

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

615P0113

SENATE TAXATION ENGROSSED NO. **HB 1182** - 1/30/2008

Introduced by: Representatives Noem, Burg, Faehn, Moore, Novstrup (Al), Olson (Russell),
Olson (Ryan), Peters, Turbiville, and Weems and Senators Hansen (Tom),
Abdallah, Bartling, McNenny, and Turbak Berry

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to property tax
2 assessments for elderly and disabled persons.

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

4 Section 1. That § 10-6A-1 be amended to read as follows:

5 10-6A-1. Terms as used in this chapter, ~~unless the context otherwise clearly requires,~~ mean:

6 (1) "Base year," for ~~those heads of households~~ any property owner who reached
7 sixty-five years of age or became disabled in or prior to 1981, the base year is 1977.
8 For ~~those heads of households who reach~~ any property owner who reaches sixty-five
9 years of age or ~~become disabled subsequent to~~ becomes disabled after 1981, the base
10 year is the year in which ~~they reach~~ the property owner reaches the age of sixty-five
11 or the year in which the property owner becomes disabled. In the case of a surviving
12 spouse, the base year is the year ~~which~~ that would have been the base year of the
13 deceased spouse;

14 (2) "Base year assessment," the actual assessed value of a single-family dwelling in the



1 base year or, at the applicant's election, a year subsequent to the base year. The
2 applicant need not have been the owner of the dwelling during the base year;

3 (3) "Department," the South Dakota Department of Revenue and Regulation;

4 (4) "Disabled," ~~persons receiving or having~~ any person who receives or is qualified to
5 receive monetary payments, pursuant to Title II, X, XIV, or XVI of the Social
6 Security Act, as amended, ~~and in effect on January 1, 1981 to January 1, 2008,~~ for all
7 or part of the year for which a property tax assessment freeze application is made;

8 (5) ~~"Head of household," a married person, a single person, a widow or widower, or a~~
9 ~~divorced person;~~

10 ~~(6)~~ "Household," the association of persons who live in the same dwelling, sharing its
11 furnishings, facilities, and accommodations, but not including bona fide lessees,
12 tenants, or roomers and boarders on contract;

13 ~~(7)~~(6) "Household income," all income received during the preceding calendar year by all
14 persons of a household while members of the household;

15 ~~(8)~~(7) "Income," the sum of adjusted gross income as defined in the United States Internal
16 Revenue Code of 1954, as amended, ~~and in effect on December 31, 1989 to~~
17 January 1, 2008, and ~~all nontaxable income, including but not limited to IRA~~
18 disbursements, the amount of capital gains excluded from adjusted gross income,
19 alimony, support money, nontaxable strike benefits, cash public assistance and relief,
20 the gross amount of any pension or annuity, including Railroad Retirement Act
21 benefits and veterans disability pensions, all payments received under the federal
22 social security and state unemployment insurance laws, nontaxable interest ~~received~~
23 from the federal government or any of its instrumentalities, life insurance proceeds
24 that exceed twenty thousand dollars, any gift or inheritance that exceeds five hundred

1 dollars, proceeds from a court action, any sale of a personal item that exceeds five
2 hundred dollars, foster care income, and workers' compensation, and the gross
3 amount of "loss of time" insurance, but not including gifts from nongovernmental
4 sources, food stamps, or surplus foods or other relief in kind provided by a public
5 agency;

6 (8) "Property owner," the owner of a dwelling as recorded by the register of deeds in the
7 county where the dwelling is located. A joint tenant, an owner of a life estate, a
8 beneficiary of a trust, and a vendee of a contract for deed as filed with the register of
9 deeds in the county where the dwelling is located is considered to be an owner;

10 (9) "Real property tax assessment freeze," for tax purposes, the assessment of a
11 single-family dwelling as recorded in the base year on the county assessment roll and
12 held constant at that value;

13 (10) "Secretary," the secretary of the South Dakota Department of Revenue and
14 Regulation;

15 (11) "Single-family dwelling," a house, condominium apartment, or manufactured home
16 as defined in § 32-3-1 ~~which~~ that is assessed and taxed as a separate unit including
17 the platted lot upon which the structure is situated or one acre, whichever is less, and
18 the garage, whether attached or unattached;

19 (12) "Surviving spouse," the spouse of a deceased ~~head of household~~ property owner who
20 has not remarried.

21 Section 2. That § 10-6A-2 be amended to read as follows:

22 10-6A-2. Any person making an application under the provisions of this chapter is entitled
23 to a real property tax assessment freeze upon the person's single-family dwelling if the following
24 conditions are met. The person:

1 (1) Has a household income of less than twenty thousand dollars if the household is a
2 single-member household; ~~or~~

3 ~~(2)~~ Has or the person has a household income of less than twenty-five thousand dollars
4 if the household is a multiple-member household; and

5 ~~(3)~~(2) Has ~~owned a single-family dwelling, in fee or by contract to purchase, for at least one~~
6 ~~year and has~~ been a property owner and a resident of South Dakota for at least one
7 year; and

8 ~~(4)~~(3) Has resided for at least two hundred days of the previous calendar year in the
9 single-family dwelling; and

10 ~~(5)~~(4) Has established a base year.

11 The surviving spouse of a person who has previously qualified is entitled to the real property
12 tax assessment freeze if the surviving spouse meets the other conditions of this chapter.

13 Beginning on January 1, 2005, the household income listed in ~~subdivisions (1) and (2)~~
14 subdivision (1) of this section shall increase by the index factor. The index factor is the annual
15 percentage change in the consumer price index for urban wage earners and clerical workers as
16 computed by the Bureau of Labor Statistics of the United States Department of Labor for the
17 year before the year immediately preceding the year of adjustment or the annual percentage
18 change in federal social security payments for the preceding year, whichever is greater.

19 Section 3. That § 10-6A-4 be amended to read as follows:

20 10-6A-4. The application for the real property tax assessment freeze provided under this
21 chapter shall be annually submitted on or before April first on forms prescribed by the secretary
22 of revenue and regulation. The form shall be made available to the county treasurer who shall,
23 upon request of an applicant, assist the applicant in completing the form. The property owner
24 shall sign the certificate under penalty of perjury. A person failing to comply with the April first

1 deadline for the previous year, but otherwise qualifying for the real property tax assessment
2 freeze provided under this chapter, may petition the board of county commissioners to
3 recalculate the taxes based on the valuation the person would have received under this program
4 and abate the difference in taxes.

5 Section 4. That chapter 10-6A be amended by adding thereto a NEW SECTION to read as
6 follows:

7 Any person who receives a reduction in value due to false application for the real property
8 tax assessment freeze by misrepresenting the facts as to the person's ownership or income shall
9 be assessed the amount of tax reduction received due to the assessment freeze. The assessment
10 is a perpetual lien on the property pursuant to § 10-21-33. The person is barred from receiving
11 the assessment freeze reduction on any property in the state for the following three years.