

# State of South Dakota

## SEVENTY-THIRD SESSION LEGISLATIVE ASSEMBLY, 1998

915B0586

### SENATE BILL NO. 146

Introduced by: Senators Aker, Dennert, Everist, Hutmacher, Lange, Munson (David), Shoener, and Staggers and Representatives Barker, Apa, Kazmerzak, Koetzle, Moore, Napoli, Peterson (Bill), and Windhorst

1 FOR AN ACT ENTITLED, An Act to provide a limited refund of the contractor's excise tax for  
2 the construction of new or existing residential housing.

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

4 Section 1. Terms used in this chapter mean:

5 (1) "Contractors' excise tax," the tax imposed under the provisions of chapter 10-46A;

6 (2) "Department," the Department of Revenue;

7 (3) "Improvement cost," the amount paid in money, credits, property, or other money's  
8 worth for a project. In the case of an owner occupying a duplex, triplex, or fourplex,  
9 only the pro-rata portion of the improvement cost, which is the part of building  
10 occupied by the owner, is eligible for the refund;

11 (4) "New or existing residential housing," new single-family residential housing or realty  
12 improvement or addition to existing residential housing, the construction of which is  
13 subject to contractors' excise;

14 (5) "Owner," any person occupying a residential home as the owner's primary residence;

15 (6) "Project," the construction of new or existing residential housing at a single site;

(7) "Residential housing," includes single family housing up through four family housing;

(8) "Secretary," the secretary of the Department of Revenue.

Section 2. The owner of residential housing may apply for a refund of the contractor's excise tax paid according to the terms and conditions of this Act.

Section 3. Each owner may apply for and obtain a refund or credit for the contractors' excise taxes paid under the provisions of chapter 10-46A on the amount of one hundred thousand dollars or less for any new or existing residential housing if the project is completed on or after January 1, 1998. Once a claim for refund has been received for any residential housing for a total improvement cost of one hundred thousand dollars, no additional refund may be received pursuant to this Act.

Section 4. Any owner applying for a refund shall complete a refund on form prescribed by the secretary and submit the refund form with a certificate from the contractor or subcontractor certifying the payment of the contractors' excise tax for which the refund is being requested.

Section 5. The owner shall apply for the refund within twenty-four months of project completion.

Section 6. No refund claim is assignable or transferable, and may only be applied for by the owner of the residential housing or the owner's attorney.

Section 7. The secretary may promulgate rules, pursuant to chapter 1-26, concerning the procedures for filing refund claims and the requirements necessary to qualify for a refund.

Section 8. Any person aggrieved by the denial in whole or in part of a refund claimed under this Act may, within thirty days after service of the notice of such denial by the secretary, request and is entitled to a hearing, upon notice, before the secretary. The hearing shall be conducted pursuant to chapter 1-26.