

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 494

BY NECOCHEA

AN ACT

1 RELATING TO PROPERTY TAX REDUCTION; AMENDING SECTION 63-701, IDAHO CODE,
2 TO REVISE A DEFINITION; AMENDING SECTION 63-705, IDAHO CODE, TO RE-
3 VISE PROVISIONS REGARDING REQUIREMENTS FOR THE PROPERTY TAX REDUCTION
4 PROGRAM; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICA-
5 TION.
6

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

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

10 63-701. DEFINITIONS. As used in this chapter:

11 (1) "Claimant" means a person who has filed an application under sec-
12 tion 63-602G, Idaho Code, and has filed a claim under the provisions of
13 sections 63-701 through 63-710, Idaho Code. Except as provided in section
14 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which
15 the claimant first filed a claim on the homestead in question, a claimant
16 must be an owner of the homestead, and a claimant must have lawful presence in
17 the United States pursuant to section 67-7903, Idaho Code. ~~and on January 1~~
18 ~~of said year a claimant must be:~~

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

20 ~~(b) A child under the age of eighteen (18) years who is fatherless or~~
21 ~~motherless or who has been abandoned by any surviving parent or parents;~~
22 ~~or~~

23 ~~(c) A widow or widower; or~~

24 ~~(d) A disabled person who is recognized as disabled by the social se-~~
25 ~~curity administration pursuant to title 42 of the United States Code,~~
26 ~~or by the railroad retirement board pursuant to title 45 of the United~~
27 ~~States Code, or by the office of management and budget pursuant to title~~
28 ~~5 of the United States Code, or, if a person is not within the purview of,~~
29 ~~and is therefore not recognized as disabled by, any other entity listed~~
30 ~~in this paragraph, then by the public employee retirement system or pub-~~
31 ~~lic employee disability plan in which the person participates that may~~
32 ~~be of any state, local unit of government or other jurisdiction in the~~
33 ~~United States of America; or~~

34 ~~(e) A disabled veteran of any war engaged in by the United States, whose~~
35 ~~disability is recognized as a service-connected disability of a degree~~
36 ~~of ten percent (10%) or more, or who has a pension for nonservice-con-~~
37 ~~ected disabilities, in accordance with laws and regulations adminis-~~
38 ~~tered by the United States department of veterans affairs; or~~

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

42 ~~(g) Blind.~~

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

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

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

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

19 (a) Alimony;

20 (b) Support money;

21 (c) Nontaxable strike benefits;

22 (d) The nontaxable amount of any individual retirement account, pen-
23 sion or annuity, including railroad retirement benefits, all payments
24 received under the federal social security act except the social secu-
25 rity death benefit as specified in this subsection, state unemployment
26 insurance laws, and veterans disability pensions and compensation, ex-
27 cluding any return of principal paid by the recipient of an annuity and
28 excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding
29 the nontaxable portion of a Roth individual retirement account distri-
30 bution, as provided in 26 U.S.C. 408A;

31 (e) Nontaxable interest received from the federal government or any of
32 its instrumentalities or a state government or any of its instrumentali-
33 ties;

34 (f) Worker's compensation; and

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

36 It does not include gifts from nongovernmental sources or inheritances. To
37 the extent not reimbursed, the cost of medical care as defined in section
38 213(d) of the Internal Revenue Code, incurred and paid by the claimant and,
39 if married, the claimant's spouse, may be deducted from income. To the ex-
40 tent not reimbursed, personal funeral expenses, including prepaid funeral
41 expenses and premiums on funeral insurance, of the claimant and claimant's
42 spouse only, may be deducted from income up to an annual maximum of five thou-
43 sand dollars (\$5,000) per claim. "Income" does not include veterans dis-
44 ability pensions received by ~~a person described in subsection (1) (e) of this~~
45 ~~section who is~~ a claimant or a claimant's spouse if the disability pension
46 is received pursuant to a service-connected disability of a degree of forty
47 percent (40%) or more. "Income" does not include dependency and indemnity
48 compensation or death benefits paid to a person described in subsection (1)
49 of this section by the United States department of veterans affairs and aris-
50 ing from a service-connected death or disability. "Income" does not include

