

IN THE SENATE

SENATE BILL NO. 1259

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PROPERTY TAX REDUCTION; AMENDING SECTION 63-701, IDAHO CODE, TO  
2 REVISE A DEFINITION; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFEC-  
3 TIVE DATE.  
4

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

6 SECTION 1. That Section 63-701, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 63-701. DEFINITIONS. As used in this chapter:

9 (1) "Claimant" means a person who has filed an application under sec-  
10 tion 63-602G, Idaho Code, and has filed a claim under the provisions of  
11 sections 63-701 through 63-710, Idaho Code. Except as provided in section  
12 63-702(2), Idaho Code, on January 1 or before April 15 of the year in which  
13 the claimant first filed a claim on the homestead in question, a claimant  
14 must be an owner of the homestead, a claimant must have lawful presence in the  
15 United States pursuant to section 67-7903, Idaho Code, and on January 1 of  
16 said year a claimant must be:

17 (a) Not less than sixty-five (65) years old; or

18 (b) A child under the age of eighteen (18) years who is fatherless or  
19 motherless or who has been abandoned by any surviving parent or parents;  
20 or

21 (c) A widow or widower; or

22 (d) A disabled person who is recognized as disabled by the social se-  
23 curity administration pursuant to title 42 of the United States Code,  
24 or by the railroad retirement board pursuant to title 45 of the United  
25 States Code, or by the office of management and budget pursuant to title  
26 5 of the United States Code, or, if a person is not within the purview of,  
27 and is therefore not recognized as disabled by, any other entity listed  
28 in this paragraph, then by the public employee retirement system or pub-  
29 lic employee disability plan in which the person participates that may  
30 be of any state, local unit of government or other jurisdiction in the  
31 United States of America; or

32 (e) A disabled veteran of any war engaged in by the United States, whose  
33 disability is recognized as a service-connected disability of a degree  
34 of ten percent (10%) or more, or who has a pension for nonservice-con-  
35 nected disabilities, in accordance with laws and regulations adminis-  
36 tered by the United States department of veterans affairs; or

37 (f) A person, as specified in 42 U.S.C. 1701, who was or is entitled  
38 to receive benefits because he is known to have been taken by a hostile  
39 force as a prisoner, hostage or otherwise; or

40 (g) Blind.

41 (2) "Homestead" means the dwelling, owner-occupied by the claimant  
42 as described in this chapter and used as the primary dwelling place of the

1 claimant and may be occupied by any members of the household as their home,  
2 and so much of the land surrounding it, not exceeding one (1) acre, as is  
3 reasonably necessary for the use of the dwelling as a home. It may consist  
4 of a part of a multidwelling or multipurpose building and part of the land  
5 upon which it is built. "Homestead" does not include personal property such  
6 as furniture, furnishings or appliances, but a manufactured home may be a  
7 homestead.

8 (3) "Household" means the claimant and the claimant's spouse. The term  
9 does not include bona fide lessees, tenants, or roomers and boarders on con-  
10 tract. "Household" includes persons described in subsection (8) (b) of this  
11 section.

12 (4) "Household income" means all income received by the claimant and,  
13 if married, all income received by the claimant's spouse, in a calendar year.

14 (5) "Income" means the sum of federal adjusted gross income as defined  
15 in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and  
16 to the extent not already included in federal adjusted gross income:

17 (a) Alimony;

18 (b) Support money;

19 (c) Nontaxable strike benefits;

20 (d) The nontaxable amount of any individual retirement account, pen-  
21 sion or annuity, including railroad retirement benefits, all payments  
22 received under the federal social security act except the social secu-  
23 rity death benefit as specified in this subsection, state unemployment  
24 insurance laws, and veterans disability pensions and compensation, ex-  
25 cluding any return of principal paid by the recipient of an annuity and  
26 excluding rollovers as provided in 26 U.S.C. 402 or 403, and excluding  
27 the nontaxable portion of a Roth individual retirement account distri-  
28 bution, as provided in 26 U.S.C. 408A;

29 (e) Nontaxable interest received from the federal government or any of  
30 its instrumentalities or a state government or any of its instrumentali-  
31 ties;

32 (f) Worker's compensation; and

33 (g) The gross amount of loss of earnings insurance.

34 It does not include gifts from nongovernmental sources or inheritances. To  
35 the extent not reimbursed, the cost of medical care as defined in section  
36 213(d) of the Internal Revenue Code, incurred and paid by the claimant and,  
37 if married, the claimant's spouse, may be deducted from income. To the ex-  
38 tent not reimbursed, personal funeral expenses, including prepaid funeral  
39 expenses and premiums on funeral insurance, of the claimant and claimant's  
40 spouse only, may be deducted from income up to an annual maximum of five  
41 thousand dollars (\$5,000) per claim. "Income" does not include veterans  
42 disability pensions received by a person described in subsection (1)(e)  
43 of this section who is a claimant or a claimant's spouse if the disability  
44 pension is received pursuant to a service-connected disability of a de-  
45 gree of forty percent (40%) or more. "Income" does not include dependency  
46 and indemnity compensation or death benefits paid to a person described in  
47 subsection (1) of this section by the United States department of veterans  
48 affairs and arising from a service-connected death or disability. "Income"  
49 does not include lump sum death benefits made by the social security admin-  
50 istration pursuant to 42 U.S.C. 402(i). Documentation of medical expenses

1 may be required by the county assessor and state tax commission in such form  
2 as the county assessor or state tax commission shall determine. For pur-  
3 poses of this chapter only and in the case of a claimant who owns and whose  
4 homestead is a certified family home as defined in section 39-3502, Idaho  
5 Code, "income" does not include payments that the claimant received as an  
6 enrolled medicaid provider from the medical assistance program. "Income"  
7 shall be that received in the calendar year immediately preceding the year  
8 in which a claim is filed. Where a claimant and/or the claimant's spouse  
9 does not file a federal tax return, the claimant's and/or the claimant's  
10 spouse's federal adjusted gross income, for purposes of this section, shall  
11 be an income equivalent to federal adjusted gross income had the claimant  
12 and/or the claimant's spouse filed a federal tax return, as determined by the  
13 county assessor. The county assessor or state tax commission may require  
14 documentation of income in such form as each shall determine, including, but  
15 not limited to: copies of federal or state tax returns and any attachments  
16 thereto; and income reporting forms such as the W-2 and 1099.

