

# State of South Dakota

SEVENTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 1999

276C0421

## HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1140** - 1/29/99

Introduced by: Representatives McNenny, Cerny, Cutler, Duenwald, Engbrecht, Koehn, McCoy, Napoli, Pummel, and Weber and Senators Bogue, Benson, Kleven, Lange, Madden, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to decrease the rate of interest on property tax certificates  
2 and delinquent taxes.

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

4 Section 1. That § 10-9-12 be amended to read as follows:

5 10-9-12. Any tax not paid within the period prescribed in § 10-9-10 is subject to a penalty  
6 of the ~~Category D~~ Category B rate of interest as established in § 54-3-16. The penalty shall  
7 attach and be a charge upon the tax.

8 Section 2. That § 10-21-7.3 be amended to read as follows:

9 10-21-7.3. Any property taxes remitted by electronic transmission pursuant to § 10-21-7.1  
10 are delinquent if not remitted by the third day of the month following the month the taxes are  
11 due. However, notwithstanding the provisions of § 10-21-23, the first half of property taxes are  
12 not delinquent if the fifth payment made monthly pursuant to §§ 10-21-7.1 to 10-21-7.3,  
13 inclusive, is credited to the bank account designated by the county treasurer on or before May  
14 first. If taxes become delinquent pursuant to this section, interest shall be added to the delinquent  
15 taxes at the ~~Category D~~ Category B rate as established pursuant to § 54-3-16 for each day the

1 taxes are delinquent.

2 Section 3. That § 10-21-23 be amended to read as follows:

3 10-21-23. On the first day of May of the year after which taxes have been assessed, one-half  
4 of all unpaid real estate taxes are delinquent. However, all real estate taxes totaling fifty dollars  
5 or less shall be paid in full on or before April thirtieth. On the first day of each ~~and every~~ month  
6 thereafter there shall be added as interest on ~~said~~ the delinquent taxes at the ~~Category D~~  
7 Category B rate of interest as established in § 54-3-16. If the other half is not paid on or before  
8 the thirty-first day of October of the same year, that also becomes delinquent on November first  
9 and the same interest shall attach in the same manner.

10 Section 4. That § 10-23-8 be amended to read as follows:

11 10-23-8. Before making a sale of lands and town lots on which taxes have not been paid, the  
12 treasurer shall offer each separate tract for sale in the numerical order in which it appears on the  
13 tax list and receive bids for it. If any person bids the full amount of the taxes, interest, and costs  
14 due on the land or town lots, stating in the bid the lowest rate of interest per year at which the  
15 bidder will pay the taxes assessed and due against the land and lots, the treasurer shall sell to that  
16 person the land or town lots and shall issue a certificate of sale to the purchaser. In no case may  
17 the rate of interest exceed the rate named in the bid and the bid offered on the land or lots at the  
18 lowest rate of interest per year shall be considered the best bid. No rate of interest higher than  
19 ~~twelve~~ ten percent per year is a valid bid pursuant to this section. Upon redemption of a  
20 certificate that has been sold or assigned to a purchaser other than the county, a fee shall be  
21 deducted from the proceeds paid to the holder of the certificate. The county commission may,  
22 by resolution, establish a fee not to exceed fifty dollars. No property owner may be assessed this  
23 additional fee. The fee shall be deposited in the county general fund. Nothing less than the entire  
24 tract or lot may be sold.

25 Section 5. That § 10-23-23 be amended to read as follows:

1        10-23-23. All real property sold for delinquent special assessments pursuant to § 10-23-1 and  
2 not redeemed shall be entered by the county treasurer upon the duplicate tax lists of the county  
3 for the succeeding years and noted upon all duplicate tax receipts for the real property. The  
4 county treasurer shall add to the amount of each special assessment so certified interest at the  
5 ~~Category D~~ Category B rate of interest as established in § 54-3-16, and ten cents on each lot or  
6 parcel of ground for ~~costs~~ the cost of advertising. No other costs or penalties may be added  
7 except as provided by law for certificate of sale, deed, and acknowledgment.

8        Section 6. That § 10-23-25 be amended to read as follows:

9        10-23-25. ~~Whenever~~ If the county treasurer of any county bids off any real property in the  
10 name of the county, ~~he~~ the treasurer shall make out a certificate of purchase to the county in the  
11 same manner as if sale had been made to any other person. The certificate shall be retained by  
12 the treasurer, but no tax receipt may be issued and no amount may be due the state, or any other  
13 fund, ~~and no.~~ No treasurer's commission may be paid by the county until redemption has been  
14 made from the sale or the time of redemption has expired, or until the interest of the county has  
15 been assigned. The certificate ~~so~~ issued to the county shall bear interest at the ~~Category D~~  
16 Category B rate of interest as established in § 54-3-16.

17        Section 7. That § 10-27-5 be amended to read as follows:

18        10-27-5. If the party seeking relief asserts the invalidity of the tax, its application or its legal  
19 existence as a lien or claim against the property involved, as distinguished from irregularities in  
20 procedure no tender may be required as to any portion properly asserted to be invalid or void  
21 as a tax for any reason going to its base or legal existence. In all such cases, the court in the  
22 action or proceeding shall first determine the question of the legality or existence of any tax and,  
23 if necessary, to make proper assessment, calculation, and order as to the amount, if any, which  
24 should have been legally paid. All of this shall be determined as of the date when the assessment  
25 and levy was or should have been made, except that the due date of the tax shall be established

1 as the first day of January next following the date when an assessment originally was or should  
2 have been made. The court shall enter its order directing the party seeking relief to deposit a sum  
3 with interest at the ~~Category D~~ Category B rate of interest as established in § 54-3-16 from the  
4 date when the tax originally became or should have become due.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 172

3 1/25/99 House of Representatives Deferred to another day. H.J. 178

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Taxation Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 234