

IN THE SENATE

SENATE BILL NO. 1416

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO PROPERTY TAXES; AMENDING SECTION 63-602G, IDAHO CODE, TO REVISE PROVISIONS REGARDING THE HOMESTEAD EXEMPTION; AND DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. That Section 63-602G, Idaho Code, be, and the same is hereby amended to read as follows:

63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) For each tax year 2020, the first one hundred twenty thousand dollars (~~\$1020,000~~) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment purposes of the homestead as that term is defined in section 63-701, Idaho Code, whichever is the lesser, shall be exempt from property taxation. Beginning for tax year 2021 and each tax year thereafter, the state tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall change the amount subject to tax exemption by a percentage as near as practicable to the annual change in the United States all-transactions house price index for the state of Idaho as determined by the federal housing finance agency. The state tax commission shall publish the adjustments by no later than October 1 of each year and the adjustments shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

(2) The exemption allowed by this section may be granted only if:

(a) The homestead is owner-occupied and used as the primary dwelling place of the owner as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. The homestead may consist of part of a multidwelling or multipurpose building and shall include all of such dwelling or building except any portion used exclusively for anything other than the primary dwelling of the owner. The presence of an office in a homestead, which office is used for multiple purposes, including business and personal use, shall not prevent the owner from claiming the exemption provided in this section; and

(b) The state tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and

(c) The owner has certified to the county assessor by April 15 that:

1 (i) He is making application for the exemption allowed by this  
2 section;

3 (ii) The homestead is his primary dwelling place; and

4 (iii) He has not made application in any other county for the ex-  
5 emption, and has not made application for the exemption on any  
6 other homestead in the county.

7 (d) For the purpose of this section, the definition of "owner" shall be  
8 the same definition set forth in section 63-701(7), Idaho Code.

9 When an "owner," pursuant to the provisions of section 63-701(7),  
10 Idaho Code, is any person who is the beneficiary of a revocable or irrev-  
11 ocable trust, or who is a partner of a limited partnership, a member of  
12 a limited liability company, or shareholder of a corporation, he or she  
13 may provide proof of the trust, limited partnership, limited liability  
14 company, or corporation in the manner set forth in section 63-703(4),  
15 Idaho Code.

16 (e) Any owner may request in writing the return of all copies of any  
17 documents submitted with the affidavit set forth in section 63-703(4),  
18 Idaho Code, that are held by a county assessor, and the copies shall  
19 be returned by the county assessor upon submission of the affidavit in  
20 proper form.

21 (f) For the purpose of this section, the definition of "primary  
22 dwelling place" shall be the same definition set forth in section  
23 63-701(8), Idaho Code.

24 (g) For the purpose of this section, the definition of "occupied" shall  
25 be the same definition set forth in section 63-701(6), Idaho Code.

26 (3) An owner need only make application for the exemption described in  
27 subsection (1) of this section once, as long as all of the following condi-  
28 tions are met:

29 (a) The owner has received the exemption during the previous year as a  
30 result of his making a valid application as ~~defined~~ set forth in subsec-  
31 tion (2)(c) of this section.

32 (b) The owner or beneficiary, partner, member or shareholder, as appro-  
33 priate, still occupies the same homestead for which the owner made ap-  
34 plication.

35 (c) The homestead described in ~~subsection (3) paragraph~~ (b) of this  
36 subsection is owner-occupied or occupied by a beneficiary, partner,  
37 member or shareholder, as appropriate, and used as the primary dwelling  
38 place of the owner or beneficiary, partner, member or shareholder, as  
39 appropriate, as of January 1; provided however, that in the event the  
40 homestead is owner-occupied after January 1~~7~~ but before April 15, the  
41 owner of the property is entitled to the exemption.

42 (4) The exemption allowed by this section must be taken before the re-  
43 duction in taxes provided by sections 63-701 through 63-710, Idaho Code, is  
44 applied.

45 (5) Recovery of property tax exemptions allowed by this section but im-  
46 properly claimed or approved:

47 (a) Upon discovery of evidence, facts or circumstances indicating any  
48 exemption allowed by this section was improperly claimed or approved,  
49 the county assessor shall decide whether the exemption claimed should  
50 have been allowed~~7~~ and, if not, notify the taxpayer in writing, assess

1 a recovery of property tax and notify the county treasurer of this as-  
2 sessment. If the county assessor determined that an exemption was im-  
3 properly approved as a result of county error, the county assessor shall  
4 present the discovered evidence, facts or circumstances from the im-  
5 properly approved exemption to the board of county commissioners, at  
6 which time the board may waive a recovery of the property tax and notify  
7 such taxpayer in writing.

