

*Draft Implementing Legislation*

1 Title 39

2 Article 13.1 - Property Tax Exemption for Qualifying Seniors

3  
4 § 39-13.1-101. Definitions

5  
6 (a) As used in this article 13.1, unless the context otherwise requires:

7  
8 (i) "Exemption" means the property tax exemptions for qualifying seniors allowed by  
9 § 39-13.1-102.

10  
11 (ii) "Owner-occupier" means an individual who:

12  
13 (A) Is an owner of record of residential real property that he or she occupies  
14 as his or her primary residence;

15  
16 (B) Is not an owner of record of the residential real property that he or she  
17 occupies as his or her primary residence, but is:

18  
19 (1) The spouse of an individual who is an owner of record of the  
20 residential real property and who also occupies the residential real property as his or her  
21 primary residence; or

22  
23 (2) The surviving spouse of an individual who was an owner of record  
24 of the residential real property and who occupied the residential real property with the  
25 surviving spouse as his or her primary residence until his or her death;

26  
27 (C) Is not an owner of record of the residential real property that he or she  
28 occupies as his or her primary residence, only because the property has been purchased by

*Draft Implementing Legislation*

29 or transferred to a trust, a corporate partnership, or any other legal entity solely for estate  
30 planning purposes and the individual is the maker of the trust or a principal of the corporate  
31 partnership or other legal entity;

32

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

39

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

47

48 (iii) "Owner-occupier" also includes any individual who, but for the confinement of  
49 the individual to a hospital, nursing home, or assisted living facility, would occupy residential  
50 real property as his or her primary residence and would meet one or more of the ownership  
51 criteria specified in paragraph (ii) of this subsection, if the residential real property:

52

53 (A) Is temporarily unoccupied; or

54

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

***Draft Implementing Legislation***

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

58

59           (v) "Surviving spouse" means an individual who was legally married to another  
60 individual at the time of the other individual's death and who has not remarried.

61

***Draft Implementing Legislation***

62 § 39-13.1-102. Property tax exemption--qualifications

63

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

68

69 (i) The owner-occupier or the spouse of the owner-occupier is sixty-five years of age  
70 or older as of the assessment date, and the owner-occupier has owned and occupied such  
71 residential real property as his or her primary residence for the ten years preceding the  
72 assessment date; or

73

74 (ii) The owner-occupier is the surviving spouse of an owner-occupier who previously  
75 qualified for a property tax exemption for the same residential real property under  
76 subparagraph (i) of this paragraph (a); and

77

78 (iii) The owner-occupier has completed and filed an exemption application in the  
79 manner required by § 39-13.1-105 and the circumstances that qualify the property for the  
80 exemption have not changed since the filing of the application. Under no circumstances shall  
81 an exemption be allowed for property taxes assessed during any property tax year prior to the  
82 year in which an owner-occupier first files an exemption application.

83

84 (b) An owner-occupier who owns and occupies a dwelling unit in a common interest  
85 community as his or her primary residence, or who owns residential real property consisting  
86 of multiple-dwelling units and occupies one of the dwelling units as his or her primary  
87 residence, shall be allowed an exemption only with respect to the dwelling unit that the  
88 individual occupies as his or her primary residence.

*Draft Implementing Legislation*

89 (c) No more than one exemption per property tax year shall be allowed for a single dwelling  
90 unit of residential real property, regardless of how many owner-occupiers use the dwelling  
91 unit as their primary residence or whether one or more owner-occupiers qualify for  
92 exemptions under paragraph (a) of this section. The full amount of the exemption allowed  
93 by paragraph (a) of this section shall be allowed with respect to any single dwelling unit of  
94 residential real property so long as any owner-occupier of the dwelling unit satisfies the  
95 requirements of paragraph (a) of this section, and the fact that any other person who does not  
96 satisfy said requirements is also an owner of record of the dwelling unit shall not affect the  
97 amount of the exemption.

98  
99 (d) For purposes of this article 13.1, two individuals who are legally married, but who own  
100 more than one piece of residential real property, shall be deemed to occupy the same primary  
101 residence and may claim no more than one exemption.

