

House Bill 351

By: Representatives Stephens of the 164th, Lindsey of the 54th, Hill of the 21st, Graves of the 12th, and Horne of the 71st

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 12 of Title 50 of the Official Code of Georgia Annotated,
2 relating to the Georgia Council for the Arts, so as to provide for legislative intent; to create
3 the Georgia Arts Trust; to provide for the membership, appointment, terms, filling of
4 vacancies, duties, and responsibilities of the board of trustees of the Georgia Arts Trust; to
5 provide for the creation, appointment, terms, filling of vacancies, duties, and responsibilities
6 of the Georgia Arts Trust Advisory Committee; to provide for certain reports and audits; to
7 amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating
8 to imposition, rate, and computation of income taxes, so as to provide a tax credit for certain
9 donations to the Georgia Arts Trust and certain qualifying arts organizations; to provide for
10 definitions; to provide for the calculation of such credit; to provide for limitations on such
11 credit; to provide for related matters; to provide for applicability; to repeal conflicting laws;
12 and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Article 2 of Chapter 12 of Title 50 of the Official Code of Georgia Annotated, relating to the
16 Georgia Council for the Arts, is amended by designating the existing text as Part 1 and
17 inserting a new Part 2 to read as follows:

18 "Part 2

19 50-12-30.

20 The General Assembly finds that:

21 (1) The arts serve as an economic engine for the state, are a great community
22 development tool, support improvements in educational performance, and preserve our
23 state's heritage;

- 1 (2) Tourism is Georgia's second largest industry and cultural heritage tourism is the
 2 fastest growing industry segment;
- 3 (3) The arts surpass professional sports in attendance and are ranked as one of the top ten
 4 reasons for corporate relocations;
- 5 (4) The arts preserve history and heritage for Georgians, whether through architecture
 6 and other visual arts, oral and written literary works, or the performance arts;
- 7 (5) The arts enhance education success for our children through the teaching of complex
 8 and abstract ideas; the nurturing of cognitive, social, and personal competencies; and the
 9 reaching of otherwise unreachable students;
- 10 (6) Companies desire employees who can meet the challenges of a global economy and
 11 can apply creative thought to problem solving;
- 12 (7) The arts build communities and increase the quality of life for Georgians;
- 13 (8) Increasing the availability of the arts and tourism is a direct economic benefit for the
 14 economy of Georgia and will provide jobs and opportunities for our citizens; and
- 15 (9) It is in the best interests of this state and its citizens to support the arts and tourism.

16 50-12-31.

17 (a) In order to foster a public-private partnership for the support of the arts and tourism in
 18 this state, there is created the Georgia Arts Trust. Such trust shall be for the purpose of
 19 receiving and distributing funds for the support of the arts and tourism in this state. The
 20 Georgia Arts Trust shall not be an entity or agency of government, but shall be a private
 21 trust operating under and in accordance with the laws of this state. It is the intent of the
 22 General Assembly that such trust take all necessary steps to become a Section 501(c)(3)
 23 entity under the federal Internal Revenue Code.

24 (b)(1) The Georgia Arts Trust shall be governed by a board of trustees. Such board shall
 25 be composed of 19 members to be selected in accordance with this subsection.

26 (2) The Governor shall appoint one member from each of the state's 13 congressional
 27 districts. The Speaker of the House of Representatives and the Lieutenant Governor shall
 28 each appoint one at-large member.

29 (3) The Governor shall also appoint one serving board member from each of the
 30 following state agencies or departments: the State Board of Education, the Department
 31 of Economic Development, Georgia Public Broadcasting, and the Georgia Council for
 32 the Arts, each of whom shall have the approval of the board of the department or agency
 33 being represented. Such persons shall not be elected officers of the state or officials of
 34 any of such agencies.

