

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1125

Short Title: Exempt \$15,000 Retirement Pay.

(Public)

Sponsors: Senators Raynor and Staton.

Referred to: Pensions and Retirement.

May 3, 1989

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT THE FIRST FIFTEEN THOUSAND DOLLARS OF PUBLIC OR PRIVATE RETIREMENT PAY SHALL BE EXEMPT FROM INCOME TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b) is amended by adding a new subdivision to read:

"(31) Amounts received as retirement benefits during the taxable year from one or more retirement plans, not to exceed a total of fifteen thousand dollars (\$15,000) in any taxable year. As used in this subdivision, the term 'retirement benefits' means amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment."

Sec. 2. G.S. 105-141(b)(8), (13), (14), (18), and (30) are repealed.

Sec. 3. G.S. 118-49 reads as rewritten:

§ 118-49. Exemptions of pensions from attachment; rights nonassignable.

Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to attachment, garnishments or judgments against the fireman or rescue squad

1 worker entitled to them, nor are any rights in the fund or the pensions or benefits
2 assignable nor are the pensions subject to any State or municipal tax. assignable."

3 Sec. 4. G.S. 120-4.29 reads as rewritten:

4 **"§ 120-4.29. Exemption from taxes, garnishment, attachment.**

5 Except for the applications of the provisions of G. S. 110-136, and in connection
6 with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
7 pension, annuity, or retirement allowance, to the return of contributions, or to the receipt
8 of the pension, annuity or retirement allowance itself, any optional benefit or any other
9 right accrued or accruing to any person under the provisions of this Article, and the
10 moneys in the various funds created by this Article, ~~are exempt from any State or~~
11 ~~municipal tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other
12 process whatsoever, and shall be unassignable except as this Article specifically
13 provides. Notwithstanding any provisions to the contrary, any overpayment of benefits
14 to a member in a State-administered retirement system or Disability Salary Continuation
15 Plan may be offset against any retirement allowance, return of contributions or any
16 other right accruing under this Chapter to the same person, the person's estate, or
17 designated beneficiary."

18 Sec. 5. G.S. 127A-40(e) is repealed.

19 Sec. 6. G.S. 128-31 reads as rewritten:

20 **"§ 128-31. Exemptions from execution.**

21 Except for the applications of the provisions of G.S. 110-136, and in connection with
22 a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
23 pension, an annuity, or a retirement allowance, to the return of contributions, the
24 pension, annuity or retirement allowance itself, any optional benefit or any other right
25 accrued or accruing to any person under the provisions of this Article, and the moneys
26 in the various funds created by this Article, ~~are hereby exempt from any state or municipal~~
27 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
28 whatsoever, and shall be unassignable except as in this Article specifically otherwise
29 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits
30 to a member in a State-administered retirement system or Disability Salary Continuation
31 Plan may be offset against any retirement allowance, return of contributions or any
32 other right accruing under this Chapter to the same person, the person's estate, or
33 designated beneficiary."

34 Sec. 7. G.S. 135-9 reads as rewritten:

35 **"§ 135-9. Exemption from taxes, garnishment, attachment, etc.**

36 Except for the applications of the provisions of G.S. 110-136, and in connection with
37 a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
38 pension, or annuity, or a retirement allowance, to the return of contributions, the
39 pension, annuity or retirement allowance itself, any optional benefit or any other right
40 accrued or accruing to any person under the provisions of this Chapter, and the moneys
41 in the various funds created by this Chapter, ~~are hereby exempt from any State or municipal~~
42 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
43 whatsoever, and shall be unassignable except as in this Chapter specifically otherwise
44 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits

1 to a member in a State-administered retirement system or the former Disability Salary
2 Continuation Plan or the Disability Income Plan of North Carolina may be offset against
3 any retirement allowance, return of contributions or any other right accruing under this
4 Chapter to the same person, the person's estate, or designated beneficiary."

