

The House Committee on Rules offers the following substitute to SB 349:

A BILL TO BE ENTITLED

AN ACT

1 To amend Titles 33, 48, and 50 of the Official Code of Georgia Annotated, relating to
2 insurance, revenue and taxation, and state government, respectively, so as to revise the film
3 tax credit; to separate into a new Code section provisions related to tax credits for qualified
4 interactive entertainment production companies; to provide for base investment requirements
5 for a qualified production company to qualify for the credit; to provide for a maximum
6 amount of credits that may be transferred in a given year under certain circumstances; to
7 provide for the implementation of such maximum; to provide for conditions related to
8 transferability of credits; to provide for the circumstances under which a company qualifies
9 for an additional credit; to authorize certain certification fees; to require companies to pay
10 court costs if the denial of certification is upheld by a court on appeal; to provide for an
11 application requirement; to remove outdated and unnecessary language; to provide for clarity
12 and consistency; to provide a short title; to provide for definitions; to revise the low-income
13 housing tax credits; to provide that such tax credits shall be termed the Georgia affordable
14 housing tax credits; to reduce the amount of such credits for certain projects; to authorize
15 such credits in an amount equal to the federal credit for certain projects; to provide for
16 definitions; to provide for open records; to create the Special Commission on Data Center
17 Energy Planning; to provide for membership; to provide for related matters; to provide for
18 effective dates and applicability; to repeal conflicting laws; and for other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 **PART I**
21 **SECTION 1-1.**

22 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
23 amended by revising Code Section 48-7-40.26, relating to income tax credits for film,
24 gaming, video, or digital production, as follows:

25 "48-7-40.26.

26 (a) This Code section shall be known and may be cited as the 'Georgia Entertainment
27 Industry Investment Act.'

28 (b) As used in this Code section, the term:

29 (1) 'Affiliates' means those entities that are included in the production company's ~~or~~
30 ~~qualified interactive entertainment production company's~~ affiliated group as defined in
31 Section 1504(a) of the Internal Revenue Code and all other entities that are directly or
32 indirectly owned 50 percent or more by members of ~~the~~ such affiliated group. For
33 purposes of this Code section, notwithstanding its form of organization, a production
34 company shall be deemed a member of an affiliated group if it is directly or indirectly
35 owned 50 percent or more by one or more members of an affiliated group.

36 (2) 'Base investment' means the aggregate funds actually invested and expended by a
37 production company ~~or qualified interactive entertainment production company~~ as
38 production expenditures ~~incurred in this state~~ that are directly used in a one or more state
39 certified ~~production or productions~~.

40 (3) ~~'Game platform' means the electronic delivery system used to launch or play an~~
41 ~~interactive game.~~

42 ~~(4) 'Game sequel' means an interactive game which builds upon the theme of a~~
 43 ~~previously released interactive game, is distinguished by a new title, and features~~
 44 ~~objectives or characters that are recognizably different from the original game.~~

45 ~~(5)(3) 'Multimarket commercial distribution' means paid commercial distribution with~~
 46 ~~media buys which extend to markets outside the State of Georgia this state.~~

47 ~~(6) 'Prereleased interactive game' means a new game, the offering of an existing game~~
 48 ~~on a new game platform, or a game sequel that is in the developmental stages of~~
 49 ~~production, which may be available to individuals for testing purposes but is not~~
 50 ~~generally made available or distributed to consumers or to the general public.~~

51 ~~(7)(4) 'Production company' means a company, other than a qualified interactive~~
 52 ~~entertainment production company, primarily engaged in qualified production activities~~
 53 ~~which have been approved by the Department of Economic Development. This Such~~
 54 ~~term shall not mean or include any form of business owned, affiliated, or controlled, in~~
 55 ~~whole or in part, by any company or person which is in default on any tax obligation of~~
 56 ~~in the state, or a loan made by the state, or a loan guaranteed by the state.~~

57 ~~(8)(5) 'Production expenditures' means:~~

58 (A) Preproduction, production, and postproduction expenditures incurred in this state
 59 that are directly used in a qualified production activity, including, but not limited to, the
 60 following: set construction and operation; wardrobes, ~~make-up~~ makeup, accessories,
 61 and related services; costs associated with photography and sound synchronization;
 62 expenditures excluding license fees incurred with ~~Georgia~~ companies for sound
 63 recordings and musical compositions; sound recording projects used in feature films,
 64 series, pilots, or movies; lighting and related services and materials; editing and related
 65 services; rental of facilities and equipment; leasing of vehicles; costs of food and
 66 lodging; digital or tape editing; film processing; transfers of film to tape or digital
 67 format; sound mixing; computer graphics services; special effects services; visual
 68 effects services; animation services; total aggregate payroll; airfare, if purchased

69 through a Georgia travel agency or travel company; insurance costs and bonding, if
 70 purchased through a Georgia insurance agency; and other direct costs of producing the
 71 project in accordance with generally accepted entertainment industry practices;

72 (B) ~~This~~ Such term shall not include:

73 (i) Postproduction expenditures for footage shot outside ~~the State of Georgia~~ this
 74 state, marketing, story rights, or distribution;

75 (ii) ~~Any expenditure~~ Expenditures for work or services not conducted or rendered in
 76 ~~Georgia~~ this state. Expenditures for services not performed at the filming site shall
 77 only qualify if the vendor performing such services is a Georgia vendor.
 78 Expenditures for services conducted or rendered both in ~~Georgia~~ and outside ~~Georgia~~
 79 this state shall only qualify to the extent the service is conducted or rendered in
 80 ~~Georgia~~ this state;

81 (iii) Expenditures for goods that were not purchased, ~~or~~ rented, or leased in this state
 82 from a Georgia vendor. Expenditures for goods shall only qualify to the extent such
 83 goods are used in this state. A vendor that acts as a conduit to enable purchases or
 84 rentals to qualify that would not otherwise qualify shall not be considered a Georgia
 85 vendor with respect to such purchases, rentals, or leases; or

86 (iv) ~~Any transaction~~ Transactions subject to taxation imposed by Chapter 8 or 13 of
 87 this title for which taxes have not been demonstrably paid;

88 (C) ~~This~~ Such term ~~includes~~ shall include payments to a loan-out company by a
 89 production company ~~or qualified interactive entertainment production company~~ that has
 90 met its withholding tax obligations as ~~set out below~~ provided in this subparagraph. The
 91 production company ~~or qualified interactive entertainment production company~~ shall
 92 withhold Georgia income tax at the rate imposed by subsection (a) of Code Section
 93 48-7-21 on all payments to loan-out companies for services performed in ~~Georgia~~ this
 94 state. Any amounts so withheld shall be deemed to have been withheld by the loan-out
 95 company on wages paid to its employees for services performed in ~~Georgia~~ this state

96 pursuant to Article 5 of this chapter notwithstanding the exclusion provided in
 97 subparagraph (K) of paragraph (10) of Code Section 48-7-100. The amounts so
 98 withheld shall be allocated to the loan-out company's employees based on the payments
 99 made to the loan-out company's employees for services performed in ~~Georgia~~ this state.
 100 For purposes of this chapter, and notwithstanding any other provisions of this chapter,
 101 loan-out company nonresident employees performing services in ~~Georgia~~ this state
 102 shall be considered taxable nonresidents, and the loan-out company shall be subject to
 103 income taxation in the taxable year in which the loan-out company's employees perform
 104 services in ~~Georgia, notwithstanding any other provisions in this chapter~~ this state.
 105 Such withholding liability shall be subject to penalties and interest in the same manner
 106 as the ~~employee employer~~ employer withholding taxes imposed by Article 5 of this chapter, and
 107 the commissioner shall provide by regulation the manner in which such liability shall
 108 be assessed and collected; and

109 (D) Production expenditures by a production company shall be subject to any
 110 limitations or reductions imposed by pursuant to subsection ~~(f)~~ (k) of this Code section.
 111 ~~(9)~~ (6) 'Qualified Georgia promotion' means a qualified promotion of this state approved
 112 by the Department of Economic Development consisting of a:

113 (A) Qualified movie production which includes a five-second long static or animated
 114 logo that promotes Georgia in the end credits before the below-the-line crew crawl for
 115 the life of the project and which includes a link to Georgia on the project's ~~web page~~
 116 public website;

117 (B) Qualified TV production which includes an embedded five-second long Georgia
 118 promotion during each broadcast worldwide for the life of the project and which
 119 includes a link to Georgia on the project's ~~web page~~ public website; or

120 (C) Qualified music video which includes the Georgia logo at the end of each video
 121 and within online promotions; ~~or~~

122 ~~(D) Qualified interactive game which includes a 15-second long Georgia advertisement~~
 123 ~~in units sold and embedded in online promotions.~~

124 ~~(10) 'Qualified interactive entertainment production company' means a company that:~~

125 ~~(A) Maintains a business location physically located in Georgia;~~

126 ~~(B)(i) Through December 31, 2017, in the calendar year directly preceding the start~~
 127 ~~of the taxable year of the qualified interactive entertainment production company, had~~
 128 ~~a total aggregate payroll of \$500,000.00 or more for employees working within the~~
 129 ~~state; or~~

130 ~~(ii) On or after January 1, 2018, had a total aggregate payroll of \$250,000.00 or more~~
 131 ~~for employees working within the state in the taxable year the qualified interactive~~
 132 ~~entertainment production company claims the tax credits;~~

133 ~~(C) Has gross income less than \$100 million for the taxable year; and~~

134 ~~(D) Is primarily engaged in qualified production activities related to interactive~~
 135 ~~entertainment which have been approved by the Department of Economic~~
 136 ~~Development.~~

137 ~~This term shall not mean or include any form of business owned, affiliated, or controlled,~~
 138 ~~in whole or in part, by any company or person which is in default on any tax obligation~~
 139 ~~of the state, or a loan made by the state or a loan guaranteed by the state.~~

140 ~~(H)(7) 'Qualified production activities' means the production of new film, video, or~~
 141 ~~digital projects produced in this state and approved by the Department of Economic~~
 142 ~~Development as state certified productions, including only the following: feature films,~~
 143 ~~series, pilots, movies for television, televised commercial advertisements, and music~~
 144 ~~videos; interactive entertainment, or prereleased interactive games. Such activities term~~
 145 ~~shall include projects recorded in this state, in whole or in part, in either short or long~~
 146 ~~form, animation and music, fixed on a delivery system which includes without limitation~~
 147 ~~film, videotape, computer disc, laser disc, and any element of the digital domain, from~~
 148 ~~which the program is viewed or reproduced, and which is intended for multimarket~~

149 commercial distribution via theaters, video on demand, direct to DVD, ~~digital platforms~~
 150 ~~designed for the distribution of interactive games~~, licensing for exhibition by individual
 151 television stations, groups of stations, networks, ~~advertiser supported sites~~ paid
 152 subscription based platforms, cable television stations, or public broadcasting stations.
 153 Such term shall not include ~~the~~ coverage of news or athletic events, local interest
 154 programming, instructional videos, corporate videos, any project that is not intended for
 155 multimarket commercial distribution, or any project not shot, recorded, or originally
 156 created in Georgia this state.