102  
103 (e) Notwithstanding the ten-year occupancy requirement set forth in paragraph (a), an  
104 owner-occupier who has not actually owned and occupied residential real property for which  
105 the owner-occupier has claimed an exemption under said paragraph (a) for the ten years  
106 preceding the assessment date shall be deemed to have met the ten-year requirement and shall  
107 be allowed an exemption under said paragraph (a) with respect to the property if:

108  
109 (i) The owner-occupier would have qualified for the exemption with respect to other  
110 residential real property that the owner-occupier owned and occupied as his or primary  
111 residence before moving to the residential real property for which an exemption is claimed  
112 but for the fact that the other property was condemned by a governmental entity through an  
113 eminent domain proceeding; and

114  
115 (ii) The owner-occupier has not owned and occupied residential property as his or her

***Draft Implementing Legislation***

116 primary residence other than the residential real property for which an exemption is claimed  
117 since the condemnation occurred.

118

119 (f) An owner-occupier who claims an exemption with respect to residential real property that  
120 he or she has not actually owned and occupied as his or her primary residence for the ten  
121 years preceding the assessment date as permitted by paragraph (e) of this section shall  
122 provide to the assessor with whom the owner-occupier files the exemption application any  
123 information that the assessor may reasonably require to verify that the owner-occupier is  
124 entitled to an exemption.

125

***Draft Implementing Legislation***

126 § 39-13.1-103. Notice of property tax exemption

127

128 No later than January 1, 2010, and no later than the fourth Monday in April thereafter, each  
129 assessor shall mail to each residential real property address in the assessor's county notice of  
130 the exemption allowed by §39-13.1-103. The notice shall include a statement of the eligibility  
131 criteria for the exemptions and instructions for obtaining an exemption application. To  
132 reduce mailing costs, an assessor may coordinate with the treasurer of the same county to  
133 include notice with the tax statement for the previous property tax year or may include notice  
134 with the notice of valuation.

***Draft Implementing Legislation***

135 § 39-13.1-104. Exemption applications--penalty for providing false  
136 information--confidentiality

137

138 (a) To claim the exemption allowed by §39-13.1-102, an individual shall file with the  
139 assessor a completed exemption application no later than March 1<sup>st</sup> of the first property tax  
140 year for which the exemption is claimed. An application returned by mail shall be deemed  
141 filed on the date it is postmarked.

142

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

144

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

148

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

151

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

154

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

158

159 (v) If a corporate partnership or other legal entity is the owner of record of the  
160 residential real property for which an exemption is claimed, the names of the principals of  
161 the corporate partnership or other legal entity, and a statement the legal entity was created

***Draft Implementing Legislation***

162 solely for estate planning purposes;

163

164 (vi) An affirmation by the applicant and applicant's spouse, if any, that the applicant  
165 and spouse believe, under penalty of perjury, as defined in § 6-5-303(b), that all information  
166 provided by the applicant is correct, and that neither the applicant nor the spouse of the  
167 applicant, if any, nor any entity formed by either of them for estate planning purposes as  
168 provided in § 39-13.1-101(a)(ii)(C - E), claims any other primary residence; and

169

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

175

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

178

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

182

183 (i) Shall not be entitled to an exemption;

184

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

***Draft Implementing Legislation***

189           (iii) Shall, upon conviction of perjury, be required to pay to the treasurer of any county  
190 in which an invalid exemption application was filed an additional amount equal to twice the  
191 amount of the property taxes that would not have had to be paid had the exemption  
192 application been valid plus interest. Interest shall be calculated at the annual rate calculated  
193 pursuant to §39-13-108(b)(ii) from the date the invalid exemption application was filed until  
194 the date the applicant makes the payment required by this subparagraph (iii).

195

196           (d) If an applicant, applicant's spouse, or a trustee fails to inform the assessor within sixty  
197 days of any change in the ownership or occupancy of residential real property for which an  
198 exemption has been applied for or allowed that would prevent an exemption from being  
199 allowed for the property as required by paragraph (viii) of paragraph (b) of this section:

200

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

203

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

212

213           (e) Any amount required to be paid to a treasurer pursuant to paragraphs (c) or (d) of this  
214 section shall be deemed part of the lien of general taxes imposed on the person required to  
215 pay the amount and shall have the priority specified in §39-13-108(d)(i).

