

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 548

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO ELECTIONS; AMENDING SECTION 34-107, IDAHO CODE, TO PROVIDE
2 THAT IF A PERSON CLAIMS A CERTAIN EXEMPTION FOR A HOMESTEAD, THEN THAT
3 HOMESTEAD SHALL BE THE PERSON'S RESIDENCE FOR VOTING PURPOSES AND TO
4 REVISE PROVISIONS REGARDING THE DETERMINATION OF A PERSON'S RESIDENCE
5 FOR VOTING PURPOSES; AMENDING CHAPTER 2, TITLE 34, IDAHO CODE, BY THE
6 ADDITION OF A NEW SECTION 34-219, IDAHO CODE, TO PROVIDE FOR AN INVESTIGATION INTO THE QUALIFICATIONS OF A CANDIDATE FOR OFFICE, TO PROVIDE
7 FOR A DEADLINE, AND TO PROVIDE THAT THE STATE OR A POLITICAL SUBDIVISION SHALL PROVIDE CERTAIN INFORMATION UPON REQUEST OF THE SECRETARY OF
8 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
9 CERTAIN DISCLOSURE; AMENDING SECTION 63-602G, IDAHO CODE, TO PROVIDE FOR A CERTAIN DISCLOSURE TO A COUNTY CLERK AND THE SECRETARY OF STATE, TO
10 PROVIDE FOR A CERTAIN DATABASE, AND TO MAKE TECHNICAL CORRECTIONS; AND
11 DECLARING AN EMERGENCY.
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17 Be It Enacted by the Legislature of the State of Idaho:

18 SECTION 1. That Section 34-107, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 34-107. "RESIDENCE" DEFINED. (1) "Residence," for voting purposes,
21 shall be the principal or primary home or place of abode of a person. Prin-
22 cipal or primary home or place of abode is that home or place in which his
23 habitation is fixed and to which a person, whenever he is absent, has the
24 present intention of returning after a departure or absence therefrom, re-
25 gardless of the duration of absence.

26 (2) ~~In~~ If a person claims an exemption under section 63-602G, Idaho
27 Code, then the homestead for which the exemption is claimed shall be the
28 person's residence for voting purposes. If no such exemption is claimed,
29 then in determining what is a the principal or primary place of abode of a
30 person, the following circumstances relating to such person may be taken
31 into account: business pursuits, employment, income sources, residence for
32 income or other tax pursuits, residence of parents, spouse, and children,
33 if any, leaseholds, situs of personal and real property, situs of residence
34 for which the exemption in section 63-602G, Idaho Code, is filed, and motor
35 vehicle registration.

36 (3) A qualified elector who has left his home and gone into another
37 state or territory or county of this state for a temporary purpose only shall
38 not be considered to have lost his residence.

39 (4) A qualified elector shall not be considered to have gained a resi-
40 dence in any county or city of this state into which he comes for temporary
41 purposes only, without the intention of making it his home but with the in-

1 tention of leaving it when he has accomplished the purpose that brought him
2 there.

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

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

9 34-219. INVESTIGATION OF CANDIDATE QUALIFICATIONS. (1) Upon the re-
10 quest of a registered voter, the secretary of state or a county clerk shall
11 investigate the legal qualifications of a candidate for office and shall ex-
12 clude from the ballot a candidate who fails to satisfy the legal qualifica-
13 tions for the office being sought. A person excluded from the ballot pur-
14 suant to this subsection may challenge such exclusion in the district court
15 in which the person's residence for voting purposes is located.

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

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

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

27 34-701. DECLARATIONS OF CANDIDACY AND PETITIONS -- FORM PRESCRIBED BY
28 SECRETARY OF STATE -- FILING FEES. (1) The secretary of state shall prescribe
29 the form for all declarations of candidacy and petitions required to be filed
30 for any office. This form shall be uniform throughout the state; provided,
31 however, that a candidate for judicial office must designate the particular
32 office that he seeks, both in his petitions and declaration of candidacy.

