

House Bill 405

By: Representatives Martin of the 47th, Stephens of the 164th, and Parrish of the 156th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to change certain provisions regarding income tax credits for qualified
3 low-income buildings; to amend Chapter 1 of Title 33 of the Official Code of Georgia
4 Annotated, relating to general provisions regarding insurance, so as to change certain
5 provisions regarding insurance premium tax credits for qualified low-income buildings; to
6 provide for related matters; to provide an effective date; to repeal conflicting laws; and for
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
11 is amended by revising Code Section 48-7-29.6, relating to income tax credits for qualified
12 low-income buildings, as follows:

13 "48-7-29.6.

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

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

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

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

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

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

4 (6) 'Qualified tax credit purchaser' means any person or entity who, under the applicable
 5 laws of the state of organization, is a partner, member, or shareholder in a partnership,
 6 limited liability company, or corporation that owns a direct or indirect (through one of
 7 more entities) interest in the qualified Georgia project with respect to which tax credits
 8 are purchased by such person or entity.

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. The amount of such credit shall, when combined with
 12 the total amount of credits authorized under Code Section 33-1-18, in no event exceed
 13 an amount equal to the federal housing tax credit allowed with respect to such qualified
 14 Georgia project.

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

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

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

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

1 are allocated or allowed any portion of the federal housing tax credit with respect to the
2 project.

3 (5) All or a portion of the tax credit allocated to any partner, member, or shareholder in
4 accordance with paragraph (4) of this subsection may be transferred or sold by such
5 allocattee at any time to any one or more qualified tax credit purchasers, and any such tax
6 credit acquired by a qualified tax credit purchaser may thereafter be transferred or sold
7 by any such qualified tax credit purchaser (or any subsequent transferee or purchaser) to
8 any one or more qualified tax credit purchasers.

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

13 SECTION 2.

14 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general
15 provisions regarding insurance, is amended by revising Code Section 33-1-18, relating to
16 housing tax credits for qualified projects, as follows:

17 "33-1-18.

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

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

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

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

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

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

34 (6) 'Qualified tax credit purchaser' means any person or entity who, under the applicable
35 laws of the state of organization, is a partner, member, or shareholder in a partnership,
36 limited liability company, or corporation that owns a direct or indirect (through one of

1 more entities) interest in the qualified Georgia project with respect to which tax credits
 2 are purchased by such person or entity.

3 (b)(1) A tax credit against the taxes imposed under Code Sections 33-5-31, 33-8-4, and
 4 33-40-5, to be termed the Georgia housing tax credit, shall be allowed with respect to
 5 each qualified Georgia project placed in service after January 1, 2001. The amount of
 6 such credit shall, when combined with the total amount of credit authorized under Code
 7 Section 48-7-29.6, in no event exceed an amount equal to the federal housing tax credit
 8 allowed with respect to such qualified Georgia project.

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

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

24 (3) In no event shall the total amount of the tax credit under this Code section for a
 25 taxable year exceed the taxpayer's tax liability under Code Sections 33-5-31, 33-8-4, and
 26 33-40-5. Any unused tax credit shall be allowed to be carried forward to apply to the
 27 taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed
 28 the taxpayer against prior years' tax liability.

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

34 (5) All or a portion of the tax credit allocated to any partner, member, or shareholder in
 35 accordance with paragraph (4) of this subsection may be transferred or sold by such
 36 allocattee at any time to any one or more qualified tax credit purchasers, and any such tax
 37 credit acquired by a qualified tax credit purchaser may thereafter be transferred or sold

1 by any such qualified tax credit purchaser (or any subsequent transferee or purchaser) to
2 any one or more qualified tax credit purchasers.

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

7 **SECTION 3.**

8 This Act shall become effective upon its approval by the Governor or upon its becoming law
9 without such approval.

10 **SECTION 4.**

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