HOUSE BILL NO. HB0126

Homestead exemption amendments.

Sponsored by: Representative(s) Anderson, R.

A BILL

for

AN ACT relating to taxation and revenue; providing for a property tax exemption for senior citizens as specified; providing administration and procedures; providing definitions; providing an appropriation; providing for applicability; requiring a report; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 39-13-109(d) by creating a new paragraph (ii) is amended to read:

**39-13-109. Taxpayer remedies.**

(d) Credits. The following shall apply:

(ii) The following shall apply to the senior citizens property tax exemption:

(A) For property tax years commencing on or after January 1, 2010, fifty percent (50%) of the first two hundred thousand dollars ($200,000.00) of fair market value of residential real property that as of the assessment date is owner-occupied and is used as the primary residence of the owner-occupier shall be exempt from taxation if:

(I) The owner-occupier or the spouse of the owner-occupier is sixty-five (65) years of age or older as of the assessment date, has limited income, and the owner-occupier has been a resident of this state for ten (10) years preceding the assessment date; or the owner-occupier is the surviving spouse of an owner-occupier who previously qualified for a property tax exemption for the same residential real property under this paragraph; and

(II) The owner-occupier has completed and filed an exemption application in the manner required by W.S. 39-13.1-104 and the circumstances that qualify the property for the exemption have not changed since the filing of the application. Under no circumstances shall an exemption be allowed for property taxes assessed during any property tax year prior to the year in which an owner-occupier first files an exemption application.

(B) An owner-occupier who owns and occupies a dwelling unit in a common interest community as his primary residence, or who owns residential real property consisting of multiple-dwelling units and occupies one (1) of the dwelling units as his primary residence, shall be allowed an exemption only with respect to the dwelling unit that the individual occupies as his primary residence;

(C) Not more than one (1) exemption per property tax year shall be allowed for a single dwelling unit of residential real property, regardless of how many owner-occupiers use the dwelling unit as their primary residence or whether one (1) or more owner-occupiers qualify for exemptions under this paragraph. The full amount of the exemption allowed by subparagraph (A) of this paragraph shall be allowed with respect to any single dwelling unit of residential real property so long as any owner-occupier of the dwelling unit satisfies the requirements of subparagraph (A) of this paragraph, and the fact that any other person who does not satisfy the requirements is also an owner of record of the dwelling unit shall not affect the amount of the exemption;

(D) For purposes of this paragraph, two (2) individuals who are legally married but who own more than one (1) piece of residential real property shall be deemed to occupy the same primary residence and may claim not more than one (1) exemption;

(E) No later than January 1, 2010, and no later than the fourth Monday in April thereafter, each assessor shall mail to each residential real property address in the assessor's county notice of the exemption allowed by this paragraph. The notice shall include a statement of the eligibility criteria for the exemptions and instructions for obtaining an exemption application. To reduce mailing costs, an assessor may coordinate with the treasurer of the same county to include notice with the tax statement for the previous property tax year or may include notice with the notice of valuation;

(F) To claim the exemption allowed by this paragraph, an individual shall file with the assessor a completed exemption application no later than March 1 of the first property tax year for which the exemption is claimed. An application returned by mail shall be deemed filed on the date it is postmarked;

(G) An exemption application shall require an applicant to provide the following information:

(I) The applicant's name, mailing address and date of birth, and the name and date of birth of the applicant's spouse if the applicant is not sixty-five (65) years of age as of the assessment date;

(II) The address and parcel number of the residential real property for which an exemption is claimed;

(III) The name of each individual who occupies as his primary residence the residential real property for which an exemption is claimed;

(IV) If a trust is the owner of record of the residential real property for which an exemption is claimed, the names of the maker of the trust, the trustee, the beneficiaries of the trust and a statement the trust was created solely for estate planning purposes;

(V) If a corporate partnership or other legal entity is the owner of record of the residential real property for which an exemption is claimed, the names of the principals of the corporate partnership or other legal entity, and a statement the legal entity was created solely for estate planning purposes;

(VI) An affirmation by the applicant and applicant's spouse, if any, that the applicant and spouse believe, under penalty of perjury as defined in W.S. 6-5-303(b), that all information provided by the applicant is correct, and that neither the applicant nor the spouse of the applicant, if any, nor any entity formed by either of them for estate planning purposes as provided in subdivision (Y)(III)(4) through (6) of this paragraph claims any other primary residence; and

(VII) The exemption application shall also contain a statement that an applicant, or in the case of residential real property for which the owner of record is a trust, the trustee, has a legal obligation to inform the assessor within sixty (60) days of any change in the ownership or occupancy of residential real property for which an exemption has been applied for or allowed that would prevent an exemption from being allowed for the property;

(VIII) Any other information that the assessor may reasonably require as necessary for the proper and efficient administration of the exemption.

