

IN THE SENATE

SENATE BILL NO. 1054

BY LOCAL GOVERNMENT AND TAXATION COMMITTEE

AN ACT

RELATING TO PROPERTY EXEMPT FROM TAXATION; AMENDING SECTION 63-602G, IDAHO CODE, TO REVISE THE REQUIRED MILITARY STATUS FOR A PERSON NOT TO LOSE THE HOMEOWNER'S PROPERTY TAX EXEMPTION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

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

SECTION 1. 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) During the tax year 2006 and each year thereafter, subject to annual adjustment as provided herein, the first seventy-five thousand dollars (\$75,000) 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. Beginning for tax year 2007, the state tax commission shall publish adjustments to the maximum amount subject to property tax exemption to reflect cost-of-living fluctuations. The adjustments shall effect changes in the amount subject to tax exemption by a percentage equal as near as practicable to the annual change in the Idaho housing price index as determined by the United States office of federal housing enterprise oversight. The state tax commission shall publish the adjustments required by this subsection each and every year the office of federal housing enterprise oversight announces a change in the Idaho housing price index. The adjustments shall be published no later than October 1 of each year and shall be effective for claims filed in and for the following property tax year. The publication of adjustments under this subsection shall be exempt from the provisions of chapter 52, title 67, Idaho Code, but shall be provided to each county and to members of the public upon request and without charge.

(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 as of January 1, provided that in the event the homestead is owner-occupied after January 1 but before April 15, the owner of the property is entitled to the exemption. 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 tax commission has certified to the board of county commissioners that all properties in the county which are subject to appraisal by

1 the county assessor have, in fact, been appraised uniformly so as to se-  
 2 cure a just valuation for all property within the county; and

3 (c) The owner has certified to the county assessor by April 15 that:

4 (i) He is making application for the exemption allowed by this  
 5 section;

6 (ii) That the homestead is his primary dwelling place; and

7 (iii) That he has not made application in any other county for the  
 8 exemption, and has not made application for the exemption on any  
 9 other homestead in the county.

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

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

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

24 (f) For the purpose of this section, the definition of "primary  
 25 dwelling place" shall be the same definition set forth in section  
 26 63-701(8), Idaho Code.

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

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

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

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

38 (c) The homestead described in subsection (3) (b) of this section is  
 39 owner-occupied or occupied by a beneficiary, partner, member or share-  
 40 holder, as appropriate, and used as the primary dwelling place of the  
 41 owner or beneficiary, partner, member or shareholder, as appropriate,  
 42 as of January 1; provided however, that in the event the homestead is  
 43 owner-occupied after January 1, but before April 15, the owner of the  
 44 property is entitled to the exemption.

45 (4) The exemption allowed by this section must be taken before the re-  
 46 duction in taxes provided by sections 63-701 through 63-710, Idaho Code, is  
 47 applied.

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

1 (a) Upon discovery of evidence, facts or circumstances indicating any  
2 exemption allowed by this section was improperly claimed or approved,  
3 the county assessor shall decide whether the exemption claimed should  
4 have been allowed and if not, notify the taxpayer in writing, assess  
5 a recovery of property tax and notify the county treasurer of this  
6 assessment. If the county assessor determined that an exemption was  
7 improperly approved as a result of county error, the county assessor  
8 shall present the discovered evidence, facts or circumstances from the  
9 improperly approved exemption to the board of county commissioners, at  
10 which time the board may waive a recovery of the property tax and notify  
11 such taxpayer in writing.

12 (b) When information indicating that an improper claim for the exemp-  
13 tion allowed by this section is discovered by the state tax commission,  
14 the state tax commission may disclose this information to the ap-  
15 propriate county assessor, board of county commissioners and county  
16 treasurer. Information disclosed to county officials by the state tax  
17 commission under this subsection may be used to decide the validity of  
18 any entitlement to the exemption provided in this section and is not  
19 otherwise subject to public disclosure pursuant to chapter 3, title 9,  
20 Idaho Code.

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

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

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

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

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

49 (h) Thirty (30) days after the taxpayer is notified, as provided in  
50 subsection (5) (a) of this section, the assessor shall record a notice

1 of intent to attach a lien. Upon the payment in full of such recovered  
 2 property taxes prior to the attachment of the lien as provided in sub-  
 3 section (5)(i) of this section, or upon the successful appeal by the  
 4 taxpayer, the county assessor shall record a rescission of the intent to  
 5 attach a lien within seven (7) business days of receiving such payment  
 6 or within seven (7) business days of the county commissioners' decision  
 7 granting the appeal. If the real property is sold to a bona fide pur-  
 8 chaser for value, prior to the recording of the notice of the intent to  
 9 attach a lien, the county assessor and treasurer shall cease the recov-  
 10 ery of such unpaid recovered property tax.

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

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

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

20 (7) A homestead, having previously qualified for exemption under this  
 21 section in the preceding year, shall not lose such qualification due to: the  
 22 owner's, beneficiary's, partner's, member's or shareholder's absence in  
 23 the current year by reason of active military service ~~in a designated combat~~  
 24 ~~zone, as defined in section 112 of the Internal Revenue Code,~~ or because the  
 25 homestead has been leased because the owner, beneficiary, partner, member or  
 26 shareholder is absent in the current year by reason of active military ser-  
 27 ~~vice in a designated combat zone, as defined in section 112 of the Internal~~  
 28 ~~Revenue Code.~~ If an owner fails to timely apply for exemption as required  
 29 in this section solely by reason of active duty ~~in a designated combat zone~~  
 30 ~~by the owner, beneficiary, partner, member or shareholder, as appropriate,~~  
 31 ~~as defined in section 112 of the Internal Revenue Code,~~ and such homestead  
 32 would have otherwise qualified under this section, then the board of county  
 33 commissioners of the county in which the homestead is located shall refund  
 34 property taxes, if previously paid, in an amount equal to the exemption which  
 35 would otherwise have applied.

36 SECTION 2. An emergency existing therefor, which emergency is hereby  
 37 declared to exist, this act shall be in full force and effect on and after its  
 38 passage and approval, and retroactively to January 1, 2011.