5 Sec. 8. G.S. 135-95 reads as rewritten:

6 **"§ 135-95. Exemption from taxes, garnishment, attachment.**

7 Except for the applications of the provisions of G.S. 110-136, and in connection with
8 a court-ordered equitable distribution under G.S. 50-20, the right of a member in the
9 Supplemental Retirement Income Plan to the benefits provided under this Article is
10 nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits payable under this~~
11 ~~Article are hereby exempt from any State and local government taxes. and garnishment.~~"

12 Sec. 9. G.S. 143-166.30(g) reads as rewritten:

13 "(g) Exemption from ~~Taxes, Garnishment and Attachment.~~ – The right of a
14 participant in the Supplemental Retirement Income Plan to the benefits provided under
15 this Article is nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits~~
16 ~~payable under this Article are hereby exempt from any State and local government taxes. and~~
17 ~~garnishment.~~"

18 Sec. 10. G.S. 143-166.60(h) reads as rewritten:

19 "(h) Exemption from ~~Taxes, Garnishment and Attachment.~~ – The right of a
20 participant in the Separate Insurance Benefits Plan to the benefits provided under this
21 Article is nonforfeitable and exempt from levy, sale, and ~~garnishment, and the benefits~~
22 ~~payable under this Article are exempt from any State and local government taxes.~~
23 ~~garnishment.~~"

24 Sec. 11. G.S. 143-166.85(e) is repealed.

25 Sec. 12. G.S. 147-9.4 reads as rewritten:

26 **"§ 147-9.4. Deferred Compensation Plan.**

27 Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision
28 of law relating to salaries or salary schedules of State employees, the chief executive
29 officer of an employer, on behalf of the employer, may from time to time enter into a
30 contract with an employee under which the employee irrevocably elects to defer receipt
31 of a portion of his scheduled salary in the future, but only if, as a result of such contract,
32 the income so deferred is deferred pursuant to the Plan provided for in G.S. 143B-
33 426.24 or pursuant to some other plan established before 1 January 1983, and is not
34 constructively received by the employee in the year in which it was earned, for State
35 and federal income tax purposes. In addition, the income so deferred shall be invested
36 in the manner provided in the applicable Plan; however, the employee may revoke his
37 election to participate and may amend the amount of compensation to be deferred by
38 signing and filing with the Board a written revocation or amendment on a form and in
39 the manner approved by the Board. Any such revocation or amendment shall be
40 effective prospectively only and shall cause no change in the allocation of amounts
41 invested prior to the filing date of such revocation or amendment.

42 An employee who has agreed to the deferral of income pursuant to the Plan shall
43 have the right to receive the income so deferred only in accordance with the provisions
44 of the Plan. Funds so deferred shall not be in lieu of any amount earned by the employee

1 before his election to defer compensation became effective. The agreement to defer
2 income referred to herein shall be effective under such necessary regulations and
3 procedures as are adopted by the Board, and on forms prepared or approved by it.
4 Notwithstanding any other provisions of law, the amount by which the salary of an
5 employee is deferred pursuant to the Plan shall not be excluded, but shall be included, in
6 computing and making payroll deductions for social security and retirement system
7 purposes, if any, and in computing and providing matching funds for retirement system
8 purposes, if any.

9 Except for the applications of the provisions of G.S. 110-136, and in connection with
10 a court-ordered equitable distribution under G.S. 50-20, the right of an employee, who
11 elects to defer income pursuant to the North Carolina Public Employee Deferred
12 Compensation Plan under G.S. 143B-426.24, to benefits that have vested under the
13 Plan, is nonforfeitable. These benefits are exempt from levy, sale, and garnishment,
14 except as provided by this section, ~~and exempt from all State and local taxation.~~ section."

15 Sec. 13. G.S. 161-50.5(e) is repealed.

16 Sec. 14. Chapter 1307 of the 1979 Session Laws and Chapter 1076 of the
17 1969 Session Laws are repealed.

18 Sec. 15. This act does not affect the rights or liabilities of the State, a
19 taxpayer, or other person arising under a statute amended or repealed by this act before
20 its amendment or repeal; nor does it affect the right to any refund or credit of a tax that
21 would otherwise have been available under the amended or repealed statute before its
22 amendment or repeal.

23 Sec. 16. This act is effective for taxable years beginning on or after January
24 1, 1989.