

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 113

BY LOCAL GOVERNMENT COMMITTEE

AN ACT

1 RELATING TO PROPERTY TAX; AMENDING SECTION 63-701, IDAHO CODE, TO REVISE A
2 DEFINITION; AMENDING SECTION 63-706, IDAHO CODE, TO REMOVE PROVISIONS
3 RELATING TO PROCEDURES ASSOCIATED WITH COUNTY ASSESSORS' APPROVAL,
4 MODIFICATION OR DISAPPROVAL OF CERTAIN CLAIMS FOR PROPERTY TAX REDUC-
5 TION AND PROCEDURES RELATING TO ACTION BY THE COUNTY BOARD OF EQUAL-
6 IZATION ASSOCIATED WITH SUCH CLAIMS; AMENDING SECTION 63-707, IDAHO
7 CODE, TO REMOVE A PROVISION RELATING TO APPROVAL OF CERTAIN CLAIMS BY
8 THE BOARD OF EQUALIZATION, TO REVISE PROVISIONS RELATING TO THE TIME IN
9 WHICH THE PROPERTY TAX REDUCTION ROLL SHALL BE CERTIFIED TO THE COUNTY
10 AUDITOR AND TO THE STATE TAX COMMISSION, TO PROVIDE THAT THE PROPERTY
11 TAX REDUCTION ROLL SHALL BE ACCOMPANIED BY A COPY OF THE CLAIM FORMS, TO
12 REVISE THE TIME IN WHICH CLAIMANTS SHALL HAVE TO MAKE WRITTEN PROTEST
13 TO THE TAX COMMISSION RELATING TO THE COMMISSION'S INTENT TO DISAP-
14 PROVE ALL OR A PORTION OF A CLAIM AND TO REVISE THE TIME IN WHICH THE
15 TAX COMMISSION SHALL HAVE TO PROVIDE WRITTEN NOTICE OF DISAPPROVAL TO A
16 CLAIMANT OR A PERSON OR ENTITY ACTING ON BEHALF OF THE CLAIMANT; AMEND-
17 ING SECTION 63-715, IDAHO CODE, TO REMOVE REFERENCE TO THE APPROVAL OF
18 ELECTIONS OF DEFERRALS OF PAYMENT OF PROPERTY TAXES BY THE COUNTY BOARD
19 OF EQUALIZATION; AND AMENDING SECTION 63-716, IDAHO CODE, TO REMOVE
20 REFERENCE TO APPROVAL OF DEFERRALS OF PAYMENTS OF PROPERTY TAXES BY THE
21 COUNTY BOARD OF EQUALIZATION.
22

23 Be It Enacted by the Legislature of the State of Idaho:

24 SECTION 1. That Section 63-701, Idaho Code, be, and the same is hereby
25 amended to read as follows:

26 63-701. DEFINITIONS. As used in this chapter:

27 (1) "Claimant" means a person who has filed an application under sec-
28 tion 63-602G, Idaho Code, and has filed a claim under the provisions of
29 sections 63-701 through 63-710, Idaho Code. Except as provided in section
30 63-702(2), Idaho Code, on January 1, or before April 15, of the year in which
31 the claimant first filed a claim on the homestead in question, a claimant
32 must be an owner of the homestead and on January 1 of said year a claimant must
33 be:

34 (a) Not less than sixty-five (65) years old; or

35 (b) A child under the age of eighteen (18) years who is fatherless or
36 motherless or who has been abandoned by any surviving parent or parents;
37 or

38 (c) A widow or widower; or

39 (d) A disabled person who is recognized as disabled by the social se-
40 curity administration pursuant to title 42 of the United States Code,
41 or by the railroad retirement board pursuant to title 45 of the United

1 States Code, or by the office of management and budget pursuant to title
2 5 of the United States Code; or

3 (e) A disabled veteran of any war engaged in by the United States, whose
4 disability is recognized as a service-connected disability of a degree
5 of ten percent (10%) or more, or who has a pension for nonservice-con-
6 nected disabilities, in accordance with laws and regulations adminis-
7 tered by the United States department of veterans affairs; or

8 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled
9 to receive benefits because he is known to have been taken by a hostile
10 force as a prisoner, hostage or otherwise; or

11 (g) Blind.