1 lump sum death benefits made by the social security administration pursuant
2 to 42 U.S.C. 402(i). Documentation of medical expenses may be required by
3 the county assessor and state tax commission in such form as the county as-
4 sessor or state tax commission shall determine. "Income" shall be that re-
5 ceived in the calendar year immediately preceding the year in which a claim
6 is filed. Where a claimant and/or the claimant's spouse does not file a fed-
7 eral tax return, the claimant's and/or the claimant's spouse's federal ad-
8 justed gross income, for purposes of this section, shall be an income equiva-
9 lent to federal adjusted gross income had the claimant and/or the claimant's
10 spouse filed a federal tax return, as determined by the county assessor. The
11 county assessor or state tax commission may require documentation of income
12 in such form as each shall determine, including, but not limited to: copies
13 of federal or state tax returns and any attachments thereto; and income re-
14 porting forms such as the W-2 and 1099.

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

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

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

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

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

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

33 "Owner" includes a vendee in possession under a land sale contract. Any
34 partial ownership shall be considered as ownership for determining initial
35 qualification for property tax reduction benefits; however, the amount of
36 property tax reduction under section 63-704, Idaho Code, and rules promul-
37 gated pursuant to section 63-705, Idaho Code, shall be computed on the value
38 of the claimant's partial ownership. "Partial ownership," for the purposes
39 of this section, means any one (1) person's ownership when property is owned
40 by more than one (1) person or where the homestead is held by an entity, as
41 set forth in this subsection, but more than one (1) person has the right of
42 occupancy of such homestead. A person holding either partial title in fee
43 simple or holding a certificate of motor vehicle title together with another
44 person, but who does not occupy the dwelling as his primary dwelling place,
45 shall not be considered an owner for purposes of this section, if such person
46 is a cosignatory of a note secured by the dwelling in question and at least
47 one (1) of the other cosignatories of the note occupies the dwelling as his
48 primary dwelling place. The combined community property interests of both
49 spouses shall not be considered partial ownership as long as the combined
50 community property interests constitute the entire ownership of the home-

1 stead, including where the spouses are occupying a homestead owned by an en-
 2 tity, as set forth in this subsection, and the spouses have the primary right
 3 of occupancy of the homestead. The proportional reduction required under
 4 this subsection shall not apply to community property interests. Where
 5 title to property was held by a person who has died without timely filing a
 6 claim for property tax reduction, the estate of the deceased person shall be
 7 the "owner," provided that the time periods during which the deceased person
 8 held such title shall be attributed to the estate for the computation of any
 9 time periods under subsection (8) (a) or (b) of this section.

10 (8) (a) "Primary dwelling place" means the claimant's dwelling place
 11 on January 1 or before April 15 of the year for which the claim is made.
 12 The primary dwelling place is the single place where a claimant has
 13 his true, fixed and permanent home and principal establishment, and to
 14 which whenever the individual is absent he has the intention of return-
 15 ing. A claimant must establish the dwelling to which the claim relates
 16 to be his primary dwelling place by clear and convincing evidence or by
 17 establishing that the dwelling is where the claimant resided on January
 18 1 or before April 15 and:

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

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

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

26 (b) Notwithstanding the provisions of paragraph (a) of this subsec-
 27 tion, the property upon which the claimant makes application shall be
 28 deemed to be the claimant's primary dwelling place if the claimant is
 29 otherwise qualified and resides in a care facility and does not allow
 30 the property upon which the claimant has made application to be occu-
 31 pied by persons paying a consideration to occupy the dwelling. Payment
 32 of utilities shall not be payment of a consideration to occupy the
 33 dwelling. A claimant's spouse who resides in a care facility shall be
 34 deemed to reside at the claimant's primary dwelling place and to be a
 35 part of the claimant's household. A care facility is a hospital, nurs-
 36 ing facility or intermediate care facility for people with intellectual
 37 disabilities as defined in section 39-1301, Idaho Code, or a facility
 38 as defined in section 39-3302(16), Idaho Code, or a dwelling other than
 39 the one upon which the applicant makes application where a claimant who
 40 is unable to reside in the dwelling upon which the application is made
 41 lives and receives help in daily living, protection and security.

