

1 SB244  
2 149592-1  
3 By Senators Dial, Allen, Holley, Whatley, Ward, Waggoner,  
4 Marsh, Brewbaker, McGill, Fielding, Beason, and Taylor  
5 RFD: Finance and Taxation General Fund  
6 First Read: 26-FEB-13

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, certain homestead  
9 exemptions provided for persons age 65 or over and  
10 persons permanently and totally disabled were  
11 amended by Act 2012-313.

12 Prior to Act 2012-313, a person age 65 or  
13 over or permanently and totally disabled was exempt  
14 from all state ad valorem taxes. This exemption was  
15 not changed by Act 2012-313.

16 Prior to Act 2012-313, a person age 65 or  
17 over was entitled to two other exemptions from  
18 other local ad valorem taxes based on income  
19 limits. If the person age 65 or over had net  
20 taxable income for federal income tax purposes of  
21 \$7,500 or less, the homestead was exempt from all  
22 ad valorem taxes.

23 Act 2012-313 increased the income limit on  
24 this exemption to \$12,000.

25 In addition, if the person did not qualify  
26 for the above exemption, but had an adjusted gross  
27 income of \$12,000 or less for state income tax

1 purposes, the homestead was entitled to a special  
2 exemption of \$5,000 in assessed value on the county  
3 portion of taxes instead of the regular exemption  
4 of \$2,000 in assessed value on the county portion  
5 of taxes.

6 Pursuant to Act 2012-313, this special  
7 exemption was deleted.

8 Under existing law prior to Act 2012-313,  
9 based on an opinion of the Attorney General in  
10 2005, a person permanently and totally disabled was  
11 exempt from all other ad valorem taxes without  
12 regard to any income limit. Prior to the opinion,  
13 the exemption was subject to the same federal  
14 income tax limitation as discussed above for  
15 persons age 65 or over.

16 Act 2012-313 specified that the exemption  
17 was subject to the same income limits as provided  
18 for persons age 65 or over.

19 This bill would amend the existing code  
20 provisions providing exemptions as discussed above  
21 as amended by Act 2012-313 to restore the  
22 provisions in the exact same form as they existed  
23 prior to Act 2012-313 with two exceptions: the net  
24 federal income tax limitation for persons age 65 or  
25 over would continue to be \$12,000 and the  
26 Department of Revenue would be authorized to

1 further provide for evidence of eligibility other  
2 than a tax return for the exemption.

3 The above provisions of this act would be  
4 retroactive to August 1, 2012, the effective date  
5 of Act 2012-313. As a result, no person will have a  
6 higher local ad valorem tax liability as a result  
7 of Act 2012-313.

8 This bill would also prohibit a person from  
9 falsely claiming a homestead exemption and provide  
10 criminal penalties. This prohibition and these  
11 penalties were not addressed in Act 2012-313.

12 Amendment 621 of the Constitution of Alabama  
13 of 1901, now appearing as Section 111.05 of the  
14 Official Recompilation of the Constitution of  
15 Alabama of 1901, as amended, prohibits a general  
16 law whose purpose or effect would be to require a  
17 new or increased expenditure of local funds from  
18 becoming effective with regard to a local  
19 governmental entity without enactment by a 2/3 vote  
20 unless: it comes within one of a number of  
21 specified exceptions; it is approved by the  
22 affected entity; or the Legislature appropriates  
23 funds, or provides a local source of revenue, to  
24 the entity for the purpose.

25 The purpose or effect of this bill would be  
26 to require a new or increased expenditure of local  
27 funds within the meaning of the amendment. However,

1 the bill does not require approval of a local  
2 governmental entity or enactment by a 2/3 vote to  
3 become effective because it comes within one of the  
4 specified exceptions contained in the amendment.

5  
6 A BILL  
7 TO BE ENTITLED  
8 AN ACT  
9

10 Relating to ad valorem tax exemptions on homesteads  
11 and principal residences; to amend Sections 40-9-19, 40-9-21,  
12 and 40-9-21.1 of the Code of Alabama 1975, as last amended by  
13 Act 2012-313 (2012 Regular Session), relating to homestead  
14 exemptions and exemptions on principal residences, to restore  
15 the code sections in the exact same form as the sections  
16 existed prior to the enactment of Act 2012-313, except  
17 retaining the income limitation on federal taxable income for  
18 certain exemptions for persons age 65 or over and authorizing  
19 the Department of Revenue to provide for evidence other than a  
20 tax return for the exemption; to provide for the retroactive  
21 application of the above provisions and for the implementation  
22 of this act; to add Section 40-9-21.2 to the Code of Alabama  
23 1975, to prohibit a person from falsely claiming a homestead  
24 exemption and to provide penalties; and in connection  
25 therewith would have as its purpose or effect the requirement  
26 of a new or increased expenditure of local funds within the  
27 meaning of Amendment 621 of the Constitution of Alabama of

1 1901, now appearing as Section 111.05 of the Official  
2 Recompilation of the Constitution of Alabama of 1901, as  
3 amended.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. The intent of this section is to  
6 substantially repeal Act 2012-313, House Bill 120 of the 2012  
7 Regular Session, retaining only the amendments to subsection  
8 (a) of Section 40-9-21, Code of Alabama 1975, that increased  
9 the maximum net income for federal income tax purposes for a  
10 person 65 years of age or over claiming an exemption and  
11 specifying that the Department of Revenue may provide for  
12 other appropriate evidence other than a tax return to claim  
13 the exemption. It is further the intent of this section to  
14 restore any construction and administration of Sections  
15 41-9-19, 41-9-21, and 41-9-21.1, Code of Alabama 1975, prior  
16 to the enactment of Act 2012-313.

