

House Bill 1069 (COMMITTEE SUBSTITUTE)

By: Representatives Wilkinson of the 52nd, Porter of the 143rd, Lindsey of the 54th, Hugley of the 133rd, Stephens of the 164th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to income tax imposition, rate, computation, and exemptions, so as to provide for tax
3 credits for certain qualified equipment that reduces business or domestic energy or water
4 usage; to provide an effective date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

7 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
8 income tax imposition, rate, computation, and exemptions, is amended by adding a new Code
9 section to read as follows:

10 "48-7-40.29.

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

12 (1) 'Cost' means the aggregate funds actually invested and expended by a taxpayer to put
13 into service the qualified equipment.

14 (2) 'Energy efficient equipment' means all machinery and equipment certified pursuant
15 to rules and regulations promulgated for purposes of this Code section by the
16 commissioner of natural resources, as effective in reducing business or domestic energy
17 usage. Such certifications may include, by way of example and not limitation, any
18 dishwasher, clothes washer, air conditioner, ceiling fan, fluorescent light bulb,
19 dehumidifier, programmable thermostat, refrigerator, door, or window which has been
20 designated by the United States Environmental Protection Agency and the United States
21 Department of Energy as meeting or exceeding each such agency's energy saving
22 efficiency requirements or which have been designated as meeting or exceeding such
23 requirements under each such agency's Energy Star program.

24 (3) 'Qualified equipment' means energy efficient equipment or water efficient equipment.

25 (4) 'Water efficient equipment' means all machinery and equipment certified pursuant
26 to rules and regulations promulgated for purposes of this Code section by the

27 commissioner of natural resources, as effective in reducing business or domestic water
28 usage. Such certifications may include, by way of example and not limitation, any
29 product used for the conservation or efficient use of water which has been designated by
30 the United States Environmental Protection Agency as meeting or exceeding such
31 agency's water saving efficiency requirements or which has been designated as meeting
32 or exceeding such requirements under such agency's Water Sense program.

33 (b) Rules and regulations of the commissioner of natural resources shall establish
34 classifications or categories of qualified equipment, and no item of such qualified
35 equipment shall be included in more than one classification or category for purposes of
36 claiming a tax credit under this Code section. The commissioner of natural resources, may
37 take all reasonable and necessary steps to identify qualified equipment and to bring such
38 equipment to the attention of taxpayers in this state qualified to install such equipment.

39 (c) After the effective date of this Code section, any taxpayer who is the ultimate purchaser
40 of an item of qualified equipment for installation as part of new construction or for retrofit
41 in this state shall be allowed a credit against the tax imposed under this article in the
42 taxable year in which such qualified equipment was placed in service. The amount of the
43 credit allowed under this Code section shall be 25 percent of the cost of the qualified
44 equipment or \$2,500.00, whichever is less.

45 (d) The credit granted under subsection (c) of this Code section shall be subject to the
46 following conditions and limitations:

47 (1) The aggregate amount of credit which shall be claimed and allowed by taxpayers in
48 any taxable year under this Code section shall be limited solely and exclusively to the
49 amount of federal funds granted to the state for purposes of this Code section. In any tax
50 year in which no federal funds are available for such purposes, no credit shall be claimed
51 and allowed under this Code section.

52 (2) A taxpayer that claims a credit allowed under this Code section shall not be eligible
53 to claim such qualified equipment for the clean energy property credit provided in Code
54 Section 48-7-29.14; and

55 (3) To claim a credit allowed by this Code section, the taxpayer shall provide any
56 information required by the Department of Natural Resources or the department. Every
57 taxpayer claiming a credit under this Code section shall maintain and make available for
58 inspection by the Department of Natural Resources or the department any records that
59 either entity considers necessary to determine and verify the amount of the credit to
60 which the taxpayer is entitled. The burden of proving eligibility for a credit and the
61 amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer
62 that fails to maintain adequate records or to make them available for inspection.

63 (e) In no event shall the amount of the tax credit allowed by this Code section for a taxable
64 year exceed the taxpayer's income tax liability. Any unused credit amount shall be allowed
65 to be carried forward for five years from the close of the taxable year in which the qualified
66 equipment was placed in service. No such credit shall be allowed the taxpayer against
67 prior years' tax liability.

68 (f) After the qualified equipment is placed in service, a taxpayer seeking to claim any tax
69 credit provided for under this Code section must submit an application to the commissioner
70 for tentative approval of such tax credit. The commissioner shall promulgate the rules and
71 forms on which the application is to be submitted. The commissioner shall review such
72 application and shall tentatively approve such application upon determining that it meets
73 the requirements of this Code section within 60 days after receiving such application.

74 (g) The commissioner shall allow the tax credits on a first come, first served basis. In no
75 event shall the aggregate amount of tax credits approved by the commissioner for all
76 taxpayers under this Code section exceed the amount of federal funds granted to the state
77 for purposes of this Code section.

78 (h) The Department of Natural Resources and the department shall be authorized to adopt
79 rules and regulations to provide for the administration of the tax credit provided by this
80 Code section. Specifically, the Department of Natural Resources and the department shall
81 create a mechanism to track and report the status and availability of credits for the public
82 to review at a minimum on a quarterly basis."

83 **SECTION 2.**

84 This Act shall become effective on January 1 of the year following the year in which federal
85 funds are made available for the purpose of funding the credit provided by this Act and in
86 which the state auditor certifies in writing to the commissioner of natural resources and the
87 state revenue commissioner that such funds have been received, have been deposited in the
88 general fund, and are available for purposes of this Act.

89 **SECTION 3.**

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