157 ~~(12)~~ 'Resident' means an individual as designated pursuant to paragraph ~~(10)~~ of Code
 158 Section ~~48-7-1~~, as amended.

159 ~~(13)~~(8) 'State certified production' means a production engaged in qualified production
 160 activities which have been approved by the Department of Economic Development in
 161 accordance with this Code section and regulations promulgated pursuant to this Code
 162 section. In the instance of a '~~work~~ work for ~~hire~~ hire' in which one production company
 163 ~~or qualified interactive entertainment production company~~ hires another production
 164 company ~~or qualified interactive entertainment production company~~ to produce a project
 165 or contribute elements of a project for pay, the hired company shall be considered a
 166 service provider for the hiring company, and the hiring company shall be entitled to the
 167 ~~film~~ tax credit allowed under this Code section.

168 ~~(14)~~(9) 'Total aggregate payroll' means the total sum expended by a production company
 169 ~~or qualified interactive entertainment production company~~ on salaries paid to employees
 170 working ~~within~~ in this state in a one or more state certified ~~production~~ or productions.
 171 For purposes of this paragraph:

172 (A) With respect to a single employee, the portion of any salary which exceeds
 173 \$500,000.00 for a single production shall not be included when calculating total
 174 aggregate payroll; and

175 (B) All payments and distributions to a single employee and any legal entity in which
176 the employee has any direct or indirect ownership interest shall be considered as having
177 been paid to the employee and shall be aggregated regardless of the means of payment
178 or distribution.

179 (c) For any production company ~~or qualified interactive entertainment production~~
180 ~~company~~ and its affiliates that invest in a state certified production ~~approved by the~~
181 ~~Department of Economic Development~~ and whose average annual total production
182 expenditures in this state did not exceed \$30 million for 2002, 2003, and 2004, there shall
183 be allowed an income tax credit against the tax imposed under this article. The tax credit
184 under this subsection shall be allowed if the base investment by a production company and
185 its affiliates that invest in state certified productions in this state equals or exceeds
186 \$500,000.00 for ~~qualified production activities~~ a single state certified production or \$5
187 million for all state certified productions, ~~except that any qualified interactive~~
188 ~~entertainment production company shall be allowed the tax credit under this subsection if~~
189 ~~the base investment in this state equals or exceeds \$250,000.00 for qualified production~~
190 ~~activities on or after January 1, 2018,~~ and shall be calculated as follows:

191 (1) The production company ~~or qualified interactive entertainment production company~~
192 shall be allowed a tax credit equal to 20 percent of the base investment in this state; and

193 (2)(A) The production company ~~or qualified interactive entertainment production~~
194 ~~company~~ shall be allowed an additional tax credit equal to 10 percent of such base
195 investment if, as determined as a result of the audit required by subsection (k) of this
196 Code section, the ~~qualified production activity includes a qualified Georgia promotion.~~
197 ~~Such additional tax credit shall be allowed for any qualified production that includes~~
198 ~~a qualified Georgia promotion upon its release to the general public. In lieu of the~~
199 ~~inclusion of the Georgia promotional logo, the production company or qualified~~
200 ~~interactive entertainment production company may offer alternative marketing~~
201 ~~opportunities to be evaluated by the Department of Economic Development to ensure~~

202 ~~that they offer equal or greater promotional value to the State of Georgia. The~~
203 ~~Department of Economic Development shall electronically certify to the Department~~
204 ~~of Revenue when the requirements of this subparagraph and paragraph (2) of subsection~~
205 ~~(d) of this Code section have been met. the production company meets at least four of~~
206 ~~the following criteria with respect to the state certified production:~~

207 ~~(i) At least 50 percent of the number of crew members performing services in this~~
208 ~~state are Georgia residents;~~

209 ~~(ii) At least 50 percent of the total number of vendors providing goods or services in~~
210 ~~this state are Georgia vendors;~~

211 ~~(iii) It incurs at least \$30 million of production expenditures in this state;~~

212 ~~(iv) At least 50 percent of its photography days occur in one or more counties that~~
213 ~~have been underutilized by production companies as determined by the Department~~
214 ~~of Economic Development;~~

215 ~~(v) At least 50 percent of its total principal photography days in studio facilities are~~
216 ~~in studio facilities in this state, including, but not limited to, soundstages and backlots,~~
217 ~~or the company or its affiliates:~~

218 ~~(I) Make capital improvements to a studio facility in this state that are in a form~~
219 ~~and manner approved by the Department of Economic Development based on the~~
220 ~~value of the capital improvements relative to the amount of tax credit sought; or~~

221 ~~(II) Own a studio facility in this state or enter into a lease of at least five years in~~
222 ~~duration with a studio facility in this state with at least 100,000 square feet of~~
223 ~~production space, including, but not limited to, soundstages, backlots, and~~
224 ~~production offices;~~

225 ~~(vi) The company contracts with Georgia vendors for 20 percent of such production's~~
226 ~~postproduction expenditures or contracts with Georgia vendors for 20 percent of such~~
227 ~~production's visual effects expenditures;~~

228 (vii) The company participates in or supports at least one Georgia workforce
229 development program, including, but not limited to, a Georgia Film Academy
230 program;

231 (viii) Such production includes a qualified Georgia promotion, or the company
232 engages in alternative marketing opportunities approved by the Department of
233 Economic Development based on a determination that such activities offer
234 promotional value to the state equal to or greater than the promotional value of a
235 qualified Georgia promotion; or

236 (ix) The company contracts with a resident or company doing business in this state
237 for the arrangement, recording, or production of elements of such production's
238 original music score or one or more songs included in such production's soundtrack;
239 licenses sound recordings or musical compositions from a resident or company doing
240 business in this state for inclusion in such production or soundtrack; or contracts with
241 one or more residents for the composition or performance of the original music score
242 for such production or one or more songs included in such production's soundtrack.

243 (B) The Department of Economic Development shall prepare an annual report detailing
244 the alternative marketing opportunities it has approved under the provisions of
245 subparagraph (A) of this paragraph. The report shall include, but not be limited to:

246 (i) The goals and strategy behind each alternative marketing opportunity approved
247 pursuant to the provisions of subparagraph (A) of this paragraph;

248 (ii) The names of all production companies approved by the Department of Economic
249 Development to provide alternative marketing opportunities;

250 (iii) The estimated value to the state of each approved alternative marketing
251 opportunity compared to the estimated value of ~~the~~ including a qualified Georgia
252 promotional logo promotion; and

253 (iv) The names of all production companies ~~who~~ that chose to include ~~the~~ a qualified
 254 Georgia ~~promotional logo~~ promotion in their final production instead of ~~offering the~~
 255 ~~state an~~ engaging in alternative marketing ~~proposal~~ opportunities.

256 The report required under this ~~paragraph~~ subparagraph shall be completed no later than
 257 January 1 of each year and presented to each member of the House Committee on Ways
 258 and Means, the Senate Finance Committee, the Senate Economic Development and
 259 Tourism Committee, the House Committee on Economic Development and Tourism,
 260 and the Governor.

261 (C) ~~The~~ No additional ~~percentage of~~ tax credit ~~allowed by~~ provided for in this
 262 paragraph ~~and by~~ or paragraph (2) of subsection (d) of this Code section shall ~~not~~ be
 263 allowed to a production company for any ~~qualified production activity~~ or state certified
 264 production that has not been commercially distributed in multiple markets.

265 (D) ~~The~~ No additional ~~percentage of~~ tax credit ~~that is allowed by~~ provided for in this
 266 paragraph ~~and by~~ or paragraph (2) of subsection (d) of this Code section shall ~~not~~ be
 267 issued final certification pursuant to subsection ~~(f)~~ (k) of this Code section unless and
 268 until the state certified production has been commercially distributed in multiple
 269 markets within five years of the date that the project was first certified by the
 270 Department of Economic Development; and

271 (3) The base investment and the amount of the credit allowed by this subsection and by
 272 subsection (d) of this Code section with respect to a production company shall be subject
 273 to the limitations of and any reductions ~~required by~~ provided for in subsection ~~(f)~~ (k) of
 274 this Code section.