(H) In addition to any penalties prescribed by law for perjury as defined in W.S. 6-5-303(b), an applicant or applicant's spouse who knowingly provides false information on an exemption application or files more than one (1) exemption application in any property tax year:

(I) Shall not be entitled to an exemption;

(II) Shall be required to pay to the treasurer of any county in which an exemption was improperly allowed due to the provision by the applicant of false information or the filing by the applicant of more than one (1) exemption application, an amount equal to the amount of property taxes not paid as a result of the exemption being improperly allowed.

(J) If an applicant, applicant's spouse or a trustee fails to inform the assessor within sixty (60) days of any change in the ownership or occupancy of residential real property for which an exemption has been applied for or allowed that would prevent an exemption from being allowed for the property as required by subdivision (G)(VII) of this paragraph:

(I) An exemption shall not be allowed with respect to the residential real property; and

(II) The applicant, applicant's spouse or trustee shall be required to pay, to the treasurer of any county in which an exemption was improperly allowed due to the failure to immediately inform the assessor of any change in the ownership or occupancy of residential real property, an amount equal to the amount of property taxes not paid as a result of the exemption being improperly allowed plus interest. Interest shall be calculated at the annual rate calculated pursuant to W.S. 39-13-108(b)(ii) from the date on which the change in the ownership or occupancy occurred until the date the applicant makes the payment required by this subparagraph.

(K) Any amount required to be paid to a treasurer pursuant to subparagraphs (H) and (J) of this paragraph shall be deemed part of the lien of general taxes imposed on the person required to pay the amount and shall have the priority specified in W.S. 39-13-108(d)(i);

(M) Neither an assessor nor a county treasurer shall give any other person any listing of individuals who have applied for an exemption or any other information that would enable a person to easily assemble a mailing list of individuals who have applied for an exemption;

(N) Except as otherwise provided in subparagraph (Q) of this paragraph, an assessor shall only grant the exemption allowed to qualifying seniors under this paragraph to an applicant who has timely returned an exemption application in accordance with the provisions of this paragraph that establishes that the applicant is entitled to the exemption;

(O) If the information provided on or with an application for the exemption allowed to qualifying seniors under this paragraph indicates that the applicant is not entitled to the exemption, or is insufficient to allow the assessor to determine whether or not the applicant is entitled to the exemption, the assessor shall deny the application and mail to the applicant a statement providing the reasons for the denial and informing the applicant of the applicant's right to contest the denial pursuant to subparagraph (P) of this paragraph. The assessor shall mail the statement no later than April 1 of the property tax year for which the exemption application was filed;

(P) An applicant whose exemption application has been denied pursuant to subparagraph (O) of this paragraph may contest the denial by requesting a hearing before the county commissioners sitting as the county board of equalization for the property tax year for which the exemption application was filed;

(Q) An owner-occupier who wishes to claim the exemption for qualifying seniors provided by this paragraph but who has not timely filed an exemption application with the assessor, may request that the assessor waive the application deadline and allow the individual to file a late exemption application no later than April 1 immediately following the original application deadline. The assessor may accept an application if, in the assessor's sole discretion, the applicant shows good cause for not timely filing an application. The assessor shall grant an exemption if an accepted late application establishes that the applicant is entitled to the exemption. A decision of an assessor to allow or disallow the filing of a late application or to grant or deny an exemption to an applicant who has filed a late application is final, and an applicant who is denied late filing or an exemption may not contest the denial;

(R) On or before September 1, county assessors shall certify the exemptions granted pursuant to this paragraph to the department of revenue. On or before October 1 the state treasurer out of funds appropriated for that purpose shall reimburse each county treasurer for the amount of taxes which would have been collected if the property was not exempt. The county treasurer shall distribute the revenue to each governmental entity in the actual amount of taxes lost due to the exemption;

