

House Bill 161

By: Representatives Lunsford of the 110<sup>th</sup>, Yates of the 73<sup>rd</sup>, Ashe of the 56<sup>th</sup>, Royal of the 171<sup>st</sup>, and Floyd of the 147<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Titles 32 and 48 of the Official Code of Georgia Annotated, relating, respectively,  
2 to highways, bridges, and ferries and revenue and taxation, so as to provide for an additional  
3 method of right of way acquisition by the Department of Transportation; to provide for  
4 income tax credits with respect to qualified right of way acquisition; to provide for  
5 definitions; to provide for conditions, limitations, and exclusions; to provide for authority of  
6 the state revenue commissioner and the Department of Transportation with respect to the  
7 foregoing; to provide for reassessment of property with respect to which a right of way has  
8 been acquired; to provide an effective date; to provide for applicability; to repeal conflicting  
9 laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Title 32 of the Official Code of Georgia Annotated, relating to highways, bridges, and ferries,  
13 is amended in Code Section 32-3-3, relating to acquisition of rights of way or property for  
14 public road purposes, by adding a new subsection to read as follows:

15 "(f) In order to facilitate the acquisition of rights of way in the manner specified under this  
16 Code section as economically as possible, the department may offer the owner the option  
17 of receiving an income tax credit in accordance with the specifications of Code Section  
18 48-7-29.13. Such acquisition shall not be consummated unless the acquisition serves the  
19 best interest of the public and unless the right of way to be acquired is adequate for public  
20 road purposes."

21 **SECTION 2.**

22 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is  
23 amended in Code Section 48-5-299, relating to ascertainment of taxable property, by adding  
24 a new subsection to read as follows:

1 "(e) In the event a right of way is acquired from a taxpayer, the subject parcel with respect  
2 to which the right of way was granted shall be reassessed for ad valorem tax purposes to  
3 determine a new fair market value and to revise, as necessary, the description and  
4 characterization of such property in the files and records of the county board of tax  
5 assessors."

6 **SECTION 3.**

7 Said title is further amended by adding a new Code section to read as follows:

8 "48-7-29.13.

9 (a) A taxpayer shall be allowed a state income tax credit against the tax imposed by Code  
10 Section 48-7-20 or Code Section 48-7-21 if a right of way with respect to property of the  
11 taxpayer has been acquired under subsection (f) of Code Section 32-3-3. Such credit shall  
12 be limited to an amount equal to the cash acquisition cost offered to the taxpayer plus 20  
13 percent of that cost.

14 (b) No tax credit shall be allowed under this Code section unless the taxpayer files with  
15 the taxpayer's income tax return a copy of a certification by the Department of  
16 Transportation that the right of way has been acquired.

17 (c) In no event shall the total amount of any tax credit under this Code section for a taxable  
18 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed to  
19 be carried forward to apply to the taxpayer's succeeding five years' tax liability. No such  
20 tax credit shall be allowed the taxpayer against prior years' tax liability. The taxpayer shall  
21 not be authorized to transfer any unused credit amount. In the event such property is sold  
22 or transferred, any outstanding unused credit amount shall be forfeited.

23 (d) The commissioner shall promulgate any rules and regulations necessary to implement  
24 and administer this Code section."

25 **SECTION 4.**

26 This Act shall become effective upon its approval by the Governor or upon its becoming law  
27 without such approval, and shall be applicable to all taxable years beginning on or after  
28 January 1, 2008.

29 **SECTION 5.**

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