275 (d) For any production company ~~or qualified interactive entertainment production~~
 276 ~~company~~ and its affiliates that invest in a state certified production ~~approved by the~~
 277 ~~Department of Economic Development~~ and whose average annual total production
 278 expenditures in this state exceeded \$30 million for 2002, 2003, and 2004, there shall be
 279 allowed an income tax credit against the tax imposed under this article. For purposes of

280 this subsection, the excess base investment in this state ~~is~~ shall be computed by taking the
281 current year production expenditures in a state certified production and subtracting the
282 average of the annual total production expenditures for 2002, 2003, and 2004. The tax
283 credit shall be calculated as follows:

284 (1) If the excess base investment by a production company and its affiliates that invest
285 in state certified productions in this state equals or exceeds \$500,000.00 for a single state
286 certified production or \$5 million for all state certified productions, ~~or \$250,000.00 for~~
287 ~~qualified interactive entertainment production activities on or after January 1, 2018,~~ the
288 production company ~~or qualified interactive entertainment production company~~ and its
289 affiliates shall be allowed a tax credit of 20 percent of such excess base investment; and
290 (2)(A) The production company ~~or qualified interactive entertainment production~~
291 ~~company~~ and its affiliates shall be allowed an additional tax credit equal to 10 percent of
292 the excess base investment if, as determined as a result of the audit required by subsection
293 (k) of this Code section, ~~the qualified production activities include a qualified Georgia~~
294 ~~promotion. Such additional tax credit shall be allowed for any qualified production that~~
295 ~~includes a qualified Georgia promotion upon its release to the general public. In lieu of~~
296 ~~the inclusion of the Georgia promotional logo, the production company or qualified~~
297 ~~interactive entertainment production company may offer marketing opportunities to be~~
298 ~~evaluated by the Department of Economic Development to ensure that they offer equal~~
299 ~~or greater promotional value to the State of Georgia~~ production company meets at least
300 four of the criteria provided in divisions (c)(2)(A)(i) through (c)(2)(A)(ix) with respect
301 to the state certified production.

302 (B) ~~The Department of Economic Development shall prepare an annual report detailing~~
303 ~~the marketing opportunities it has approved under the provisions of subparagraph (A)~~
304 ~~of this paragraph. The report shall include, but not be limited to:~~

305 (i) ~~The goals and strategy behind each marketing opportunity approved pursuant to~~
306 ~~the provisions of subparagraph (A) of this paragraph;~~

- 307 (ii) The names of all production companies approved by the Department of Economic
308 Development to provide alternative marketing opportunities;
- 309 (iii) ~~The estimated value to the state of each approved alternative marketing~~
310 ~~opportunity compared to the estimated value of the Georgia promotional logo; and~~
- 311 (iv) ~~The names of all production companies who chose to include the Georgia~~
312 ~~promotional logo in their final production instead of offering the state an alternative~~
313 ~~marketing proposal.~~

314 The report required under this paragraph shall be completed no later than January 1 of
315 each year and presented to each member of the House Committee on Ways and Means,
316 the Senate Finance Committee, the Senate Economic Development and Tourism
317 Committee, the House Committee on Economic Development and Tourism, and the
318 Governor.

319 (e)(1) ~~In no event shall the aggregate amount of tax credits allowed under this Code~~
320 ~~section for qualified interactive entertainment production companies and affiliates exceed~~
321 ~~\$25 million for taxable years beginning on or after January 1, 2013, and before January~~
322 ~~1, 2014. The maximum credit for any qualified interactive entertainment production~~
323 ~~company and its affiliates shall be \$5 million for such taxable year. When the \$25~~
324 ~~million cap is reached, the tax credit for qualified interactive entertainment production~~
325 ~~companies shall expire for such taxable years.~~

326 (2) ~~For taxable years beginning on or after January 1, 2014, and before January 1, 2015,~~
327 ~~the amount of tax credits allowed under this Code section for qualified interactive~~
328 ~~entertainment production companies and affiliates shall not exceed \$12.5 million.~~

329 (3) ~~For taxable years beginning on or after January 1, 2015, and before January 1, 2016,~~
330 ~~the amount of tax credits allowed under this Code section for qualified interactive~~
331 ~~entertainment production companies and affiliates shall not exceed \$12.5 million.~~

332 (4) ~~For taxable years beginning on or after January 1, 2016, and before January 1, 2018,~~
333 ~~the amount of tax credits allowed under this Code section for qualified interactive~~

334 entertainment production companies and affiliates shall not exceed \$12.5 million for each
335 taxable year.

336 ~~(5)(A) For taxable years beginning on or after January 1, 2018, the amount of tax~~
337 ~~credits allowed under this Code section for qualified interactive entertainment~~
338 ~~production companies and affiliates shall not exceed \$12.5 million for each taxable~~
339 ~~year.~~

340 ~~(B) Beginning on or after January 1, 2018, qualified interactive entertainment~~
341 ~~production companies are eligible for tax credits for prereleased interactive game~~
342 ~~production; provided, however, that such credits shall not be available for a period~~
343 ~~which exceeds three years.~~

344 ~~(6) The maximum allowable credit claimed for any qualified interactive entertainment~~
345 ~~production company and its affiliates shall not exceed \$1.5 million in any single year.~~

346 ~~(7) Qualified interactive entertainment production companies seeking to claim a tax~~
347 ~~credit under the provisions of this Code section shall submit an application to the~~
348 ~~commissioner for preapproval of such tax credit. The commissioner shall be authorized~~
349 ~~to promulgate any rules and regulations and forms necessary to implement and administer~~
350 ~~the provisions of this Code section. The commissioner shall preapprove the tax credits~~
351 ~~based on the order in which properly completed applications were submitted. In the~~
352 ~~event that two or more applications were submitted on the same day and the amount of~~
353 ~~funds available will not be sufficient to fully fund the tax credits requested, the~~
354 ~~commissioner shall prorate the available funds between or among the applicants.~~

355 ~~(8) No qualified interactive entertainment production company shall be allowed to claim~~
356 ~~an amount of tax credits under this Code section for any single year in excess of its total~~
357 ~~aggregate payroll expended to employees working within this state for the calendar year~~
358 ~~that the qualified interactive entertainment production company claims the tax credits.~~
359 ~~Any amount in excess of such limit shall not be eligible for carry forward to the~~
360 ~~succeeding years' tax liability, nor shall such excess amount be eligible for use against~~

361 ~~the qualified interactive entertainment production company's quarterly or monthly~~
362 ~~payment under Code Section 48-7-103, nor shall such excess amount be assigned, sold,~~
363 ~~or transferred to any other taxpayer.~~

364 ~~(9) Before the Department of Economic Development issues its approval to the qualified~~
365 ~~interactive entertainment production company for the qualified production activities~~
366 ~~related to interactive entertainment, the qualified interactive entertainment production~~
367 ~~company must certify to the department that:~~

368 ~~(A) The qualified interactive entertainment production company maintains a business~~
369 ~~location physically located in this state; and~~

370 ~~(B) The qualified interactive entertainment production company had expended a total~~
371 ~~aggregate payroll of \$500,000.00 or more, or \$250,000.00 or more on or after January~~
372 ~~1, 2018, for employees working within this state during the taxable year of the qualified~~
373 ~~interactive entertainment production company.~~

374 ~~The department shall issue a certification that the qualified interactive entertainment~~
375 ~~production company meets the requirements of this paragraph; provided, however, that~~
376 ~~the department shall not issue any certifications before July 1, 2014. The qualified~~
377 ~~interactive entertainment production company shall provide such certification to the~~
378 ~~Department of Economic Development. The Department of Economic Development~~
379 ~~shall not issue its approval until it receives such certification.~~

380 ~~(10)(A) For taxable years beginning on or after January 1, 2016, the qualified~~
381 ~~interactive entertainment production company shall report to the Department of~~
382 ~~Revenue on its Georgia income tax return the monthly average number of full-time~~
383 ~~employees subject to Georgia income tax withholding for the taxable year as provided~~
384 ~~in subparagraphs (B) and (C) of this paragraph. For purposes of this paragraph, a~~
385 ~~full-time employee shall mean a person who performs a job that requires a minimum~~
386 ~~of 35 hours a week, and pays at or above the average wage earned in the county with~~
387 ~~the lowest average wage earned in this state, as reported in the most recently available~~

388 ~~annual issue of the Georgia Employment and Wages Averages Report of the~~
389 ~~Department of Labor.~~

390 ~~(B) For taxable years beginning on or after January 1, 2016, and before January 1,~~
391 ~~2017, the qualified interactive entertainment production company shall report such~~
392 ~~number for such taxable year and separately for each of the prior two taxable years.~~

393 ~~(C) For taxable years beginning on or after January 1, 2017, the qualified interactive~~
394 ~~entertainment production company shall report such number for each respective taxable~~
395 ~~year.~~

396 ~~(D) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable~~
397 ~~years, the commissioner shall report yearly to the House Committee on Ways and~~
398 ~~Means and the Senate Finance Committee. The report shall include the name, tax year~~
399 ~~beginning, and monthly average number of full-time employees for each qualified~~
400 ~~interactive entertainment production company. The first report shall be submitted by~~
401 ~~June 30, 2016, and each year thereafter by June 30.~~

402 ~~(f)(1)(e)(1) Where If the amount of such credit or credits tax credits allowed under this~~
403 ~~Code section exceeds the production company's or qualified interactive entertainment~~
404 ~~production company's liability for such taxes owed pursuant to this article in a taxable~~
405 ~~year, the excess may be taken as a credit against such production company's or qualified~~
406 ~~interactive entertainment production company's quarterly or monthly payment under~~
407 ~~Code Section 48-7-103. Each employee whose employer receives credit against such~~
408 ~~production company's or qualified interactive entertainment production company's~~
409 ~~quarterly or monthly payment under Code Section 48-7-103 shall receive credit against~~
410 ~~his or her income tax liability under Code Section 48-7-20 for the corresponding taxable~~
411 ~~year for the full amount which would be credited against such liability prior to the~~
412 ~~application of the credit provided for in this subsection. Credits against quarterly or~~
413 ~~monthly payments under Code Section 48-7-103 and credits against liability under Code~~

414 Section 48-7-20 established by this subsection shall not constitute income to the
415 production company ~~or qualified interactive entertainment production company~~.

416 (2) If a production company and its affiliates, ~~or a qualified interactive entertainment~~
417 ~~production company and its affiliates~~, claim the a credit authorized under Code Section
418 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18, then the production company and its
419 affiliates, ~~or the qualified interactive entertainment production company and its affiliates~~,
420 ~~will~~ shall only be allowed to claim the credit authorized under this Code section to the
421 extent that the Georgia resident employees included in the credit calculation authorized
422 under this Code section and taken by the production company and its affiliates, ~~or the~~
423 ~~qualified interactive entertainment production company and its affiliates~~, on such tax
424 return under this Code section have been permanently excluded from the credit
425 authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18.

