LEGISLATURE OF THE STATE OF IDAHO
Sixty-sixth Legislature Second Regular Session - 2022

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 548

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO ELECTIONS; AMENDING SECTION 34-107, IDAHO CODE, TO PROVIDE THAT IF A PERSON CLAIMS A CERTAIN EXEMPTION FOR A HOMESTEAD, THEN THAT Homestead shall be the person's residence for voting purposes and to revise provisions regarding the determination of a person's residence for voting purposes; amending chapter 2, title 34, Idaho code, by the addition of a new section 34-219, Idaho code, to provide for an investigation into the qualifications of a candidate for office, to provide for a deadline, and to provide that the state or a political subdivision shall provide certain information upon request of the secretary of state or a county clerk; amending section 34-701, Idaho code, to require a sworn verification on qualifications for office and to provide for a certain disclosure; amending section 63-602G, Idaho code, to provide for a certain disclosure to a county clerk and the secretary of state, to provide for a certain database, and to make technical corrections; and declaring an emergency.

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

SECTION 1. That section 34-107, Idaho code, be, and the same is hereby amended to read as follows:

34-107. "Residence" defined. (1) "Residence," for voting purposes, shall be the principal or primary home or place of abode of a person. Principal or primary home or place of abode is that home or place in which his habitation is fixed and to which a person, whenever he is absent, has the present intention of returning after a departure or absence therefrom, regardless of the duration of absence.
(2) If a person claims an exemption under section 63-602G, Idaho Code, then the homestead for which the exemption is claimed shall be the person's residence for voting purposes. If no such exemption is claimed, then in determining what is the principal or primary place of abode of a person, the following circumstances relating to such person may be taken into account: business pursuits, employment, income sources, residence for income or other tax pursuits, residence of parents, spouse, and children, if any, leaseholds, situs of personal and real property, situs of residence for which the exemption in section 63-602G, Idaho Code, is filed, and motor vehicle registration.
(3) A qualified elector who has left his home and gone into another state or territory or county of this state for a temporary purpose only shall not be considered to have lost his residence.
(4) A qualified elector shall not be considered to have gained a residence in any county or city of this state into which he comes for temporary purposes only, without the intention of making it his home but with the in-
tention of leaving it when he has accomplished the purpose that brought him there.

(5) If a qualified elector moves to another state, or to any of the other territories, with the intention of making it his permanent home, he shall be considered to have lost his residence in this state.

SECTION 2. That Chapter 2, Title 34, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 34-219, Idaho Code, and to read as follows:

34-219. INVESTIGATION OF CANDIDATE QUALIFICATIONS. (1) Upon the request of a registered voter, the secretary of state or a county clerk shall investigate the legal qualifications of a candidate for office and shall exclude from the ballot a candidate who fails to satisfy the legal qualifications for the office being sought. A person excluded from the ballot pursuant to this subsection may challenge such exclusion in the district court in which the person's residence for voting purposes is located.

(2) The secretary of state or a county clerk may establish a deadline by which a request made pursuant to subsection (1) of this section must be filed, which deadline shall not be earlier than fourteen (14) days following the deadline to file a declaration of candidacy pursuant to section 34-704, Idaho Code.

(3) Upon the request of the secretary of state or a county clerk, the state or a political subdivision shall provide information within the state's or the political subdivision's possession that is needed to ascertain the legal qualifications of a candidate for office.

SECTION 3. That Section 34-701, Idaho Code, be, and the same is hereby amended to read as follows:

34-701. DECLARATIONS OF CANDIDACY AND PETITIONS -- FORM PRESCRIBED BY SECRETARY OF STATE -- FILING FEES. (1) The secretary of state shall prescribe the form for all declarations of candidacy and petitions required to be filed for any office. This form shall be uniform throughout the state; provided, however, that a candidate for judicial office must designate the particular office that he seeks, both in his petitions and declaration of candidacy.

(2) The form described in subsection (1) of this section shall include a sworn verification that the person satisfies the legal qualifications for the office being sought. Any person filing a form described in subsection (1) of this section shall disclose on such form whether the person has claimed an exemption under section 63-602G, Idaho Code, and the address of any homestead for which such exemption is claimed by the person and, if married, the person's spouse.

(3) All filing fees shall be paid in cash, cashier's check, postal money orders, or personal check.

SECTION 4. 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) For each tax year, the first one hundred twenty-five thousand dollars ($125,000) 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.

(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. 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 appraisal by the county assessor have, in fact, been appraised uniformly so as to secure a just valuation for all property within the county; and
(c) The owner has certified to the county assessor that:
   (i) He is making application for the exemption allowed by this 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 (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 which time the board may waive a recovery of the property tax and notify such taxpayer in writing.

(b) When information indicating that an improper claim for the exemption allowed by this section is discovered by the state tax commission, the state tax commission may disclose this information to the appropriate county assessor, board of county commissioners, county clerk, and county treasurer and to the secretary of state. Information disclosed to county officials and the secretary of state by the state tax commission under this subsection may:

(i) Be used to decide the validity of any entitlement to the exemption provided in this section and is;

(ii) Shall, as necessary, be used to determine a person's residence for voting purposes under title 34, Idaho Code; and

(iii) Is not otherwise subject to public disclosure pursuant to chapter 1, title 74, Idaho Code.

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

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

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

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

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

(h) Thirty (30) days after the taxpayer is notified, as provided in 
paragraph (a) of this subsection, the assessor shall record a notice 
of intent to attach a lien. Upon the payment in full of such recov-
ered property taxes prior to the attachment of the lien as provided in 
paragraph (i) of this subsection, or upon the successful appeal by the 
taxpayer, the county assessor shall record a rescission of the intent to 
attach a lien within seven (7) business days of receiving such payment 
or within seven (7) business days of the county board of equalization 
decision granting the appeal. If the real property is sold to a bona 
fide purchaser for value prior to the recording of the notice of the in-
tent to attach a lien, the county assessor and treasurer shall cease the 
recovery of such unpaid recovered property tax.

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

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

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

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

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

(9) The amount by which each exemption approved under this section exceeds one hundred thousand dollars ($100,000) may, in the discretion of the governing board of a taxing district, be deducted from the new construction roll for the following year prepared by the county assessor in accordance with section 63-301A, Idaho Code, but only to the extent that the amount exceeds the same deduction made in the previous year.

(10) By July 1, 2023, the state tax commission shall establish a database of all active exemptions claimed under this section, which database shall be searchable by a person's name and by the address of the homestead for which the exemption is claimed. The database shall be made accessible to officials listed in subsection (5)(b) of this section for the purpose of verifying that:

(a) Multiple active exemptions have not been claimed by the same person; and
(b) A person's residence for voting purposes is the same as the homestead for which such person has an active exemption pursuant to this section, if an exemption is so claimed.

SECTION 5. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after its passage and approval.