

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 431

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO EXEMPTIONS FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE,
TO REVISE PROVISIONS REGARDING CERTAIN PROPERTY EXEMPT FROM TAXATION.

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) ~~During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, For each tax year, the first seventy-five one hundred thousand dollars (\$75100,000) 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 2007, 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 effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual change in the Idaho housing price index as determined by the United States office of federal housing enterprise oversight. The state tax commission shall publish the adjustments required by this subsection each and every year the office of federal housing enterprise oversight announces a change in the Idaho housing price index. The adjustments shall be published no later than October 1 of each year and 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 ap-

1 praisal by the county assessor have, in fact, been appraised uniformly
2 so as to secure a just valuation for all property within the county; and

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

4 (i) He is making application for the exemption allowed by this
5 section;

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

7 (iii) He has not made application in any other county for the ex-
8 emption, and has not made application for the exemption on any
9 other homestead in the county.

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

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

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

24 (f) For the purpose of this section, the definition of "primary
25 dwelling place" shall be the same definition set forth in section
26 63-701(8), Idaho Code.

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

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

32 (a) The owner has received the exemption during the previous year as a
33 result of his making a valid application as defined in subsection (2) (c)
34 of this section.

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

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

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

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

1 (a) Upon discovery of evidence, facts or circumstances indicating any
2 exemption allowed by this section was improperly claimed or approved,
3 the county assessor shall decide whether the exemption claimed should
4 have been allowed, and if not, notify the taxpayer in writing, assess
5 a recovery of property tax and notify the county treasurer of this as-
6 sessment. If the county assessor determined that an exemption was im-
7 properly approved as a result of county error, the county assessor shall
8 present the discovered evidence, facts or circumstances from the im-
9 properly approved exemption to the board of county commissioners, at
10 which time the board may waive a recovery of the property tax and notify
11 such taxpayer in writing.

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

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

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

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

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

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

49 (h) Thirty (30) days after the taxpayer is notified, as provided in
50 subsection (5) (a) of this section, the assessor shall record a notice

1 of intent to attach a lien. Upon the payment in full of such recovered
2 property taxes prior to the attachment of the lien as provided in sub-
3 section (5)(i) of this section, or upon the successful appeal by the
4 taxpayer, the county assessor shall record a rescission of the intent to
5 attach a lien within seven (7) business days of receiving such payment
6 or within seven (7) business days of the county board of equalization
7 decision granting the appeal. If the real property is sold to a bona
8 fide purchaser for value, prior to the recording of the notice of the
9 intent to attach a lien, the county assessor and treasurer shall cease
10 the recovery of such unpaid recovered property tax.

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

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

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

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

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