

1 SB132
2 115687-1
3 By Senator Sanders
4 RFD: Finance and Taxation Education
5 First Read: 12-JAN-10

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8 SYNOPSIS: Under current law, certain persons are
9 entitled to exemptions from all or a portion of ad
10 valorem taxation on their homestead due to age or
11 disability. It is unclear whether the exemption
12 applies to the entire property when the property is
13 owned jointly with persons not eligible for the
14 exemption.

15 This bill would clarify that, in the event a
16 person eligible for an exemption on his or her
17 homestead due to age or disability owns the
18 property jointly with a person or persons not
19 eligible for the exemption, the exemption shall
20 apply only to his or her proportionate share of the
21 homestead.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

1 To amend Sections 40-9-19 and 40-9-21, Code of
2 Alabama 1975, to clarify that, in the event a person eligible
3 for an exemption on his or her homestead due to age or
4 disability owns the property jointly with a person or persons
5 not eligible for the exemption, the exemption shall apply only
6 to his or her proportionate share of the homestead.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. Sections 40-9-19 and 40-9-21, Code of
9 Alabama 1975, are amended to read as follows:

10 "§40-9-19.

11 "(a) (1) Homesteads, as defined by the Constitution
12 and laws of Alabama, are hereby exempted from all state ad
13 valorem taxes. In no case shall the exemption herein made
14 apply to more than one person, head of the family, nor shall
15 the said exemption exceed \$4,000 in assessed value, nor 160
16 acres in area for any resident of this state who is not over
17 65 years of age. The homesteads, or proportionate share
18 thereof, of residents of this state, who are over 65 years of
19 age, or who ~~are retired~~ provide evidence of retirement due to
20 permanent and total disability, regardless of age, or who are
21 blind as defined in Section 1-1-3, regardless of age or
22 whether such person is retired, shall be exempt from all state
23 ad valorem taxes; provided, however, that in the event that
24 the property is owned jointly with any persons or persons who
25 are not eligible for the exemption from all state ad valorem
26 taxes pursuant to this section, the exemption shall be reduced
27 by the proportion of the property owned by the person or

1 persons who are not eligible for the exemption. The person
2 claiming the exemption shall provide the tax assessor with
3 legal documents sufficient to establish the percentage of
4 ownership he or she holds in the property for which he or she
5 claims exemption. In the event that sufficient legal
6 documentation of the proportionate share owned by the person
7 claiming exemption is not provided, the exemption shall be
8 determined by assuming all owners share equally in the
9 property based upon the most recent deed or other instrument
10 recorded in the probate office for the property on which the
11 exemption is claimed.

12 " (2) The ~~state Commissioner~~ Department of Revenue
13 shall promulgate regulations for identifying and calculating
14 proportionate share exemptions as provided herein and is
15 hereby empowered to define and specify the condition or state
16 of health that makes a person "permanently and totally
17 disabled" and may issue certificates of disability to such
18 person as he or she may find meets such specifications. Any
19 person who is drawing any pension or annuity from the armed
20 services or a company or governmental agency as being
21 permanently and totally disabled shall automatically be
22 granted a certificate of permanent and total disability by the
23 state Commissioner of Revenue.

24 "(b) For tax years beginning on and after October 1,
25 1981, for residents of this state not over 65 years of age,
26 homesteads, as defined by the Constitution and laws of
27 Alabama, are hereby exempted from all ad valorem property

1 taxes levied, except countywide and school district ad valorem
2 taxes levied for school purposes, by any county of this state.
3 In no case shall such exemption herein made apply to more than
4 one person, head of the family, nor shall the said exemption
5 exceed \$2,000 in assessed value, nor 160 acres in area for any
6 resident of this state who is not over 65 years of age except
7 as provided in subsection (c) of this section.

8 "(c) For tax years beginning on and after October 1,
9 1981, the governing body of any county, municipality or other
10 local taxing authority may at any time grant by resolution or
11 ordinance an exemption from any levy of ad valorem property
12 taxes levied by such county, municipality or other local
13 taxing authority on homesteads, as defined by the Constitution
14 and laws of Alabama, of residents of this state not over 65
15 years of age. In no case shall such exemption herein allowed
16 apply to more than one person, head of the family, nor shall
17 said exemption, when added to any other homestead exemption
18 applicable to the same ad valorem tax levy, exceed \$4,000 in
19 assessed value, nor 160 acres in area. Any homestead exemption
20 granted pursuant to this subsection (c) may be adjusted,
21 rescinded or reinstated at any time by resolution or ordinance
22 of the governing body of the county, municipality or other
23 local taxing authority granting such exemption. Any action
24 authorized by this subsection to be taken by a taxing
25 authority, or the governing body thereof, shall, other than in
26 the case of a municipality, be taken by resolution of the
27 governing body of the county in which such taxing authority is

1 located acting on behalf of such taxing authority; provided
2 however, any action authorized by this subsection to be taken
3 by a taxing authority, or the governing body thereof, which
4 action shall affect countywide or district ad valorem taxes
5 levied solely for the support of county or city school
6 districts, shall be taken by resolutions of the governing
7 bodies and boards of the school systems that are recipients of
8 the proceeds of the ad valorem tax so affected by such action.
9 The provisions of this subsection (c) shall in no way annul or
10 reduce exemptions provided under subsections (a), (b) and (d)
11 of this section.

