

House Bill 460

By: Representatives Buck of the 135<sup>th</sup>, Royal of the 164<sup>th</sup>, Cummings of the 27<sup>th</sup>, Skipper of the 137<sup>th</sup> and Heard of the 89<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-7-29.6 of the Official Code of Georgia Annotated, relating to  
2 income tax credits for qualified low-income buildings, so as to require recapture only in the  
3 event of reduction of the qualified basis of a qualified project; to provide for a definition; to  
4 amend Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general  
5 provisions regarding insurance, so as to provide for certain tax credits with respect to  
6 qualified low-income buildings; to provide for procedures, conditions, and limitations; to  
7 provide for powers, duties, and authority of the Commissioner of Insurance; to provide an  
8 effective date; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

10 Code Section 48-7-29.6 of the Official Code of Georgia Annotated, relating to income tax  
11 credits for qualified low-income buildings, is amended by striking subsections (a) and (b) and  
12 inserting in their place new subsections (a) and (b) to read as follows:

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

14 (1) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of  
15 the Internal Revenue Code of 1986, as amended.

16 (2) 'Median income' means those incomes that are determined by the federal Department  
17 of Housing and Urban Development guidelines and adjusted for family size.

18 (3) 'Project' means a housing project that has restricted rents that do not exceed 30  
19 percent of median income for at least 40 percent of its units occupied by persons or  
20 families having incomes of 60 percent or less of the median income, or at least 20 percent  
21 of the units occupied by persons or families having incomes of 50 percent or less of the  
22 median income.

23 (4) 'Qualified basis' means that portion of the tax basis of a qualified Georgia project  
24 eligible for the federal housing tax credit, as that term is defined in Section 42 of the  
25 Internal Revenue Code of 1986, as amended.  
26

1 ~~(4)~~(5) 'Qualified Georgia project' means a qualified low-income building as that term is  
 2 defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located  
 3 in Georgia.

4 (b)(1) A state tax credit against the tax imposed by this article, to be termed the Georgia  
 5 housing tax credit, shall be allowed with respect to each qualified Georgia project placed  
 6 in service after January 1, 2001, ~~in .~~ The amount of such credit shall, when combined  
 7 with the total amount of credits authorized under Code Section 33-1-18, in no event  
 8 exceed an amount equal to the federal housing tax credit allowed with respect to such  
 9 qualified Georgia project.

10 (2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a  
 11 portion of any federal housing tax credit taken on a project is required to be recaptured  
 12 as a result of a reduction in the qualified basis of such project, the taxpayer claiming  
 13 any state tax credit with respect to such project shall also be required to recapture a  
 14 portion of any state tax credit authorized by this Code section. The state recapture  
 15 amount shall be equal to the proportion of the state tax credit claimed by the taxpayer  
 16 that equals the proportion the federal recapture amount bears to the original federal  
 17 housing tax credit amount subject to recapture.

18 (B) In the event that recapture of any Georgia housing tax credit is required, any  
 19 amended return submitted to the commissioner as provided in this Code section shall  
 20 include the proportion of the state tax credit required to be recaptured, the identity of  
 21 each taxpayer subject to the recapture, and the amount of tax credit previously allocated  
 22 to such taxpayer.

23 (3) In no event shall the total amount of the tax credit under this Code section for a  
 24 taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be  
 25 allowed to be carried forward to apply to the taxpayer's next three succeeding years' tax  
 26 liability. No such tax credit shall be allowed the taxpayer against prior years' tax  
 27 liability.

28 (4) The tax credit allowed under this Code section, and any recaptured tax credit, shall  
 29 be allocated among some or all of the partners, members, or shareholders of the entity  
 30 owning the project in any manner agreed to by such persons, whether or not such persons  
 31 are allocated or allowed any portion of the federal housing tax credit with respect to the  
 32 project."

## 33 SECTION 2.

34 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general  
 35 provisions regarding insurance, is amended by adding a new Code section at the end thereof,  
 36 to be designated Code Section 33-1-18, to read as follows:

1 "33-1-18.

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

3 (1) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of  
4 the Internal Revenue Code of 1986, as amended.

5 (2) 'Median income' means those incomes that are determined by the federal Department  
6 of Housing and Urban Development guidelines and adjusted for family size.

7 (3) 'Project' means a housing project that has restricted rents that do not exceed 30  
8 percent of median income for at least 40 percent of its units occupied by persons or  
9 families having incomes of 60 percent or less of the median income, or at least 20 percent  
10 of the units occupied by persons or families having incomes of 50 percent or less of the  
11 median income.

12 (4) 'Qualified basis' means that portion of the tax basis of a qualified Georgia project  
13 eligible for the federal housing tax credit, as that term is defined in Section 42 of the  
14 Internal Revenue Code of 1986, as amended.

15 (5) 'Qualified Georgia project' means a qualified low-income building as that term is  
16 defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located  
17 in Georgia.

18 (b)(1) A tax credit against the taxes imposed under Code Sections 33-5-31, 33-8-4, and  
19 33-40-5, to be termed the Georgia housing tax credit, shall be allowed with respect to  
20 each qualified Georgia project placed in service after January 1, 2002. The amount of  
21 such credit shall, when combined with the total amount of credit authorized under Code  
22 Section 48-7-29.6, in no event exceed an amount equal to the federal housing tax credit  
23 allowed with respect to such qualified Georgia project.

24 (2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a  
25 portion of any federal housing tax credit taken on a project is required to be recaptured  
26 as a result of a reduction in the qualified basis of such project, the taxpayer claiming  
27 any state tax credit with respect to such project shall also be required to recapture a  
28 portion of any state tax credit authorized by this Code section. The state recapture  
29 amount shall be equal to the proportion of the state tax credit claimed by the taxpayer  
30 that equals the proportion the federal recapture amount bears to the original federal  
31 housing tax credit amount subject to recapture.

32 (B) In the event that recapture of any Georgia housing tax credit is required, any  
33 amended return submitted to the Commissioner as provided in this Code section shall  
34 include the proportion of the state tax credit required to be recaptured, the identity of  
35 each taxpayer subject to the recapture, and the amount of tax credit previously allocated  
36 to such taxpayer.

1 (3) In no event shall the total amount of the tax credit under this Code section for a  
2 taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be  
3 allowed to be carried forward to apply to the taxpayer's next three succeeding years' tax  
4 liability. No such tax credit shall be allowed the taxpayer against prior years' tax  
5 liability.

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

11 (c) The Commissioner shall promulgate any rules and regulations necessary to implement  
12 and administer this Code section."

13 **SECTION 3.**

14 This Act shall become effective on January 1, 2002.

15 **SECTION 4.**

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