

House Bill 257

By: Representatives Lewis of the 14th, Smith of the 12th, Hudgens of the 24th, Walker of the 87th and Dix of the 76th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to
2 computation of taxable net income, so as to provide that retirement income of taxpayers who
3 are 60 years of age or older shall not be subject to state income tax; to provide an effective
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of
8 taxable net income, is amended by striking paragraphs (4) and (5) of subsection (a) and
9 inserting in their place new paragraphs (4), (5), and (5.1) to read as follows:

10 "(4)(A) Income received from public pension or retirement funds, programs, or systems
11 the income from which is exempted by federal law or treaty when the income is
12 otherwise included in the taxpayer's federal adjusted gross income.

13 (B) Except as specifically provided in subparagraph (A) of this paragraph, paragraph
14 (5) of this subsection, paragraph (5.1) of this subsection, and paragraph (7) of this
15 subsection, for taxable years beginning on or after January 1, 1989, no income from a
16 public pension or retirement fund, program, or system (including those pension or
17 retirement funds, programs, or systems provided for in Title 47) shall be exempt from
18 income taxation in this state, notwithstanding any provision of Title 47 or any other
19 provision of law to the contrary;

20 ~~(5)(A) Retirement income otherwise included in Georgia taxable net income not to~~
21 ~~exceed the exclusion amount as follows:~~

22 ~~(i) For taxable years beginning on or after January 1, 1989, and prior to January 1,~~
23 ~~1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year~~
24 ~~received from any source;~~

1 ~~(ii) For taxable years beginning on or after January 1, 1990, and prior to January 1,~~
 2 ~~1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year~~
 3 ~~received from any source;~~

4 ~~(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,~~
 5 ~~1995, retirement income from any source not to exceed an exclusion amount of~~
 6 ~~\$11,000.00;~~

7 ~~(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1,~~
 8 ~~1999, retirement income from any source not to exceed an exclusion amount of~~
 9 ~~\$12,000.00;~~

10 ~~(v) For taxable years beginning on or after January 1, 1999, and prior to January 1,~~
 11 ~~2000, retirement income from any source not to exceed an exclusion amount of~~
 12 ~~\$13,000.00;~~

13 ~~(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,~~
 14 ~~2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year~~
 15 ~~received from any source; and~~

16 ~~(vii)(5)(A) For the taxable years year beginning on or after January 1, 2001, and prior~~
 17 ~~to January 1, 2002, retirement income from any source not to exceed an exclusion~~
 18 ~~amount of \$14,000.00 shall be excluded from Georgia taxable net income.~~

19 (B) In the case of a married couple filing jointly, each spouse shall if otherwise
 20 qualified be individually entitled to exclude retirement income received by that spouse
 21 up to the exclusion amount, so that the total amount excluded on such joint return may
 22 if otherwise allowable be up to twice the individual exclusion amount.

23 (C) The exclusion provided for in this paragraph shall not apply to or affect and shall
 24 be in addition to those adjustments to net income provided for under any other
 25 paragraph of this subsection.

26 (D) A taxpayer shall be eligible for the exclusion granted by this paragraph only if the
 27 taxpayer:

28 (i) Is 62 years of age or older during any part of the taxable year; or

29 (ii) Is permanently and totally disabled in that the taxpayer has a medically
 30 demonstrable disability which is permanent and which renders the taxpayer incapable
 31 of performing any gainful occupation within the taxpayer's competence.

32 (E) For the purposes of this paragraph, retirement income shall include but not be
 33 limited to interest income, dividend income, net income from rental property, capital
 34 gains income, income from royalties, income from pensions and annuities, and no more
 35 than \$4,000.00 of an individual's earned income. Earned income in excess of
 36 \$4,000.00, including but not limited to net business income earned by an individual
 37 from any trade or business carried on by such individual, wages, salaries, tips, and other

1 employer compensation, shall not be regarded as retirement income. The receipt of
 2 earned income shall not diminish any taxpayer's eligibility for the retirement income
 3 exclusion allowed by this paragraph except to the extent of the express limitation
 4 provided in this subparagraph.

5 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
 6 for the exclusion allowed by this paragraph;

7 ~~(G) The commissioner shall by regulation provide that for taxable years beginning on~~
 8 ~~or after January 1, 1989, and ending before October 1, 1990, penalty and interest may~~
 9 ~~be waived or reduced for any taxpayer whose estimated tax payments and tax~~
 10 ~~withholdings are less than 70 percent of such taxpayer's Georgia income tax liability~~
 11 ~~if the commissioner determines that such underpayment or deficiency is due to an~~
 12 ~~increase in net taxable income attributable directly to amendments to this paragraph or~~
 13 ~~paragraph (4) of this subsection enacted at the 1989 special session of the General~~
 14 ~~Assembly and not due to willful neglect or fraud;~~

15 (5.1) For taxable years beginning on or after January 1, 2002, retirement income from
 16 any public or private pension or retirement fund, program, or system shall be excluded
 17 from Georgia taxable net income with respect to a taxpayer who is 60 years of age or
 18 older during any part of the taxable year. The commissioner shall by regulation require
 19 proof of the eligibility of the taxpayer for the exclusion allowed by this paragraph."

20 SECTION 2.

21 This Act shall become effective upon its approval by the Governor or upon its becoming law
 22 without such approval.

23 SECTION 3.

24 All laws and parts of laws in conflict with this Act are repealed.