

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 401

BY REVENUE AND TAXATION COMMITTEE

AN ACT

1 RELATING TO TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE
2 PENALTIES FOR IMPROPER HOMESTEAD EXEMPTION CLAIMS, TO PROVIDE QUALIFI-
3 CATIONS, TO PROVIDE PROCEDURES FOR APPEALS, AND TO MAKE TECHNICAL COR-
4 RECTIONS; AMENDING SECTION 63-3077, IDAHO CODE, TO REVISE PROVISIONS
5 REGARDING TAXPAYER INFORMATION COLLECTED BY THE STATE TAX COMMISSION;
6 AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.
7

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

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

11 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) For each tax
12 year, the first one hundred twenty-five thousand dollars (\$125,000) of the
13 market value for assessment purposes of the homestead as that term is defined
14 in section 63-701, Idaho Code, or fifty percent (50%) of the market value
15 for assessment purposes of the homestead as that term is defined in section
16 63-701, Idaho Code, whichever is the lesser, shall be exempt from property
17 taxation.

18 (2) The exemption allowed by this section may be granted only if:

19 (a) The homestead is owner-occupied and used as the primary dwelling
20 place of the owner. The homestead may consist of part of a multidwelling
21 or multipurpose building and shall include all of such dwelling or
22 building except any portion used exclusively for anything other than
23 the primary dwelling of the owner. The presence of an office in a home-
24 stead, which office is used for multiple purposes, including business
25 and personal use, shall not prevent the owner from claiming the exemp-
26 tion provided in this section; and

27 (b) The state tax commission has certified to the board of county com-
28 missioners that all properties in the county subject to appraisal by the
29 county assessor have, in fact, been appraised uniformly so as to secure
30 a just valuation for all property within the county; and

31 (c) The owner has certified to the county assessor that:

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

34 (ii) The homestead is his primary dwelling place; and

35 (iii) He has not made application in any other county for the ex-
36 emption and has not made application for the exemption on any other
37 homestead in the county.

38 (d) For the purpose of this section, the definition of "owner" shall be
39 the same definition set forth in section 63-701(7), Idaho Code. When
40 an "owner," pursuant to the provisions of section 63-701(7), Idaho
41 Code, is any person who is the beneficiary of a revocable or irrevoca-
42 ble trust, or who is a partner of a limited partnership, a member of a

1 limited liability company, or a shareholder of a corporation, he or she
2 may provide proof of the trust, limited partnership, limited liability
3 company, or corporation in the manner set forth in section 63-703(4),
4 Idaho Code.

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

10 (f) For the purpose of this section, the definition of "primary
11 dwelling place" shall be the same definition set forth in section
12 63-701(8), Idaho Code.

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

15 (3) An owner need ~~only~~ make application for the exemption described in
16 subsection (1) of this section only once, as long as all of the following con-
17 ditions are met:

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

21 (b) The owner or beneficiary, partner, member or shareholder, as appro-
22 priate, still occupies the same homestead for which the owner made ap-
23 plication.

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

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

31 (5) Recovery of property tax exemptions allowed by this section but im-
32 properly claimed or approved:

33 (a) (i) Prior to granting an exemption, the county assessor shall
34 investigate whether an applicant for the exemption has claimed the
35 exemption for another homestead and shall not grant the exemption
36 where it appears the exemption has been improperly claimed. The
37 applicant shall be notified of the county assessor's refusal to
38 grant the exemption.

39 (ii) Upon discovery of evidence, facts or circumstances indicat-
40 ing any exemption allowed by this section was improperly claimed
41 or approved, the county assessor shall decide whether the exemp-
42 tion claimed should have been allowed and, if not, notify the tax-
43 payer in writing, assess a recovery of property tax and notify the
44 county treasurer of this assessment. If the county assessor de-
45 termined that an exemption was improperly approved as a result of
46 county error, the county assessor shall present the discovered ev-
47 idence, facts or circumstances from the improperly approved ex-
48 emption to the board of county commissioners, at which time the
49 board may waive a recovery of the property tax, and notify such
50 taxpayer in writing.

1 (iii) Upon the first instance of a taxpayer being discovered to
2 have claimed more than one (1) homestead exemption, the taxpayer
3 shall be subject to a penalty, payable to the county treasurer, in
4 an amount equal to the amount of property tax recovered pursuant
5 to subparagraph (ii) of this paragraph, which shall be paid in ad-
6 dition to such recovery amount. The taxpayer shall be notified of
7 the assessment of such penalty at the same time as the notice of the
8 assessor's refusal to grant the exemption in subparagraph (i) of
9 this paragraph.

10 (iv) Any subsequent violation within seven (7) years of an in-
11 stance under subparagraph (iii) of this paragraph shall be a
12 misdemeanor, subject to the penalties provided in section 18-113,
13 Idaho Code. The county assessor shall notify the county prosecut-
14 ing attorney of any conduct that would constitute a misdemeanor
15 pursuant to this subparagraph.

16 (v) Nothing in this paragraph shall prohibit a taxpayer from
17 claiming a homestead exemption after January 1 for a property that
18 is not already subject to the homestead exemption, provided any
19 claim for an exemption is consistent with the requirements of sub-
20 section (2) (c) (iii) of this section.