***Draft Implementing Legislation***

216 (f) Neither an assessor nor a county treasurer shall give any other person any listing of  
217 individuals who have applied for an exemption or any other information that would enable  
218 a person to easily assemble a mailing list of individuals who have applied for an exemption.  
219

***Draft Implementing Legislation***

220 § 39-13.1-105. Notice to individuals returning incomplete or nonqualifying exemption  
221 applications--denial of exemption--administrative remedies

222

223 (a) Except as otherwise provided in paragraph (d) of this section, an assessor shall only grant  
224 the exemption allowed to qualifying seniors under §39-13.1-102 to an applicant who has  
225 timely returned an exemption application in accordance with §39-13.1-104 that establishes  
226 that the applicant is entitled to the exemption.

227

228 (b) If the information provided on or with an application for the exemption allowed to  
229 qualifying seniors under §39-13.1-102 indicates that the applicant is not entitled to the  
230 exemption, or is insufficient to allow the assessor to determine whether or not the applicant  
231 is entitled to the exemption, the assessor shall deny the application and mail to the applicant  
232 a statement providing the reasons for the denial and informing the applicant of the applicant's  
233 right to contest the denial pursuant to paragraph (c) of this section. The assessor shall mail  
234 the statement no later than April 1 of the property tax year for which the exemption  
235 application was filed.

236

237 (c) An applicant whose exemption application has been denied pursuant to paragraph (b) of  
238 this section may contest the denial by requesting a hearing before the county commissioners  
239 sitting as the county board of equalization for the property tax year for which the exemption  
240 application was filed.

241

242 (d) An owner-occupier who wishes to claim the exemption for qualifying seniors allowed  
243 by §39-13.1-103, but who has not timely filed an exemption application with the assessor,  
244 may request that the assessor waive the application deadline and allow the individual to file  
245 a late exemption application no later than the April 1 that immediately follows the original  
246 application deadline. The assessor may accept an application if, in the assessor's sole

***Draft Implementing Legislation***

247 discretion, the applicant shows good cause for not timely filing an application. The assessor  
248 shall grant an exemption if an accepted late application establishes that the applicant is  
249 entitled to the exemption. A decision of an assessor to allow or disallow the filing of a late  
250 application or to grant or deny an exemption to an applicant who has filed a late application  
251 is final, and an applicant who is denied late filing or an exemption may not contest the denial.

252

253

254

***Draft Implementing Legislation***

255 § 39-13.1-106. Reporting of exemptions--reimbursement to local governmental entities

256

257 On or before September 1, county assessors shall certify the exemptions granted pursuant to  
258 W.S. § 39-13.1-102 to the department. On or before October 1 the state treasurer out of funds  
259 appropriated for that purpose shall reimburse each county treasurer for the amount of taxes  
260 which would have been collected if the property was not exempt. The county treasurer shall  
261 distribute the revenue to each governmental entity in the actual amount of taxes lost due to  
262 the exemption.

263

***Draft Implementing Legislation***

264 § 39-13.1-107. Auditing of property tax exemption program

265

266 The state auditor shall periodically audit the property tax exemption program to ensure that  
267 the program is operating in compliance with section 21 of article 15 of the state constitution  
268 and §39-13.1-101 et seq. In connection with an audit, the state auditor may suggest means  
269 of improving the administration of the program. Upon request, an assessor, a county  
270 treasurer, or the state treasurer shall provide the state auditor with any exemption  
271 applications, reports, or other documents relevant to the administration of the program.

272

***Draft Implementing Legislation***

273 § 39-13.1-108. Department of Revenue Responsibility

274

275 Pursuant to the statutory responsibilities set forth in § 39-11-102(c)(xv) and § 39-13-  
276 103(b)(ii), the department shall facilitate the implementation of this article by provide any  
277 necessary adaptations to computer assisted mass appraisals systems which the county  
278 assessors employ. Those adaptations shall include but not be limited to those necessary to  
279 identify claimants of the exemption; calculate fair market value with and without the  
280 exemption; and enable the assessors to certify exemptions to the department for timely  
281 reimbursement by the state treasurer.