426 ~~(g)~~(f) Any tax credits with respect to a state certified production earned by a production
427 company ~~or qualified interactive entertainment production company~~ and previously
428 claimed but not used by such production company ~~or qualified interactive entertainment~~
429 ~~production company~~ against its income tax liability may be transferred or sold in whole or
430 in part by such production company ~~or qualified interactive entertainment production~~
431 ~~company~~ to another Georgia taxpayer; provided, however, that such transfers and sales
432 shall be subject to the following conditions and procedures:

433 (1)(A) This paragraph shall apply to any calendar year following a fiscal year during
434 which the funds in the Revenue Shortfall Reserve, as provided for in Code Section
435 45-12-93, equal an amount less than 10 percent of the previous fiscal year's net
436 revenue.

437 (B) The total amount of all transfers or sales in a calendar year shall not exceed an
438 amount equal to 2.5 percent of the total budget in the General Appropriations Act as
439 passed and signed into law for the corresponding fiscal year.

440 (C) The Department of Revenue shall issue tax credit certificates that identify the
441 calendar year in which the credit may first be transferred or sold. Such tax credit
442 certificates shall identify the current calendar year as the first year such certificates may
443 be transferred or sold for up to an amount equal to the amount of credits allowed to be
444 transferred or sold pursuant to subparagraph (B) of this paragraph.

445 (D) Any tax credit certificates available to be issued by the Department of Revenue in
446 the current calendar year in excess of the amount of credits allowed to be transferred
447 or sold pursuant to subparagraph (B) of this paragraph shall be issued and available to
448 be transferred or sold in the next calendar year for which such amount has not been
449 reached in the order in which final certificates were available to be issued by the
450 department but for reaching the annual limit, and the amount of such credit certificates
451 shall count toward the amount of credits allowed to be transferred or sold pursuant to
452 subparagraph (B) of this paragraph for that year.

453 (E) A production company may elect to not transfer or sell in whole or in part tax
454 credits with respect to a state certified production to another Georgia taxpayer pursuant
455 to this subsection and may use such tax credit in the taxable year in which it is issued
456 final certification. Tax credits that a production company makes an election to not sell
457 or transfer shall not count toward the maximum amount allowed to be transferred or
458 sold pursuant to subparagraph (B) of this paragraph. The production company shall
459 make the election on a form and in a manner provided by the department;

460 (F) A tax credit certificate issued pursuant to subparagraph (C) or subparagraph (D) of
461 this paragraph shall count toward the maximum amount of credits allowed to be
462 transferred or sold pursuant to subparagraph (B) of this paragraph only in the year such
463 certificate was issued by the Department of Revenue;

464 ~~(1)(2)~~ Such production company ~~or qualified interactive entertainment production~~
465 ~~company~~ may make only a single transfer or sale of tax credits earned in a taxable year;
466 provided, however, that the transfer or sale may involve one or more transferees;

467 ~~(2)~~(3) Such production company ~~or qualified interactive entertainment production~~
468 ~~company~~ shall submit to the Department of Economic Development and to the
469 Department of Revenue a written notification of any transfer or sale of tax credits within
470 30 days after the transfer or sale of such tax credits. The notification shall include such
471 production company's ~~or qualified interactive entertainment production company's~~ tax
472 credit balance prior to transfer, the credit certificate number, the remaining balance after
473 transfer, all tax identification numbers for each transferee, the date of transfer, the amount
474 transferred, and any other information required by the Department of Economic
475 Development or the Department of Revenue;

476 ~~(3)~~(4) Failure to comply with this subsection shall result in the disallowance of the tax
477 credit until the production company ~~or qualified interactive entertainment production~~
478 ~~company~~ is in full compliance with this subsection;

479 ~~(4)~~(5) The transfer or sale of ~~this~~ a tax credit ~~does pursuant to this subsection shall~~ not
480 extend the time in which such tax credit can be used. The carry-forward period for a tax
481 credit that is transferred or sold shall begin on the date on which the tax credit was
482 originally earned ~~or for a tax credit subject to the provisions of subsection (l) (k) of this~~
483 ~~Code section, the date on which the~~ issued final certification for such tax credit was
484 issued pursuant to said subsection (k) of this Code section;

485 ~~(5)~~(6) A transferee shall have only such rights to claim and use the tax credit that were
486 available to such production company ~~or qualified interactive entertainment production~~
487 ~~company~~ at the time of the transfer, except for the use of the credit in paragraph (1) of
488 subsection ~~(f)~~ (e) of this Code section. To the extent that such production company ~~or~~
489 ~~qualified interactive entertainment production company~~ did not have rights to claim or
490 use the tax credit at the time of the transfer, the Department of Revenue shall ~~either~~
491 ~~disallow the tax credit claimed by the transferee or recapture the tax credit from the~~
492 ~~transferee; provided, however, that the Department of Revenue shall not recapture a tax~~
493 ~~credit from the transferee if the tax credit was issued a valid final certification pursuant~~

494 to subsection (l) ~~(k)~~ of this Code section transferor. The transferee's recourse is against
495 such production company or qualified interactive entertainment production company; and
496 ~~(6)(7)~~ The transferee ~~must~~ shall acquire the tax credits in this Code section for a
497 minimum of 60 percent of the amount of the tax credits so transferred.

498 ~~(h)~~ The credit granted under this Code section shall be subject to the following conditions
499 and limitations, provided, however, that this subsection shall not apply to a production
500 company subject to the requirements of subsection ~~(h.1)~~ or ~~(l)~~ of this Code section:

501 ~~(1)~~ The credit may be taken beginning with the taxable year in which the production
502 company or qualified interactive entertainment production company has met the
503 investment requirement. For each year in which such production company or qualified
504 interactive entertainment production company either claims or transfers the credit, the
505 production company or qualified interactive entertainment production company shall
506 attach a schedule to the production company's or qualified interactive entertainment
507 production company's Georgia income tax return which will set forth the following
508 information, as a minimum:

509 ~~(A)~~ A description of the qualified production activities, along with the certification
510 from the Department of Economic Development;

511 ~~(B)~~ A detailed listing of the employee names, social security numbers, and Georgia
512 wages when salaries are included in the base investment;

513 ~~(C)~~ The amount of tax credit claimed for the taxable year;

514 ~~(D)~~ Any tax credit previously taken by the production company or qualified interactive
515 entertainment production company against Georgia income tax liabilities or the
516 production company's or qualified interactive entertainment production company's
517 quarterly or monthly payments under Code Section 48-7-103;

518 ~~(E)~~ The amount of tax credit carried over from prior years;

519 ~~(F)~~ The amount of tax credit utilized by the production company or qualified
520 interactive entertainment production company in the current taxable year; and

521 ~~(G) The amount of tax credit to be carried over to subsequent tax years;~~
522 ~~(2) In the initial year in which the production company or qualified interactive~~
523 ~~entertainment production company claims the credit granted in this Code section, the~~
524 ~~production company or qualified interactive entertainment production company shall~~
525 ~~include in the description of the qualified production activities required by subparagraph~~
526 ~~(A) of paragraph (1) of this subsection information which demonstrates that the activities~~
527 ~~included in the base investment or excess base investment equal or exceed \$500,000.00~~
528 ~~during such year, or \$250,000.00 on or after January 1, 2018, for qualified interactive~~
529 ~~entertainment production companies; and~~
530 ~~(3) In no event shall the amount of the tax credit under this Code section for a taxable~~
531 ~~year exceed the production company's or qualified interactive entertainment production~~
532 ~~company's income tax liability. Any unused credit amount shall be allowed to be carried~~
533 ~~forward for five years from the close of the taxable year in which the investment~~
534 ~~occurred. No such credit shall be allowed the production company or qualified~~
535 ~~interactive entertainment production company against prior years' tax liability.~~
536 ~~(h.1)(1) For any projects certified by the Department of Economic Development on or~~
537 ~~after January 1, 2021, the~~
538 ~~(g)(1) The tax credit provided for in this Code section if covered under the schedule~~
539 ~~provided in paragraph (1) of subsection (l) of this Code section shall not be allowed,~~
540 ~~claimed, assigned, sold, transferred, or utilized in any manner by a production company~~
541 ~~until final certification is issued pursuant to subsection (h) (k) of this Code section and~~
542 ~~except under the following conditions and limitations of provided in this subsection.~~
543 (2) A production company seeking the tax credit allowed by this Code section shall
544 apply for the tax credit in the manner provided by the Department of Revenue within one
545 year from the date that it completes a state certified production. The following
546 information shall be submitted with the application or prior to the commencement of an
547 audit required by subsection (h) (k) of this Code section:

- 548 (A) A description of the state certified production, along with its certification as a state
549 certified production by the Department of Economic Development;
- 550 (B) A detailed accounting of all qualified production activities and the attendant
551 production expenditures included in the base investment for the state certified
552 production;
- 553 (C) A detailed listing of the employee names, social security numbers, and Georgia
554 wages when salaries are included in the base investment;
- 555 (D) Receipts for tangible personal property included in the base investment as
556 requested by the Department of Revenue or the eligible auditor hired to conduct the
557 audit for the state certified production;
- 558 (E) Contracts for goods or services included in the base investment as requested by the
559 Department of Revenue or the eligible auditor hired to conduct the audit for the state
560 certified production;
- 561 (F) An Internal Revenue Service Form W-9 completed and issued by each vendor for
562 which expenditures are included in the base investment as requested by the Department
563 of Revenue or the eligible auditor hired to conduct the audit for the state certified
564 production;
- 565 ~~(G) Notification as provided for in paragraph (7) of subsection (l) (k) of this Code~~
566 ~~section of any intent to utilize an eligible auditor;~~
- 567 ~~(H)~~ A description of the status of the distribution of the state certified production and
568 information related to any qualified Georgia promotion connected with such
569 production;
- 570 (H) For any production certified by the Department of Economic Development on or
571 after January 1, 2025, a description of the status of satisfying the requirements of
572 subparagraph (c)(2)(A) or paragraph (2) of subsection (d) of this Code section if the
573 production company is seeking the additional credit allowed pursuant to subparagraph
574 (c)(2)(A) or paragraph (2) of subsection (d) of this Code section;

