

House Bill 222

By: Representatives Roberts of the 154th, Stephens of the 164th, Sims of the 169th, Abrams of the 84th, Wilkinson of the 52nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-29.12 of the Official Code of Georgia Annotated, relating to
2 the income tax credit for donation of real property for conservation purposes, so as to provide
3 for the transfer, devise, and distribution of unused conservation tax credits; to provide for
4 procedures, conditions, and limitations; to provide for related matters; to provide an effective
5 date; to provide for applicability; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-7-29.12 of the Official Code of Georgia Annotated, relating to the income
9 tax credit for donation of real property for conservation purposes, is amended by adding a
10 new subsection to read as follows:

11 "(d.1) Any tax credits under this Code section earned by a taxpayer and previously claimed
12 but not used by such taxpayer against such taxpayer's income tax may be transferred or sold
13 in whole or in part by such taxpayer to another Georgia taxpayer, subject to the following
14 conditions:

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

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

23 (3) In no event shall the amount of the tax credit under this subsection claimed and
24 allowed for a taxable year exceed the transferee's income tax liability. Any unused credit
25 may be carried forward to subsequent taxable years provided that the transfer or sale of
26 this tax credit does not extend the time in which such tax credit can be used. The

27 carry-forward period for tax credit that is transferred or sold shall begin on the date on
28 which the tax credit was originally earned; and
29 (4) A transferee shall have only such rights to claim and use the tax credit that were
30 available to the transferor at the time of the transfer. To the extent that such transferor
31 did not have rights to claim and use the tax credit at the time of the transfer, the
32 department shall either disallow the tax credit claimed by the transferee or recapture the
33 tax credit from the transferee. The transferee's recourse is against the transferor."

34 **SECTION 2.**

35 This Act shall become effective on January 1, 2012, and shall apply to all taxable years
36 beginning on or after January 1, 2012.

37 **SECTION 3.**

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