

State of South Dakota

SEVENTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2002

490H0447

HOUSE BILL NO. 1074

Introduced by: Representatives Solum and Pummel and Senators Duxbury and Munson

1 FOR AN ACT ENTITLED, An Act to repeal certain inheritance tax provisions and to re-enact
2 a provision regarding access to a safe deposit box upon the death of a person having access.

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

4 Section 1. That § 10-41-73 be repealed.

5 ~~— 10-41-73. No register of deeds of any county within this state shall file or record in his office
6 any satisfaction or assignment of any real or personal property mortgage executed by a personal
7 representative or trustee of a nonresident decedent's estate, until it is certified to said register of
8 deeds by the Department of Revenue that the inheritance tax has or will be paid, or that no tax
9 is due from said estate.~~

10 Section 2. That § 10-41-86 be repealed.

11 ~~— 10-41-86. No person, firm, partnership, association, limited liability company, joint-stock
12 company, or corporation may undertake any action which results in the payment, withdrawal,
13 transfer, assignment, or other disposition of an intangible asset or security held by the same,
14 excepting payments, withdrawals, transfers, assignments, or other disposition to a surviving
15 spouse or transfers of stock in any corporation, foreign or domestic, unless such person, firm,~~



1 ~~partnership, association, limited liability company, joint-stock company, or corporation submits~~
2 ~~a complete list of all such intangible assets or securities, the name in which such assets or~~
3 ~~securities were held, the value of each asset or security and the name of the person to whom such~~
4 ~~assets or securities were released, to the Department of Revenue within thirty business days after~~
5 ~~the same are released. The list required by this section need only be submitted when a person,~~
6 ~~firm, partnership, association, limited liability company, joint-stock company, or corporation~~
7 ~~holds assets or securities valued at more than ten thousand dollars, in the aggregate, in the name~~
8 ~~of a decedent.~~

9 ~~— Any person, firm, partnership, association, limited liability company, joint-stock company,~~
10 ~~or corporation violating the provisions of this section is liable to the state for the amount of tax~~
11 ~~due to the state on the payment, withdrawal, transfer, assignment, or other disposition of the~~
12 ~~intangible asset or security unless such tax has previously been paid.~~

13 Section 3. That § 10-41-87 be repealed.

14 ~~— 10-41-87. Every person or representative having a right of access to a safe deposit box or~~
15 ~~other receptacle of similar character shall, upon the death of any other person having a right of~~
16 ~~access to such box or receptacle, notify the person, firm, partnership, association, limited liability~~
17 ~~company, joint-stock company, or corporation from whom the box or receptacle is leased or~~
18 ~~rented of the death of such person prior to gaining access to the box or receptacle.~~

19 Section 4. That § 10-41-88 be repealed.

20 ~~— 10-41-88. Every person, except a surviving spouse, owning an interest in an intangible asset~~
21 ~~or security in which a decedent had an interest shall notify the transfer agent of the person, firm,~~
22 ~~partnership, association, limited liability company, joint-stock company, or corporation which~~
23 ~~issued the intangible asset or security of the death of the decedent prior to withdrawing,~~
24 ~~transferring, assigning, or undertaking similar action with the intangible asset or security and,~~

1 ~~upon request of that transfer agent, provide that transfer agent with the consent of the~~
2 ~~Department of Revenue to transfer the intangible asset or security.~~

3 ~~— Any such person, intentionally violating the provisions of this section is subject to a civil~~
4 ~~penalty in the amount of five hundred dollars or one hundred percent of the inheritance tax due~~
5 ~~by reason of the death of the decedent, whichever is greater.~~

6 Section 5. That § 10-41-89 be repealed.

7 ~~— 10-41-89. No personal representative or person may assign or transfer any stock in any~~
8 ~~corporation standing in the name of a resident decedent or in trust for a resident decedent,~~
9 ~~without the consent of the Department of Revenue. No corporation, domestic or foreign, may~~
10 ~~transfer on its books any shares of its capital stock standing in the name of a resident decedent~~
11 ~~without the consent of the Department of Revenue. Any corporation violating the provisions of~~
12 ~~this section is liable to the state for the amount of tax due to the state on a transfer of any such~~
13 ~~shares of stock.~~

14 Section 6. That chapter 51A-11 be amended by adding thereto a NEW SECTION to read
15 as follows:

16 Any person or representative having a right of access to a safe deposit box or other
17 receptacle of similar character shall, upon the death of any other person having a right of access
18 to such box or receptacle, notify the person, firm, partnership, association, limited liability
19 company, joint-stock company, or corporation from whom the box or receptacle is leased or
20 rented of the death of such person prior to accessing the box or receptacle.