- 575 (I) The total amount of the tax credit sought for the state certified production; and
- 576 (J) A statement affirming that the contents of the application are true and correct.
- 577 (3) If a production company is issued final certification of a tax credit pursuant to
- 578 subsection ~~(h)~~ (k) of this Code section, such tax credit shall be considered earned in the
- 579 taxable year in which it is issued final certification.
- 580 (4) For each year in which the production company either claims or transfers the tax
- 581 credit, the production company shall attach a schedule to the production company's
- 582 Georgia income tax return which ~~will~~ shall set forth the following information, as a
- 583 minimum:
- 584 (A) The amount of tax credit claimed for the taxable year;
- 585 (B) Any tax credit previously taken by the production company against Georgia
- 586 income tax liabilities or the production company's quarterly or monthly payments under
- 587 Code Section 48-7-103;
- 588 (C) The amount of tax credit carried ~~over~~ from prior years;
- 589 (D) The amount of tax credit utilized by the production company in the current taxable
- 590 year; and
- 591 (E) The amount of tax credit to be carried over to subsequent tax years.
- 592 (5) In no event shall the amount of the tax credit subject to subsection ~~(h)~~ (k) of this Code
- 593 section for a taxable year exceed the production company's income tax liability. Any
- 594 unused credit amount shall be allowed to be carried forward for three years from the close
- 595 of the taxable year in which the tax credit was issued its final certification pursuant to
- 596 subsection ~~(h)~~ (k) of this Code section. No such credit shall be allowed the production
- 597 company against prior years' tax liability.
- 598 ~~(6) This subsection shall not apply to qualified interactive entertainment production~~
- 599 ~~companies.~~
- 600 ~~(h)~~(h)(1) The Department of Economic Development shall:

601 (A) Certify each production that qualifies ~~determine through the promulgation of rules~~
 602 ~~and regulations what projects qualify~~ for the tax credits authorized under paragraph (1)
 603 of subsection (c) of this Code section and paragraph (1) of subsection (d) of this Code
 604 section;

605 (B) Establish an approval process for any criteria that require approval from the
 606 Department of Economic Development as provided in divisions (c)(2)(A)(v) and
 607 (c)(2)(A)(vii) of this Code section;

608 (C) Submit such certifications and approvals ~~Certification shall be submitted to the state~~
 609 ~~revenue commissioner; and~~

610 (D) Promulgate such rules and regulations as are necessary to implement and
 611 administer this subsection.

612 (2) The Department of Economic Development may charge reasonable fees associated
 613 with the certification process established pursuant to this paragraph.

614 (3) If the Department of Economic Development prevails in court in an appeal of the
 615 denial of certification, the production company shall pay all court costs.

616 ~~(j)(i)~~ (i) The ~~state revenue~~ commissioner shall promulgate such rules and regulations as are
 617 necessary to implement and administer this Code section.

618 ~~(k)(j)~~ (j) Any production company, except as provided in subsection ~~(f)~~ (k) of this Code
 619 section, ~~or qualified interactive entertainment production company~~ claiming, transferring,
 620 or selling the tax credit allowed under this Code section shall be required to reimburse the
 621 Department of Revenue for any department initiated audits relating to the tax credit. This
 622 subsection shall not apply to routine tax audits of a ~~taxpayer~~ production company which
 623 may include the review of the credit provided for in this Code section.

624 ~~(f)(k)(1)(A)~~ For any project certified by the Department of Economic Development on
 625 ~~or after January 1, 2021, a tax credit allowed by this Code section to a production~~
 626 ~~company shall not be claimed, assigned, sold, transferred, or utilized in any manner until~~
 627 ~~the production company applies for the tax credit as provided in subsection (h.1) of this~~

628 ~~Code section and the department issues a final certification of the tax credit pursuant to~~
629 ~~this subsection if the total amount of such tax credit sought for the project exceeds \$2.5~~
630 ~~million.~~

631 ~~(B) For any project certified by the Department of Economic Development on or after~~
632 ~~January 1, 2022, a tax credit allowed by this Code section to a production company~~
633 ~~shall not be claimed, assigned, sold, transferred, or utilized in any manner until the~~
634 ~~production company applies for the tax credit as provided in subsection (h.1) of this~~
635 ~~Code section and the department issues a final certification of the tax credit pursuant~~
636 ~~to this subsection if the total amount of such tax credit sought for the project exceeds~~
637 ~~\$1.25 million.~~

638 ~~(C) For any project certified by the Department of Economic Development on or after~~
639 ~~January 1, 2023, a No tax credit allowed by this Code section to a production company~~
640 ~~shall not be claimed, assigned, sold, transferred, or utilized in any manner until the~~
641 ~~production company applies for the tax credit as provided in subsection (h.1) (g) of this~~
642 ~~Code section and the department issues a final certification of the tax credit pursuant~~
643 ~~to this subsection.~~

644 ~~(2) In accordance with the schedule provided in paragraph (1) of this subsection, prior~~
645 ~~Prior to certifying a tax credit pursuant to this Code section, the Department of Revenue~~
646 ~~shall conduct or cause to be conducted an audit of each tax credit allowed by this Code~~
647 ~~section by either the department or an independent third party certified by the department~~
648 ~~in accordance with paragraph (3) of this subsection as an eligible auditor.~~

649 (3)(A) The Department of Revenue shall provide for the certification and
650 decertification of certified public accountants as eligible auditors.

651 (B) To obtain certification as an eligible auditor, an accountant shall:

652 (i) Register with the department;

653 (ii) Maintain its registration with the Georgia State Board of Accountancy;

- 654 (iii) Agree to and be capable of completing audits related to this Code section in
- 655 accordance with this Code section and procedures developed by the department;
- 656 (iv) Successfully complete all training required by the department;
- 657 (v) Pay to the department a registration fee that the department shall set in an amount
- 658 that reflects the expenses incurred by the department as a result of this paragraph; and
- 659 (vi) Post and maintain any bond that the department ~~establishes~~ may require for each
- 660 eligible auditor.

661 (C) The Department of Revenue shall decertify an eligible auditor if such auditor:

- 662 (i) Fails to meet the conditions or comply with the provisions of subparagraph (B) of
- 663 this paragraph; or
- 664 (ii) Completes an audit and violates the requirements of subparagraph (E) of
- 665 paragraph (4) of this subsection.

666 (D) The Department of Revenue may decertify an eligible auditor if such auditor fails

667 to complete an audit in accordance with subparagraph (A), (B), (C), (D), (F), or (G) of

668 paragraph (4) of this subsection or meets any other grounds for decertification as

669 provided in regulations promulgated by the department.

670 (4) Each audit shall:

- 671 (A) Be completed in accordance with this Code section and procedures developed by
- 672 the department;
- 673 (B) Utilize sampling methods that the department may adopt;
- 674 (C) Follow regulations that shall be published by the department regarding
- 675 expenditures incurred with related persons or related members as such terms are
- 676 defined in Code Section 48-7-28.3;
- 677 (D) Verify each reported expenditure that is included in the ~~audit~~ application required
- 678 by subsection (g) of this Code section and identify and exclude each such expenditure
- 679 that does not fully meet the conditions of this Code section;

- 680 (E) Exclude any expenditure not submitted with or that was incurred after the
681 application required by subsection ~~(h.1)~~ (g) of this Code section was submitted;
- 682 (F) Not be performed by an eligible accounting entity that is not determined to be
683 independent as provided in the American Institute of Certified Public Accountants Code
684 of Professional Conduct with respect to the production company or any of its related
685 persons or related members as such terms are defined in Code Section 48-7-28.3 or as
686 otherwise provided by the Department of Revenue; and
- 687 (G) Be submitted to the department ~~which shall review the audit, make adjustments as~~
688 ~~necessary, and issue a final certification to the production company.~~
- 689 (5) The Department of Revenue shall:
- 690 ~~(A) Promulgate rules and regulations and implement this subsection;~~
- 691 ~~(B)~~ Publish and regularly update a list of all eligible auditors that a production
692 company may hire to conduct the audit required by this subsection;
- 693 ~~(C)~~ (B) Publish on its public website the application for certification of eligible auditors
694 as well as all requirements related to certification and conducting an audit pursuant to
695 this subsection;
- 696 ~~(D)~~ (C) Publish the registration fee required by division (3)(B)(v) of this subsection and
697 any bond required pursuant to division (3)(B)(vi) of this subsection;
- 698 ~~(E)~~ (D) Determine whether a sampling method shall be used for the audits required by
699 this subsection, the appropriate sample method and size, and if a sampling method is
700 used, ensure that it accurately captures a truly representative sample of all ineligible
701 expenditures across all submitted expenditures and projects the type, rate, and amount
702 of ineligible expenditures across all submitted expenditures;
- 703 ~~(F)~~ (E) Perform the audit of expenditures when, due to confidentiality of information,
704 the eligible auditor is unable to access necessary information that the department is able
705 to access;

706 ~~(G)~~(F) Review each audit conducted by an eligible auditor, conduct the portions of the
 707 audit described in subparagraph ~~(F)~~ (E) of this paragraph, perform additional auditing
 708 as necessary, adjust the ~~value~~ amount of the tax credit as necessary, finalize the audit,
 709 and issue the final certification of the tax credit to the ~~taxpayer~~ production company;
 710 and

711 ~~(H)~~(G) For an audit that it conducts without an eligible auditor, complete the audit,
 712 adjust the ~~value~~ amount of the tax credit as necessary, and issue the final certification
 713 of the tax credit to the ~~taxpayer~~ production company.

714 (6) The production company applying for a final certification of a tax credit pursuant to
 715 this subsection shall agree and be required to reimburse the department for all costs
 716 incurred by the performance of a related audit, or any portion thereof, including for
 717 review of an audit conducted by an eligible auditor, prior to the issuance of such final
 718 certification.

719 (7) The cost of any such audit whether conducted in whole or in part by the department,
 720 an eligible auditor, or a combination of the two shall be borne by the production company
 721 and shall not be included as an expenditure claimed pursuant to this Code section.

