ACT 2013 - 295

HB19

153369-6

By Representatives Williams (J), Hill, McMillan, Baker, Faust and Shiver

RFD: County and Municipal Government

First Read: 05-FEB-13

PFD: 12/07/2012

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

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

Section 2. 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, House Bill 120 of the 2012 Regular Session, are amended to read as follows:

"§40-9-19.

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

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

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

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

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

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

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

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

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

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

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

"§40-9-21.

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

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

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

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

"§40-9-21.1.

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

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

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

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

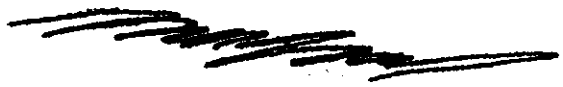
§40-9-21.2.

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

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

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

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



Speaker of the House of Representatives

Kay Ivey

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
House	09-MAY-13	Passed, as amended by Conference Committee Report
Senate	20-MAY-13	Passed, as amended by Conference Committee Report

APPROVED May 21, 2013

TIME 3:08 p.m.

Robert Bentley

GOVERNOR

Alabama Secretary Of State

Act Num....: 2013-295
Bill Num...: H-19

Recv'd 05/22/13 11:13amSLF

NSOR

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SPONSORS

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ver

HOUSE ACTION

I HEREBY CERTIFY THAT THE RESOLUTION AS REQUIRED IN SECTION C OF ACT NO. 81-889 WAS ADOPTED AND IS ATTACHED TO THE BILL, H.B. 19

YEAS 95 NAYS 0

JEFF WOODARD, Clerk

I HEREBY CERTIFY THAT THE NOTICE & PROOF IS ATTACHED TO THE BILL, H.B. _____ AS REQUIRED IN THE GENERAL ACTS OF ALABAMA, 1975 ACT NO. 919.

JEFF WOODARD, Clerk

CONFERENCE COMMITTEE

House Conferees _____

_____

_____

SENATE ACTION

DATE: 4 20 13

RD 1 RFD

This Bill was referred to the Standing Committee of the Senate on F&TE

and was acted upon by such Committee in session and is by order of the Committee returned therefrom with a favorable report w/amend(s) 1 w/sub ____ by a vote of

yeas 10 nays 0 abstain 0

this 24 day of April 20 13

[signature], Chairperson

DATE: 4-24 20__

RF FAV, AMD RD 2 CAL

DATE: 20__

RE-REFERRED RE-COMMITTED

Committee _____

I hereby certify that the Resolution as required in Section C of Act No. 81-889 was adopted and is attached to the Bill, HB 19

YEAS 25 NAYS 2

PATRICK HARRIS, Secretary

FURTHER SENATE ACTION (OVER)