

1 HB19
2 145642-5
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

ENGROSSED

A BILL
TO BE ENTITLED
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; 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; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official

1 Recompilation of the Constitution of Alabama of 1901, as
2 amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

20 "§40-9-19.

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

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

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

18 "(b) For tax years beginning on and after October 1,
19 1981, for residents of this state not over 65 years of age,
20 homesteads, as defined by the Constitution and laws of
21 Alabama, are hereby exempted from all ad valorem property
22 taxes levied, except countywide and school district ad valorem
23 taxes levied for school purposes, by any county of this state.
24 In no case shall such exemption herein made apply to more than
25 one person, head of the family, nor shall the said exemption
26 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~~
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 ~~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 of~~
22 ~~65. Proof of total disability may be, but shall not be limited~~
23 ~~to, the written certification of such total disability by any~~
24 ~~two physicians licensed to practice in this state. If a~~
25 totally disabled person does not qualify for the exemption
26 under subsection (b), he or she may submit as proof of
27 disability affidavits from two physicians licensed to practice

1 in this state, provided that at least one of theses physicians
2 is actively providing treatment directly related to the
3 disability of the person seeking the exemption. Any person who
4 is drawing any pension or annuity from the armed services or a
5 company or governmental agency because he or she is
6 permanently and totally disabled shall automatically be
7 granted a certificate of permanent and total disability by the
8 department. In order to qualify for an exemption under this
9 section, such principal residence must be a single-family
10 residence owned and occupied by a person qualifying under this
11 section.

12 "(b) The department shall by regulation establish
13 the criteria and proof required for an exemption based upon a
14 person being "permanently and totally disabled" and shall
15 issue certificates of disability to any person that meets such
16 criteria and provides the required proof. Any person who is
17 drawing any pension or annuity from the armed services, a
18 private company, or any 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.

22 "§40-9-21.1.

23 "Any law to the contrary notwithstanding, any person
24 who is permanently and totally disabled and who qualifies for
25 the homestead exemptions in Sections 40-9-19 and 40-9-21 shall
26 not be required to annually claim such exemptions after the
27 initial qualification, but may verify such condition each year

1 thereafter by mail on a form affidavit to be provided by the
2 tax assessor. Also, any person over the age of 65 who
3 qualifies for the homestead exemptions under the income
4 limitations provided in Sections 40-9-19 and Section 40-9-21
5 shall after the initial qualification be allowed to verify
6 such eligibility each year by mail on a form affidavit to be
7 provided by the tax assessor."

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

11 (b) Any persons claiming an exemption under Section
12 40-9-19, 40-9-21, or 40-9-21.1, Code of Alabama 1975, as
13 amended by this act, for the tax year beginning October 1,
14 2012, may claim any exemption prior to August 1, 2013.

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

17 §40-9-21.2.

18 (a) Any person who knowingly and willfully gives
19 false information for the purpose of claiming a homestead
20 exemption, or for the purpose of assisting another person in
21 claiming a ~~homestead exemption, is guilty of a Class B~~
22 ~~misdemeanor punishable as provided by law. In addition, any~~
23 ~~person convicted pursuant to this section shall be ordered to~~
24 ~~pay any~~ homestead exemption, shall be ordered to pay twice the
25 amount of any ad valorem tax which would have been due
26 retroactive for a period of up to 10 years ~~and a penalty of 50~~

1 ~~percent of the tax due~~ plus interest at a rate of 15 percent
2 per annum from the date the tax would have been due.

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

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

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on County and Mu-
nicipal Government..... 05-FEB-13

Read for the second time and placed
on the calendar..... 04-APR-13

Read for the third time and passed
as amended..... 11-APR-13

Yeas 101, Nays 0, Abstains 0

Jeff Woodard
Clerk