

House Bill 1129

By: Representatives Lewis of the 15th, Stephens of the 164th, Williams of the 4th, O`Neal of the 146th, Parrish of the 156th, and others

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 and
3 expanding certain tourism attractions; to provide for a short title; to define terms; to state
4 legislative findings; to provide for conditions of eligibility and approval by the Department
5 of Economic Development and a local government; to provide for agreements between that
6 department and companies; to provide for regulations; to provide for related matters; to
7 provide for an 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 to read 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 that
22 is seeking to undertake a tourism project pursuant to Code Section 48-8-245 and is
23 approved by the commissioner of economic development and by the governing authority

1 of the city where the tourism attraction project is to be located, if within a city, or
2 otherwise, by the governing authority of the county where the tourism attraction project
3 is to be located.

4 (3) 'Approved costs' means:

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

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

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

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

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

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

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

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

27 (4) 'Incremental Georgia sales and use tax' means those state sales and use taxes
28 generated by the project above the amount of sales and use taxes generated by the
29 previous use of the property on which the project is located.

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

1 (A) A tourism attraction shall include commercial lodging facilities if the facilities
 2 constitute a significant portion of a tourism attraction project or the facilities shall be
 3 located on recreational property leased from a county, a municipal corporation, the
 4 state, or the federal government; and

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

6 (i) Facilities that are primarily devoted to the retail sale of goods, shopping centers,
 7 restaurants, or movie theaters; or

8 (ii) Recreational facilities that do not serve as likely destinations where individuals
 9 who are not residents of this state would remain overnight in commercial lodging
 10 facilities at the tourism attraction project.

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

19 48-8-242.

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

33 48-8-243.

34 (a)(1)(A) In consideration of the execution of the agreement, each approved company
 35 shall be granted a sales and use tax refund from the incremental Georgia sales and use

1 tax and all local sales and use taxes on the sales generated by the approved company
2 and arising at the tourism attraction.

3 (B) In consideration of the execution of the agreement, each approved company shall
4 be granted a sales and use tax refund from the incremental Georgia sales and use tax
5 and all local sales and use taxes on the sales generated by the approved company that
6 are attributable to and connected with any project to be a part of or an addition to an
7 existing tourism attraction. Each approved company shall keep and maintain annual
8 records that delineate the increase in sales created by a project at an existing tourism
9 attraction in order to be eligible to be granted a refund for that increase in sales.

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

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

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

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

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

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

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

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

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

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

36 (e) The Department of Economic Development, in consultation with other appropriate
37 state agencies, shall promulgate administrative regulations and require the filing of a refund

1 form designed by the Department of Economic Development to reflect the intent of this
2 article.

3 48-8-244.

4 (a) The commissioner of economic development, in consultation with other appropriate
5 state agencies, shall establish standards for the filing of an application for tourism attraction
6 projects by the promulgation of administrative regulations.

7 (b) An application for a tourism attraction project filed with the Department of Economic
8 Development shall include marketing plans for the tourism attraction project that target
9 individuals who are not residents of this state; a description and location of such tourism
10 attraction project; capital and other anticipated expenditures for such tourism attraction
11 project and the anticipated sources of funding therefor; the anticipated employment and
12 wages to be paid at such tourism attraction project; business plans which indicate the
13 average number of days in a year in which such tourism attraction project will be in
14 operation and open to the public; and the anticipated revenues to be generated by such
15 tourism attraction project.

16 (c) The commissioner of economic development and the local governing authority
17 specified in paragraph (2) of Code Section 48-8-241 may grant approval to the tourism
18 attraction project if the project shall:

19 (1)(A) Have approved costs in excess of \$25 million if such project is to be a new
20 tourism attraction.

21 (B) Have approved costs in excess of \$10 million if such project is to be a part of or
22 an addition to an existing tourism attraction;

23 (2) Have a significant and positive economic impact on this state, considering, among
24 other factors, the extent to which the tourism attraction project will compete directly with
25 existing tourism attractions in this state and the amount by which increased state and local
26 tax revenues from the tourism attraction project will exceed the refund to be given to the
27 approved company;

28 (3) Produce sufficient revenues and public demand to be operating and open to the public
29 for a minimum of 120 days per year; and

30 (4) Not adversely affect existing employment in this state.

31 48-8-245.

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

1 (1) The projected amount of approved costs, provided any increase in approved costs
2 incurred by the approved company and agreed to by the department shall apply
3 retroactively for purposes of calculating the carry forward for unused sales and use tax
4 refunds as set forth in subsection (c) of Code Section 48-8-243 for tax years commencing
5 on or after the effective date of this article;

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

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

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

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

16 **SECTION 2.**

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

19 **SECTION 3.**

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