

The House Committee on Ways and Means offers the following substitute to HB 851:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-29.8 of the Official Code of Georgia Annotated, relating to
2 income tax credits for the certified rehabilitation of historic structures, so as to change the
3 method of calculation of the tax credit; to remove the cap on the amount of credits; to
4 authorize the transfer or assignment of tax credits one time under certain circumstances; to
5 provide that proceeds received by the taxpayer for the assignment or sale of tax credits shall
6 be exempt from taxation as income; to provide for an effective date and applicability; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-7-29.8 of the Official Code of Georgia Annotated, relating to income tax
11 credits for the certified rehabilitation of historic structures, is amended by revising subsection
12 (b) as follows:

13 "(b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter for the
14 taxable year in which the certified rehabilitation is completed:

15 (1) In the case of a historic home, equal to ~~10~~ 25 percent of qualified rehabilitation
16 expenditures, except that, in the case of a historic home located within a target area, an
17 additional credit equal to 5 percent of qualified rehabilitation expenditures shall be
18 allowed; and

19 (2) In the case of any other certified structure, equal to ~~20~~ 25 percent of qualified
20 rehabilitation expenditures."

21 **SECTION 2.**

22 Said Code section is further amended by revising subsection (c) as follows:

23 "(c)(1) In no event shall credits for a historic home ~~or certified structure~~ exceed
24 ~~\$5,000.00~~ \$100,000.00 in any 120 month period.

1 (2) In no event shall credits for a certified structure exceed \$300,000.00 in any 120
 2 month period."

3 SECTION 3.

4 Said Code section is further amended by adding a new subsection to read as follows:

5 "(c.1) Any tax credits under this Code section earned by a taxpayer and previously claimed
 6 but not used by such taxpayer against its income tax may be transferred or sold in whole
 7 or in part one time only by such taxpayer to another Georgia taxpayer, subject to the
 8 following conditions:

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

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

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

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

28 SECTION 4.

29 Said Code section is further amended by adding a new subsection to read as follows:

30 "(h.1) Any proceeds received by the taxpayer from the transfer or sale of the tax credits
 31 under subsection (c.1) of this Code section shall not constitute income for purposes of
 32 determining the taxpayer's taxable net income under this chapter."

33 SECTION 5.

34 Said Code section is further amended by revising subsection (i) as follows:

1 "(i) The tax credit allowed under this Code section, and any recaptured tax credit, shall be
2 allocated among some or all of the partners, members, or shareholders of the entity owning
3 the project or any entity to which the tax credit has been transferred or sold under
4 subsection (c.1) of this Code section in any manner agreed to by such persons, whether or
5 not such persons are allocated or allowed any portion of any other tax credit with respect
6 to the project."

7 **SECTION 6.**

8 This Act shall become effective on January 1, 2009, and shall apply to all taxable years
9 beginning on or after that date.

10 **SECTION 7.**

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