722 ~~(8) This subsection shall not apply to qualified interactive entertainment production~~
 723 ~~companies."~~

724 **SECTION 1-2.**

725 Said title is further amended in Chapter 7, relating to income taxes, by adding a new Code
 726 section to read as follows:

727 "48-7-40.37.

728 (a) This Code section shall be known and may be cited as the 'Georgia Interactive
 729 Entertainment Industry Investment Act.'

730 (b) As used in this Code section, the term:

731 (1) 'Affiliates' means those entities that are included in the qualified interactive
732 entertainment production company's affiliated group as defined in Section 1504(a) of the
733 Internal Revenue Code and all other entities that are directly or indirectly owned 50
734 percent or more by members of such affiliated group.

735 (2) 'Base investment' means the aggregate funds actually invested and expended by a
736 qualified interactive entertainment production company as production expenditures
737 incurred in this state that are directly used in one or more state certified productions.

738 (3) 'Game platform' means the electronic delivery system used to launch or play an
739 interactive game.

740 (4) 'Game sequel' means an interactive game which builds upon the theme of a
741 previously released interactive game, is distinguished by a new title, and features
742 objectives or characters that are recognizably different from the original game.

743 (5) 'Multimarket commercial distribution' means paid commercial distribution with
744 media buys which extend to markets outside this state.

745 (6) 'Prereleased interactive game' means a new game, the offering of an existing game
746 on a new game platform, or a game sequel that is in the developmental stages of
747 production, which may be available to individuals for testing purposes but is not
748 generally made available or distributed to consumers or to the general public.

749 (7) 'Production expenditures' means:

750 (A) Preproduction, production, and postproduction expenditures incurred in this state
751 that are directly used in a qualified production activity, including, but not limited to, the
752 following: set construction and operation; wardrobes, makeup, accessories, and related
753 services; costs associated with photography and sound synchronization; expenditures
754 excluding license fees incurred with companies for sound recordings and musical
755 compositions; lighting and related services and materials; editing and related services;
756 rental of facilities and equipment; leasing of vehicles; costs of food and lodging; digital
757 or tape editing; sound mixing; computer graphics services; special effects services;

758 visual effects services; animation services; total aggregate payroll; airfare, if purchased
759 through a Georgia travel agency or travel company; insurance costs and bonding, if
760 purchased through a Georgia insurance agency; and other direct costs of producing the
761 project in accordance with generally accepted interactive entertainment industry
762 practices;

763 (B) Such term shall not include:

764 (i) Postproduction expenditures for footage shot outside this state, marketing, story
765 rights, or distribution;

766 (ii) Expenditures for work or services not conducted or rendered in this state.
767 Expenditures for services not performed at the production site shall only qualify if the
768 vendor is a Georgia vendor. Expenditures for services conducted or rendered both in
769 and outside this state shall only qualify to the extent the service is conducted or
770 rendered in this state;

771 (iii) Expenditures for goods that were not purchased, rented, or leased in this state
772 from a Georgia vendor. Expenditures for goods shall only qualify to the extent such
773 goods are used in this state. A vendor that acts as a conduit to enable purchases or
774 rentals to qualify that would not otherwise qualify shall not be considered a Georgia
775 vendor with respect to such purchases, rentals, or leases; or

776 (iv) Transactions subject to taxation imposed by Chapter 8 or 13 of this title for
777 which taxes have not been demonstrably paid; and

778 (C) Such term shall include payments to a loan-out company by a qualified interactive
779 entertainment production company that has met its withholding tax obligations as
780 provided in this paragraph. The qualified interactive entertainment production
781 company shall withhold Georgia income tax at the rate imposed by subsection (a) of
782 Code Section 48-7-21 on all payments to loan-out companies for services performed
783 in this state. Any amounts so withheld shall be deemed to have been withheld by the
784 loan-out company on wages paid to its employees for services performed in this state

785 pursuant to Article 5 of this chapter notwithstanding the exclusion provided in
786 subparagraph (K) of paragraph (10) of Code Section 48-7-100. The amounts so
787 withheld shall be allocated to the loan-out company's employees based on the payments
788 made to the loan-out company's employees for services performed in this state. For
789 purposes of this chapter, and notwithstanding any other provisions in this chapter,
790 loan-out company nonresident employees performing services in this state shall be
791 considered taxable nonresidents, and the loan-out company shall be subject to income
792 taxation in the taxable year in which the loan-out company's employees perform
793 services in this state. Such withholding liability shall be subject to penalties and
794 interest in the same manner as the employer withholding taxes imposed by Article 5 of
795 this chapter, and the commissioner shall provide by regulation the manner in which
796 such liability shall be assessed and collected.

797 (8) 'Qualified Georgia promotion' means a qualified promotion of this state approved by
798 the Department of Economic Development consisting of a qualified interactive game
799 which includes a 15 second long Georgia advertisement in units sold and embedded in
800 online promotions.

801 (9) 'Qualified interactive entertainment production company' means a company that:

802 (A) Maintains a business location physically located in this state;

803 (B) Has a total aggregate payroll of \$250,000.00 or more for employees working
804 within this state in the taxable year the qualified interactive entertainment production
805 company claims a tax credit pursuant to this Code section;

806 (C) Has gross income of less than \$100 million in the taxable year that the production
807 company claims a tax credit pursuant to this Code section; and

808 (D) Is primarily engaged in qualified production activities related to interactive
809 entertainment.

810 Such term shall not mean or include any form of business owned, affiliated, or controlled,
811 in whole or in part, by any company or person which is in default on any tax obligation
812 in the state, loan made by the state, or loan guaranteed by the state.

813 (10) 'Qualified production activities' means the production of new digital projects
814 produced in this state and approved by the Department of Economic Development as
815 state certified productions, including only the following: interactive entertainment or
816 prereleased interactive games. Such term shall include projects created in this state, in
817 whole or in part, animation, and music fixed on a delivery system which includes without
818 limitation computer disc, laser disc, and any element of the digital domain and which is
819 intended for multimarket commercial distribution via digital platforms designed for the
820 distribution of interactive games. Such term shall not include any project that is not
821 intended for multimarket commercial distribution or any project not originally created in
822 this state.

823 (11) 'State certified production' means a production engaged in qualified production
824 activities in accordance with this Code section and regulations promulgated pursuant to
825 this Code section. In the instance of a work for hire in which one qualified interactive
826 entertainment production company hires another qualified interactive entertainment
827 production company to produce a project or contribute elements of a project for pay, the
828 hired company shall be considered a service provider for the hiring company, and the
829 hiring company shall be entitled to the tax credit allowed under this Code section.

830 (12) 'Total aggregate payroll' means the total sum expended by a qualified interactive
831 entertainment production company on salaries paid to employees working in this state in
832 one or more state certified productions. As used in this paragraph:

833 (A) With respect to a single employee, the portion of any salary which exceeds
834 \$500,000.00 for a single production shall not be included when calculating total
835 aggregate payroll; and

836 (B) All payments and distributions to a single employee and any legal entity in which
837 the employee has any direct or indirect ownership interest shall be considered as having
838 been paid to the employee and shall be aggregated regardless of the means of payment
839 or distribution.

840 (c) For any qualified interactive entertainment production company and its affiliates that
841 invest in a state certified production and whose average annual total production
842 expenditures in this state did not exceed \$30 million for 2002, 2003, and 2004, there shall
843 be allowed an income tax credit against the tax imposed under this article. The tax credit
844 under this subsection shall be allowed if the base investment in this state equals or exceeds
845 \$250,000.00, and shall be calculated as follows:

846 (1) The qualified interactive entertainment production company shall be allowed a tax
847 credit equal to 20 percent of the base investment in this state; and

848 (2)(A) The qualified interactive entertainment production company shall be allowed
849 an additional tax credit equal to 10 percent of such base investment if the qualified
850 production activity includes a qualified Georgia promotion. Such additional tax credit
851 shall be allowed for any qualified production that includes a qualified Georgia
852 promotion upon its release to the general public. In lieu of the inclusion of a qualified
853 Georgia promotion, the qualified interactive entertainment production company may
854 offer alternative marketing opportunities to be evaluated by the Department of
855 Economic Development to ensure that they offer equal or greater promotional value to
856 the state. The Department of Economic Development shall electronically certify to the
857 Department of Revenue when the requirements of this paragraph and paragraph (2) of
858 subsection (d) of this Code section have been met.

859 (B) The Department of Economic Development shall prepare an annual report detailing
860 the alternative marketing opportunities it has approved under the provisions of
861 subparagraph (A) of this paragraph and paragraph (2) of subsection (d) of this Code
862 section. The report shall include, but not be limited to:

- 863 (i) The goals and strategy behind each approved alternative marketing opportunity;
864 (ii) The names of all qualified interactive entertainment production companies
865 approved to provide alternative marketing opportunities;
866 (iii) The estimated value to the state of each approved alternative marketing
867 opportunity compared to the estimated value of including a qualified Georgia
868 promotion; and
869 (iv) The names of all qualified interactive entertainment production companies that
870 chose to include a qualified Georgia promotion in their final production instead of
871 engaging in alternative marketing opportunities.

872 The report required under this subparagraph shall be completed no later than January 1
873 of each year and presented to each member of the House Committee on Ways and
874 Means, the Senate Finance Committee, the Senate Economic Development and
875 Tourism Committee, the House Committee on Economic Development and Tourism,
876 and the Governor.

877 (d) For any qualified interactive entertainment production company and its affiliates that
878 invest in a state certified production and whose average annual total production
879 expenditures in this state exceeded \$30 million for 2002, 2003, and 2004, there shall be
880 allowed an income tax credit against the tax imposed under this article. For purposes of
881 this subsection, the excess base investment in this state shall be computed by taking the
882 current year production expenditures in a state certified production and subtracting the
883 average of the annual total production expenditures for 2002, 2003, and 2004. The tax
884 credit shall be calculated as follows:

- 885 (1) If the excess base investment in this state equals or exceeds \$250,000.00, the
886 qualified interactive entertainment production company and its affiliates shall be allowed
887 a tax credit of 20 percent of such excess base investment; and
888 (2) The qualified interactive entertainment production company and its affiliates shall
889 be allowed an additional tax credit equal to 10 percent of the excess base investment if

890 the qualified production activities include a qualified Georgia promotion. Such additional
891 tax credit shall be allowed for any qualified production that includes a qualified Georgia
892 promotion upon its release to the general public. In lieu of the inclusion of a qualified
893 Georgia promotion, the qualified interactive entertainment production company may offer
894 marketing opportunities to be evaluated by the Department of Economic Development
895 to ensure that they offer equal or greater promotional value to the state.

