

The House Committee on Retirement offers the following substitute to HB 377:

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Article 2 of Chapter 4 of Title 18 of the Official Code of Georgia Annotated,
2 relating to property and persons subject to garnishment, so as to change provisions relating
3 to exemptions of pension or retirement funds or benefits; to provide for and revise
4 definitions; to remove some references to federal law; to provide for related matters; to repeal
5 conflicting laws; and for other purposes.

6 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

7 **SECTION 1.**

8 Article 2 of Chapter 4 of Title 18 of the Official Code of Georgia Annotated, relating to
9 property and persons subject to garnishment, is amended by revising paragraph (2) of
10 subsection (a) of Code Section 18-4-20, relating to property subject to garnishment generally,
11 as follows:

12 "(2) 'Earnings' means compensation paid or payable for personal services, whether
13 denominated as wages, salary, commission, bonus, or otherwise, ~~and includes periodic~~
14 ~~payments pursuant to a pension or retirement program."~~

15 **SECTION 2.**

16 Said article is further amended by revising Code Section 18-4-22, relating to exemption of
17 pension or retirement funds or benefits, as follows:

18 "18-4-22.

19 (a) As used in this Code section, the term:

20 (1) 'Employee benefit plan' means welfare benefits or a pension or retirement program
21 or a plan which is both welfare benefits and a pension or retirement program.

22 (2) 'Employee organization' means any labor union or any organization of any kind, or
23 any agency or employee representation committee, association, group, or plan, in which
24 employees participate and which exists for the purpose, in whole or in part, of dealing
25 with employers concerning an employee benefit plan or other matters incidental to

employment relationships; or any employees' beneficiary association organized for the purpose, in whole or in part, of establishing such an employee benefit plan.

(3) 'Pension or retirement program' means any plan, fund, or program established or maintained by an employer or by an employee organization, or by both, to the extent that by its express terms or as a result of circumstances, such plan, fund, or program provides retirement income to employees or results in a deferral of income by employees for periods extending to the termination of covered employment or beyond, regardless of the method of calculating the contributions made to the plan, fund, or program, the method of calculating the benefits under the plan, fund, or program, or the method of distributing benefits from the plan, fund, or program.

(4) 'Welfare benefits' means any plan, fund, or program established or maintained by an employer or by an employee organization, or by both, to the extent that such plan, fund, or program was established or is maintained for the purpose of providing for its participants or their beneficiaries, through the purchase of insurance or otherwise, medical, surgical, or hospital care or benefits; benefits in the event of sickness, accident, disability, death, or unemployment; vacation benefits; apprenticeship or other training programs; day care centers; scholarship funds; or prepaid legal services.

(a)(b) Funds or benefits from a pension or retirement program as defined in 29 U.S.C. Section 1002(2)(A) or funds or benefits from an individual retirement account as defined in Section 408 or 408A of the United States Internal Revenue Code of 1986, as amended, shall be exempt from the process of garnishment until paid or otherwise transferred to a member of such program or beneficiary thereof. Such funds or benefits, when paid or otherwise transferred to the member or beneficiary, shall be exempt from the process of garnishment only to the extent provided in Code Section 18-4-20 for other disposable earnings, unless a greater exemption is otherwise provided by law.

~~(b)~~(c) The exemption provided by this Code section shall not apply when the garnishment is based upon a judgment for alimony or for child support, in which event such funds or benefits shall then be subject to the process of garnishment to the extent provided in subsection (f) of Code Section 18-4-20.

(e)(d) Nothing in this Code section shall prohibit the attachment or alienation of welfare benefits as defined in 29 U.S.C. Section 1002(1) in the control of an administrator or trustee."

SECTION 3.

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