

House Bill 451

By: Representatives Lewis of the 15th, Stephens of the 164th, and Parrish of the 156th

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
2 and use taxation, so as to provide for a program of tax refunds for companies creating certain
3 tourism attractions; to provide for a short title; to define terms; to state legislative findings;
4 to provide for conditions of eligibility and approval by the Department of Economic
5 Development and a local government; to provide for agreements between that department
6 and companies; to provide for regulations; to provide for related matters; to provide for an
7 effective date; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales and use
11 taxation, is amended by adding a new Article 5 as follows:

12 style="text-align:center">"ARTICLE 5

13 48-8-240.

14 This article shall be known and may be cited as the 'Georgia Tourism Development Act.'

15 48-8-241.

16 As used in this article, the term:

17 (1) 'Agreement' means a tourism attraction agreement entered into, pursuant to Code
18 Section 48-8-245, on behalf of the Georgia Department of Economic Development and
19 an approved company, with respect to a tourism attraction project.

20 (2) 'Approved company' means any corporation, limited liability company, partnership,
21 limited liability partnership, sole proprietorship, business trust, or any other entity
22 approved by the commissioner of economic development and by the governing authority

1 of the city or county where the tourism attraction project is to be located pursuant to Code
2 Section 48-8-245 that is seeking to undertake a tourism attraction project.

3 (3) 'Approved costs' means:

4 (A) Obligations incurred for labor and to vendors, contractors, subcontractors, builders,
5 suppliers, deliverymen, and materialmen in connection with the acquisition,
6 construction, equipping, and installation of a tourism attraction project;

7 (B) The costs of acquiring real property or rights in real property and any costs
8 incidental thereto;

9 (C) All costs for construction materials and equipment installed at the tourism
10 attraction project;

11 (D) The cost of contract bonds and of insurance of all kinds that may be required or
12 necessary during the course of the acquisition, construction, equipping, and installation
13 of a tourism attraction project which is not paid by the vendor, supplier, deliveryman,
14 contractor, or otherwise provided;

15 (E) All costs of architectural and engineering services, including but not limited to:
16 estimates, plans and specifications, preliminary investigations, and supervision of
17 construction and installation, as well as for the performance of all the duties required
18 by or consequent to the acquisition, construction, equipping, and installation of a
19 tourism attraction project;

20 (F) All costs required to be paid under the terms of any contract for the acquisition,
21 construction, equipping, and installation of a tourism attraction project;

22 (G) All costs required for the installation of utilities, including but not limited to:
23 water, sewer, sewer treatment, gas, electricity and communications and including
24 off-site construction of the facilities paid for by the approved company; and

25 (H) All other costs comparable with those described in this paragraph.

26 (4) 'Tourism attraction' means a cultural or historical site; a recreation or entertainment
27 facility; an area of natural phenomenon or scenic beauty; a convention hotel and
28 conference center; a race track with lodging and restaurant and other tourism amenities;
29 a golf course facility with lodging and restaurant and other tourism amenities; marinas
30 and water parks with lodging and restaurant facilities; or an entertainment destination
31 center, designed to attract tourists to the State of Georgia, subject to the following
32 conditions:

33 (A) A tourism attraction shall include commercial lodging facilities if the facilities
34 constitute a significant portion of a tourism attraction project or the facilities are to be
35 located on recreational property leased from a county, a municipal corporation, the
36 state, or the federal government; and

37 (B) A tourism attraction shall not include the following:

1 (i) Facilities that are primarily devoted to the retail sale of goods, shopping centers,
2 restaurants, movie theaters, performing arts facilities, or a Georgia crafts and products
3 center; or

4 (ii) Recreational facilities that do not serve as a likely destinations where individuals
5 who are not residents of the state would remain overnight in commercial lodging at
6 the tourism attraction project.

7 (5) 'Tourism attraction project' or 'project' means the real estate acquisition, including the
8 acquisition of real estate by a leasehold interest with a minimum term of 30 years,
9 construction, and equipping of a tourism attraction; the construction and installation of
10 improvements to facilities necessary or desirable for the acquisition, construction, and
11 installation of a tourism attraction project, including but not limited to surveys;
12 installation of utilities, which may include water, sewer, sewage treatment, gas,
13 electricity, communications, and similar facilities; and off-site construction of utility
14 extensions if paid for by the approved company.

15 48-8-242.

16 The General Assembly finds and declares that the general welfare and material well-being
17 of the citizens of the state depend in large measure upon the development of tourism in the
18 state; that it is in the best interest of the state to induce the creation of new tourism
19 attractions and the expansion of existing tourism attractions within the state in order to
20 advance the public purposes of relieving unemployment by preserving and creating jobs
21 that would not exist if not for the sales and use tax refund offered by the Department of
22 Economic Development to approved companies and preserving and creating sources of tax
23 revenues for the support of public services provided by the state; that the purposes to be
24 accomplished under the provisions of this article are proper governmental and public
25 purposes for which public moneys may be expended; and that the inducement of the
26 creation and expansion of tourism attraction projects is of paramount importance to the
27 economy of the state, mandating that the provisions of this article are to be liberally
28 construed and applied in order to advance public purposes.

