House Bill 5

By: Representatives Franklin of the 39th and Joyce of the 1st

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 65 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   **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

11   systems the income from which is exempted by federal law or treaty when the income

12   is 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;

25   (ii) For taxable years beginning on or after January 1, 1990, and prior to January 1,

1 ~~1994, retirement income not to exceed an exclusion amount of $10,000.00 per year~~

2 ~~received from any source;~~

3 ~~(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,~~

4 ~~1995, retirement income from any source not to exceed an exclusion amount of~~

5 ~~$11,000.00;~~

6 ~~(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1,~~

7 ~~1999, retirement income from any source not to exceed an exclusion amount of~~

8 ~~$12,000.00;~~

9 ~~(v) or taxable years beginning on or after January 1, 1999, and prior to January 1,~~

10 ~~2000, retirement income from any source not to exceed an exclusion amount of~~

11 ~~$13,000.00;~~

12 ~~(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,~~

13 ~~2001, retirement income not to exceed an exclusion amount of $13,500.00 per year~~

14 ~~received from any source; and~~

15 ~~(vii)~~ For taxable years beginning on or after January 1, 2001, <u>and prior to January 1,</u>

16 <u>2002,</u> retirement income from any source not to exceed an exclusion amount of

17 $14,000.00.

18 (B) In the case of a married couple filing jointly, each spouse shall if otherwise

19 qualified be individually entitled to exclude retirement income received by that spouse

20 up to the exclusion amount, so that the total amount excluded on such joint return may

21 if otherwise allowable be up to twice the individual exclusion amount.

22 (C) The exclusion provided for in this paragraph shall not apply to or affect and shall

23 be in addition to those adjustments to net income provided for under any other

24 paragraph of this subsection.

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

26 taxpayer:

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

28   (ii) Is permanently and totally disabled in that the taxpayer has a medically

29   demonstrable disability which is permanent and which renders the taxpayer incapable

30   of performing any gainful occupation within the taxpayer´s competence.

31 (E) For the purposes of this paragraph, retirement income shall include but not be

32 limited to interest income, dividend income, net income from rental property, capital

33 gains income, income from royalties, income from pensions and annuities, and no more

34 than $4,000.00 of an individual´s earned income. Earned income in excess of

35 $4,000.00, including but not limited to net business income earned by an individual

36 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 with respect to a

17   taxpayer who is 65 years of age or older during any part of the taxable year. The

18   commissioner shall by regulation require proof of the eligibility of the taxpayer for the

19   exclusion allowed by this paragraph;".

20   **SECTION 2.**

21   This Act shall become effective on January 1, 2002.

22   **SECTION 3.**

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