

House Bill 509 (AS PASSED HOUSE AND SENATE)

By: Representatives Buck of the 135th, Sims of the 167th, Jamieson of the 22nd, Skipper of the 137th and Royal of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to specify criteria which a tax assessor shall not consider in determining the
3 fair market value of property for ad valorem tax purposes; to change certain provisions
4 regarding income tax credits for qualified low-income housing; to repeal conflicting laws;
5 and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

7 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
8 amended in Code Section 48-5-2, relating to definitions regarding ad valorem taxation of
9 property, by adding a new subparagraph immediately following subparagraph (B) of
10 paragraph (3), to be designated subparagraph (B.1), to read as follows:
11

12 "(B.1) The tax assessor shall not consider any income tax credits with respect to real
13 property which are claimed and granted pursuant to either Section 42 of the Internal
14 Revenue Code of 1986, as amended, or Chapter 7 of this title in determining the fair
15 market value of real property."

SECTION 2.

16 Said title is further amended by striking Code Section 48-7-29.6, relating to income tax
17 credits for qualified low-income housing, and inserting in its place a new Code Section
18 48-7-29.6 to read as follows:
19

20 "48-7-29.6.

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

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

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

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

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

9 (b)(1) A state tax credit against the tax imposed by this article, to be termed the Georgia
 10 housing tax credit, shall be allowed with respect to each qualified Georgia project placed
 11 in service after January 1, 2001, in an amount equal to the federal housing tax credit
 12 allowed with respect to such 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 the taxpayer claiming any state tax credit with respect to such project shall also be
 16 required to recapture a portion of any state tax credit authorized by this Code section.
 17 The state recapture amount shall be equal to the proportion of the state tax credit
 18 claimed by the taxpayer that equals the proportion the federal recapture amount bears
 19 to the original federal housing tax credit amount subject to recapture. The tax credit
 20 under this Code section shall not be subject to recapture if such recapture is due solely
 21 to the sale or transfer of any direct or indirect interest in such qualified Georgia project.

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

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

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

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

5 **SECTION 3.**

6 OCGA Section 48-5-40 (a) (12) is amended by adding the following subsection:

7 (c) For purposes of this paragraph, indirect ownership of such home for the aged through
8 a limited liability company that is fully owned by such exempt organization shall be
9 considered direct ownership.