

1 HB19
2 153369-6
3 By Representatives Williams (J), Hill, McMillan, Baker, Faust
4 and Shiver
5 RFD: County and Municipal Government
6 First Read: 05-FEB-13
7 PFD: 12/07/2012

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

Relating to ad valorem tax exemptions on homesteads and principal residences; to amend Sections 40-9-19, 40-9-21, and 40-9-21.1 of the Code of Alabama 1975, as last amended by Act 2012-313 (2012 Regular Session), relating to homestead exemptions and exemptions on principal residences, to restore the code sections in the exact same form as the sections existed prior to the enactment of Act 2012-313, except retaining the income limitation on federal taxable income for certain exemptions for persons age 65 or over and authorizing the Department of Revenue to provide for evidence other than a tax return for the exemption; to provide for the retroactive application of the above provisions and for the implementation of this act; and to add Section 40-9-21.2 to the Code of Alabama 1975, to prohibit a person from falsely claiming a homestead exemption and to provide penalties.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. The intent of this section is to substantially repeal Act 2012-313, House Bill 120 of the 2012 Regular Session, retaining only the amendments to subsection (a) of Section 40-9-21, Code of Alabama 1975, that increased the maximum net income for federal income tax purposes for a person 65 years of age or over claiming an exemption and specifying that the Department of Revenue may provide for

1 other appropriate evidence other than a tax return to claim
2 the exemption. It is further the intent of this section to
3 restore any construction and administration of Sections
4 41-9-19, 41-9-21, and 41-9-21.1, Code of Alabama 1975, prior
5 to the enactment of Act 2012-313.

6 Section 2. Sections 40-9-19, 40-9-21, and 40-9-21.1
7 of the Code of Alabama 1975, as last amended by Act 2012-313,
8 House Bill 120 of the 2012 Regular Session, are amended to
9 read as follows:

10 "§40-9-19.

11 "(a) Homesteads, as defined by the Constitution and
12 laws of Alabama, are hereby exempted from all state ad valorem
13 taxes. In no case shall the exemption herein made apply to
14 more than one person, head of the family, nor shall the said
15 exemption exceed \$4,000 in assessed value, nor 160 acres in
16 area for any resident of this state who is not over 65 years
17 of age. The homesteads of residents of this state, ~~who are~~
18 over 65 years of age, or who are retired due to permanent and
19 total disability, regardless of age, or who are blind as
20 defined in Section 1-1-3, regardless of age or whether such
21 person is retired, shall be exempt from all state ad valorem
22 taxes.

23 "The state Commissioner ~~Department~~ of Revenue is
24 hereby empowered to define and specify the condition or state
25 of health that makes ~~shall by regulation rule establish the~~

1 ~~criteria and proof required for an exemption based upon a~~
2 ~~person being "permanently and totally disabled" and may shall~~
3 ~~issue certificates of disability to such any person as he may~~
4 ~~find who meets such specifications ~~criteria and provides the~~~~
5 ~~required proof.~~ Any person who is drawing any pension or
6 annuity from the armed services or a company or governmental
7 agency as being permanently and totally disabled shall
8 automatically be granted a certificate of permanent and total
9 disability by the state Commissioner of Revenue department.

10 "(b) For tax years beginning on and after October 1,
11 1981, for residents of this state not over 65 years of age,
12 homesteads, as defined by the Constitution and laws of
13 Alabama, are hereby exempted from all ad valorem property
14 taxes levied, except countywide and school district ad valorem
15 taxes levied for school purposes, by any county of this state.
16 In no case shall such exemption herein made apply to more than
17 one person, head of the family, nor shall the said exemption
18 exceed \$2,000 in assessed value, nor 160 acres in area for any
19 resident of this state who is not over 65 years of age except
20 as provided in subsection (c) of this section.