12 (2) "Homestead" means the dwelling, owner-occupied by the claimant
13 as described in this chapter and used as the primary dwelling place of the
14 claimant and may be occupied by any members of the household as their home,
15 and so much of the land surrounding it, not exceeding one (1) acre, as is
16 reasonably necessary for the use of the dwelling as a home. It may consist
17 of a part of a multidwelling or multipurpose building and part of the land
18 upon which it is built. "Homestead" does not include personal property such
19 as furniture, furnishings or appliances, but a manufactured home may be a
20 homestead.

21 (3) "Household" means the claimant and the claimant's spouse. The term
22 does not include bona fide lessees, tenants, or roomers and boarders on con-
23 tract. "Household" includes persons described in subsection (8) (b) of this
24 section.

25 (4) "Household income" means all income received by the claimant and,
26 if married, all income received by the claimant's spouse, in a calendar year.

27 (5) "Income" means the sum of federal adjusted gross income as defined
28 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and
29 to the extent not already included in federal adjusted gross income:

30 (a) Alimony;

31 (b) Support money;

32 (c) Nontaxable strike benefits;

33 (d) The nontaxable amount of any individual retirement account, pen-
34 sion or annuity, (including railroad retirement benefits, all payments
35 received under the federal social security act except the social secu-
36 rity death benefit as specified in this subsection, state unemployment
37 insurance laws, and veterans disability pensions and compensation, ex-
38 cluding any return of principal paid by the recipient of an annuity and
39 excluding rollovers as provided in section 402 or 403 of the Internal
40 Revenue Code);

41 (e) Nontaxable interest received from the federal government or any of
42 its instrumentalities or a state government or any of its instrumentali-
43 ties;

44 (f) Worker's compensation; and

45 (g) The gross amount of loss of earnings insurance.

46 It does not include gifts from nongovernmental sources or inheritances. To
47 the extent not reimbursed, the cost of medical care as defined in section
48 213(d) of the Internal Revenue Code, incurred or paid by the claimant and,
49 if married, the claimant's spouse, may be deducted from income. To the ex-
50 tent not reimbursed, personal funeral expenses, including prepaid funeral

1 expenses and premiums on funeral insurance, of the claimant and claimant's
 2 spouse only, may be deducted from income up to an annual maximum of five
 3 thousand dollars (\$5,000) per claim. "Income" does not include veterans
 4 disability pensions received by a person described in subsection (1) (e) who
 5 is a claimant or a claimant's spouse if the disability pension is received
 6 pursuant to a service-connected disability of a degree of forty percent
 7 (40%) or more. "Income" does not include dependency and indemnity compensa-
 8 tion or death benefits paid to a person described in subsection (1) of this
 9 section by the United States department of veterans affairs and arising from
 10 a service-connected death or disability. "Income" does not include lump sum
 11 death benefits made by the social security administration pursuant to 42
 12 U.S.C. section 402(i). Documentation of medical expenses may be required by
 13 the county assessor, ~~board of equalization~~ and state tax commission in such
 14 form as the county assessor, ~~board of equalization~~ or state tax commission
 15 shall determine. "Income" shall be that received in the calendar year imme-
 16 diately preceding the year in which a claim is filed. Where a claimant and/or
 17 the claimant's spouse does not file a federal tax return, the claimant's
 18 and/or the claimant's spouse's federal adjusted gross income, for purposes
 19 of this section, shall be an income equivalent to federal adjusted gross
 20 income had the claimant and/or the claimant's spouse filed a federal tax
 21 return, as determined by the county assessor. The county assessor, ~~board of~~
 22 ~~equalization~~ or state tax commission may require documentation of income in
 23 such form as each shall determine, including, but not limited to: copies of
 24 federal or state tax returns and any attachments thereto; and income report-
 25 ing forms such as the W-2 and 1099.

26 For determining income for certain married individuals living apart,
 27 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code
 28 shall apply.

29 (6) "Occupied" means actual use and possession.

