

DRAFT

DRKMF062

LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature First Regular Session - 2021

This bill draft contains confidential and privileged information exempt from disclosure under Section 74-109(1), Idaho Code. If you have received this message by mistake, please notify us immediately by replying to this message or telephoning the Legislative Services Office at (208) 334-2475.

1 AN ACT
2 RELATING TO PROPERTY TAXES; AMENDING SECTION 63-602G, IDAHO CODE, TO AUTHO-
3 RIZE A BOARD OF COUNTY COMMISSIONERS TO APPROVE AN INCREASED HOMESTEAD
4 EXEMPTION UNDER CERTAIN CONDITIONS; AND DECLARING AN EMERGENCY AND PRO-
5 VIDING RETROACTIVE APPLICATION.

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

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

9 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD.
10 (1) (a) For each tax year, the first one hundred thousand dollars
11 (\$100,000) of the market value for assessment purposes of the homestead
12 as that term is defined in section 63-701, Idaho Code, or fifty percent
13 (50%) of the market value for assessment purposes of the homestead as
14 that term is defined in section 63-701, Idaho Code, whichever is the
15 lesser, shall be exempt from property taxation.
16 (b) Upon finding it appropriate to do so, the board of county commis-
17 sioners of any county may by ordinance adjust the amount of the exemp-
18 tion for homesteads in that county by specifying a particular dollar
19 amount for the exemption, or by specifying an automatic adjustment fac-
20 tor based on annual changes in the United States all-transactions house
21 price index for the state of Idaho or, if available, the metropolitan
22 statistical area in which the county is located, as determined by the
23 federal housing finance agency, or by a combination of both methods of
24 adjustment; provided that a board of county commissioners shall not
25 adjust the amount of any homestead exemption below the amount set forth
26 in paragraph (a) of this subsection.
27 (2) The exemption allowed by this section may be granted only if:
28 (a) The homestead is owner-occupied and used as the primary dwelling
29 place of the owner. The homestead may consist of part of a multidwelling
30 or multipurpose building and shall include all of such dwelling or
31 building except any portion used exclusively for anything other than
32 the primary dwelling of the owner. The presence of an office in a home-
33 stead, which office is used for multiple purposes, including business
34 and personal use, shall not prevent the owner from claiming the exemp-
35 tion provided in this section; and
36 (b) The state tax commission has certified to the board of county com-
37 missioners that all properties in the county which are subject to ap-
38 praisal by the county assessor have, in fact, been appraised uniformly
39 so as to secure a just valuation for all property within the county; and
40 (c) The owner has certified to the county assessor that:
41 (i) He is making application for the exemption allowed by this
42 section;

- (ii) The homestead is his primary dwelling place; and
- (iii) He has not made application in any other county for the exemption, and has not made application for the exemption on any other homestead in the county.

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

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

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

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

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

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

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

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

(c) The homestead described in paragraph (b) of this subsection is owner-occupied or occupied by a beneficiary, partner, member or shareholder, as appropriate, and used as the primary dwelling place of the owner or beneficiary, partner, member or shareholder, as appropriate.

(4) The exemption allowed by this section shall be effective upon the date of the application and must be taken before the reduction in taxes provided by sections 63-701 through 63-710, Idaho Code, is applied.

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

(a) Upon discovery of evidence, facts or circumstances indicating any exemption allowed by this section was improperly claimed or approved, the county assessor shall decide whether the exemption claimed should have been allowed and, if not, notify the taxpayer in writing, assess a recovery of property tax and notify the county treasurer of this assessment. If the county assessor determined that an exemption was improperly approved as a result of county error, the county assessor shall present the discovered evidence, facts or circumstances from the improperly approved exemption to the board of county commissioners, at

1 which time the board may waive a recovery of the property tax and notify
2 such taxpayer in writing.

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

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

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

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

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

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

40 (h) Thirty (30) days after the taxpayer is notified, as provided in
41 paragraph (a) of this subsection, the assessor shall record a notice
42 of intent to attach a lien. Upon the payment in full of such recov-
43 ered property taxes prior to the attachment of the lien as provided in
44 paragraph (i) of this subsection, or upon the successful appeal by the
45 taxpayer, the county assessor shall record a rescission of the intent to
46 attach a lien within seven (7) business days of receiving such payment
47 or within seven (7) business days of the county board of equalization
48 decision granting the appeal. If the real property is sold to a bona
49 fide purchaser for value prior to the recording of the notice of the in-

1 tent to attach a lien, the county assessor and treasurer shall cease the
2 recovery of such unpaid recovered property tax.

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

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

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

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

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

32 SECTION 2. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after its
34 passage and approval, and retroactively to January 1, 2021.