House Bill 1198 (AS PASSED HOUSE AND SENATE)

By: Representative Manning of the 32nd

A BILL TO BE ENTITLED

AN ACT

To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, so as to change the definition of taxable nonresident for income tax purposes; to provide for an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended in Code Section 48-7-1, relating to definitions regarding income taxes, by revising paragraph (11) as follows:

"(11) 'Taxable nonresident' means:

(A) Every individual who is not otherwise a resident of this state for income tax purposes and who regularly and not casually or intermittently engages within this state, by himself or herself or by means of employees, agents, or partners, in employment, trade, business, professional, or other activity for financial gain or profit including, but not limited to, the rental of real or personal property located within this state or for use within this state. 'Taxable nonresident' does not include a legal resident of another state whose only activity for financial gain or profit in this state consists of performing services in this state for an employer as an employee when the remuneration for the services does not exceed the lesser of 5 percent of the income received by the person for performing services in all places during any taxable year or $5,000.00;

(B) Every individual who is not otherwise a resident of this state for income tax purposes and who sells, exchanges, or otherwise disposes of tangible property which at the time of the sale, exchange, or other disposition has a taxable situs within this state or who sells, exchanges, or otherwise disposes of intangible personal property which has acquired at the time of the sale, exchange, or other disposition a business or commercial situs within this state;

(C) Every individual who is not otherwise a resident of this state for income tax purposes and who receives the proceeds of any lottery prize awarded by the Georgia Lottery Corporation; ~~and~~

(D) Every individual who is not a resident of this state for income tax purposes and who makes a withdrawal as provided for in paragraph (10) of subsection (b) of Code Section 48-7-27; and

(E) Every individual who is not otherwise a resident of this state for income tax purposes and who regularly and not casually or intermittently engaged in a prior year within this state, by himself or herself, in activity for financial gain or profit and who receives income from such activity in the form of deferred compensation or income from the exercise of stock options and such income exceeds the lesser of 5 percent of the income received by the person in all places during the taxable year or $5,000.00; provided, however, that this subparagraph shall not apply in the case of an individual who receives such income when the state is prohibited from taxing such income pursuant to federal law.″

SECTION 2.

This Act shall become effective on January 1, 2011, and shall be applicable to all taxable years beginning on or after January 1, 2011.

SECTION 3.

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