30 (7) "Owner" means a person holding title in fee simple or holding a cer-
 31 tificate of motor vehicle title (either of which may be subject to mortgage,
 32 deed of trust or other lien) or who has retained or been granted a life estate
 33 or who is a person entitled to file a claim under section 63-702, Idaho Code.
 34 "Owner" shall also include any person who:

35 (a) Is the beneficiary of a revocable or irrevocable trust which is the
 36 owner of such homestead and under which the claimant or the claimant's
 37 spouse has the primary right of occupancy of the homestead; or

38 (b) Is a partner of a limited partnership, member of a limited liabil-
 39 ity company or shareholder of a corporation if such entity holds title
 40 in fee simple or holds a certificate of motor vehicle title and if the
 41 person holds at least a five percent (5%) ownership in such entity, as
 42 determined by the county assessor; or

43 (c) Has retained or been granted a life estate.

44 "Owner" includes a vendee in possession under a land sale contract. Any
 45 partial ownership shall be considered as ownership for determining initial
 46 qualification for property tax reduction benefits; however, the amount of
 47 property tax reduction under section 63-704, Idaho Code, and rules promul-
 48 gated pursuant to section 63-705, Idaho Code, shall be computed on the value
 49 of the claimant's partial ownership. "Partial ownership," for the purposes
 50 of this section, means any one (1) person's ownership when property is owned

1 by more than one (1) person or where the homestead is held by an entity, as set
2 forth in this subsection, but more than one (1) person has the right of occu-
3 pancy of such homestead. A person holding either partial title in fee simple
4 or holding a certificate of motor vehicle title together with another person
5 but who does not occupy the dwelling as his primary dwelling place, shall
6 not be considered an owner for purposes of this section, if such person is a
7 cosignatory of a note secured by the dwelling in question and at least one (1)
8 of the other cosignatories of the note occupies the dwelling as his primary
9 dwelling place. The combined community property interests of both spouses
10 shall not be considered partial ownership so long as the combined commu-
11 nity property interests constitute the entire ownership of the homestead,
12 including where the spouses are occupying a homestead owned by an entity,
13 as set forth in this subsection, and the spouses have the primary right of
14 occupancy of the homestead. The proportional reduction required under this
15 subsection shall not apply to community property interests. Where title
16 to property was held by a person who has died without timely filing a claim
17 for property tax reduction, the estate of the deceased person shall be the
18 "owner," provided that the time periods during which the deceased person
19 held such title shall be attributed to the estate for the computation of any
20 time periods under subsection (8) (a) or (8) (b) of this section.

21 (8) (a) "Primary dwelling place" means the claimant's dwelling place
22 on January 1 or before April 15 of the year for which the claim is made.
23 The primary dwelling place is the single place where a claimant has
24 his true, fixed and permanent home and principal establishment, and to
25 which whenever the individual is absent he has the intention of return-
26 ing. A claimant must establish the dwelling to which the claim relates
27 to be his primary dwelling place by clear and convincing evidence or by
28 establishing that the dwelling is where the claimant resided on January
29 1 or before April 15 and:

30 (i) At least six (6) months during the prior year; or

31 (ii) The majority of the time the claimant owned the dwelling if
32 owned by the claimant less than one (1) year; or

33 (iii) The majority of the time after the claimant first occupied
34 the dwelling if occupied by the claimant for less than one (1)
35 year. The county assessor may require written or other proof of
36 the foregoing in such form as the county assessor may determine.

37 (b) Notwithstanding the provisions of paragraph (a) of this subsec-
38 tion, the property upon which the claimant makes application shall be
39 deemed to be the claimant's primary dwelling place if the claimant is
40 otherwise qualified and resides in a care facility and does not allow
41 the property upon which the claimant has made application to be occu-
42 pied by persons paying a consideration to occupy the dwelling. Payment
43 of utilities shall not be payment of a consideration to occupy the
44 dwelling. A claimant's spouse who resides in a care facility shall be
45 deemed to reside at the claimant's primary dwelling place and to be a
46 part of the claimant's household. A care facility is a hospital, nurs-
47 ing facility or intermediate care facility for people with intellectual
48 disabilities as defined in section 39-1301, Idaho Code, or a facility
49 as defined in section 39-3302(14), Idaho Code, or a dwelling other than
50 the one upon which the applicant makes application where a claimant who

1 is unable to reside in the dwelling upon which the application is made
2 lives and receives help in daily living, protection and security.