21 "(c) For tax years beginning on and after October 1,
22 1981, the governing body of any county, municipality or other
23 local taxing authority may at any time grant by resolution or
24 ordinance an exemption from any levy of ad valorem property
25 taxes levied by such county, municipality or other local

1 taxing authority on homesteads, as defined by the Constitution
2 and laws of Alabama, of residents of this state not over 65
3 years of age. In no case shall such exemption herein allowed
4 apply to more than one person, head of the family, nor shall
5 said exemption, when added to any other homestead exemption
6 applicable to the same ad valorem tax levy, exceed \$4,000 in
7 assessed value, nor 160 acres in area. Any homestead exemption
8 granted pursuant to this subsection (c) may be adjusted,
9 rescinded, or reinstated at any time by resolution or
10 ordinance of the governing body of the county, municipality or
11 other local taxing authority granting such exemption. Any
12 action authorized by this subsection to be taken by a taxing
13 authority, or the governing body thereof, shall, other than in
14 the case of a municipality, be taken by resolution of the
15 governing body of the county in which such taxing authority is
16 located acting on behalf of such taxing authority; provided
17 however, any action authorized by this subsection to be taken
18 by a taxing authority, or the governing body thereof, which
19 action shall affect countywide or district ad valorem taxes
20 levied solely for the support of county or city school
21 districts, shall be taken by resolutions of the governing
22 bodies and boards of the school systems that are recipients of
23 the proceeds of the ad valorem tax so affected by such action.
24 The provisions of this subsection (c) shall in no way annul or

1 reduce exemptions provided under subsections (a), (b), and (d)
2 of this section.

3 "(d) For tax years beginning on and after October 1,
4 1981, for residents of this state, over 65 years of age who
5 have an annual adjusted gross income of less than \$12,000 as
6 reflected on the most recent state income tax return or some
7 other appropriate evidence, or who are retired due to
8 permanent and total disability, regardless of age, or
9 ~~homesteads, as defined in the Constitution of Alabama of 1901~~
10 ~~and laws of Alabama, are hereby exempted from ad valorem~~
11 ~~property taxes levied by any county of this state, including~~
12 ~~such taxes levied for school districts, for residents of this~~
13 ~~state~~ who are blind as defined in Section 1-1-3, regardless of
14 age or whether such person is retired, homesteads, as defined
15 in the Constitution and laws of Alabama, are hereby exempted
16 from ad valorem property taxes levied by any county of this
17 state, including such taxes levied for school districts. In no
18 case shall such exemption exceed \$5,000 in assessed value, nor
19 160 acres in area. With respect to homesteads situated in more
20 than one county, the exemption granted herein shall be
21 prorated between the counties in which the homestead is
22 situated in the proportion that the area of the homestead in
23 each county bears to the total area of the homestead claimed
24 for exemption.

1 "The Department of Revenue may by regulation define
2 and specify the condition or state of health that makes a
3 person "permanently and totally disabled" and may issue
4 certificates of disability to any person that meets such
5 specifications. Any person who is drawing any pension or
6 annuity from the armed services, a private company or any
7 governmental agency because he is permanently and totally
8 disabled shall automatically be granted a certificate of
9 permanent and total disability by the Department of Revenue.

10 "(e) The grant of any homestead exemption provided
11 under the provisions of this section shall not be allowed if
12 such grant shall prevent the payment of any bonded
13 indebtedness secured by any tax to which the homestead
14 exemption would apply.

15 "(f) Any homestead exemption under this section or
16 Section 40-9-21 shall not be affected during any period the
17 homestead is being repaired after being damaged by a natural
18 disaster such as a tornado or hurricane.

19 "§40-9-21.

20 "(a) In addition to the persons and property exempt
21 from ad valorem taxation as prescribed in Section 40-9-1, the
22 following shall also be exempt from ad valorem taxation: the
23 The principal residence and 160 acres adjacent thereto of
24 shall be exempt from ad valorem taxation for any person
25 resident of this state who is retired because he or she is

1 permanently and totally disabled or who is 65 years of age or
2 older having a, ~~provided the~~ net annual taxable income of ~~for~~
3 ~~the person claiming the exemption and that of his or her~~
4 ~~spouse is~~ twelve thousand dollars (\$12,000) or less, as shown
5 on such person's and spouse's latest United States income tax
6 return or some other appropriate evidence acceptable to the
7 department. In the event that such person and spouse are not
8 required to file a United States income tax return, then an
9 affidavit indicating that the net taxable income of such
10 person and spouse for the preceding taxable year was twelve
11 thousand dollars (\$12,000) or less shall be sufficient proof.
12 Proof of age shall be furnished when the ~~required for an~~
13 ~~exemption provided herein is claimed.~~ ~~by residents over the~~
14 ~~age of 65. Proof of total disability may be, but shall not be~~
15 ~~limited to, the written certification of such total disability~~
16 ~~by any two physicians licensed to practice in this state. Any~~
17 On and after the effective date of this amendatory act, if a
18 permanently and totally disabled person does not qualify for
19 the exemption under subsection (b), and has not previously
20 submitted written certification of such permanent and total
21 disability by any two physicians licensed to practice in this
22 state, he or she may submit as proof of permanent and total
23 disability affidavits from two physicians licensed to practice
24 in this state, provided that at least one of these physicians
25 is actively providing treatment directly related to the

