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AN ACT

1 RELATING TO PROPERTY TAX REDUCTION AND DEFERRAL; AMENDING SECTION 63-705,
2 IDAHO CODE, TO REVISE THE MAXIMUM PROPERTY TAX REDUCTION AMOUNT; AMEND-
3 ING SECTION 63-713, IDAHO CODE, TO REVISE A DEFINITION; AMENDING SEC-
4 TION 63-714, IDAHO CODE, TO REVISE PROVISIONS REGARDING APPLICATION RE-
5 QUIREMENTS FOR PROPERTY TAX DEFERRAL; AMENDING SECTION 63-716, IDAHO
6 CODE, TO REVISE PROVISIONS REGARDING PROPERTY TAX DEFERRAL AMOUNTS AND
7 THE INTEREST RATE APPLICABLE TO A DEFERRED PROPERTY TAX OBLIGATION; AND
8 AMENDING SECTION 63-720, IDAHO CODE, TO REVISE PROVISIONS REGARDING RE-
9 COVERY OF CERTAIN ERRONEOUS OR IMPROPER DEFERRALS.
10

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

12 SECTION 1. That Section 63-705, Idaho Code, be, and the same is hereby
13 amended to read as follows:

14 63-705. PUBLICATION OF CHANGES IN INCOME LIMITATIONS AND PROPERTY TAX
15 OR OCCUPANCY TAX REDUCTION AMOUNTS. (1) The state tax commission shall pub-
16 lish adjustments to the income limitations, which shall be the greater of:
17 (a) an individual's income as defined in section 63-701, Idaho Code, of not
18 more than twenty-eight thousand dollars (\$28,000) per household for tax year
19 2006 and each tax year thereafter; or (b) one hundred eighty-five percent
20 (185%) of the federal poverty guidelines for a household of two (2) for tax
21 year 2006 and each tax year thereafter. The lowest limitation shall allow
22 a maximum reduction of ~~one thousand three hundred twenty dollars (\$1,320)~~
23 in tax year 2006 two thousand six hundred forty dollars (\$2,640) in tax year
24 2021 and thereafter, or actual property taxes or occupancy taxes, as appli-
25 cable, whichever is less. Each income limitation and reduction amount shall
26 be prorated based on the basic maximum reduction, in practicable increments
27 so that the highest income limitation will provide for a reduction of one
28 hundred fifty dollars (\$150), or actual property taxes, whichever is less.

29 (2) The tax commission shall publish the adjustments required by this
30 section each and every year the secretary of health and human services an-
31 nounces cost-of-living modifications, pursuant to 42 U.S.C. 415(i). The ad-
32 justments shall be published no later than October 1 of each such year and
33 shall be effective for claims filed in and for the following property tax
34 year.

35 (3) The publication of adjustments under this section shall be exempt
36 from the provisions of chapter 52, title 67, Idaho Code, but shall be pro-
37 vided to each county and to members of the public upon request and without
38 charge.

39 SECTION 2. That Section 63-713, Idaho Code, be, and the same is hereby
40 amended to read as follows:

1 63-713. DEFINITIONS. In addition to the definitions in section
2 63-701, Idaho Code, the following definitions apply to sections 63-712
3 through 63-721, Idaho Code.

4 (1) "Qualified claimant" means:

5 (a) An individual who is a claimant who applies for and properly re-
6 ceives property tax relief under the provisions of sections 63-701
7 through 63-710, Idaho Code; or

8 (b) An individual who meets the definition of "claimant" under section
9 63-701, Idaho Code, and is otherwise eligible to file a claim under sec-
10 tions 63-701 through 63-710, Idaho Code, except by reason of exceeding
11 the income limitations of section 63-705, Idaho Code, may neverthe-
12 less be a qualified claimant, provided his household income does not
13 exceed forty thousand dollars (\$40,000) for the tax year 2007, which
14 amount shall be increased by the annual cost-of-living percentage mod-
15 ification as determined by the secretary of health and human services
16 pursuant to 42 U.S.C. section 415(i) beginning in 2009.

17 (2) "Qualified property" means property owned by a qualified claimant,
18 provided that the property is the "homestead," as defined in section 63-701,
19 Idaho Code, of the qualified claimant, is owned only by the qualified
20 claimant and his or her spouse and is not subject to a trust or life estate or
21 other ownership held by a person who is not the qualified claimant or his or
22 her spouse.

23 (3) "Sufficient equity" means that:

24 ~~(a) The property is not security for a reverse mortgage, a home equity~~
25 ~~loan or line of credit, or any similar loan or encumbrance; and~~

26 ~~(b) The amount of all encumbrances of any nature on the property, in-~~
27 ~~cluding but not limited to reverse mortgages, home equity loans or lines~~
28 ~~of credit or any other loans or encumbrances that are superior to any~~
29 ~~liens for deferral, plus the amount of property tax and interest pre-~~
30 ~~viously deferred on the same property, does not exceed eighty percent~~
31 ~~(80%) of the current year's market value for assessment purposes.~~

32 SECTION 3. That Section 63-714, Idaho Code, be, and the same is hereby
33 amended to read as follows:

34 63-714. APPLICATION -- DEFERRAL OF PROPERTY TAX. (1) An individual
35 who meets the requirements of one (1) or more of the following paragraphs of
36 this subsection shall be eligible to defer property tax payments on quali-
37 fied property:

38 (a) A qualified claimant, as defined in section 63-713(1) (a), Idaho
39 Code, may elect, upon the application for property tax relief filed un-
40 der section 63-703, Idaho Code, to defer payment of any property tax due
41 after application of all benefits available under section 63-704, Idaho
42 Code.

