

House Bill 5

By: Representatives Franklin of the 17th, Chambers of the 53rd, Massey of the 24th,
Douglas of the 73rd and White of the 3rd, Post 2

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 income of taxpayers who are 65
3 years of age or older shall not be subject to state income tax; to provide an effective date; to
4 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;~~

25 (ii) ~~For taxable years beginning on or after January 1, 1990, and prior to January 1,~~
26 ~~1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year~~

1 ~~received from any source;~~

2 ~~(iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,~~
3 ~~1995, retirement income from any source not to exceed an exclusion amount of~~
4 ~~\$11,000.00;~~

5 ~~(iv) For taxable years beginning on or after January 1, 1995, and prior to January 1,~~
6 ~~1999, retirement income from any source not to exceed an exclusion amount of~~
7 ~~\$12,000.00;~~

8 ~~(v) For taxable years beginning on or after January 1, 1999, and prior to January 1,~~
9 ~~2000, retirement income from any source not to exceed an exclusion amount of~~
10 ~~\$13,000.00;~~

11 ~~(vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,~~
12 ~~2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year~~
13 ~~received from any source;~~

14 ~~(vii) For taxable years beginning on or after January 1, 2001, and prior to January 1,~~
15 ~~2002, retirement income from any source not to exceed an exclusion amount of~~
16 ~~\$14,000.00;~~

17 ~~(viii) For taxable years beginning on or after January 1, 2002, and prior to January~~
18 ~~1, 2003, retirement income from any source not to exceed an exclusion amount of~~
19 ~~\$14,500.00; and~~

20 ~~(ix) For taxable years beginning on or after January 1, 2003, and prior to January 1,~~
21 ~~2004, retirement income from any source not to exceed an exclusion amount of~~
22 ~~\$15,000.00 with respect to taxpayers who do not qualify for the exclusion pursuant~~
23 ~~to paragraph (5.1) of this subsection.~~

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

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

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

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

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

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

1 limited to interest income, dividend income, net income from rental property, capital
 2 gains income, income from royalties, income from pensions and annuities, and no more
 3 than \$4,000.00 of an individual's earned income. Earned income in excess of
 4 \$4,000.00, including but not limited to net business income earned by an individual
 5 from any trade or business carried on by such individual, wages, salaries, tips, and other
 6 employer compensation, shall not be regarded as retirement income. The receipt of
 7 earned income shall not diminish any taxpayer's eligibility for the retirement income
 8 exclusion allowed by this paragraph except to the extent of the express limitation
 9 provided in this subparagraph.

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

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

20 (5.1)(A) For taxable years beginning on or after January 1, 2004, all income of a
 21 taxpayer who is 65 years of age or older during any part of the taxable year.

22 (B) The commissioner shall by regulation require proof of the eligibility of the
 23 taxpayer for the exclusion allowed by this paragraph;".

24 SECTION 2.

25 This Act shall become effective on January 1, 2004.

26 SECTION 3.

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