17 For determining income for certain married individuals living apart,  
18 the provisions of sections 2(c) and 7703(b) of the Internal Revenue Code  
19 shall apply.

20 (6) "Occupied" means actual use and possession.

21 (7) "Owner" means a person holding title in fee simple or holding a cer-  
22 tificate of motor vehicle title (either of which may be subject to mortgage,  
23 deed of trust or other lien) or who has retained or been granted a life estate  
24 or who is a person entitled to file a claim under section 63-702, Idaho Code.  
25 "Owner" shall also include any person who:

26 (a) Is the beneficiary of a revocable or irrevocable trust which is the  
27 owner of such homestead and under which the claimant or the claimant's  
28 spouse has the primary right of occupancy of the homestead; or

29 (b) Is a partner of a limited partnership, member of a limited liabil-  
30 ity company or shareholder of a corporation if such entity holds title  
31 in fee simple or holds a certificate of motor vehicle title and if the  
32 person holds at least a five percent (5%) ownership in such entity, as  
33 determined by the county assessor; or

34 (c) Has retained or been granted a life estate.

35 "Owner" includes a vendee in possession under a land sale contract. Any  
36 partial ownership shall be considered as ownership for determining initial  
37 qualification for property tax reduction benefits; however, the amount of  
38 property tax reduction under section 63-704, Idaho Code, and rules promul-  
39 gated pursuant to section 63-705, Idaho Code, shall be computed on the value  
40 of the claimant's partial ownership. "Partial ownership," for the purposes  
41 of this section, means any one (1) person's ownership when property is owned  
42 by more than one (1) person or where the homestead is held by an entity, as  
43 set forth in this subsection, but more than one (1) person has the right of  
44 occupancy of such homestead. A person holding either partial title in fee  
45 simple or holding a certificate of motor vehicle title together with another  
46 person, but who does not occupy the dwelling as his primary dwelling place,  
47 shall not be considered an owner for purposes of this section, if such person  
48 is a cosignatory of a note secured by the dwelling in question and at least  
49 one (1) of the other cosignatories of the note occupies the dwelling as his  
50 primary dwelling place. The combined community property interests of both

1 spouses shall not be considered partial ownership as long as the combined  
2 community property interests constitute the entire ownership of the home-  
3 stead, including where the spouses are occupying a homestead owned by an en-  
4 tity, as set forth in this subsection, and the spouses have the primary right  
5 of occupancy of the homestead. The proportional reduction required under  
6 this subsection shall not apply to community property interests. Where  
7 title to property was held by a person who has died without timely filing a  
8 claim for property tax reduction, the estate of the deceased person shall be  
9 the "owner," provided that the time periods during which the deceased person  
10 held such title shall be attributed to the estate for the computation of any  
11 time periods under subsection (8) (a) or (b) of this section.

12 (8) (a) "Primary dwelling place" means the claimant's dwelling place  
13 on January 1 or before April 15 of the year for which the claim is made.  
14 The primary dwelling place is the single place where a claimant has  
15 his true, fixed and permanent home and principal establishment, and to  
16 which whenever the individual is absent he has the intention of return-  
17 ing. A claimant must establish the dwelling to which the claim relates  
18 to be his primary dwelling place by clear and convincing evidence or by  
19 establishing that the dwelling is where the claimant resided on January  
20 1 or before April 15 and:

21 (i) At least six (6) months during the prior year; or

22 (ii) The majority of the time the claimant owned the dwelling if  
23 owned by the claimant less than one (1) year; or

24 (iii) The majority of the time after the claimant first occupied  
25 the dwelling if occupied by the claimant for less than one (1)  
26 year. The county assessor may require written or other proof of  
27 the foregoing in such form as the county assessor may determine.

28 (b) Notwithstanding the provisions of paragraph (a) of this subsec-  
29 tion, the property upon which the claimant makes application shall be  
30 deemed to be the claimant's primary dwelling place if the claimant is  
31 otherwise qualified and resides in a care facility and does not allow  
32 the property upon which the claimant has made application to be occu-  
33 pied by persons paying a consideration to occupy the dwelling. Payment  
34 of utilities shall not be payment of a consideration to occupy the  
35 dwelling. A claimant's spouse who resides in a care facility shall be  
36 deemed to reside at the claimant's primary dwelling place and to be a  
37 part of the claimant's household. A care facility is a hospital, nurs-  
38 ing facility or intermediate care facility for people with intellectual  
39 disabilities as defined in section 39-1301, Idaho Code, or a facility  
40 as defined in section 39-3302(16), Idaho Code, or a dwelling other than  
41 the one upon which the applicant makes application where a claimant who  
42 is unable to reside in the dwelling upon which the application is made  
43 lives and receives help in daily living, protection and security.

44 SECTION 2. An emergency existing therefor, which emergency is hereby  
45 declared to exist, this act shall be in full force and effect on and after  
46 January 1, 2023.