

The Senate Finance Committee offered the following substitute to HB 445:

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 clarify an ad valorem tax exemption for certain charitable institutions; to
3 provide for the transfer, devise, and distribution of unused conservation tax credits; to
4 provide for procedures, conditions, and limitations; to provide for related matters; to provide
5 for effective dates; to provide for applicability; to repeal conflicting laws; and for other
6 purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

8 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
9 amended in Code Section 48-5-41, relating to property exempt from ad valorem taxation, by
10 revising paragraph (2) of subsection (d) as follows:
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12 "(2) With respect to paragraph (4) of subsection (a) of this Code section, ~~real estate or~~
13 ~~buildings which are~~ a building which is owned by a charitable institution that is exempt
14 from taxation under Section 501(c)(3) of the federal Internal Revenue Code and used by
15 such charitable institution exclusively for the charitable purposes of such charitable
16 institution, and not more than 15 acres of land on which such building is located, may be
17 used for the purpose of securing income so long as such income is used exclusively for
18 the operation of that charitable institution."

SECTION 2.

19 Said title is further amended in Code Section 48-7-29.12, relating to the income tax credit
20 for donation of real property for conservation purposes, by adding a new subsection as
21 follows:
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23 "(d.1) Any tax credits under this Code section earned by a taxpayer and previously claimed
24 but not used by such taxpayer against its income tax may be transferred or sold in whole

1 or in part by such taxpayer to another Georgia taxpayer, subject to the following conditions:

2 (1) The transferor shall submit to the department a written notification of any transfer or
3 sale of tax credits within 30 days after the transfer or sale of such tax credits. The
4 notification shall include such transferor's tax credit balance prior to transfer, the
5 remaining balance after transfer, all tax identification numbers for each transferee, the
6 date of transfer, the amount transferred, and any other information required by the
7 department;

8 (2) Failure to comply with this subsection shall result in the disallowance of the tax
9 credit until the taxpayer is in full compliance;

10 (3) In no event shall the amount of the tax credit under this subsection claimed and
11 allowed for a taxable year exceed the transferee's income tax liability. Any unused credit
12 may be carried forward to subsequent taxable years provided that the transfer or sale of
13 this tax credit does not extend the time in which such tax credit can be used. The
14 carry-forward period for tax credit that is transferred or sold shall begin on the date on
15 which the tax credit was originally earned; and

16 (4) A transferee shall have only such rights to claim and use the tax credit that were
17 available to the transferor at the time of the transfer. To the extent that such transferor
18 did not have rights to claim or use the tax credit at the time of the transfer, the department
19 shall either disallow the tax credit claimed by the transferee or recapture the tax credit
20 from the transferee. The transferee's recourse is against the transferor."

21 **SECTION 3.**

22 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become
23 effective upon its approval by the Governor or upon its becoming law without such approval.

24 (b) Section 2 of this Act shall become effective on January 1, 2008, and shall apply to all
25 taxable years beginning on or after January 1, 2008.

26 **SECTION 4.**

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