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

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

42 SECTION 4. That Section 63-602G, Idaho Code, be, and the same is hereby
43 amended to read as follows:

44 63-602G. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD. (1) For each tax
45 year, the first one hundred twenty-five thousand dollars (\$125,000) of the

1 market value for assessment purposes of the homestead as that term is defined
2 in section 63-701, Idaho Code, or fifty percent (50%) of the market value
3 for assessment purposes of the homestead as that term is defined in section
4 63-701, Idaho Code, whichever is the lesser, shall be exempt from property
5 taxation.

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

7 (a) The homestead is owner-occupied and used as the primary dwelling
8 place of the owner. The homestead may consist of part of a multidwelling
9 or multipurpose building and shall include all of such dwelling or
10 building except any portion used exclusively for anything other than
11 the primary dwelling of the owner. The presence of an office in a home-
12 stead, which office is used for multiple purposes, including business
13 and personal use, shall not prevent the owner from claiming the exemp-
14 tion provided in this section; and

15 (b) The state tax commission has certified to the board of county com-
16 missioners that all properties in the county ~~which are~~ subject to ap-
17 praisal by the county assessor have, in fact, been appraised uniformly
18 so as to secure a just valuation for all property within the county; and

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

20 (i) He is making application for the exemption allowed by this
21 section;

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

23 (iii) He has not made application in any other county for the ex-
24 emption, and has not made application for the exemption on any
25 other homestead in the county.

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

28 When an "owner," pursuant to the provisions of section 63-701(7), Idaho
29 Code, is any person who is the beneficiary of a revocable or irrevocable
30 trust, or who is a partner of a limited partnership, a member of a lim-
31 ited liability company, or shareholder of a corporation, he or she may
32 provide proof of the trust, limited partnership, limited liability com-
33 pany, or corporation in the manner set forth in section 63-703(4), Idaho
34 Code.

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

40 (f) For the purpose of this section, the definition of "primary
41 dwelling place" shall be the same definition set forth in section
42 63-701(8), Idaho Code.

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

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

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

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

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

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

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

13 (a) Upon discovery of evidence, facts or circumstances indicating any
14 exemption allowed by this section was improperly claimed or approved,
15 the county assessor shall decide whether the exemption claimed should
16 have been allowed and, if not, notify the taxpayer in writing, assess
17 a recovery of property tax, and notify the county treasurer of this as-
18 sessment. If the county assessor determined that an exemption was im-
19 properly approved as a result of county error, the county assessor shall
20 present the discovered evidence, facts or circumstances from the im-
21 properly approved exemption to the board of county commissioners, at
22 which time the board may waive a recovery of the property tax and notify
23 such taxpayer in writing.

24 (b) When information indicating that an improper claim for the exemp-
25 tion allowed by this section is discovered by the state tax commission,
26 the state tax commission ~~may~~ shall disclose this information to the
27 appropriate county assessor, board of county commissioners, county
28 clerk, and county treasurer and to the secretary of state. Information
29 disclosed to county officials and the secretary of state by the state
30 tax commission under this subsection ~~may~~:

31 (i) May be used to decide the validity of any entitlement to the
32 exemption provided in this section ~~and is;~~

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

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

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

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

47 (e) For purposes of calculating the tax, the amount of the recovered
48 property tax shall be for each year the exemption allowed by this sec-
49 tion was improperly claimed or approved, up to a maximum of seven (7)
50 years. The amount of the recovery of property tax shall be calculated

1 using the product of the amount of exempted value for each year multi-
2 plied by the levy for that year plus costs, late charges, and interest
3 for each year at the rates equal to those provided for delinquent prop-
4 erty taxes during that year.

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

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

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

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

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

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

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

47 (8) A homestead, having previously qualified for exemption under this
48 section in the preceding year, shall not lose such qualification due to
49 the owner's, beneficiary's, partner's, member's or shareholder's death
50 during the year of the owner's, beneficiary's, partner's, member's or share-

1 holder's death and the tax year immediately following such death, provided
2 that the homestead continues to be a part of the owner's, beneficiary's,
3 partner's, member's or shareholder's estate. After such time, the new owner
4 shall reapply to receive the exemption pursuant to this section and shall
5 meet the qualification criteria contained in this section.

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

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

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

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

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