

IN THE SENATE

SENATE BILL NO. 1040

BY WERK, KELLY, BOCK, LEFAVOUR, SAGNESS, BILYEU, THORSON

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE THAT THE FIRST ONE HUNDRED FIFTY THOUSAND DOLLARS OF THE MARKET VALUE FOR ASSESSMENT PURPOSES OF THE HOMESTEAD OR FIFTY PERCENT OF THE MARKET VALUE FOR ASSESSMENT PURPOSES OF THE HOMESTEAD, WHICHEVER IS THE LESSER, SHALL BE EXEMPT FROM PROPERTY TAXATION, TO REVISE DATES AND TO MAKE A TECHNICAL CORRECTION; 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) During the tax year 2006~~9~~ and each year thereafter, subject to annual adjustment as provided herein, the first ~~seventy-five~~ one hundred fifty thousand dollars (\$~~7150,000~~) 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~~10~~, 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 increase 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,

1 which office is used for multiple purposes, including business and personal use, shall not  
2 prevent the owner from claiming the exemption provided in this section; and

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

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

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

9 (ii) That the homestead is his primary dwelling place; and

10 (iii) That he has not made application in any other county for the exemption, and  
11 has not made application for the exemption on any other homestead in the county.

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

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

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

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

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

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

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

31 (b) The owner or beneficiary, partner, member or shareholder, as appropriate, still  
32 occupies the same homestead for which the owner made application.

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

39 (4) The exemption allowed by this section must be taken before the reduction in taxes  
40 provided by sections 63-701 through 63-710, Idaho Code, is applied.

41 (5) Recovery of property tax exemptions allowed by this section but improperly claimed  
42 or approved:

43 (a) Upon discovery of evidence, facts or circumstances indicating any exemption  
44 allowed by this section was improperly claimed or approved, the county assessor shall  
45 decide whether the exemption claimed should have been allowed and if not, notify the  
46 taxpayer in writing, assess a recovery of property tax and notify the county treasurer of

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

6 (b) When information indicating that an improper claim for the exemption allowed  
7 by this section is discovered by the state tax commission, the state tax commission  
8 may disclose this information to the appropriate county assessor, board of county  
9 commissioners and county treasurer. Information disclosed to county officials by the  
10 state tax commission under this subsection may be used to decide the validity of any  
11 entitlement to the exemption provided in this section and is not otherwise subject to  
12 public disclosure pursuant to chapter 3, title 9, Idaho Code.

13 (c) The assessment and collection of the recovery of property tax must begin within the  
14 seven (7) year period beginning the date the assessment notice reflecting the improperly  
15 claimed or approved exemption was required to be mailed to the taxpayer.

16 (d) The taxpayer may appeal to the board of county commissioners the decision by the  
17 county assessor to assess the recovery of property tax within thirty (30) days of the date  
18 the county assessor sent the notice to the taxpayer pursuant to this section. The board  
19 may waive the collection of all or part of any costs, late charges and interest, in order to  
20 facilitate the collection of the recovery of the property tax.

21 (e) For purposes of calculating the tax, the amount of the recovered property tax shall be  
22 for each year the exemption allowed by this section was improperly claimed or approved,  
23 up to a maximum of seven (7) years. The amount of the recovery of property tax shall be  
24 calculated using the product of the amount of exempted value for each year multiplied by  
25 the levy for that year plus costs, late charges and interest for each year at the rates equal  
26 to those provided for delinquent property taxes during that year.

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

32 (g) Recovered property taxes shall be billed, collected and distributed in the same  
33 manner as property taxes, except each taxing district or unit shall be notified of the  
34 amount of any recovered property taxes included in any distribution.

35 (h) Thirty (30) days after the taxpayer is notified, as provided in subsection (5)(a) of this  
36 section, the assessor shall record a notice of intent to attach a lien. Upon the payment  
37 in full of such recovered property taxes prior to the attachment of the lien as provided  
38 in subsection (5)(i) of this section, or upon the successful appeal by the taxpayer, the  
39 county assessor shall record a rescission of the intent to attach a lien within seven (7)  
40 business days of receiving such payment or within seven (7) business days of the county  
41 commissioners' decision granting the appeal. If the real property is sold to a bona fide  
42 purchaser for value, prior to the recording of the notice of the intent to attach a lien, the  
43 county assessor and 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 real property in the  
46 same manner as provided for property taxes in section 63-206, Idaho Code, except such

1           lien shall attach as of the first day of January in the year following the year the county  
2           assessor sent the notice to the taxpayer pursuant to this section.

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

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

7           (7) A homestead, having previously qualified for exemption under this section in the  
8           preceding year, shall not lose such qualification due to: the owner's, beneficiary's, partner's,  
9           member's or shareholder's absence in the current year by reason of active military service in  
10          a designated combat zone, as defined in section 112 of the Internal Revenue Code, or because  
11          the homestead has been leased because the owner, beneficiary, partner, member or shareholder  
12          is absent in the current year by reason of active military service in a designated combat zone,  
13          as defined in section 112 of the Internal Revenue Code. If an owner fails to timely apply for  
14          exemption as required in this section solely by reason of active duty in a designated combat  
15          zone by the owner, beneficiary, partner, member or shareholder, as appropriate, as defined  
16          in section 112 of the Internal Revenue Code, and such homestead would have otherwise  
17          qualified under this section, then the board of county commissioners of the county in which the  
18          homestead is located shall refund property taxes, if previously paid, in an amount equal to the  
19          exemption which would otherwise have applied.

20          SECTION 2. An emergency existing therefor, which emergency is hereby declared to  
21          exist, this act shall be in full force and effect on and after its passage and approval, and  
22          retroactively to January 1, 2009.