29 48-8-243.

30 (a)(1) In consideration of the execution of the agreement each approved company shall
31 be granted a sales and use tax refund from the Georgia sales and use tax and all local
32 sales and use taxes on the sales generated by or arising at the tourism attraction.

33 (2) The approved company shall have no obligation to refund or otherwise return any
34 amount of this sales and use tax refund to the persons from whom the sales and use tax
35 was collected.

1 (3) For all tourism attractions the term of the agreement granting the sales and use tax
2 refund shall be ten years.

3 (4) This time period shall commence on the later of:

4 (A) The final approval of the agreement for purposes of the sales and use tax refund;

5 or

6 (B) The effective date specified in the agreement.

7 (b) Any sales and use tax collected by an approved company on sales transacted after final
8 approval but prior to the commencement of the term of the agreement shall be refundable
9 as if collected after the commencement of the term and applied to the approved company's
10 first fiscal year's refund after activation of the term and without changing the term.

11 (c) The total sales and use tax refund allowed to the approved company over the term of
12 the agreement shall be equal to the lesser of the total amount of the sales and use tax
13 liability of the approved company and its lessees or 25 percent of the approved costs for
14 the tourism attraction project, subject to the following conditions:

15 (1) The sales and use tax refund shall accrue over the term of the agreement in an annual
16 amount equal to 2.5 percent of the approved costs; and

17 (2) Notwithstanding the foregoing 2.5 percent limitation, any unused sales and use tax
18 refunds from a previous year may be carried forward to any succeeding year during the
19 term of the agreement.

20 (d) On or before March 31 of each year during the term of the agreement, an approved
21 company shall file with the department a claim for sales and use tax refund collected by the
22 approved company and remitted to the department during the preceding calendar year
23 pursuant to subsection (c) of this Code section.

24 (e) The department shall promulgate administrative regulations and require the filing of
25 a refund form designed by the department to reflect the intent of this article.

26 48-8-244.

27 (a) The commissioner of economic development shall establish standards for the filing of
28 an application for tourism attraction projects by the promulgation of administrative
29 regulations.

30 (b) An application for a tourism attraction project filed with the Department of Economic
31 Development shall include: marketing plans for the tourism attraction project that target
32 individuals who are not residents of the state; a description and location of the tourism
33 attraction project; capital and other anticipated expenditures for the tourism attraction
34 project and the anticipated sources of funding therefor; the anticipated employment and
35 wages to be paid at the tourism attraction project; business plans which indicate the average
36 number of days in a year in which the tourism attraction project will be in operation and

1 open to the public; and the anticipated revenues to be generated by the tourism attraction
2 project.

3 (c) The commissioner of economic development and the governing authority of the city
4 or county where the tourism attraction project is to be located may grant approval to the
5 tourism attraction project if the project shall:

6 (1) Attract at least 50 percent of its visitors from among persons who are not residents
7 of the state;

8 (2) Have approved costs in excess of \$25 million;

9 (3) Have a significant and positive economic impact on the state considering, among
10 other factors, the extent to which the tourism attraction project will compete directly with
11 existing tourism attractions in the state and the amount by which increased state and local
12 tax revenues from the tourism attraction project will exceed the refund to be given to the
13 approved company;

14 (4) Produce sufficient revenues and public demand to be operating and open to the public
15 for a minimum of 250 days per year; and

16 (5) Not adversely affect existing employment in the state.

17 48-8-245.

18 (a) The Department of Economic Development, upon final approval of a tourism attraction
19 project application, shall enter into an agreement with any approved company and the
20 terms and provisions of each agreement shall include, but not be limited to:

21 (1) The projected amount of approved costs, provided any increase in approved costs
22 incurred by the approved company and agreed to by the department shall apply
23 retroactively for purposes of calculating the carry forward for unused sales and use tax
24 refunds as set forth in subsection (c) of Code Section 48-8-243 for tax years commencing
25 on or after January 1, 2006;

26 (2) A date certain by which the approved company shall have completed the tourism
27 attraction project and begun operations. Upon request from any approved company that
28 has received final approval, the Department of Economic Development shall grant an
29 extension or change, which in no event shall exceed 18 months from the date of final
30 approval, to the completion date as specified in the agreement with an approved
31 company;

32 (3) The term shall be ten years from the later of:

33 (A) The date of the final approval of the tourism attraction project; or

34 (B) The original effective date specified in the agreement, if this effective date is
35 within three years of the date of the final approval of the tourism attraction project."

1 **SECTION 2.**

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

4 **SECTION 3.**

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