

1 HB162  
2 115687-1  
3 By Representative Lindsey  
4 RFD: Government Appropriations  
5 First Read: 12-JAN-10

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under current law, certain persons are  
9 entitled to exemptions from all or a portion of ad  
10 valorem taxation on their homestead due to age or  
11 disability. It is unclear whether the exemption  
12 applies to the entire property when the property is  
13 owned jointly with persons not eligible for the  
14 exemption.

15 This bill would clarify that, in the event a  
16 person eligible for an exemption on his or her  
17 homestead due to age or disability owns the  
18 property jointly with a person or persons not  
19 eligible for the exemption, the exemption shall  
20 apply only to his or her proportionate share of the  
21 homestead.

22  
23 A BILL  
24 TO BE ENTITLED  
25 AN ACT  
26

1           To amend Sections 40-9-19 and 40-9-21, Code of  
2 Alabama 1975, to clarify that, in the event a person eligible  
3 for an exemption on his or her homestead due to age or  
4 disability owns the property jointly with a person or persons  
5 not eligible for the exemption, the exemption shall apply only  
6 to his or her proportionate share of the homestead.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8           Section 1. Sections 40-9-19 and 40-9-21, Code of  
9 Alabama 1975, are amended to read as follows:

10           "§40-9-19.

11           "(a) (1) Homesteads, as defined by the Constitution  
12 and laws of Alabama, are hereby exempted from all state ad  
13 valorem taxes. In no case shall the exemption herein made  
14 apply to more than one person, head of the family, nor shall  
15 the said exemption exceed \$4,000 in assessed value, nor 160  
16 acres in area for any resident of this state who is not over  
17 65 years of age. The homesteads, or proportionate share  
18 thereof, of residents of this state, who are over 65 years of  
19 age, or who ~~are retired~~ provide evidence of retirement due to  
20 permanent and total disability, regardless of age, or who are  
21 blind as defined in Section 1-1-3, regardless of age or  
22 whether such person is retired, shall be exempt from all state  
23 ad valorem taxes; provided, however, that in the event that  
24 the property is owned jointly with any persons or persons who  
25 are not eligible for the exemption from all state ad valorem  
26 taxes pursuant to this section, the exemption shall be reduced  
27 by the proportion of the property owned by the person or

1 persons who are not eligible for the exemption. The person  
2 claiming the exemption shall provide the tax assessor with  
3 legal documents sufficient to establish the percentage of  
4 ownership he or she holds in the property for which he or she  
5 claims exemption. In the event that sufficient legal  
6 documentation of the proportionate share owned by the person  
7 claiming exemption is not provided, the exemption shall be  
8 determined by assuming all owners share equally in the  
9 property based upon the most recent deed or other instrument  
10 recorded in the probate office for the property on which the  
11 exemption is claimed.

12 " (2) The ~~state Commissioner~~ Department of Revenue  
13 shall promulgate regulations for identifying and calculating  
14 proportionate share exemptions as provided herein and is  
15 hereby empowered to define and specify the condition or state  
16 of health that makes a person "permanently and totally  
17 disabled" and may issue certificates of disability to such  
18 person as he or she may find meets such specifications. Any  
19 person who is drawing any pension or annuity from the armed  
20 services or a company or governmental agency as being  
21 permanently and totally disabled shall automatically be  
22 granted a certificate of permanent and total disability by the  
23 state Commissioner of Revenue.

24 "(b) For tax years beginning on and after October 1,  
25 1981, for residents of this state not over 65 years of age,  
26 homesteads, as defined by the Constitution and laws of  
27 Alabama, are hereby exempted from all ad valorem property

1 taxes levied, except countywide and school district ad valorem  
2 taxes levied for school purposes, by any county of this state.  
3 In no case shall such exemption herein made apply to more than  
4 one person, head of the family, nor shall the said exemption  
5 exceed \$2,000 in assessed value, nor 160 acres in area for any  
6 resident of this state who is not over 65 years of age except  
7 as provided in subsection (c) of this section.

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

1 located acting on behalf of such taxing authority; provided  
2 however, any action authorized by this subsection to be taken  
3 by a taxing authority, or the governing body thereof, which  
4 action shall affect countywide or district ad valorem taxes  
5 levied solely for the support of county or city school  
6 districts, shall be taken by resolutions of the governing  
7 bodies and boards of the school systems that are recipients of  
8 the proceeds of the ad valorem tax so affected by such action.  
9 The provisions of this subsection (c) shall in no way annul or  
10 reduce exemptions provided under subsections (a), (b) and (d)  
11 of this section.