(S) The department of audit shall periodically audit the property tax exemption program to ensure that the program is operating in compliance with chapter 15, section 21 of the Wyoming constitution and this chapter. In connection with an audit, the department of audit may suggest means of improving the administration of the program. Upon request, an assessor, a county treasurer or the state treasurer shall provide the department of audit with any exemption applications, reports or other documents relevant to the administration of the program;

(T) Pursuant to the statutory responsibilities set forth in W.S. 39-11-102(c)(xv) and 39-13-103(b)(ii), the department shall facilitate the implementation of this paragraph by providing any necessary adaptations to computer assisted mass appraisals systems which the county assessors employ. Those adaptations shall include but not be limited to those necessary to identify claimants of the exemption, calculate fair market value with and without the exemption and enable the assessors to certify exemptions to the department for timely reimbursement by the state treasurer;

(U) As used in this paragraph, unless the context otherwise requires:

(I) "Exemption" means the property tax exemptions for qualifying seniors provided by this paragraph;

(II) "Limited income" means not to exceed a maximum gross monthly household income at or below one hundred fifty percent (150%) of the federal poverty level for a household of four (4) as adjusted annually by the comparative cost-of-living index for the respective county as determined by the division of economic analysis, division of administration and information;

(III) "Owner-occupier" means an individual who:

(1) Is an owner of record of residential real property that he occupies as his primary residence;

(2) Is not an owner of record of the residential real property that he occupies as his primary residence, but is:

a. The spouse of an individual who is an owner of record of the residential real property and who also occupies the residential real property as his primary residence; or

b. The surviving spouse of an individual who was an owner of record of the residential real property and who occupied the residential real property with the surviving spouse as his primary residence until his death.

(3) Is not an owner of record of the residential real property that he occupies as his primary residence, only because the property has been purchased by or transferred to a trust or any other legal entity solely for estate planning purposes and the individual is the maker of the trust or a principal of the corporate partnership or other legal entity;

(4) Occupies residential real property as his primary residence, and is the spouse of a person who also occupies the residential real property, who is not the owner of record of the property only because the property has been purchased by or transferred to a trust, a corporate partnership or any other legal entity solely for estate planning purposes, and who is the maker of the trust or a principal of the corporate partnership or other legal entity; or

(5) Occupies residential real property as his primary residence, and is the surviving spouse of a person who occupied the residential real property with the surviving spouse until his death, who was not the owner of record of the property at the time of his death only because the property had been purchased by or transferred to a trust, a corporate partnership or any other legal entity solely for estate planning purposes prior to his death, and who was the maker of the trust or a principal of the corporate partnership or other legal entity prior to his death.

(IV) "Owner-occupier" shall also include any individual who, but for the confinement of the individual to a hospital, nursing home or assisted living facility, would occupy residential real property as his primary residence and would meet one (1) or more of the ownership criteria specified in subdivision (III) of this subparagraph, if the residential real property:

(1) Is temporarily unoccupied; or

(2) Is occupied by the spouse or a financial dependent of the individual.

(V) "Owner of record" means an individual whose name appears on a valid recorded deed to residential real property as an owner of the property;

(VI) "Surviving spouse" means an individual who was legally married to an owner-occupier who previously qualified for a tax exemption under this paragraph at the time of his death and who has not remarried.

**Section 2.**

(a) There is appropriated from the general fund to the state treasurer five million two hundred fifty thousand dollars ($5,250,000.00), or so much thereof as necessary for the purposes of this act. Funds appropriated under this section shall not lapse or revert until June 30, 2011.

(b) It is the intent of the legislature that no local government shall incur any loss of property tax revenue under this act. The department of revenue shall report to the governor, the joint revenue interim committee and the joint appropriations interim committee not later than October 15, 2011, the amount of funds reimbursed to counties under this act and the amount of funds anticipated to be required for reimbursement in the 2011 tax year. The governor shall include in his state budget submitted under W.S. 9-2-1013 for the 2011 legislative session and thereafter a recommendation for any additional appropriation necessary to fully reimburse local governments for the full exemption provided by this act.

**Section 3.** This act is effective January 1, 2010.

(END)