House Bill 118

By: Representatives Jamieson of the 22nd, Ashe of the 46th and McClinton of the 68th

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

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

"48-7-29.8.

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

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

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

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

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

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

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

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

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

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

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

(1) In the case of a historic home, equal to 30 percent of qualified rehabilitation expenditures, except that, in the case of a historic home located within a target area, an additional credit equal to 5 percent of qualified rehabilitation expenditures shall be allowed; and

(2) In the case of any other certified structure, equal to 25 percent of qualified rehabilitation expenditures.

(c) In no event shall credits for a historic home exceed $50,000.00 in any 120 month period.

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

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

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

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

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

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

(g) Any tax credit allowed under this Code section may be transferred, sold, or assigned in whole or part. Tax credits granted to a partnership, a limited liability company taxed as a partnership, or multiple owners of property shall be passed through to the partners, members, or owners, respectively, pro rata or pursuant to an executed agreement among the partners, members, or owners documenting an alternate distribution method. Each assignor of the tax credits shall perfect such transfer by notifying the Department of Revenue of such assignment in the form approved by the Department of Revenue within 30 calendar days following the effective date of the transfer. If a historic home for which a certified rehabilitation has been completed by a nonprofit corporation is sold or transferred, the full amount of the credit to which the nonprofit corporation would be entitled if taxable shall be transferred to the purchaser or transferee at the time of sale or transfer.

(h) A transferee, purchaser, or assignee shall be subject to the limitations of subsection (e) of this Code section. Such transferee, purchaser, or assignee shall file with its tax return a copy of the approval of the rehabilitation by the Department of Natural Resources as provided in subsection (d) and a copy of the form evidencing the transfer, sale, or assignment of the tax credit.

(i) A transferee, purchaser, or assignee of a tax credit allowed under this Code section shall be entitled to rely in good faith on the information contained in and used in connection with obtaining the approval of the credit including, without limitation, the amount of qualified rehabilitation expenditures.

(j) No sales and use tax shall be incurred as a result of the transfer, sale, assignment, or use of a tax credit allowed under this Code section.

(k) If an owner sells a historic home within three years of receiving the credit, the seller shall pay a penalty to the Department of Revenue. If the property is sold within one year of receiving the credit, the penalty will equal the lesser of the credit or the net profit of the sale. If the property is sold within two years of receiving the credit, the penalty will equal the lesser of two-thirds of the credit or the net profit of the sale. If the property is sold within three years of receiving the credit, the penalty will equal the lesser of one-third of the credit or the net profit of the sale. However, the penalty does not apply to a sale resulting from the death of the owner.

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

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

SECTION 2.

This Act shall become effective on January 1, 2002.

SECTION 3.

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