

1 HB179
2 126602-5
3 By Representatives Williams (J), Canfield, Hubbard (M),
4 Gaston, McCutcheon, Hill, McClendon, Bridges, Sanderford,
5 DeMarco, Love, Clouse, Hammon, Moore (B), McMillan, Johnson
6 (K), Merrill, Jones, Beckman, Long, Boman, Baughn, Patterson
7 and Roberts
8 RFD: Commerce and Small Business
9 First Read: 08-MAR-11

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ENROLLED, An Act,

To amend Section 40-8-1, Code of Alabama 1975, relating to classification of property for ad valorem tax purposes, to expand and clarify the definition of residential property to include single family dwellings and lots under construction for a period of time.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Homeowners and Storm Victims Protection Act of 2011.

Section 2. Section 40-8-1, Code of Alabama 1975, is amended to read as follows:

"§40-8-1.

"(a) On and after October 1, 1978, with respect to ad valorem taxes levied by the state, and, unless otherwise provided, with respect to ad valorem taxes levied by a county, municipality, or other taxing authority other than the state, all taxable property shall be divided into the following classes and no other and shall be assessed for ad valorem tax purposes at the following ratios of assessed value to the fair and reasonable market value of such property, or, as may be provided by law, to the current use value of such property:

"CLASS I. All property of utilities used in the business of such utilities, 30 percent.

1 "CLASS II. All property not otherwise classified, 20
2 percent.

3 "CLASS III. All agricultural, forest, and
4 residential property, and historic buildings and sites, 10
5 percent.

6 "CLASS IV. All private passenger automobiles and
7 motor trucks of the type commonly known as "pickups" or
8 "pickup trucks" owned and operated by an individual for
9 personal or private use and not for hire, rent, or
10 compensation, 15 percent.

11 "(b) As used herein, the following terms shall have
12 the following meanings, respectively, unless the context
13 clearly indicates otherwise:

14 "(1) AGRICULTURAL AND FOREST PROPERTY. All real
15 property used for raising, harvesting, and selling crops or
16 for the feeding, breeding, management, raising, sale of, or
17 the production of livestock, including beef cattle, sheep,
18 swine, horses, ponies, mules, poultry, fur-bearing animals,
19 honeybees, and fish, or for dairying and the sale of dairy
20 products, or for the growing and sale of timber and forest
21 products, or any other agricultural or horticultural use or
22 animal husbandry and any combination thereof.

23 "(2) HISTORIC BUILDINGS AND SITES. Regardless of the
24 use to which such property is put, all buildings or structures
25 (i) determined eligible by the state historic preservation

1 officer for listing on the National Register of Historic
2 Places; or (ii) located in a registered historic district and
3 certified by the United States Secretary of the Interior as
4 being of historic significance to the district.

5 "(3) PRIVATE PASSENGER AUTOMOBILES AND MOTOR TRUCKS
6 OF THE TYPE COMMONLY KNOWN AS "PICKUPS" OR "PICKUP TRUCKS"
7 OWNED AND OPERATED BY AN INDIVIDUAL FOR PERSONAL OR PRIVATE
8 USE AND NOT FOR HIRE, RENT, OR COMPENSATION. All private
9 passenger automobiles, as that term is defined in Sections
10 40-12-240, subdivision (12), and 40-12-241; and all motor
11 trucks of the type commonly known as "pickups" or "pickup
12 trucks," weighing not exceeding 8,000 pounds gross weight.

13 "(4) PROPERTY NOT OTHERWISE CLASSIFIED. All real and
14 personal property which does not fall within any one or more
15 of Classes I, III, and IV.

16 "(5) PROPERTY OF UTILITIES. All property assessed
17 for taxation by the Department of Revenue pursuant to the
18 provisions of Chapter 21 of this title; provided, that after
19 September 30, 1979, and only to the extent required by Title
20 III, §306 of Pub. L. 94-210 (the Railroad Revitalization and
21 Regulatory Reform Act of 1976, codified as 49 U.S.C. §26c),
22 "transportation property," as that term is defined in the
23 aforesaid statute, as heretofore or hereafter amended, or in
24 any subsequent statute of similar import, shall not be

1 assessed as Class I property and customer-owned coin-operated
2 telephone companies shall not be assessed as Class I property.

3 "(6) RESIDENTIAL PROPERTY. ~~Only real~~ a. Real
4 property, used by the owner thereof exclusively as the owner's
5 single-family dwelling. This includes an owner who resides on
6 the property and remains in possession of the property after
7 ~~it is sold at a tax sale. Residential property shall include~~
8 ~~single-family dwellings and the underlying lot, under~~
9 ~~construction and after construction, until sold or used for a~~
10 ~~purpose other than as the owner's single-family dwelling for a~~
11 ~~period not to exceed 24 months from the date construction~~
12 ~~begins. Residential property shall also include a residential~~
13 ~~lot from the time an official plat identifies the property for~~
14 ~~use as a residence all fully developed lots. For the purposes~~
15 ~~of this subsection, the date construction begins shall be the~~
16 ~~date the construction materials are first delivered to or are~~
17 ~~otherwise placed on the lot. The single-family dwelling may be~~
18 ~~classified as residential property, rather than Class II, as~~
19 ~~authorized by this amendatory act based on the property owner~~
20 ~~filing documentary evidence of the date construction begins~~
21 ~~pursuant to rules promulgated by the Department of Revenue~~
22 ~~which rules shall include what documents may be accepted as~~
23 ~~proof of the date construction begins. The property shall be~~
24 ~~classified as Class II property until approved documentation~~