12 "(d) For tax years beginning on and after October 1,
13 1981, for residents of this state, over 65 years of age who
14 have an annual adjusted gross income of less than \$12,000 as
15 reflected on the most recent state income tax return or some
16 other appropriate evidence, or who ~~are retired~~ provide
17 evidence of retirement due to permanent and total disability,
18 regardless of age, or who are blind as defined in Section
19 1-1-3, regardless of age or whether such person is retired,
20 homesteads, or proportionate share thereof, as defined in the
21 Constitution and laws of Alabama, are hereby exempted from ad
22 valorem property taxes levied by any county of this state,
23 including such taxes levied for school districts. In the event
24 that the homestead is owned jointly with any person or persons
25 who are not exempt from ad valorem taxes levied by any county
26 of this state pursuant to this section, the exemption
27 authorized herein shall be reduced by the proportion of the

1 property owned by the person or persons who are not eligible
2 for the exemption. The person claiming the exemption shall
3 provide the tax assessor with legal documents sufficient to
4 establish the percentage of ownership he or she holds in the
5 property for which he or she claims exemption. In the event
6 that sufficient legal documentation of the proportionate share
7 owned by the person claiming exemption is not provided, the
8 exemption shall be determined by assuming all owners share
9 equally in the property based upon the most recent deed or
10 other instrument recorded in the probate office for the
11 property on which the exemption is claimed. In no case shall
12 such exemption exceed \$5,000 in assessed value, nor 160 acres
13 in area. With respect to homesteads situated in more than one
14 county, the exemption granted herein shall be prorated between
15 the counties in which the homestead is situated in the
16 proportion that the area of the homestead in each county bears
17 to the total area of the homestead claimed for exemption.

18 "The Department of Revenue shall promulgate
19 regulations for identifying and calculating proportionate
20 share exemptions as provided herein and may by regulation
21 define and specify the condition or state of health that makes
22 a person "permanently and totally disabled" and may issue
23 certificates of disability to any person that meets such
24 specifications. Any person who is drawing any pension or
25 annuity from the armed services, a private company or any
26 governmental agency because he is permanently and totally

1 disabled shall automatically be granted a certificate of
2 permanent and total disability by the Department of Revenue.

3 "(e) The grant of any homestead exemption provided
4 under the provisions of this section shall not be allowed if
5 such grant shall prevent the payment of any bonded
6 indebtedness secured by any tax to which the homestead
7 exemption would apply.

8 "§40-9-21.

9 "In addition to the persons and property exempt from
10 ad valorem taxation as prescribed in Section 40-9-1, the
11 following shall also be exempt from ad valorem taxation: the
12 principal residence and 160 acres adjacent thereto, or
13 proportionate share thereof, of any person having a net annual
14 taxable income of \$7,500 or less who is totally disabled
15 provides evidence of retirement due to permanent and total
16 disability or who is 65 years of age or older having a net
17 annual taxable income of \$7,500 or less, as shown on such
18 person's and spouse's latest United States income tax return.
19 If the principal residence and 160 acres adjacent thereto is
20 owned jointly with any person or persons other than a spouse
21 who are not exempt from ad valorem taxes pursuant to this
22 section, the exemption shall be reduced by the proportion of
23 the property owned by the person or persons who are not
24 eligible for the exemption. The person claiming the exemption
25 shall provide the tax assessor with legal documents sufficient
26 to establish the percentage of ownership he or she holds in
27 the property for which he or she claims exemption. In the

1 event that sufficient legal documentation of the proportionate
2 share owned by the person claiming exemption is not provided,
3 the exemption shall be determined by assuming all owners share
4 equally in the property based upon the most recent deed or
5 other instrument recorded in the probate office for the
6 property on which the exemption is claimed. The Department of
7 Revenue shall promulgate regulations for identifying and
8 calculating proportionate share exemptions as provided herein.

9 In the event that such person and spouse are not required to
10 file a United States income tax return, then an affidavit
11 indicating that the net taxable income of such person and
12 spouse for the preceding taxable year was \$7,500 or less shall
13 be sufficient proof. Proof of age shall be furnished when the
14 exemption provided herein is claimed. Proof of total
15 disability may be, but shall not be limited to, the written
16 certification of such total disability by any two physicians
17 licensed to practice in this state. In order to qualify for
18 exemption under this section, such principal residence must be
19 a single-family residence owned and occupied by ~~a~~ the person
20 qualifying under this section."

21 Section 2. This act shall become effective on
22 October 1, 2010.