

The Senate Finance and Public Utilities Committee offered the following substitute to HB 118:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, and computation of income tax, so as to provide for tax
3 credits with respect to rehabilitation of historic structures; to provide for conditions and
4 limitations; to provide for powers, duties, and authority of the state revenue commissioner,
5 the Department of Revenue and the Department of Natural Resources; to provide for an
6 effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 imposition, rate, and computation of income tax, is amended by adding a new Code section
11 immediately following Code Section 48-7-29.7, to be designated Code Section 48-7-29.8,
12 to read as follows:

13 "48-7-29.8.

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

15 (1) 'Certified rehabilitation' means repairs or alterations to a certified structure which are
16 certified by the Department of Natural Resources as meeting the United States Secretary
17 of the Interior's Standards for Rehabilitation or the Georgia Standards for Rehabilitation
18 as provided by the Department of Natural Resources.

19 (2) 'Certified structure' means a historic building or structure that is individually listed
20 in the Georgia Register of Historic Places or is certified by the Department of Natural
21 Resources as contributing to the historic significance of a Georgia Register Historic
22 District.

23 (3) 'Historic home' means a certified structure which, or any portion of which is or will,
24 within a reasonable period, be owned and used as the principal residence of the person
25 claiming the tax credit allowed under this Code section. Historic home shall include any
26 structure or group of structures that constitute a multifamily or multipurpose structure,

1 including a cooperative or condominium. If only a portion of a building is used as such
2 person's principal residence, only those qualified rehabilitation expenditures that are
3 properly allocable to such portion shall be deemed to be made to a historic home.

4 (4) 'Qualified rehabilitation expenditure' means any amount properly chargeable to a
5 capital account expended in the substantial rehabilitation of a structure that by the end of
6 the taxable year in which the certified rehabilitation is completed is a certified structure.
7 This term does not include the cost of acquisition of the certified structure, the cost
8 attributable to enlargement or additions to an existing building, site preparation, or
9 personal property.

10 (5) 'Substantial rehabilitation' means rehabilitation of a certified structure for which the
11 qualified rehabilitation expenditures, at least 5 percent of which must be allocable to the
12 exterior during the 24 month period selected by the taxpayer ending with or within the
13 taxable year, exceed:

14 (A) For a historic home, the lesser of \$25,000.00 or 50 percent of the adjusted basis of
15 the property as defined in subparagraph (a)(1)(B) of Code Section 48-5-7.2; or, in the
16 case of a historic home located in a target area \$5,000.00; or

17 (B) For any other certified structure, the greater of \$5,000.00 or the adjusted basis of
18 the property.

19 (6) 'Target area' means a qualified census tract under Section 42 of the Internal Revenue
20 Code of 1986, found in the United States Department of Housing and Urban
21 Development document number N-94-3821; FR-3796-N-01.

22 (b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter for the
23 taxable year in which the certified rehabilitation is completed:

24 (1) In the case of a historic home, equal to 10 percent of qualified rehabilitation
25 expenditures, except that, in the case of a historic home located within a target area, an
26 additional credit equal to 5 percent of qualified rehabilitation expenditures shall be
27 allowed; and

28 (2) In the case of any other certified structure, equal to 20 percent of qualified
29 rehabilitation expenditures.

30 (c) In no event shall credits for a historic home or certified structure exceed \$5,000.00 in
31 any 120 month period.

32 (d) In order to be eligible to receive the credit authorized under subsection (b) of this Code
33 section, a taxpayer must attach to the taxpayer's state tax return a copy of the certification
34 of the Department of Natural Resources verifying that the improvements to the certified
35 structure are consistent with the Department of Natural Resources Standards for
36 Rehabilitation.

1 (e)(1) If the credit allowed under this Code section in any taxable year exceeds the total
2 tax otherwise payable by the taxpayer for that taxable year, the taxpayer may apply the
3 excess as a credit for succeeding years until the earlier of:

4 (A) The full amount of the excess is used; or

5 (B) The expiration of the tenth taxable year after the taxable year in which the certified
6 rehabilitation has been completed.

7 (2) No such credit shall be allowed the taxpayer against prior years' tax liability.

8 (f) In the case of any rehabilitation which may reasonably be expected to be completed in
9 phases set forth in architectural plans and specifications completed before the rehabilitation
10 begins, a 60 month period may be substituted for the 24 month period provided for in
11 paragraph (5) of subsection (a) of this Code section.

12 (g)(1) Except as otherwise provided in subsection (h) of this Code section, in the event
13 a tax credit under this Code section has been claimed and allowed the taxpayer, upon the
14 sale or transfer of the certified structure, the taxpayer shall be authorized to transfer the
15 remaining unused amount of such credit to the purchaser of such certified structure. If
16 a historic home for which a certified rehabilitation has been completed by a nonprofit
17 corporation is sold or transferred, the full amount of the credit to which the nonprofit
18 corporation would be entitled if taxable shall be transferred to the purchaser or transferee
19 at the time of sale or transfer.

20 (2) Such purchaser shall be subject to the limitations of subsection (e) of this Code
21 section. Such purchaser shall file with such purchaser's tax return a copy of the approval
22 of the rehabilitation by the Department of Natural Resources as provided in
23 subsection (d) and a copy of the form evidencing the transfer of the tax credit.

24 (3) Such purchaser shall be entitled to rely in good faith on the information contained in
25 and used in connection with obtaining the approval of the credit including, without
26 limitation, the amount of qualified rehabilitation expenditures.

27 (h)(1) If an owner other than a nonprofit corporation sells a historic home within three
28 years of receiving the credit, the seller shall recapture the credit to the Department of
29 Revenue as follows:

30 (A) If the property is sold within one year of receiving the credit, the recapture amount
31 will equal the lesser of the credit or the net profit of the sale;

32 (B) If the property is sold within two years of receiving the credit, the recapture
33 amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or

34 (C) If the property is sold within three years of receiving the credit, the recapture
35 amount will equal the lesser of one-third of the credit or the net profit of the sale.

1 (2) The recapture provisions of this subsection shall not apply to a sale resulting from the
2 death of the owner.

3 (i) The tax credit allowed under this Code section, and any recaptured tax credit, shall be
4 allocated among some or all of the partners, members, or shareholders of the entity owning
5 the project in any manner agreed to by such persons, whether or not such persons are
6 allocated or allowed any portion of any other tax credit with respect to the project.

7 (j) The Department of Natural Resources and the Department of Revenue shall prescribe
8 such regulations as may be appropriate to carry out the purposes of this Code section.

9 (k) The Department of Natural Resources shall report, on an annual basis, on the overall
10 economic activity, usage, and impact to the state from the rehabilitation of eligible
11 properties for which credits provided by this Code section have been allowed."

12 **SECTION 2.**

13 This Act shall become effective on January 1, 2004, and shall be applicable to all taxable
14 years beginning on or after that date.

15 **SECTION 3.**

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