

The House Committee on Ways and Means offers the following substitute to HB 460:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to change certain provisions regarding income tax credits for qualified low-income buildings; to provide for a definition; to change certain recapture provisions; to amend Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general provisions regarding insurance, so as to provide for certain tax credits with respect to qualified low-income buildings; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the Commissioner of Insurance; to provide 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.**

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, is amended by striking Code Section 48-7-29.6, relating to income tax credits for qualified low-income buildings, and inserting in its place a new Code Section 48-7-29.6 to read as follows:

"48-7-29.6.

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

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

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

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

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

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

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

13 (2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a  
14 portion of any federal housing tax credit taken on a project is required to be recaptured  
15 as a result of a reduction in the qualified basis of such project, the taxpayer claiming  
16 any state tax credit with respect to such project shall also be required to recapture a  
17 portion of any state tax credit authorized by this Code section. The state recapture  
18 amount shall be equal to the proportion of the state tax credit claimed by the taxpayer  
19 that equals the proportion the federal recapture amount bears to the original federal  
20 housing tax credit amount subject to recapture. The tax credit under this Code section  
21 shall not be subject to recapture if such recapture is due solely to the sale or transfer of  
22 any direct or indirect interest in such qualified Georgia project.

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

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

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

(c) The commissioner and the state department designated by the Governor as the state housing credit agency for purposes of Section 42(h) of the Internal Revenue Code of 1986, as amended, shall each be authorized to promulgate any rules and regulations necessary to implement and administer this Code section."

## SECTION 2.

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

"33-1-18.

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

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

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

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

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

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

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

(2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a portion of any federal housing tax credit taken on a project is required to be recaptured as a result of a reduction in the qualified basis of such project, the taxpayer claiming any state tax credit with respect to such project shall also be required to recapture a portion of any state tax credit authorized by this Code section. The state recapture

1 amount shall be equal to the proportion of the state tax credit claimed by the taxpayer  
2 that equals the proportion the federal recapture amount bears to the original federal  
3 housing tax credit amount subject to recapture. The tax credit under this Code section  
4 shall not be subject to recapture if such recapture is due solely to the sale or transfer of  
5 any direct or indirect interest in such qualified Georgia project.

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

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

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

21 (c) The commissioner and the state department designated by the Governor as the state  
22 housing credit agency for purposes of Section 42(h) of the Internal Revenue Code of 1986,  
23 as amended, shall each be authorized to promulgate any rules and regulations necessary to  
24 implement and administer this Code section."

### 25 **SECTION 3.**

26 This Act shall become effective on January 1, 2002, and shall be applicable to all taxable  
27 years beginning on or after that date.

### 28 **SECTION 4.**

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