

1 HB19
2 145642-3
3 By Representatives Williams (J), Hill, McMillan, Baker, Faust
4 and Shiver
5 RFD: County and Municipal Government
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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~~7~~ 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.