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

21 "§40-9-19.

22 "(a) Homesteads, as defined by the Constitution and  
23 laws of Alabama, are hereby exempted from all state ad valorem  
24 taxes. In no case shall the exemption herein made apply to  
25 more than one person, head of the family, nor shall the said  
26 exemption exceed \$4,000 in assessed value, nor 160 acres in  
27 area for any resident of this state who is not over 65 years

1 of age. The homesteads of residents of this state, ~~who are~~  
2 over 65 years of age, or who are retired due to permanent and  
3 total disability, regardless of age, or who are blind as  
4 defined in Section 1-1-3, regardless of age or whether such  
5 person is retired, shall be exempt from all state ad valorem  
6 taxes.

7 "The state Commissioner ~~Department~~ of Revenue is  
8 hereby empowered to define and specify the condition or state  
9 of health that makes ~~shall by regulation establish the~~  
10 ~~criteria and proof required for an exemption based upon a~~  
11 ~~person being~~ "permanently and totally disabled" and may ~~shall~~  
12 issue certificates of disability to such ~~any~~ person as he may  
13 find ~~who~~ meets such specifications ~~criteria and provides the~~  
14 ~~required proof~~. Any person who is drawing any pension or  
15 annuity from the armed services or a company or governmental  
16 agency as being permanently and totally disabled shall  
17 automatically be granted a certificate of permanent and total  
18 disability by the state Commissioner of Revenue ~~department~~.

19 "(b) For tax years beginning on and after October 1,  
20 1981, for residents of this state not over 65 years of age,  
21 homesteads, as defined by the Constitution and laws of  
22 Alabama, are hereby exempted from all ad valorem property  
23 taxes levied, except countywide and school district ad valorem  
24 taxes levied for school purposes, by any county of this state.  
25 In no case shall such exemption herein made apply to more than  
26 one person, head of the family, nor shall the said exemption  
27 exceed \$2,000 in assessed value, nor 160 acres in area for any

1 resident of this state who is not over 65 years of age except  
2 as provided in subsection (c) of this section.

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



1 districts, shall be taken by resolutions of the governing  
2 bodies and boards of the school systems that are recipients of  
3 the proceeds of the ad valorem tax so affected by such action.  
4 The provisions of this subsection (c) shall in no way annul or  
5 reduce exemptions provided under subsections (a), (b), and (d)  
6 of this section.

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

1 each county bears to the total area of the homestead claimed  
2 for exemption.

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

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

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

21 "§40-9-21.

22 ~~"(a)~~ In addition to the persons and property exempt  
23 from ad valorem taxation as prescribed in Section 40-9-1, the  
24 following shall also be exempt from ad valorem taxation: the  
25 The principal residence and 160 acres adjacent thereto of  
26 shall be exempt from ad valorem taxation for any person  
27 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 age~~  
14 ~~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 ~~person who is drawing any pension or annuity from the armed~~  
18 ~~services or a company or governmental agency because he or she~~  
19 ~~is permanently and totally disabled shall automatically be~~  
20 ~~granted a certificate of permanent and total disability by the~~  
21 ~~department~~. In order to qualify for ~~an~~ exemption under this  
22 section, such principal residence must be a single-family  
23 residence owned and occupied by a person qualifying under this  
24 section.

25 ~~"(b) The department shall by regulation establish~~  
26 ~~the criteria and proof required for an exemption based upon a~~  
27 ~~person being "permanently and totally disabled" and shall~~

1 ~~issue certificates of disability to any person that meets such~~  
2 ~~criteria and provides the required proof. Any person who is~~  
3 ~~drawing any pension or annuity from the armed services, a~~  
4 ~~private company, or any governmental agency because he or she~~  
5 ~~is permanently and totally disabled shall automatically be~~  
6 ~~granted a certificate of permanent and total disability by the~~  
7 ~~department.~~

8           "§40-9-21.1.

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

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

24           (b) Any persons claiming an exemption under Section  
25 40-9-19, 40-9-21, or 40-9-21.1, Code of Alabama 1975, as  
26 amended by this act, for the tax year beginning October 1,  
27 2012, may claim any exemption prior to August 1, 2013.

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

3           §40-9-21.2.

4           Any person who knowingly and willfully gives false  
5 information for the purpose of claiming a homestead exemption,  
6 or for the purpose of assisting another person in claiming a  
7 homestead exemption, is guilty of a Class B misdemeanor  
8 punishable as provided by law. In addition, any person  
9 convicted pursuant to this section shall be ordered to pay any  
10 ad valorem tax which would have been due retroactive for a  
11 period of up to 10 years and a penalty of 50 percent of the  
12 tax due plus interest at a rate of 15 percent per annum from  
13 the date the tax would have been due.

14           Section 5. Although this bill would have as its  
15 purpose or effect the requirement of a new or increased  
16 expenditure of local funds, the bill is excluded from further  
17 requirements and application under Amendment 621, now  
18 appearing as Section 111.05 of the Official Recompilation of  
19 the Constitution of Alabama of 1901, as amended, because the  
20 bill defines a new crime or amends the definition of an  
21 existing crime.

22           Section 6. This act shall become effective  
23 immediately following its passage and approval by the  
24 Governor, or its otherwise becoming law.