

SENATE SUBSTITUTE TO HB 1069

AS PASSED SENATE

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:

SECTION 1.

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

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, energy efficient water heater,
20 skylighting system, whole house fan, energy use meter, light-emitting diode lighting
21 system, geothermal heating system, door, or window which has been designated by the
22 United States Environmental Protection Agency and the United States Department of
23 Energy as meeting or exceeding each such agency's energy saving efficiency
24 requirements or which have been designated as meeting or exceeding such requirements
25 under each such agency's Energy Star program.

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

27 (4) 'Water efficient equipment' means all machinery and equipment certified pursuant
28 to rules and regulations promulgated for purposes of this Code section by the
29 commissioner of natural resources as effective in reducing business or domestic water
30 usage. Such certifications shall include, by way of example and not limitation, water
31 conservation systems capable of storing rain water or gray water for future use and
32 reusing the collected water for the same residential or commercial property and other
33 products used for the conservation or efficient use of water which have been designated
34 by the United States Environmental Protection Agency as meeting or exceeding such
35 agency's water saving efficiency requirements or which have been designated as meeting
36 or exceeding such requirements under such agency's Water Sense program.

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

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

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

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

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

59 (3) To claim a credit allowed by this Code section, the taxpayer shall provide any
60 information required by the Department of Natural Resources or the department. Every
61 taxpayer claiming a credit under this Code section shall maintain and make available for
62 inspection by the Department of Natural Resources or the department any records that
63 either entity considers necessary to determine and verify the amount of the credit to

64 which the taxpayer is entitled. The burden of proving eligibility for a credit and the
 65 amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer
 66 that fails to maintain adequate records or to make them available for inspection.

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

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

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

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

87 **SECTION 2.**

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

93 **SECTION 3.**

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