

House Bill 403

By: Representative Stephens of the 164th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.30 of the Official Code of Georgia Annotated, relating to
2 income tax credits for certain qualified investments for a limited period of time, so as to
3 revise certain provisions related to qualified businesses and limitations related to income tax
4 credits; to provide for related matters; to provide for an effective date and applicability; to
5 repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-7-40.30 of the Official Code of Georgia Annotated, relating to income tax
9 credits for certain qualified investments for a limited period of time, is amended by revising
10 paragraph (6) of subsection (b) as follows:

11 "(6) 'Qualified business' means a registered business that:

12 (A) Is either a corporation, limited liability company, or a general or limited
13 partnership located in this state;

14 (B) Was organized no more than three years before the qualified investment was made;

15 (C) Has its headquarters located in this state at the time the investment was made and
16 has maintained such headquarters for the entire time the qualified business benefitted
17 from the tax credit provided for pursuant to this Code section;

18 (D) Employs ~~20~~ 50 or fewer people in this state at the time it is registered as a qualified
19 business;

20 (E) Has had in any complete fiscal year before registration gross annual revenue as
21 determined in accordance with the Internal Revenue Code of ~~\$500,000.00~~ \$1 million
22 or less on a consolidated basis;

23 (F) Has not obtained during its existence more than ~~\$1~~ \$5 million in aggregate gross
24 cash proceeds from the issuance of its equity or debt investments, not including
25 commercial loans from chartered banking or savings and loan institutions;

26 (G) Has not utilized the tax credit described in Code Section 48-7-40.26;

27 (H) Is primarily engaged in manufacturing, processing, online and digital warehousing,
 28 online and digital wholesaling, software development, information technology services,
 29 research and development, or a business providing services other than those described
 30 in subparagraph (I) of this paragraph; and

31 (I) Does not engage substantially in:

32 (i) Retail sales;

33 (ii) Real estate or construction;

34 (iii) Professional services;

35 (iv) Gambling;

36 (v) Natural resource extraction;

37 (vi) Financial, brokerage, or investment activities or insurance; or

38 (vii) Entertainment, amusement, recreation, or athletic or fitness activity for which
 39 an admission or membership is charged.

40 A business shall be substantially engaged in one of the above activities if its gross
 41 revenue from such activity exceeds 25 percent of its gross revenues in any fiscal year or
 42 it is established pursuant to its articles of incorporation, articles of organization, operating
 43 agreement, or similar organizational documents to engage in, as one of its primary
 44 purposes, such activity."

45 **SECTION 2.**

46 Said Code section is further amended by revising paragraph 2 of subsection (f) as follows:

47 "(2) The aggregate amount of credit allowed an individual for one or more qualified
 48 investments in a single taxable year under this Code section, whether made directly or by
 49 a pass-through entity and allocated to such individual, shall not exceed ~~\$50,000.00~~
 50 \$100,000.00;"

51 **SECTION 3.**

52 Said Code section is further amended by revising paragraph 2 of subsection (i) as follows:

53 "(2) The commissioner shall provide tentative approval of the applications by the date
 54 provided in paragraph (3) of this subsection as follows:

55 (A) The total aggregate amount of all tax credits allowed to qualified investors or
 56 pass-through entities for investments made in the 2011 calendar year and claimed and
 57 allowed in the 2013 taxable year shall not exceed ~~\$10~~ \$25 million in such year;

58 (B) The total aggregate amount of all tax credits allowed to qualified investors or
 59 pass-through entities for investments made in the 2012 calendar year and claimed and
 60 allowed in the 2014 taxable year shall not exceed ~~\$10~~ \$25 million in such year; and

61 (C) The total aggregate amount of all tax credits allowed to qualified investors or
62 pass-through entities for investments made in the 2013 calendar year and claimed and
63 allowed in the 2015 taxable year shall not exceed ~~\$10~~ \$25 million in such year."

64 **SECTION 4.**

65 This Act shall become effective on July 1, 2011, and shall be applicable to taxable year 2012
66 and all taxable years thereafter.

67 **SECTION 5.**

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