1 ~~is properly filed with the tax assessing official pursuant to~~
2 ~~the rules of it is sold at a tax sale.~~

3 "b. Residential property shall include single-family
4 dwelling and the fully-developed underlying lot owned by a
5 home builder holding a valid and current license from the Home
6 Builders Licensure Board or who is otherwise authorized by the
7 board to construct single-family homes until sold or used for
8 a purpose other than as a single-family dwelling; provided
9 that this classification shall not exceed a period of 24
10 months from the date the owner home builder applies for the
11 classification as provided herein.

12 "(c) The single-family dwelling and the
13 fully-developed underlying lot as described in paragraph b. of
14 subdivision (6) of subsection (b) may be reclassified as Class
15 III, rather than Class II, as authorized by this amendatory
16 act based on the property owner filing documentary evidence of
17 the date construction begins or the date the lot is fully
18 developed pursuant to rules promulgated by the Department of
19 Revenue, which rules shall include what documents may be
20 accepted to qualify as Class III. The property shall be
21 reclassified as Class II property until approved documentation
22 is properly filed with the tax assessing official pursuant to
23 the rules of the department. The authorization for the
24 property to be reclassified as residential property shall not
25 exempt the property from the provisions of Section 40-7-25.3,

1 which shall apply to all property seeking the reclassification
2 as residential property authorized by this amendatory act.

3 "(d) The reclassification of property authorized by
4 subsection (c) shall terminate when one of the following
5 occurs:

6 "(1) The classification has been in place for 24
7 months.

8 "(2) The owner no longer holds a valid license or
9 authorization from the Home Builders Licensure Board.

10 "(3) The sale, transfer, or any other action or
11 inaction resulting in the single-family dwelling or the
12 fully-developed underlying lot no longer being held by the
13 person, firm, or corporation first seeking the
14 reclassification.

15 "(e) Fully-developed lots that on the effective date
16 of this amendatory act are within a platted and recorded
17 subdivision and fully comply with the subdivision regulations
18 applying to the subdivision, classified as Class II property,
19 and owned by the person or firm originally platting the
20 subdivision or owned by a person or firm authorized or
21 licensed by the Home Builders Licensure Board to construct
22 single-family homes may be reclassified as Class III property
23 for the two tax years immediately following the effective date
24 of this amendatory act. Notwithstanding the foregoing, in
25 order to qualify for the reclassification, the owner shall

1 properly file with the tax assessing official documentation
2 required pursuant to the rules of the department. the
3 department. The authorization for the property to be
4 classified as residential property shall not exempt the
5 property from the provisions of Section 40-7-25.3, which shall
6 apply to all property seeking the classification as
7 residential property authorized by this amendatory act.

8 "~~(c)~~ (f) Wherever any statute provides for, limits,
9 or measures the power or authority of any county,
10 municipality, or other taxing authority to levy taxes, borrow
11 money, or incur indebtedness in relation to the assessment of
12 property therein for state taxes or for state and county
13 taxes, such provision shall mean as assessed for county or
14 municipal taxes.

15 "~~(d)~~ (g)The following property shall be exempted
16 from ad valorem taxation: The real and personal property of
17 the state, counties, and municipalities and real and personal
18 property devoted exclusively to religious, education, or
19 charitable purposes. The property of Masonic lodges, Knights
20 of Columbus homes, and union halls shall be exempt when used
21 exclusively for the purposes and business of such
22 organizations. All property now exempt by law shall continue
23 to be exempt from taxation until changed by law.

1 "~~(e)~~ (h) The Department of Revenue shall have
 2 authority to promulgate rules and regulations for the uniform
 3 identification and assessment of manufactured homes."

4 "~~(f)~~ (i) In the event an owner's single-family
 5 dwelling is destroyed or damaged to the extent that the
 6 dwelling is uninhabitable, the property shall retain its
 7 classification as residential property while the dwelling is
 8 being rebuilt or restored to an inhabitable state for a period
 9 of not to exceed 24 months from the date of the destruction or
 10 damage. If the destroyed or damaged dwelling is not rebuilt or
 11 restored to an inhabitable state as the owner's single-family
 12 dwelling within 24 months from the date of the destruction or
 13 damage or the property is converted at any time to a use other
 14 than as the owner's single-family dwelling, the property shall
 15 lose its classification as residential property.

16 "The owner may request an extension not to exceed an
 17 additional 24 months upon submission of proof that the work
 18 necessary to rebuild or restore the destruction or damage
 19 could not be contracted or if contracted could not be
 20 completed within 24 months from the date of the destruction or
 21 damage."

22 Section 3. All laws or parts of laws which conflict
 23 with this act are repealed.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 03-MAY-11, as amended.

Greg Pappas
Clerk

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|--------|-------|-----------|------------------------------------|
| Senate | <hr/> | 02-JUN-11 | Amended and Passed |
| House | <hr/> | 02-JUN-11 | Concurred in Sen- ate Amendment |