12 "(d) For tax years beginning on and after October 1,  
13 1981, for residents of this state, over 65 years of age who  
14 have an annual adjusted gross income of less than \$12,000 as  
15 reflected on the most recent state income tax return or some  
16 other appropriate evidence, or who ~~are retired~~ provide  
17 evidence of retirement due to permanent and total disability,  
18 regardless of age, or who are blind as defined in Section  
19 1-1-3, regardless of age or whether such person is retired,  
20 homesteads, or proportionate share thereof, as defined in the  
21 Constitution and laws of Alabama, are hereby exempted from ad  
22 valorem property taxes levied by any county of this state,  
23 including such taxes levied for school districts. In the event  
24 that the homestead is owned jointly with any person or persons  
25 who are not exempt from ad valorem taxes levied by any county  
26 of this state pursuant to this section, the exemption  
27 authorized herein shall be reduced by the proportion of the

1 property owned by the person or persons who are not eligible  
2 for the exemption. The person claiming the exemption shall  
3 provide the tax assessor with legal documents sufficient to  
4 establish the percentage of ownership he or she holds in the  
5 property for which he or she claims exemption. In the event  
6 that sufficient legal documentation of the proportionate share  
7 owned by the person claiming exemption is not provided, the  
8 exemption shall be determined by assuming all owners share  
9 equally in the property based upon the most recent deed or  
10 other instrument recorded in the probate office for the  
11 property on which the exemption is claimed. In no case shall  
12 such exemption exceed \$5,000 in assessed value, nor 160 acres  
13 in area. With respect to homesteads situated in more than one  
14 county, the exemption granted herein shall be prorated between  
15 the counties in which the homestead is situated in the  
16 proportion that the area of the homestead in each county bears  
17 to the total area of the homestead claimed for exemption.

18 "The Department of Revenue shall promulgate  
19 regulations for identifying and calculating proportionate  
20 share exemptions as provided herein and may by regulation  
21 define and specify the condition or state of health that makes  
22 a person "permanently and totally disabled" and may issue  
23 certificates of disability to any person that meets such  
24 specifications. Any person who is drawing any pension or  
25 annuity from the armed services, a private company or any  
26 governmental agency because he is permanently and totally

1 disabled shall automatically be granted a certificate of  
2 permanent and total disability by the Department of Revenue.

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

8 "§40-9-21.

9 "In addition to the persons and property exempt from  
10 ad valorem taxation as prescribed in Section 40-9-1, the  
11 following shall also be exempt from ad valorem taxation: the  
12 principal residence and 160 acres adjacent thereto, or  
13 proportionate share thereof, of any person having a net annual  
14 taxable income of \$7,500 or less who is totally disabled  
15 provides evidence of retirement due to permanent and total  
16 disability or who is 65 years of age or older having a net  
17 annual taxable income of \$7,500 or less, as shown on such  
18 person's and spouse's latest United States income tax return.  
19 If the principal residence and 160 acres adjacent thereto is  
20 owned jointly with any person or persons other than a spouse  
21 who are not exempt from ad valorem taxes pursuant to this  
22 section, the exemption shall be reduced by the proportion of  
23 the property owned by the person or persons who are not  
24 eligible for the exemption. The person claiming the exemption  
25 shall provide the tax assessor with legal documents sufficient  
26 to establish the percentage of ownership he or she holds in  
27 the property for which he or she claims exemption. In the



1 event that sufficient legal documentation of the proportionate  
2 share owned by the person claiming exemption is not provided,  
3 the exemption shall be determined by assuming all owners share  
4 equally in the property based upon the most recent deed or  
5 other instrument recorded in the probate office for the  
6 property on which the exemption is claimed. The Department of  
7 Revenue shall promulgate regulations for identifying and  
8 calculating proportionate share exemptions as provided herein.

9 In the event that such person and spouse are not required to  
10 file a United States income tax return, then an affidavit  
11 indicating that the net taxable income of such person and  
12 spouse for the preceding taxable year was \$7,500 or less shall  
13 be sufficient proof. Proof of age shall be furnished when the  
14 exemption provided herein is claimed. Proof of total  
15 disability may be, but shall not be limited to, the written  
16 certification of such total disability by any two physicians  
17 licensed to practice in this state. In order to qualify for  
18 exemption under this section, such principal residence must be  
19 a single-family residence owned and occupied by ~~a~~ the person  
20 qualifying under this section."

21 Section 2. This act shall become effective on  
22 October 1, 2010.