

House Bill 446

By: Representatives Knight of the 130<sup>th</sup>, Rutledge of the 109<sup>th</sup>, Kelley of the 16<sup>th</sup>, and Harrell of the 106<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-7-40.36 of the Official Code of Georgia Annotated, relating to  
2 income tax credits for timber producers incurring losses from Hurricane Michael, so as to  
3 clarify that certain income tax credits that have been transferred shall not be refundable to  
4 the transferee and shall not be eligible for transfer; to provide for an effective date; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-7-40.36 of the Official Code of Georgia Annotated, relating to income tax  
9 credits for timber producers incurring losses from Hurricane Michael, is amended by revising  
10 subsections (g) and (h) as follows:

11 "(g)(1) The total amount of the tax credits allowed pursuant to this Code section for a  
12 taxable year may exceed the taxpayer's income tax liability. Such tax credits allowed in  
13 excess of a taxpayer's income tax liability shall be refundable to such taxpayer, provided  
14 that such taxpayer is the taxpayer that incurred the timber casualty loss.

15 (2) Tax credits claimed pursuant to this Code section but not used in any taxable year  
16 may be carried forward for ten years from the close of the taxable year in which the  
17 credits are claimed.

18 (h) Tax credits claimed pursuant to this Code section but not used by the taxpayer against  
19 its income tax or refunded may be transferred or sold one time to a single other Georgia  
20 taxpayer, subject to the following conditions:

21 (1) Only the taxpayer that claimed tax credits allowed pursuant to this Code section shall  
22 make the transfer or sale of such tax credits;

23 (2) The taxpayer that claimed the tax credits allowed pursuant to this Code section shall  
24 submit to the commissioner written notification of any transfer or sale of tax credits  
25 within 30 days after the transfer or sale of such tax credits. The notification shall include:

26 (A) Such taxpayer's credit balance prior to transfer;

- 27 (B) The credit certificate number;
- 28 (C) The remaining balance of credits after transfer;
- 29 (D) The tax identification numbers for the transferee;
- 30 (E) The date of transfer;
- 31 (F) The amount of credits transferred; and
- 32 (G) Other information as may be required by the department;
- 33 (3) Failure to comply with this subsection shall result in the disallowance of the tax  
34 credits allowed pursuant to this Code section until the taxpayer that claimed the credits  
35 is in full compliance;
- 36 (4) The transfer or sale of the tax credits does not extend the time during which such tax  
37 credits can be used. The carry-forward period for tax credits that are transferred or sold  
38 shall begin on the date on which such tax credits were originally claimed;
- 39 (5) A transferee shall have only such rights to claim and use the tax credits that were  
40 available to the transferor at the time of the transfer, provided that a transferee shall not  
41 be eligible to transfer or receive a refund of such tax credits. To the extent that the  
42 transferor did not have rights to claim or use the tax credits at the time of the transfer, the  
43 commissioner shall disallow the tax credits claimed by the transferee or recapture the tax  
44 credits from the transferee or transferor. The transferee's recourse shall not be against the  
45 commissioner; and
- 46 (6) The transferee must acquire the tax credits allowed pursuant to this Code section for  
47 a minimum of 60 percent of the amount of the tax credits so transferred."

48 **SECTION 2.**

49 This Act shall become effective upon its approval by the Governor or upon its becoming law  
50 without such approval.

51 **SECTION 3.**

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