42 SECTION 2. That Section 63-705, Idaho Code, be, and the same is hereby
 43 amended to read as follows:

44 63-705. PUBLICATION OF CHANGES IN INCOME LIMITATIONS AND PROPERTY TAX
 45 OR OCCUPANCY TAX REDUCTION AMOUNTS.

46 (1) (a) The state tax commission shall publish adjustments to the income
 47 limitations, which shall be the greater of:

48 (i) An individual's income as defined in section 63-701, Idaho
 49 Code, of not more than ~~thirty-one~~ fifty thousand ~~nine hundred~~ dol-

1 lars (~~\$31,950,000~~) per household for tax year 2021 and 2022, which
 2 amount shall be adjusted for inflation pursuant to subsection (2)
 3 of this section, for each tax year thereafter; or

4 (ii) One hundred eighty-five percent (185%) of the federal
 5 poverty guidelines for a household of two (2) for tax year 2021~~2~~
 6 and each tax year thereafter.

7 ~~(b) On and after January 1, 2022, if the current year's assessed value~~
 8 ~~of the home owned by the individual, according to the current year's~~
 9 ~~assessment notice, exceeds one hundred twenty-five percent (125%) of~~
 10 ~~the median assessed valuation for all homes in the county receiving~~
 11 ~~the homestead exemption pursuant to section 63-602C, Idaho Code, then~~
 12 ~~the individual will instead be referred to the property tax deferral~~
 13 ~~program set forth in sections 63-712 through 63-721, Idaho Code. Using~~
 14 ~~the current year's assessed values, each county shall report the median~~
 15 ~~assessed value of all properties receiving the homestead exemption in~~
 16 ~~such county as of that date to the state tax commission no later than~~
 17 ~~the first Monday in June. Provided, however, the provisions of this~~
 18 ~~paragraph do not apply to a veteran with either a service-connected~~
 19 ~~disability of one hundred percent (100%) or a disability rating based on~~
 20 ~~individual unemployability rating that is compensated at the one hun-~~
 21 ~~dred percent (100%) disability rate, as certified by the United States~~
 22 ~~department of veterans affairs.~~

23 (eb) The lowest income limitation shall allow a maximum reduction
 24 of one thousand five hundred dollars (\$1,500) in tax year 2021 and
 25 thereafter, or actual property taxes or occupancy taxes, as applica-
 26 ble, whichever is less. Each income limitation and reduction amount
 27 shall be prorated based on the basic maximum reduction, in practicable
 28 increments so that the highest income limitation will provide for a re-
 29 duction of two hundred fifty dollars (\$250), or actual property taxes,
 30 whichever is less.

31 (2) The tax commission shall publish the adjustments required by this
 32 section each and every year the secretary of health and human services an-
 33 nounces cost-of-living modifications, pursuant to 42 U.S.C. 415(i). The ad-
 34 justments shall be published no later than October 1 of each such year and
 35 shall be effective for claims filed in and for the following property tax
 36 year.

37 (3) The publication of adjustments under this section shall be exempt
 38 from the provisions of chapter 52, title 67, Idaho Code, but shall be pro-
 39 vided to each county and to members of the public upon request and without
 40 charge.

41 SECTION 3. An emergency existing therefor, which emergency is hereby
 42 declared to exist, this act shall be in full force and effect on and after its
 43 passage and approval, and retroactively to January 1, 2022.