43 (b) A qualified claimant, as defined in section 63-713(1) (b), Idaho
44 Code, may apply for property tax deferral under sections 63-712 through
45 63-721, Idaho Code.

46 (c) A claimant, as defined in section 63-701(1), Idaho Code, is eli-
47 gible to defer payment of property tax without showing sufficient equi-
48 ty in the property or proof of insurance of an amount adequate for the

1 amount of the deferred tax and interest, if the market value for assess-
2 ment purposes of the claimant's property in the current year is equal to
3 or exceeds three hundred thousand dollars (\$300,000).

4 (2) The state tax commission shall prescribe the form and manner by
5 which the election must be made and may require that the application include
6 information establishing the current year's market value for assessment
7 purposes on the property, outstanding balance of any encumbrances, proof of
8 insurance of an amount adequate for the amount of deferred tax and interest,
9 and such other information as the state tax commission reasonably determines
10 to be necessary. The state tax commission may require written or other proof
11 of the encumbrances or casualty insurance in such form as the state tax com-
12 mission may determine.

13 (23) No application for deferral of property taxes shall be granted to a
14 claimant under subsection (1) (a) or (1) (b) of this section if:

15 (a) The application fails to show sufficient equity in that property;

16 or

17 (b) The application fails to show proof of insurance of an amount ade-
18 quate for the amount of the deferred tax and interest.

19 SECTION 4. That Section 63-716, Idaho Code, be, and the same is hereby
20 amended to read as follows:

21 63-716. DEFERRAL -- INTEREST -- LIEN -- PRIORITY. (1) Upon approval by
22 the state tax commission, payment of any an amount of property tax due for the
23 year to which the election relates, after application of the property tax re-
24 lief available under sections 63-701 through 63-710, Idaho Code, and subject
25 to the limitation in section 63-717(2), Idaho Code, in regard to the quali-
26 fied property subject to the election, shall be deferred until the deferral
27 is terminated under section 63-718, Idaho Code. Property tax payment deferr-
28 als for:

29 (a) Qualified claimants as described in section 63-714(1) (a) or (b),
30 Idaho Code, shall not be capped as to the amount of property tax payments
31 deferred, unless the provisions of section 63-717(2), Idaho Code, ap-
32 ply.

33 (b) Claimants as described in section 63-714(1) (c), Idaho Code, shall
34 be capped at the amount equal to the maximum benefit available under
35 section 63-705, Idaho Code. This cap does not prevent a qualified
36 claimant from pursuing uncapped property tax deferrals if they qualify
37 under section 63-714, Idaho Code.

38 (2) During the period of deferral, interest shall accrue on the amount
39 deferred at ~~the annual rate of six percent (6%) annually~~ a rate equal to the
40 yield on ten (10) year United States treasury bonds for the previous year.

41 (3) The lien imposed by section 63-206, Idaho Code, shall continue to be
42 a lien on the property in the amount of deferred taxes and interest thereon.
43 The state tax commission shall file with the county recorder of the county in
44 which the property is located a notice of lien for deferred property taxes.
45 Notwithstanding the provisions of section 63-206, Idaho Code, the lien for
46 deferred taxes and interest shall not be a first and prior lien, but shall
47 take its priority from the date and time of filing of the notice of lien.

1 SECTION 5. That Section 63-720, Idaho Code, be, and the same is hereby
2 amended to read as follows:

3 63-720. RECOVERY OF ERRONEOUS AND OTHER IMPROPER DEFERRALS. (1) In
4 addition to the provisions of section 63-719, Idaho Code, the state tax
5 commission may recover deferrals of tax payments made under sections 63-712
6 through 63-721, Idaho Code, from any person who elected the deferral under
7 section 63-714, Idaho Code, if the commission determines that:

- 8 (a) A deferral was granted to a person who is not a qualified claimant or
9 in regard to property that is not qualified property; or
10 (b) The owner of the property subject to the deferral does not possess
11 sufficient equity in that property, unless the owner qualifies under
12 the provisions of section 63-714(1)(3), Idaho Code.

13 (2) The deficiency determination, collection, and enforcement pro-
14 cedures provided by the Idaho income tax act, sections 63-3039, 63-3042,
15 63-3043 through 63-3064, Idaho Code, shall apply and be available to the
16 commission for enforcement and collection under sections 63-712 through
17 63-721, Idaho Code, and such sections shall, for this purpose, be consid-
18 ered part of sections 63-712 through 63-721, Idaho Code. Wherever liens
19 or any other proceedings are defined as income tax liens or proceedings,
20 they shall, when applied in enforcement or collection under sections 63-712
21 through 63-721, Idaho Code, be described as tax deferral liens and proceed-
22 ings. In connection with such sections, a deficiency shall consist of any
23 amount subject to recovery under this section together with any interest and
24 penalty due thereon.