35 (c) The members of the board of trustees shall serve no more than two terms of four years
 36 and until their successors are appointed and qualified; provided, however, that the initial

1 terms of the members appointed from the even-numbered congressional districts and the
2 members representing the Department of Economic Development and Georgia Public
3 Broadcasting shall be for two years and until their successors are appointed and qualified.
4 Thereafter, such members shall serve for four-year terms and until their successors are
5 appointed and qualified. Vacancies shall be filled by the appointing authority that
6 appointed the departing member for the departing member's unexpired term of office. The
7 members of the board of trustees shall serve without compensation but may be reimbursed
8 for actual expenses incurred while on the business of the trust.

9 (d) The board of trustees shall elect from among their number annually a chairperson and
10 a vice chairperson. The board of trustees may also elect such other officers as the board
11 deems appropriate. The board shall meet at the call of the chairperson or the request of any
12 four members.

13 (e) The executive director of the Georgia Council for the Arts shall also serve as the
14 executive director of the trust. The trust shall reimburse the Georgia Council for the Arts
15 for the time spent by the executive director on matters concerning the trust.

16 (f) The board of trustees may appoint an advisory committee to assist the board members
17 in their duties. If created, such advisory committee shall consist of 30 members and shall
18 be chaired by the executive director of the trust. The advisory committee shall consist of
19 two representatives from each of the state's congressional districts; the first representative
20 from each congressional district shall be from a nonprofit arts organization with an annual
21 budget of less than \$300,000.00 and the second representative from each congressional
22 district shall be from a nonprofit arts organization with an annual budget in excess of
23 \$1 million. In circumstances in which there is not a nonprofit arts organization with an
24 annual budget in excess of \$1 million dollars in a congressional district, the board of
25 trustees may select a representative from another arts organization in the district. In
26 addition, the board of trustees shall appoint a representative of the Georgia Humanities
27 Council; a representative of the film, video, and music division of the Department of
28 Economic Development; a representative of the tourism division of the Department of
29 Economic Development; and the executive director of the trust. In making its
30 appointments, the board shall select members of the boards of arts and tourism
31 organizations, persons who have shown a commitment to the arts in their communities, and
32 persons who understand the needs of business and the arts and tourism industries. Such
33 members shall serve for four-year terms and until their successors are selected and
34 qualified; provided, however, that the board of trustees shall designate 15 of the initial
35 appointees to serve terms of two years and until their successors are selected and qualified.
36 Such 15 members shall thereafter serve four-year terms and until their successors are
37 selected and qualified. The members of the advisory committee shall serve without

1 compensation but may be reimbursed for expenses actually incurred while on the business
2 of the advisory committee.

3 50-12-32.

4 The Georgia Arts Trust shall be for the following purposes:

5 (1) To support the arts and tourism industries of this state through contracts for services
6 for arts programming or those events that promote, develop, administer, produce, present,
7 maintain, or provide for the arts in this state;

8 (2) To receive, invest, and administer funds received from the state, the federal
9 government, private donations, grants, and other sources to fulfill the purposes for which
10 the trust is created;

11 (3) To attract contributions and grants;

12 (4) To preserve the long-term financial health of Georgia's arts and tourism industries;

13 (5) To conserve and grow the state's art resources;

14 (6) To maximize access to the arts for Georgia citizens;

15 (7) To ensure that the benefits of arts education are competitively available to all
16 schools;

17 (8) To inventory, conserve, and grow the state's public art;

18 (9) To develop and implement ongoing growth and conservation programs for the state's
19 arts and tourism industries;

20 (10) To market and sell Georgia's arts, crafts, and traditional arts;

21 (11) To focus grants on the fine arts, crafts, and traditional arts for increased cultural
22 heritage tourism;

23 (12) To utilize funds of the trust for matching dollars for federal and foundation grants
24 to fulfill the purposes of the trust;

25 (13) To develop additional resources for Georgia's arts assets; and

26 (14) To engage in other activities designed to grow and support Georgia's arts and
27 tourism industries.

28 50-12-33.