896 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
897 section for qualified interactive entertainment production companies and affiliates exceed
898 \$12.5 million for each taxable year.

899 (2) Qualified interactive entertainment production companies are eligible for tax credits
900 for prereleased interactive game production; provided, however, that such credits shall
901 not be available for a period which exceeds three years.

902 (3) The maximum allowable credit claimed for any qualified interactive entertainment
903 production company and its affiliates shall not exceed \$1.5 million in any single year.

904 (4) Qualified interactive entertainment production companies seeking to claim a tax
905 credit under the provisions of this Code section shall submit an application to the
906 commissioner for preapproval of such tax credit. The commissioner shall preapprove the
907 tax credits based on the order in which properly completed applications were submitted.
908 In the event that two or more applications were submitted on the same day and the
909 amount of funds available will not be sufficient to fully fund the tax credits requested, the
910 commissioner shall prorate the available funds between or among the applicants.

911 (5) No qualified interactive entertainment production company shall be allowed to claim
912 an amount of tax credits under this Code section for any single year in excess of its total
913 aggregate payroll expended to employees working in this state for the calendar year that
914 the qualified interactive entertainment production company claims the tax credits. Any
915 amount in excess of such limit shall not be eligible for carry forward to the succeeding
916 years' tax liability, nor shall such excess amount be eligible for use against the qualified

917 interactive entertainment production company's quarterly or monthly payment under
918 Code Section 48-7-103, nor shall such excess amount be assigned, sold, or transferred to
919 any other taxpayer.

920 (6) Before the Department of Economic Development issues its approval to the qualified
921 interactive entertainment production company for the qualified production activities, the
922 qualified interactive entertainment production company shall certify to the department
923 that:

924 (A) The qualified interactive entertainment production company maintains a business
925 location physically located in this state; and

926 (B) The qualified interactive entertainment production company had expended a total
927 aggregate payroll of \$250,000.00 or more for employees working in this state during
928 the taxable year of the qualified interactive entertainment production company.

929 The department shall issue a certification that the qualified interactive entertainment
930 production company meets the requirements of this paragraph. The qualified interactive
931 entertainment production company shall provide such certification to the Department of
932 Economic Development. The Department of Economic Development shall not issue its
933 approval until it receives such certification.

934 (7)(A) The qualified interactive entertainment production company shall report to the
935 Department of Revenue on its Georgia income tax return the monthly average number
936 of full-time employees subject to Georgia income tax withholding for the taxable year
937 as provided in subparagraph (B) of this paragraph. As used in this paragraph, the term
938 'full-time employee' means a person who performs a job that requires a minimum of 35
939 hours per week and receives compensation at or above the average wage earned in the
940 county with the lowest average wage earned in this state as reported in the most
941 recently available annual issue of the Georgia Employment and Wages Averages
942 Report of the Department of Labor.

943 (B) The qualified interactive entertainment production company shall report such
944 number for each respective taxable year.

945 (C) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, for such taxable
946 years, the commissioner shall report yearly to the House Committee on Ways and
947 Means and the Senate Finance Committee. Such report shall include the name, tax year
948 beginning, and monthly average number of full-time employees for each qualified
949 interactive entertainment production company and shall be submitted by June 30 of
950 each year.

951 (f)(1) If the amount of tax credits allowed under this Code section exceeds the qualified
952 interactive entertainment production company's liability for taxes owed under this article
953 in a taxable year, the excess may be taken as a credit against such qualified interactive
954 entertainment production company's quarterly or monthly payment under Code Section
955 48-7-103. Each employee whose employer receives credit against such qualified
956 interactive entertainment production company's quarterly or monthly payment under
957 Code Section 48-7-103 shall receive credit against his or her income tax liability under
958 Code Section 48-7-20 for the corresponding taxable year for the full amount which would
959 be credited against such liability prior to the application of the credit provided for in this
960 subsection. Credits against quarterly or monthly payments under Code Section 48-7-103
961 and credits against liability under Code Section 48-7-20 established by this subsection
962 shall not constitute income to the qualified interactive entertainment production company.

963 (2) If a qualified interactive entertainment production company and its affiliates claim
964 the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17, or 48-7-40.18,
965 then the qualified interactive entertainment production company and its affiliates shall
966 only be allowed to claim the credit authorized under this Code section to the extent that
967 the Georgia resident employees included in the credit calculation authorized under this
968 Code section and taken by the qualified interactive entertainment production company
969 and its affiliates on such tax return under this Code section have been permanently

970 excluded from the credit authorized under Code Section 48-7-40, 48-7-40.1, 48-7-40.17,
971 or 48-7-40.18.

972 (g) Any tax credits with respect to a state certified production earned by a qualified
973 interactive entertainment production company and previously claimed but not used by such
974 qualified interactive entertainment production company against its income tax may be
975 transferred or sold in whole or in part by such qualified interactive entertainment
976 production company to another Georgia taxpayer, subject to the following conditions and
977 procedures:

978 (1) Such qualified interactive entertainment production company may make only a single
979 transfer or sale of tax credits earned in a taxable year; provided, however, that the transfer
980 or sale may involve one or more transferees;

981 (2) Such qualified interactive entertainment production company shall submit to the
982 Department of Economic Development and to the Department of Revenue a written
983 notification of any transfer or sale of tax credits within 30 days after the transfer or sale
984 of such tax credits. The notification shall include such qualified interactive entertainment
985 production company's tax credit balance prior to transfer, the credit certificate number,
986 the remaining balance after transfer, all tax identification numbers for each transferee, the
987 date of transfer, the amount transferred, and any other information required by the
988 Department of Economic Development or the Department of Revenue;

989 (3) Failure to comply with this subsection shall result in the disallowance of the tax
990 credit until the qualified interactive entertainment production company is in full
991 compliance with this subsection;

992 (4) The transfer or sale of a tax credit does not extend the time in which such tax credit
993 can be used. The carry-forward period for a tax credit that is transferred or sold shall
994 begin on the date on which the tax credit was originally earned;

995 (5) A transferee shall have only such rights to claim and use the tax credit that were
996 available to such qualified interactive entertainment production company at the time of

997 the transfer, except for the use of the credit in paragraph (1) of subsection (f) of this Code
998 section. To the extent that such qualified interactive entertainment production company
999 did not have rights to claim or use the tax credit at the time of the transfer, the
1000 Department of Revenue shall either disallow the tax credit claimed by the transferee or
1001 recapture the tax credit from the transferor. The transferee's recourse is against such
1002 qualified interactive entertainment production company; and

1003 (6) The transferee shall acquire the tax credits in this Code section for a minimum of 60
1004 percent of the amount of the tax credits so transferred.

1005 (h) The credit granted under this Code section shall be subject to the following conditions
1006 and limitations:

1007 (1) The credit may be taken beginning with the taxable year in which the qualified
1008 interactive entertainment production company has met the investment requirement. For
1009 each year in which such qualified interactive entertainment production company either
1010 claims or transfers the credit, the qualified interactive entertainment production company
1011 shall attach a schedule to the qualified interactive entertainment production company's
1012 Georgia income tax return which shall set forth the following information, as a minimum:

1013 (A) A description of the qualified production activities, along with the certification
1014 from the Department of Economic Development;

1015 (B) A detailed listing of the employee names, social security numbers, and Georgia
1016 wages when salaries are included in the base investment;

1017 (C) The amount of tax credit claimed for the taxable year;

1018 (D) Any tax credit previously taken by the qualified interactive entertainment
1019 production company against Georgia income tax liabilities or the qualified interactive
1020 entertainment production company's quarterly or monthly payments under Code Section
1021 48-7-103;

1022 (E) The amount of tax credit carried forward from prior years;

1023 (F) The amount of tax credit utilized by the qualified interactive entertainment
1024 production company in the current taxable year; and

1025 (G) The amount of tax credit to be carried forward to subsequent tax years;

1026 (2) In the initial year in which a qualified interactive entertainment production company
1027 claims the credit granted in this Code section, the qualified interactive entertainment
1028 production company shall include in the description of the qualified production activities
1029 required by subparagraph (A) of paragraph (1) of this subsection information which
1030 demonstrates that the activities included in the base investment or excess base investment
1031 equal or exceed \$250,000.00; and

1032 (3) In no event shall the amount of the tax credit under this Code section for a taxable
1033 year exceed the qualified interactive entertainment production company's income tax
1034 liability. Any unused credit amount shall be allowed to be carried forward for five years
1035 from the close of the taxable year in which the investment occurred. No such credit shall
1036 be allowed the qualified interactive entertainment production company against prior
1037 years' tax liability.

1038 (i)(1) The Department of Economic Development shall:

1039 (A) Certify each production that qualifies for the tax credits authorized under this Code
1040 section;

1041 (B) Submit such certifications to the commissioner; and

1042 (C) Promulgate such rules and regulations as are necessary to implement and
1043 administer this subsection.

1044 (2) The Department of Economic Development may charge reasonable fees associated
1045 with the certification process established pursuant to this paragraph.

1046 (j) The commissioner shall promulgate such rules and regulations as are necessary to
1047 implement and administer this Code section.

1048 (k) No qualified interactive entertainment production company shall be allowed a credit
1049 under this Code section and Code Section 48-7-40.26 in the same year."

PART II
SECTION 2-1.

Title 33 of the Official Code of Georgia Annotated, relating to insurance, is amended by revising Code Section 33-1-18, relating to housing tax credit for qualified projects and rules and regulations, as follows:

"33-1-18.

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

(1) 'Affordable housing project' means a qualified low-income housing project as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in Georgia.

