made pursuant to §§ 13-
20 13-71 and 13-13-72 shall be based on maintaining the relationship between statewide local
21 effort as a percentage of statewide local need in the fiscal year succeeding the fiscal year in
22 which the adjustment is made. However, for fiscal year 2013 and each year thereafter, if the
23 levies specified in § 10-12-42 are not adjusted to maintain this relationship, the per student
24 allocation as defined in § subdivision 13-13-10.1(4) shall be reduced to maintain the

1 relationship between statewide local effort as a percentage of statewide local need. Any
2 adjustment to the levy for agricultural property shall be based upon the change in the statewide
3 agricultural taxable valuation and the reclassification of agricultural property to another property
4 classification. Any adjustment to the levies for nonagricultural property, leased residential
5 property, and owner-occupied single-family dwellings shall be based upon the change in the
6 statewide nonagricultural property, leased residential property, and owner-occupied single-
7 family dwellings taxable valuations. However, if any new project with a total taxable valuation
8 of one hundred fifty million dollars or more is constructed, the levies shall be proportionately
9 decreased for agricultural property, nonagricultural property, leased residential property, and
10 owner-occupied single-family dwellings. In addition to the adjustments in the levies provided
11 by this section, the levies shall also be annually adjusted as necessary to reduce the portion of
12 local need paid by local effort by an amount equal to nine million dollars from those funds
13 transferred into the property tax reduction fund pursuant to § 10-50-52 subsequent to July 1,
14 2007. In addition to the adjustments in the levies provided by this section, the levies for
15 nonagricultural property and owner-occupied single-family dwellings shall also be adjusted as
16 necessary to account for the additional increase in the total assessed value for nonagricultural
17 property and owner-occupied single-family dwellings pursuant to the phasing out and repeal of
18 the provisions provided in § 10-6-74.

19 Section 9. This Act is effective on January 1, 2016.