29 The board of trustees shall have the following duties and responsibilities:

30 (1) To operate and manage the Georgia Arts Trust, including the investment and
31 reinvestment of the trust's funds, the management of assets of the trust, and the
32 distribution of such funds and assets to fulfill the purpose of the trust;

33 (2) To enter into contracts with public and private entities for services needed by the trust
34 and to fulfill the purposes of the trust;

- 1 (3) To employ staff and consultants as deemed necessary to fulfill the purposes of the
 2 trust and to manage, invest, and administer funds and assets of the trust;
- 3 (4) To receive, retain, and invest donations, state and federal funding, grants, and other
 4 funds and assets;
- 5 (5) To ensure that an annual independent audit is conducted of all funds and assets of the
 6 trust;
- 7 (6) To apply for and administer grants from public and private entities to fulfill the
 8 purposes of the trust, to assist Georgia arts and tourism organizations in obtaining and
 9 administering grants for these purposes, and to partner with other organizations in order
 10 to obtain such grants;
- 11 (7) To receive, invest, and administer funds as endowments for Georgia arts and tourism
 12 organizations;
- 13 (8) To institute and administer grant programs for Georgia arts and tourism organizations
 14 and programs to fulfill the purposes of the trust;
- 15 (9) To promote, market, and assist in the export of Georgia's arts and crafts;
- 16 (10) To promote, fund, conduct, and assist in the development, provision, and expansion
 17 of arts education programs in Georgia;
- 18 (11) To preserve, maintain, and make accessible the public art of this state; and
- 19 (12) To perform such other tasks as may be appropriate to fulfill its purposes that are not
 20 inconsistent with law.

21 50-12-34.

- 22 (a) The funds and assets of the trust shall be independently audited annually, and the
 23 results of such audit shall be open to inspection at reasonable times by any person. A copy
 24 of the audit report shall be sent to the state auditor and the state accounting officer.
- 25 (b) The trust shall provide the Governor and the members of the General Assembly with
 26 a full report of its activities in December of each year with recommendations, if any, for
 27 legislation to assist the trust in achieving its purposes."

28 **SECTION 2.**

29 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
 30 imposition, rate, and computation of income taxes, is amended by inserting a new Code
 31 section to read as follows:

32 "48-7-29.13.

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

1 (1) 'Georgia arts organization' means a private, not for profit organization in this state
2 that has as its purpose, and engages in, the promotion, development, administration,
3 production, maintenance, or provision of the arts in this state.

4 (2) 'Georgia Arts Trust' means the Georgia Arts Trust created by Code Section 50-12-31.

5 (b) For taxable years beginning on or after January 1, 2007, and ending on or before
6 December 31, 2012, a taxpayer shall be allowed a credit against the tax imposed by Code
7 Section 48-7-20 or 48-7-21, as applicable, for donations to the Georgia Arts Trust and
8 donations to one or more Georgia arts organizations as provided in subsection (c) of this
9 Code section. No taxpayer shall be entitled to such credit with respect to the same
10 donations claimed by another taxpayer.

11 (c) In order to receive the credit provided in this Code section, the taxpayer must during
12 the taxable year in which such credit is sought:

13 (1) Make a contribution to the Georgia Arts Trust; and

14 (2) Make a contribution to one or more Georgia arts organizations that is equal to or
15 exceeds the aggregate total of the contributions to the Georgia Arts Trust.

16 (d) The credit provided in this Code section shall be equal to one-half of the aggregate
17 total of the taxpayer's contributions to the Georgia Arts Trust during the taxable year for
18 which the credit is sought.

19 (e) In no event shall the amount of the tax credit exceed \$5,000.00 with respect to tax
20 liability determined under Code Section 48-7-20 for individual taxpayers or \$10,000.00
21 with respect to tax liability determined under Code Section 48-7-21 for corporate taxpayers
22 or the taxpayer's income tax liability, whichever is less. Any unused tax credit shall not
23 be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability.
24 No such tax credit shall be allowed the taxpayer against prior years' tax liability.

25 (f) The commissioner shall promulgate any rules and regulations necessary to implement
26 and administer this Code section."

27 **SECTION 3.**

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