8 (b) When information indicating that an improper claim for the exemp-  
9 tion allowed by this section is discovered by the state tax commission,  
10 the state tax commission may disclose this information to the ap-  
11 propriate county assessor, board of county commissioners and county  
12 treasurer. Information disclosed to county officials by the state tax  
13 commission under this subsection may be used to decide the validity of  
14 any entitlement to the exemption provided in this section and is not  
15 otherwise subject to public disclosure pursuant to chapter 1, title 74,  
16 Idaho Code.

17 (c) The assessment and collection of the recovery of property tax must  
18 begin within the seven (7) year period beginning the date the assessment  
19 notice reflecting the improperly claimed or approved exemption was re-  
20 quired to be mailed to the taxpayer.

21 (d) The taxpayer may appeal to the county board of equalization the  
22 decision by the county assessor to assess the recovery of property tax  
23 within thirty (30) days of the date the county assessor sent the notice  
24 to the taxpayer pursuant to this section. The board may waive the col-  
25 lection of all or part of any costs, late charges and interest, in order  
26 to facilitate the collection of the recovery of the property tax.

27 (e) For purposes of calculating the tax, the amount of the recovered  
28 property tax shall be for each year the exemption allowed by this sec-  
29 tion was improperly claimed or approved, up to a maximum of seven (7)  
30 years. The amount of the recovery of property tax shall be calculated  
31 using the product of the amount of exempted value for each year multi-  
32 plied by the levy for that year plus costs, late charges and interest for  
33 each year at the rates equal to those provided for delinquent property  
34 taxes during that year.

35 (f) Any recovery of property tax shall be due and payable no later than  
36 the date provided for property taxes in section 63-903, Idaho Code, and  
37 if not timely paid, late charges and interest, beginning the first day  
38 of January in the year following the year the county assessor sent the  
39 notice to the taxpayer pursuant to this section, shall be calculated at  
40 the current rate provided for property taxes.

41 (g) Recovered property taxes shall be billed, collected and dis-  
42 tributed in the same manner as property taxes, except each taxing dis-  
43 trict or unit shall be notified of the amount of any recovered property  
44 taxes included in any distribution.

45 (h) Thirty (30) days after the taxpayer is notified, as provided in  
46 ~~subsection (5) paragraph~~ (a) of this ~~subsection~~, the assessor shall  
47 record a notice of intent to attach a lien. Upon the payment in full of  
48 such recovered property taxes prior to the attachment of the lien as  
49 provided in ~~subsection (5) paragraph~~ (i) of this ~~subsection~~, or upon  
50 the successful appeal by the taxpayer, the county assessor shall record

1 a rescission of the intent to attach a lien within seven (7) business  
2 days of receiving such payment or within seven (7) business days of the  
3 county board of equalization decision granting the appeal. If the real  
4 property is sold to a bona fide purchaser for value, prior to the record-  
5 ing of the notice of the intent to attach a lien, the county assessor and  
6 treasurer shall cease the recovery of such unpaid recovered property  
7 tax.

8 (i) Any unpaid recovered property taxes shall become a lien upon the  
9 real property in the same manner as provided for property taxes in sec-  
10 tion 63-206, Idaho Code, except such lien shall attach as of the first  
11 day of January in the year following the year the county assessor sent  
12 the notice to the taxpayer pursuant to this section.

13 (j) For purposes of the limitation provided by section 63-802, Idaho  
14 Code, moneys received pursuant to this subsection as recovery of prop-  
15 erty tax shall be treated as property tax revenue.

16 (6) The legislature declares that this exemption is necessary and just.

17 (7) A homestead, having previously qualified for exemption under this  
18 section in the preceding year, shall not lose such qualification due to: the  
19 owner's, beneficiary's, partner's, member's or shareholder's absence in the  
20 current year by reason of active military service, or because the homestead  
21 has been leased because the owner, beneficiary, partner, member or share-  
22 holder is absent in the current year by reason of active military service.  
23 An owner subject to the provisions of this subsection must apply for the ex-  
24 emption with the county assessor every year on or before a deadline date as  
25 specified by the county assessor for the county in which the homestead is  
26 claimed. If an owner fails to apply on or before the established deadline,  
27 the county may, at its discretion, discontinue the exemption for that year.

28 (8) A homestead, having previously qualified for exemption under this  
29 section in the preceding year, shall not lose such qualification due to  
30 the owner's, beneficiary's, partner's, member's or shareholder's death  
31 during the year of the owner's, beneficiary's, partner's, member's or share-  
32 holder's death and the tax year immediately following such death provided  
33 that the homestead continues to be a part of the owner's, beneficiary's,  
34 partner's, member's or shareholder's estate. After such time, the new owner  
35 shall reapply to receive the exemption pursuant to this section and shall  
36 meet the qualification criteria contained in this section.

37 SECTION 2. An emergency existing therefor, which emergency is hereby  
38 declared to exist, this act shall be in full force and effect on and after its  
39 passage and approval, and retroactively to January 1, 2020.