

IN THE SENATE

SENATE BILL NO. 1277

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

1 RELATING TO PROPERTY TAXES; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE  
2 REQUIREMENTS FOR THE HOMESTEAD EXEMPTION APPLICATION FORM AND TO MAKE  
3 TECHNICAL CORRECTIONS.  
4

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

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

8 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) For each tax  
9 year, the first one hundred thousand dollars (\$100,000) of the market value  
10 for assessment purposes of the homestead as that term is defined in section  
11 63-701, Idaho Code, or fifty percent (50%) of the market value for assessment  
12 purposes of the homestead as that term is defined in section 63-701, Idaho  
13 Code, whichever is the lesser, shall be exempt from property taxation.

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

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

25 (b) The state tax commission has certified to the board of county com-  
26 missioners that all properties in the county which are subject to ap-  
27 praisal by the county assessor have, in fact, been appraised uniformly  
28 so as to secure a just valuation for all property within the county; and

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

30 (i) He is making application for the exemption allowed by this  
31 section;

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

33 (iii) He has not made application in any other county for the ex-  
34 emption, and has not made application for the exemption on any  
35 other homestead in the county.

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

38 When an "owner," pursuant to the provisions of section 63-701(7),  
39 Idaho Code, is any person who is the beneficiary of a revocable or irrev-  
40 ocable trust, or who is a partner of a limited partnership, a member of  
41 a limited liability company, or shareholder of a corporation, he or she  
42 may provide proof of the trust, limited partnership, limited liability

1 company, or corporation in the manner set forth in section 63-703(4),  
2 Idaho Code.

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

8 (f) For the purpose of this section, the definition of "primary  
9 dwelling place" shall be the same definition set forth in section  
10 63-701(8), Idaho Code.

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

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

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

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

22 (c) The homestead described in ~~subsection (3) paragraph~~ (b) of this  
23 subsection is owner-occupied or occupied by a beneficiary, partner,  
24 member or shareholder, as appropriate, and used as the primary dwelling  
25 place of the owner or beneficiary, partner, member or shareholder, as  
26 appropriate, as of January 1; provided however, that in the event the  
27 homestead is owner-occupied after January 1, but before April 15, the  
28 owner of the property is entitled to the exemption.

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

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

34 (a) Upon discovery of evidence, facts or circumstances indicating any  
35 exemption allowed by this section was improperly claimed or approved,  
36 the county assessor shall decide whether the exemption claimed should  
37 have been allowed, and, if not, notify the taxpayer in writing, assess  
38 a recovery of property tax and notify the county treasurer of this as-  
39 sessment. If the county assessor determined that an exemption was im-  
40 properly approved as a result of county error, the county assessor shall  
41 present the discovered evidence, facts or circumstances from the im-  
42 properly approved exemption to the board of county commissioners, at  
43 which time the board may waive a recovery of the property tax and notify  
44 such taxpayer in writing.

45 (b) When information indicating that an improper claim for the exemp-  
46 tion allowed by this section is discovered by the state tax commission,  
47 the state tax commission may disclose this information to the ap-  
48 propriate county assessor, board of county commissioners and county  
49 treasurer. Information disclosed to county officials by the state tax  
50 commission under this subsection may be used to decide the validity of

1 any entitlement to the exemption provided in this section and is not  
2 otherwise subject to public disclosure pursuant to chapter 1, title 74,  
3 Idaho Code.

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

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

14 (e) For purposes of calculating the tax, the amount of the recovered  
15 property tax shall be for each year the exemption allowed by this sec-  
16 tion was improperly claimed or approved, up to a maximum of seven (7)  
17 years. The amount of the recovery of property tax shall be calculated  
18 using the product of the amount of exempted value for each year multi-  
19 plied by the levy for that year plus costs, late charges and interest for  
20 each year at the rates equal to those provided for delinquent property  
21 taxes during that year.

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

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

32 (h) Thirty (30) days after the taxpayer is notified, as provided in  
33 ~~subsection (5) paragraph~~ (a) of this subsection, the assessor shall  
34 record a notice of intent to attach a lien. Upon the payment in full of  
35 such recovered property taxes prior to the attachment of the lien as  
36 provided in ~~subsection (5) paragraph~~ (i) of this subsection, or upon  
37 the successful appeal by the taxpayer, the county assessor shall record  
38 a rescission of the intent to attach a lien within seven (7) business  
39 days of receiving such payment or within seven (7) business days of the  
40 county board of equalization decision granting the appeal. If the real  
41 property is sold to a bona fide purchaser for value, prior to the record-  
42 ing of the notice of the intent to attach a lien, the county assessor and  
43 treasurer shall cease the recovery of such unpaid recovered property  
44 tax.

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

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

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

5 (7) A homestead, having previously qualified for exemption under this  
6 section in the preceding year, shall not lose such qualification due to: the  
7 owner's, beneficiary's, partner's, member's or shareholder's absence in the  
8 current year by reason of active military service, or because the homestead  
9 has been leased because the owner, beneficiary, partner, member or share-  
10 holder is absent in the current year by reason of active military service.  
11 An owner subject to the provisions of this subsection must apply for the ex-  
12 emption with the county assessor every year on or before a deadline date as  
13 specified by the county assessor for the county in which the homestead is  
14 claimed. If an owner fails to apply on or before the established deadline,  
15 the county may, at its discretion, discontinue the exemption for that year.

16 (8) A homestead, having previously qualified for exemption under this  
17 section in the preceding year, shall not lose such qualification due to  
18 the owner's, beneficiary's, partner's, member's or shareholder's death  
19 during the year of the owner's, beneficiary's, partner's, member's or share-  
20 holder's death and the tax year immediately following such death provided  
21 that the homestead continues to be a part of the owner's, beneficiary's,  
22 partner's, member's or shareholder's estate. After such time, the new owner  
23 shall reapply to receive the exemption pursuant to this section and shall  
24 meet the qualification criteria contained in this section.

25 (9) The application form for the exemption provided under this section  
26 shall be created by the state tax commission. The form shall collect all of  
27 the information required under subsection (2)(c) of this section and any  
28 other information necessary for determining the individual's eligibility  
29 for the exemption, but shall not request any extraneous information. The  
30 application form shall be made available at the office of the state tax  
31 commission, at each county assessor's office, and on the websites for each  
32 county assessor and the state tax commission. The application form may be  
33 provided to a purchaser of residential property at the time of the closing of  
34 the sale. The completed form may be provided to the county assessor at the  
35 time the deed is presented for recording.