



JULIE P. MAGEE  
Commissioner

# State of Alabama Department of Revenue

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June 7, 2013

## MEMORANDUM

To: All Tax Assessors, Tax Collectors and Revenue Commissioners

From: Bill Bass, Director  
Property Tax Division

BBB

Re: Act 2013-295 of the 2013 Regular Session

On May 21, 2013 Governor Bentley signed HB19 into law as Act 2013-295 (the "2013 Homestead Exemption Act" or the "2013 Act") relating to homestead exemptions and exemptions on principal residences effectively repealing most of Act 2012-313, (the "2012 Homestead Exemption Act" or the "2012 Act").

### The 2013 Act's Specific Changes

#### Section 40-9-19(d) \$5000 Exemption Based on State Income

The 2013 Act restores the language of Section 40-9-19 (d) providing a homestead exemption (not to exceed \$5,000 of assessed value) 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** who are blind (regardless of age or whether such person is retired).

#### Section 40-9-21 Complete Exemption for those Over 65 or Disabled

The 2013 Act amends Section 40-9-21 and provides a total exemption from ad valorem taxes on the principal residence and 160 acres adjacent thereto of any resident of this state who is 65 years of age or older, provided the net annual taxable income 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 State income tax return** or some other appropriate evidence... **OR** who is permanently and totally disabled **regardless of income** or age. **The 2013 Act's revisions to Section 40-9-21 removed the income threshold from the exemption for the disabled so that now only those persons claiming the exemption based on being 65 years of age or older are required to meet the income limitation.**

Any taxpayer who lost the exemption due to the income threshold, who previously had the exemption granted under the provisions of Title 40-9-21 based on the taxpayer's permanent and total disability, and who was still the owner and principal resident of the property on October 1, 2012, should have the exemption reinstated without the necessity of additional documentation. But this automatic reinstatement of the exemption should only be made when the local tax official can reasonably conclude, based on existing records, that the taxpayer and property should maintain the exemption for the 2012 tax year.

### Documenting Disabled Status

The 2013 Act also provides that, going forward, those persons seeking exemption based on disability status who are not drawing a disability pension or annuity from the armed services, a private company or any governmental agency, may establish their disability status by providing proof of such permanent and total disability by submitting written affidavits by any 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. The requirement that at least one of the physicians be actively providing treatment applies to any person applying for the exemption for the first time after the passage of the 2013 Act. Any person who qualified to receive the exemption prior to the effective date of the 2013 Act by submitting written certification by two physicians licensed to practice in this state will continue to receive the exemption based on the two physician letters already provided and shall not be required to resubmit any physicians' letters.

### Retroactivity of the 2013 Act – August 1 Deadline for Exemption to Apply to the 2012 Tax Year

The provisions of the 2013 Act are retroactive to August 1, 2012 and apply to the tax year beginning October 1, 2012. Taxpayers seeking the applicable exemptions have until ***July 31, of this year*** to claim the exemption and have it be effective for the tax year beginning October 1, 2012.

### Penalty provision in new Section Title 40-9-21.2

This new section states that anyone 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 the rate of 15 percent per annum from the date the tax would have been due.

### Administrative Rule and Affidavit

The Department will establish an Administrative Rule as soon as possible addressing the criteria and proof required for an exemption based on a person being permanently and totally disabled. The Department will also develop a standard affidavit to be used by physicians certifying a person's disability. We hope to have the affidavit available shortly and posted on our web site.

**Department of Revenue Contact**

Should you have any questions about the 2013 Homestead Exemption Act you may contact this office at 334-242-1525 or by email to the persons listed below.

[will.martin@revenue.alabama.gov](mailto:will.martin@revenue.alabama.gov)

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# ACT 2013 - 295

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



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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 ~~person~~ 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.

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*[Handwritten signature]*

Speaker of the House of Representatives

*Ray 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