

House Bill 1373

By: Representatives Westmoreland of the 104th, Mueller of the 152nd, Pinholster of the 15th, Ehrhart of the 36th, Cooper of the 31st and others

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of taxable net income, so as to provide that income of taxpayers who are 65 years of age or older which is from any source other than certain earned income shall not be subject to state income tax; to provide for a three-year phase in of such exclusion; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

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

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

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

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

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

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

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

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

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

~~(vii) For taxable years beginning on or after January 1, 2001, retirement income from any source not to exceed an exclusion amount of \$14,000.00 with respect to taxpayers who do not qualify for the exclusion pursuant to paragraph (5.1) of this subsection.~~

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

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

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

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

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

(E) For the purposes of this paragraph, retirement income shall include but not be limited to interest income, dividend income, net income from rental property, capital gains income, income from royalties, income from pensions and annuities, and no more than \$4,000.00 of an individual's earned income. Earned income in excess of \$4,000.00, including but not limited to net business income earned by an individual 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)(A) As used in this paragraph, the term 'qualified income' means all income of a
16 taxpayer from any source but shall not include wages or salary.

17 (B)(i) For taxable years beginning on or after January 1, 2003, and prior to January
18 1, 2004, 33 percent of qualified income of a taxpayer who is 65 years of age or older
19 during any part of the taxable year.

20 (ii) For taxable years beginning on or after January 1, 2004, and prior to January 1,
21 2005, 66 percent of qualified income of a taxpayer who is 65 years of age or older
22 during any part of the taxable year.

23 (iii) For taxable years beginning on or after January 1, 2005, all qualified income of
24 a taxpayer who is 65 years of age or older during any part of the taxable year.

25 (C) The commissioner shall by regulation require proof of the eligibility of the
26 taxpayer for the exclusion allowed by this paragraph;".

27 SECTION 2.

28 This Act shall become effective on January 1, 2003.

29 SECTION 3.

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