21 (b) Upon request by a county assessor conducting an investigation under
22 paragraph (a) of this subsection, or when information indicating that
23 an improper claim for the exemption allowed by this section is discov-
24 ered by the state tax commission, the state tax commission shall dis-
25 close relevant information to the appropriate county assessor, board
26 of county commissioners, county clerk, and county treasurer and to the
27 secretary of state. Information disclosed to county officials and the
28 secretary of state by the state tax commission under this subsection:

29 (i) May be used to decide the validity of any entitlement to the
30 exemption provided in this section;

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

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

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

39 (d) (i) An applicant for an exemption under this section may appeal
40 to the county board of equalization the county assessor's refusal
41 to grant an exemption pursuant to paragraph (a) of this subsection
42 within thirty (30) days of the date the county assessor sent notice
43 of the refusal.

44 (ii) The taxpayer may appeal to the county board of equalization
45 the decision by the county assessor to assess the recovery of prop-
46 erty tax within thirty (30) days of the date the county assessor
47 sent the notice to the taxpayer pursuant to this section. The
48 board may waive the collection of all or part of any costs, late
49 charges, and interest in order to facilitate the collection of the
50 recovery of the property tax.

1 (iii) The taxpayer may appeal the imposition of the penalty de-
2 scribed in subsection (5) (a) (iii) of this section within thirty
3 (30) days of the date the county assessor sent the notice to the
4 taxpayer pursuant to this section.

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

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

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

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

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

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

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

44 (7) A homestead, ~~having~~ that previously qualified for exemption under
45 this section in the preceding year, shall not lose such qualification due
46 to: the owner's, beneficiary's, partner's, member's or shareholder's ab-
47 sence in the current year by reason of active military service or because the
48 homestead has been leased because the owner, beneficiary, partner, member or
49 shareholder is absent in the current year by reason of active military ser-
50 vice. An owner subject to the provisions of this subsection must apply for

1 the exemption with the county assessor every year on or before a deadline
 2 date as specified by the county assessor for the county in which the home-
 3 stead is claimed. If an owner fails to apply on or before the established
 4 deadline, the county may, at its discretion, discontinue the exemption for
 5 that year.

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

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

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

27 (a) Multiple active exemptions have not been claimed by the same per-
 28 son; and

29 (b) A person's residence for voting purposes is the same as the home-
 30 stead for which such person has an active exemption pursuant to this
 31 section, if an exemption is so claimed.

32 SECTION 2. That Section 63-3077, Idaho Code, be, and the same is hereby
 33 amended to read as follows:

34 63-3077. INFORMATION FURNISHED TO CERTAIN OFFICIALS. (1) The state
 35 tax commission, under such rules as it may prescribe, may disclose tax re-
 36 turns or tax information to:

37 (a) The commissioner of internal revenue of the United States or his
 38 delegate or the financial management services of the department of the
 39 treasury of the United States; or

40 (b) The proper officer of any state imposing a tax similar to a tax to
 41 which this section applies or the multistate tax commission or its dele-
 42 gate or the governing entity of the international fuels tax agreement or
 43 its delegate;

44 of any taxpayer making or who may be required to make returns, with the state
 45 tax commission or may furnish to such officer or his authorized representa-
 46 tive an abstract or copy of any tax return or tax information or any infor-
 47 mation disclosed by the report of any audit or investigation relating to any
 48 taxpayer; but such permission shall be granted or information furnished to
 49 such officer or his representatives only if the statutes of the United States

1 or such other state, as the case may be, grant substantially similar privi-
2 leges to the state tax commission.

3 (2) Notwithstanding the provisions of this chapter as to secrecy, any
4 duly constituted committee of either branch of the state legislature shall
5 have the right to inspect returns upon request.

6 (3) Nothing in this chapter shall prohibit a taxpayer, or his au-
7 thorized representative, upon proper identification, from inspecting or
8 obtaining a copy of his own tax returns or tax information or authorizing, in
9 writing, the disclosure of information to a third party.

10 (4) Any resident or part-year resident individual taxpayer making an
11 income tax return, shall furnish the state tax commission with the location
12 of any residential property owned by the taxpayer and occupied by the tax-
13 payer as his primary dwelling place on the first day of January of the year
14 following the year to which the tax return relates. The state tax commis-
15 sion is hereby authorized and empowered to deliver to the county assessor
16 of any county of the state of Idaho and the Idaho secretary of state infor-
17 mation relating to a taxpayer's place of residence or domicile. The infor-
18 mation may be used by county assessors and boards of equalization to assist
19 in determining the validity of any homeowner's entitlement to the exemption
20 provided in section 63-602G, Idaho Code. The information may also be used by
21 the Idaho secretary of state to assist in determining a person's residence
22 for voting purposes as provided in section 34-107(2), Idaho Code. Informa-
23 tion disclosed to county officials under this subsection may be used only ~~to~~
24 ~~determine the validity of any homeowner's entitlement to the exemption pro-~~
25 ~~vided in section 63-602G, Idaho Code,~~ for purposes described in this subsec-
26 tion and is not otherwise subject to public disclosure.

27 (5) The state tax commission additionally is authorized to utilize any
28 centralized state computer facility.

29 (6) Nothing in this section or section 63-3076, Idaho Code, shall re-
30 quire the state tax commission to disclose information not required to be
31 disclosed under the provisions of chapter 1, title 74, Idaho Code, or prevent
32 the state tax commission from disclosing the current validity of any permit
33 or license issued by the state tax commission or information that is other-
34 wise publicly available.

35 SECTION 3. An emergency existing therefor, which emergency is hereby
36 declared to exist, this act shall be in full force and effect on and after
37 July 1, 2024.