3 SECTION 2. That Section 63-706, Idaho Code, be, and the same is hereby
4 amended to read as follows:

5 63-706. TIME REQUIREMENTS FOR FILING CLAIM. ~~(1) Any claim for property~~
6 ~~tax reduction to be granted under the provisions of sections 63-701 through~~
7 ~~63-710, Idaho Code, shall be filed in the office of the county assessor be-~~
8 ~~tween January 1 and April 15 of each year. The county assessor shall exam-~~
9 ~~ine each claim and determine whether it is in conformity with section 63-701,~~
10 ~~Idaho Code, and shall accordingly approve, modify or disapprove the claim in~~
11 ~~total at the time the application is received. Additionally, the county as-~~
12 ~~essor shall notify the claimant, or the person or entity acting on behalf~~
13 ~~of the claimant, in writing by May 1 if his claim has been modified or has~~
14 ~~been disapproved. The notice of modification or disapproval shall declare~~
15 ~~that the claimant, or the person or entity acting on behalf of the claimant,~~
16 ~~may appeal the assessor's decision to the county board of equalization, and~~
17 ~~shall state the time and place that the county board of equalization shall~~
18 ~~meet for such purposes.~~

19 ~~(2) All claims filed with the county assessor shall be completed by him~~
20 ~~and forwarded to the county commissioners, which shall convene as a board of~~
21 ~~equalization, any other provision of law notwithstanding, on or before May~~
22 ~~15, and shall approve all claims approved by the county assessor, and shall~~
23 ~~approve the action of the county assessor in modifying or disapproving all~~
24 ~~other claims unless an appeal has been filed with the board of equalization~~
25 ~~prior to May 15. In considering any appeal of the assessor's decision in mod-~~
26 ~~ifying or disapproving a claim, the board of equalization may affirm the as-~~
27 ~~essor's decision, may modify the assessor's decision, or may reject the as-~~
28 ~~essor's decision and proceed to approve all or any part of the claim as sub-~~
29 ~~mitted to the assessor originally.~~

30 ~~(3) No informality on the part of the board of equalization shall in-~~
31 ~~validate any action of the board. The decision of the board of equalization~~
32 ~~shall be final, except that within thirty (30) days the claimant, or any per-~~
33 ~~son or entity acting on behalf of the claimant, may appeal to the district~~
34 ~~court on matters of law, and may appeal the decision of the board of equal-~~
35 ~~ization when the board has acted arbitrarily. The claimant, or the person or~~
36 ~~entity acting on behalf of the claimant, shall be notified immediately, in~~
37 ~~writing, of the board of equalization's action on his appeal to it.~~

38 SECTION 3. That Section 63-707, Idaho Code, be, and the same is hereby
39 amended to read as follows:

40 63-707. PROCEDURE AFTER CLAIM APPROVAL. ~~(1) Immediately after claims~~
41 ~~have been approved by the board of equalization, tThe county assessor shall~~
42 ~~prepare a property tax reduction roll, which shall be in addition to the~~
43 ~~property roll, the subsequent property roll and missed property rolls which~~
44 ~~property tax reduction roll shall show:~~

45 (a) The name of the taxpayer;

1 (b) The description of the property for which a reduction in property
2 taxes is claimed, suitably detailed to meet the requirements of the in-
3 dividual county;

4 (c) The assessor's best estimate of current market value, and any pro-
5 rated net taxable value of the eligible portion of the property's cur-
6 rent market value for assessment purposes; and

7 (d) The amount of tax reduction for which the applicant is eligible as
8 determined by the income of the claimant and, if married, the claimant's
9 spouse, pursuant to sections 63-704 and 63-705, Idaho Code.

10 (2) As soon as possible, but in any event by no later than ~~the fourth~~
11 ~~Monday of June 1~~, the property tax reduction roll shall be certified to the
12 county auditor and to the state tax commission in the manner prescribed
13 by rules promulgated by the state tax commission. The property tax reduc-
14 tion roll shall be accompanied by a copy of the claim forms ~~for disapproved~~
15 ~~claims, when requested by the state tax commission and a copy of the approved~~
16 ~~claims form.~~

17 (3) (a) As soon as possible, but in any event by no later than the fourth
18 Monday of October, the county auditor shall complete the property tax
19 reduction roll by adding the following information:

20 (i) The current year's levy for the code area in which the prop-
21 erty is situated;

22 (ii) The amount of property tax reduction claimed based on the
23 current year's market value for assessment purposes and the cur-
24 rent year's levy; and

25 (iii) The current year's market value for assessment purposes.