1 permanent and total disability of the person seeking the
2 exemption; provided, however, this requirement shall not apply
3 to any person receiving the exemption on the effective date of
4 the act adding this amendatory language. As provided in
5 subsection (b), any person who is drawing any pension or
6 annuity from the armed services or a company or governmental
7 agency because he or she is permanently and totally disabled
8 shall automatically be granted a certificate of permanent and
9 total disability by the department. In order to qualify for an
10 exemption under this section, ~~such principal residence~~ the
11 property must be a single-family ~~residence~~ home owned and
12 occupied ~~by a~~ during the tax year as the principal residence
13 of the person qualifying under this section.

14 " (b) The department shall by ~~regulation~~ rule
15 establish the criteria and proof required for an exemption in
16 this section based upon a person being "permanently and
17 totally disabled" and shall issue certificates of disability
18 to any person that meets such criteria and provides the
19 required proof. ~~Any~~ The rule shall provide that any person who
20 is drawing any pension or annuity from the armed services, a
21 private company, or any governmental agency because he or she
22 is permanently and totally disabled shall automatically be
23 granted a certificate of permanent and total disability by the
24 department.

25 "§40-9-21.1.

1 "Any law to the contrary notwithstanding, any person
2 who is permanently and totally disabled and who qualifies for
3 the homestead exemptions in Sections 40-9-19 and 40-9-21 shall
4 not be required to annually claim such exemptions after the
5 initial qualification, but ~~may~~ shall be allowed to verify such
6 condition each year thereafter by mail on a form affidavit to
7 be provided by the tax assessor. Also, any person over the age
8 of 65 who qualifies for the homestead exemptions under the
9 income limitations provided in Sections 40-9-19 and Section
10 40-9-21 shall after the initial qualification be allowed to
11 verify such eligibility each year by mail on a form affidavit
12 to be provided by the tax assessor."

13 Section 3. (a) The provisions of Section 2 of this
14 act are retroactive to August 1, 2012, and shall apply to the
15 tax year beginning October 1, 2012.

16 (b) Any persons claiming an exemption under Section
17 40-9-19, 40-9-21, or 40-9-21.1, Code of Alabama 1975, as
18 amended by this act, for the tax year beginning October 1,
19 2012, may claim any exemption prior to August 1, 2013.

20 Section 4. Section 40-9-21.2 is added to the Code of
21 Alabama 1975, to read as follows:

22 §40-9-21.2.

23 (a) Any person who knowingly and willfully gives
24 false information for the purpose of claiming a homestead
25 exemption, or for the purpose of assisting another person in

1 claiming a homestead exemption, shall be ordered to pay twice
2 the amount of any ad valorem tax which would have been due
3 retroactive for a period of up to 10 years plus interest at a
4 rate of 15 percent per annum from the date the tax would have
5 been due.

6 (b) The penalties and interest assessed against any
7 person who obtained an exemption based upon false information
8 or any person who assisted another in claiming an exemption
9 with false information shall be paid within thirty days of
10 written demand by the local taxing official or the department.
11 If payment is not made as provided herein, the State of
12 Alabama shall bring a civil action to recover the penalties
13 and interest due. The amount recovered shall be paid to the
14 local taxing official in the county where the exemption was
15 granted. The local taxing official shall then distribute the
16 monies on a pro rata basis to each of the entities which would
17 have received a portion of the assessed ad valorem tax had the
18 exemption not been granted based upon false information.

19 Section 5. This act shall become effective
20 immediately following its passage and approval by the
21 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

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 11-APR-13, as amended.

Jeff Woodard
Clerk

Senate

30-APR-13

Amended and Passed
Passed, as amended
by Conference Com-
mittee Report

House

09-MAY-13

Passed, as amended
by Conference Com-
mittee Report

Senate

20-MAY-13