

House Bill 1112

By: Representatives Glanton of the 76th, Everson of the 106th, Sellier of the 136th, Hugley of the 133rd, Williams of the 165th, and others

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 Georgia taxable net income, so as to provide for an exclusion for certain
3 military retirement income; to provide for procedures, conditions, and limitations; to provide
4 for applicability; to provide an effective date; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

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

14 (B) Except as specifically provided in subparagraph (A) of this paragraph, paragraph
15 (5) of this subsection, and paragraph (7) of this subsection, for taxable years beginning
16 on or after January 1, 1989, and except as specifically provided in paragraph (5.1) of
17 this subsection, for taxable years beginning on or after January 1, 2010, no income from
18 a public pension or retirement fund, program, or system (including those pension or
19 retirement funds, programs, or systems provided for in Title 47) shall be exempt from
20 income taxation in this state, notwithstanding any provision of Title 47 or any other
21 provision of law to the contrary;

22 (5)(A) Retirement income, other than military retirement income which is excluded
23 pursuant to paragraph (5.1) of this subsection, otherwise included in Georgia taxable
24 net income not to exceed the exclusion amount as follows:

- 25 (i) For taxable years beginning on or after January 1, 1989, and prior to January 1,
26 1990, retirement income not to exceed an exclusion amount of \$8,000.00 per year
27 received from any source;
- 28 (ii) For taxable years beginning on or after January 1, 1990, and prior to January 1,
29 1994, retirement income not to exceed an exclusion amount of \$10,000.00 per year
30 received from any source;
- 31 (iii) For taxable years beginning on or after January 1, 1994, and prior to January 1,
32 1995, retirement income from any source not to exceed an exclusion amount of
33 \$11,000.00;
- 34 (iv) For taxable years beginning on or after January 1, 1995, and prior to January 1,
35 1999, retirement income from any source not to exceed an exclusion amount of
36 \$12,000.00;
- 37 (v) For taxable years beginning on or after January 1, 1999, and prior to January 1,
38 2000, retirement income from any source not to exceed an exclusion amount of
39 \$13,000.00;
- 40 (vi) For taxable years beginning on or after January 1, 2000, and prior to January 1,
41 2001, retirement income not to exceed an exclusion amount of \$13,500.00 per year
42 received from any source;
- 43 (vii) For taxable years beginning on or after January 1, 2001, and prior to January
44 1, 2002, retirement income from any source not to exceed an exclusion amount of
45 \$14,000.00;
- 46 (viii) For taxable years beginning on or after January 1, 2002, and prior to January
47 1, 2003, retirement income from any source not to exceed an exclusion amount of
48 \$14,500.00;
- 49 (ix) For taxable years beginning on or after January 1, 2003, and prior to January 1,
50 2006, retirement income from any source not to exceed an exclusion amount of
51 \$15,000.00;
- 52 (x) For taxable years beginning on or after January 1, 2006, and prior to January 1,
53 2007, retirement income from any source not to exceed an exclusion amount of
54 \$25,000.00;
- 55 (xi) For taxable years beginning on or after January 1, 2007, and prior to January 1,
56 2008, retirement income from any source not to exceed an exclusion amount of
57 \$30,000.00; and
- 58 (xii) For taxable years beginning on or after January 1, 2008, retirement income from
59 any source not to exceed an exclusion amount of \$35,000.00.
- 60 (B) In the case of a married couple filing jointly, each spouse shall if otherwise
61 qualified be individually entitled to exclude retirement income received by that spouse

62 up to the exclusion amount, so that the total amount excluded on such joint return may
63 if otherwise allowable be up to twice the individual exclusion amount.

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

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

- 69 (i) Is 62 years of age or older during any part of the taxable year; or
- 70 (ii) Is permanently and totally disabled in that the taxpayer has a medically
71 demonstrable disability which is permanent and which renders the taxpayer incapable
72 of performing any gainful occupation within the taxpayer's competence.

73 (E) For the purposes of this paragraph, retirement income shall include but not be
74 limited to interest income, dividend income, net income from rental property, capital
75 gains income, income from royalties, income from pensions and annuities, and no more
76 than \$4,000.00 of an individual's earned income. Earned income in excess of
77 \$4,000.00, including, but not limited to, net business income earned by an individual
78 from any trade or business carried on by such individual, wages, salaries, tips, and other
79 employer compensation, shall not be regarded as retirement income. The receipt of
80 earned income shall not diminish any taxpayer's eligibility for the retirement income
81 exclusion allowed by this paragraph except to the extent of the express limitation
82 provided in this subparagraph.

83 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
84 for the exclusion allowed by this paragraph.

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

93 (5.1)(A) Military retirement income otherwise included in Georgia taxable net income
94 not to exceed the exclusion amount provided in subparagraph (B) of this paragraph.

95 (B) For taxable years beginning on or after January 1, 2010, military retirement income
96 from any source not to exceed an exclusion amount of \$50,000.00.

97 (C) In the case of a married couple filing jointly, each spouse shall if otherwise
98 qualified be individually entitled to exclude retirement income received by that spouse

99 up to the exclusion amount, so that the total amount excluded on such joint return may
100 if otherwise allowable be up to twice the individual exclusion amount.

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

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

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

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

110 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
111 for the exclusion allowed by this paragraph."

112 **SECTION 2.**

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

115 **SECTION 3.**

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