26 (b) As soon as possible, but in any event no later than the fourth Monday
27 of October, the county auditor shall certify the completed property tax
28 reduction roll to the state tax commission in the manner prescribed by
29 rules promulgated by the state tax commission.

30 (4) The state tax commission shall determine the total number of claims
31 to be allowed in each county, the dollar amount of each claim allowed, and the
32 total dollar amount for all claims for each county. These amounts shall be
33 certified to the county auditor and tax collector by the state tax commission
34 by no later than the third Monday in November.

35 (5) The state tax commission may audit each and every claim submitted to
36 it, and, any other provision of law notwithstanding, may utilize income tax
37 returns filed by the claimant or by the claimant's spouse to determine the
38 income of the claimant or the claimant's spouse.

39 (6) If it is determined by the state tax commission that a claim is erro-
40 neous, the tax commission shall disapprove so much of the claim as necessary
41 in order to conform with statutory standards. The tax commission shall pro-
42 vide the claimant, or the person or entity acting on behalf of the claimant,
43 written notice of the tax commission's intent to disapprove all or a por-
44 tion of the claim. The claimant, or the person or entity acting on behalf of
45 the claimant, shall have ~~fourteen~~ twenty-eight (1428) days to make written
46 protest to the tax commission of the intended action. The claimant, or the
47 person or entity acting on behalf of the claimant, may submit additional
48 information and may request an informal hearing with the commission. If the
49 claimant, or the person or entity acting on behalf of the claimant, fails
50 to make written protest within ~~fourteen~~ twenty-eight (1428) days, the tax

1 commission shall provide written notice of disapproval to the claimant, or
2 the person or entity acting on behalf of the claimant, by the ~~fourth~~ second
3 Monday of October and to the county auditor of the county from which the
4 claim was received. Any claimant, or person or entity acting on behalf of
5 the claimant, whose claim is disapproved in whole or in part by the state tax
6 commission may:

7 (a) File a claim with the county commissioners for a special cancella-
8 tion pursuant to section 63-711, Idaho Code;

9 (b) Appeal such disapproval by the state tax commission to the board of
10 tax appeals or to the district court of the county of residence of the
11 taxpayer within thirty (30) days.

12 SECTION 4. That Section 63-715, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 63-715. PROCEDURES -- APPEALS. Elections for deferral of payment of
15 property tax shall be subject to the provisions of section 63-706, Idaho
16 Code, and ~~if approved by the county board of equalization,~~ shall be included
17 on the property tax reduction roll and processed and reviewed as provided in
18 section 63-707, Idaho Code, for claims for property tax relief.

19 SECTION 5. That Section 63-716, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 63-716. DEFERRAL -- INTEREST -- LIEN -- PRIORITY. (1) Upon approval
22 by ~~both the county board of equalization and~~ the state tax commission, pay-
23 ment of any amount of property tax due for the year to which the election re-
24 lates, after application of the property tax relief available under sections
25 63-701 through 63-710, Idaho Code, and subject to the limitation in section
26 63-717(2), Idaho Code, in regard to the qualified property subject to the
27 election, shall be deferred until the deferral is terminated under section
28 63-718, Idaho Code.

29 (2) During the period of deferral, interest shall accrue on the amount
30 deferred at the annual rate of six percent (6%) annually.

31 (3) The lien imposed by section 63-206, Idaho Code, shall continue to be
32 a lien on the property in the amount of deferred taxes and interest thereon.
33 The state tax commission shall file with the county recorder of the county in
34 which the property is located a notice of lien for deferred property taxes.
35 Notwithstanding the provisions of section 63-206, Idaho Code, the lien for
36 deferred taxes and interest shall not be a first and prior lien, but shall
37 take its priority from the date and time of filing of the notice of lien.