~~(2)~~ (2) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.

~~(2)(3)~~ (3) 'Median income' means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

~~(3)(4)~~ (4) 'Project' means a housing project that has restricted rents that do not exceed 30 percent of median income for at least 40 percent of its units occupied by persons or families having incomes of 60 percent or less of the median income or at least 20 percent of the units occupied by persons or families having incomes of 50 percent or less of the median income.

~~(4)(5)~~ (5) 'Qualified basis' means that portion of the tax basis of a ~~qualified Georgia~~ an affordable housing project eligible for the federal housing tax credit, as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended.

~~(5)~~ (6) ~~'Qualified Georgia project' means a qualified low-income building as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in Georgia.~~

(6) 'Senior' means an individual 55 years of age or older.

1076 (7) 'Targeted community project' means an affordable housing project that:

1077 (A) Is located in a rural area;

1078 (B) Reserves or prioritizes a majority of its units for seniors or provides a preference
 1079 for persons with disabilities, veterans, or first responders;

1080 (C) Provides access to stable and high frequency transportation;

1081 (D) Consists primarily of a rehabilitation or renovation; or

1082 (E) Is owned by a housing authority.

1083 (8) 'Veteran' means an individual who served in the active military, naval, or air service
 1084 and who was discharged or released therefrom under conditions other than dishonorable.

1085 (b)(1) A tax credit against the taxes imposed under Code Sections 33-5-31, 33-8-4,
 1086 and 33-40-5, to be termed the Georgia affordable housing tax credit, shall be allowed
 1087 with respect to each ~~qualified Georgia affordable housing~~ project placed in service after
 1088 January 1, 2001. ~~The amount of~~ For initial applications received by the Department of
 1089 Community Affairs prior to January 1, 2026, the amount of such credit shall not exceed
 1090 an amount equal to the federal housing tax credit allowed for each affordable housing
 1091 project. For initial applications received by the Department of Community Affairs on or
 1092 after January 1, 2026, no such credit shall, when combined with the total amount of credit
 1093 authorized under Code Section 48-7-29.6, ~~in no event~~ exceed:

1094 (A) An ~~an~~ amount equal to 80 percent of the federal housing tax credit allowed with
 1095 respect to such ~~qualified Georgia affordable housing~~ project; or

1096 (B) An amount equal to 100 percent of the federal housing tax credit if such affordable
 1097 housing project is a targeted community project.

1098 (2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a
 1099 portion of any federal housing tax credit taken on a project is required to be recaptured
 1100 as a result of a reduction in the qualified basis of such project, the taxpayer claiming
 1101 any state tax credit with respect to such project shall also be required to recapture a
 1102 portion of any state tax credit authorized by this Code section. The state recapture

1103 amount shall be equal to the proportion of the state tax credit claimed by the taxpayer
1104 that equals the proportion the federal recapture amount bears to the original federal
1105 housing tax credit amount subject to recapture. The tax credit under this Code section
1106 shall not be subject to recapture if such recapture is due solely to the sale or transfer of
1107 any direct or indirect interest in such ~~qualified Georgia~~ affordable housing project.

1108 (B) In the event that recapture of any Georgia affordable housing tax credit is required,
1109 any amended return submitted to the Commissioner as provided in this Code section
1110 shall include the proportion of the state tax credit required to be recaptured, the identity
1111 of each taxpayer subject to the recapture, and the amount of tax credit previously
1112 allocated to such taxpayer.

1113 (3) In no event shall the total amount of the tax credit under this Code section for a
1114 taxable year exceed the taxpayer's tax liability under Code Sections 33-5-31, 33-8-4,
1115 and 33-40-5. Any unused tax credit shall be allowed to be carried forward to apply to the
1116 taxpayer's next three succeeding years' tax liability. No such tax credit shall be allowed
1117 the taxpayer against prior years' tax liability.

1118 (4) The tax credit allowed under this Code section; and any recaptured tax credit; shall
1119 be allocated among some or all of the partners, members, or shareholders of the entity
1120 owning the project in any manner agreed to by such persons, whether or not such persons
1121 are allocated or allowed any portion of the federal housing tax credit with respect to the
1122 project.

1123 (c)(1) Except for confidential taxpayer information pursuant to Title 48, all affordable
1124 housing project level records associated with this Code section shall be subject to Article
1125 4 of Chapter 18 of Title 50, relating to open records.

1126 (2) The commissioner and the state department designated by the Governor as the state
1127 housing credit agency for purposes of Section 42(h) of the Internal Revenue Code of
1128 1986, as amended, shall each be authorized to promulgate any rules and regulations
1129 necessary to implement and administer this Code section."

SECTION 2-2.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by revising Code Section 48-7-29.6, relating to tax credits for qualified low-income buildings, as follows:

"48-7-29.6.

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

(1) 'Affordable housing project' means a qualified low-income housing project as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in Georgia.

(2) 'Federal housing tax credit' means the federal tax credit as provided in Section 42 of the Internal Revenue Code of 1986, as amended.

~~(2)~~(3) 'Median income' means those incomes that are determined by the federal Department of Housing and Urban Development guidelines and adjusted for family size.

~~(3)~~(4) 'Project' means a housing project that has restricted rents that do not exceed 30 percent of median income for at least 40 percent of its units occupied by persons or families having incomes of 60 percent or less of the median income, or at least 20 percent of the units occupied by persons or families having incomes of 50 percent or less of the median income.

~~(4)~~(5) 'Qualified basis' means that portion of the tax basis of a ~~qualified Georgia~~ an affordable housing project eligible for the federal housing tax credit, as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended.

~~(5)~~ 'Qualified Georgia project' means a ~~qualified low-income building~~ as that term is defined in Section 42 of the Internal Revenue Code of 1986, as amended, that is located in Georgia.

(6) 'Senior' means an individual 55 years of age or older.

(7) 'Targeted community project' means an affordable housing project that:

(A) Is located in a rural area;

1157 (B) Reserves or prioritizes a majority of its units for seniors or provides a preference
 1158 for persons with disabilities, veterans, or first responders;

1159 (C) Provides access to stable and high frequency transportation;

1160 (D) Consists primarily of a rehabilitation or renovation; or

1161 (E) Is owned by a housing authority.

1162 (8) 'Veteran' means an individual who served in the active military, naval, or air service
 1163 and who was discharged or released therefrom under conditions other than dishonorable.

1164 (b)(1) A state tax credit against the tax imposed by this article, to be termed the Georgia
 1165 affordable housing tax credit, shall be allowed with respect to each ~~qualified Georgia~~
 1166 affordable housing project placed in service after January 1, 2001. ~~The amount of For~~
 1167 initial applications received by the Department of Community Affairs prior to January 1,
 1168 2026, the amount of such credit shall not exceed an amount equal to the federal housing
 1169 tax credit allowed for each affordable housing project. For initial applications received
 1170 by the Department of Community Affairs on or after January 1, 2026, no such credit
 1171 shall, when combined with the total amount of credits authorized under Code Section
 1172 33-1-18, in no event exceed;

1173 (A) An ~~an~~ amount equal to 80 percent of the federal housing tax credit allowed with
 1174 respect to such ~~qualified Georgia affordable housing~~ project; or

1175 (B) An amount equal to 100 percent of the federal housing tax credit if such affordable
 1176 housing project is a targeted community project.

1177 (2)(A) If under Section 42 of the Internal Revenue Code of 1986, as amended, a
 1178 portion of any federal housing tax credit taken on a project is required to be recaptured
 1179 as a result of a reduction in the qualified basis of such project, the taxpayer claiming
 1180 any state tax credit with respect to such project shall also be required to recapture a
 1181 portion of any state tax credit authorized by this Code section. The state recapture
 1182 amount shall be equal to the proportion of the state tax credit claimed by the taxpayer
 1183 that equals the proportion the federal recapture amount bears to the original federal

1184 housing tax credit amount subject to recapture. The tax credit under this Code section
1185 shall not be subject to recapture if such recapture is due solely to the sale or transfer of
1186 any direct or indirect interest in such ~~qualified Georgia~~ affordable housing project.

1187 (B) In the event that recapture of any Georgia affordable housing tax credit is required,
1188 any amended return submitted to the commissioner as provided in this Code section
1189 shall include the proportion of the state tax credit required to be recaptured, the identity
1190 of each taxpayer subject to the recapture, and the amount of tax credit previously
1191 allocated to such taxpayer.

1192 (3) In no event shall the total amount of the tax credit under this Code section for a
1193 taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be
1194 allowed to be carried forward to apply to the taxpayer's next three succeeding years' tax
1195 liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

1196 (4) The tax credit allowed under this Code section, and any recaptured tax credit, shall
1197 be allocated among some or all of the partners, members, or shareholders of the entity
1198 owning the project in any manner agreed to by such persons, whether or not such persons
1199 are allocated or allowed any portion of the federal housing tax credit with respect to the
1200 project.

1201 (c)(1) Except for confidential taxpayer information pursuant to this title, all affordable
1202 housing project level records associated with this Code section shall be subject to Article
1203 4 of Chapter 18 of Title 50, relating to open records.

1204 (2) The commissioner and the state department designated by the Governor as the state
1205 housing credit agency for purposes of Section 42(h) of the Internal Revenue Code of
1206 1986, as amended, shall each be authorized to promulgate any rules and regulations
1207 necessary to implement and administer this Code section."

PART III
SECTION 3-1.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by revising Article 10, which is reserved, to read as follows:

"ARTICLE 10

50-7-120.

(a) There is created the Special Commission on Data Center Energy Planning.

(b) The commission shall be composed of 14 members as follows:

(1) The Governor shall appoint three members, one of whom shall be a representative from an investor owned utility, one of whom shall be a representative from an electric cooperative, and one of whom shall be a member of an electric membership corporation;

(2) The Speaker of the House of Representatives shall appoint two members;

(3) The President of the Senate shall appoint two members;

(4) The minority leader of the House of Representatives shall appoint one member;

(5) The minority leader of the Senate shall appoint one member;

(6) Two members of the Public Service Commission or designees chosen by the chairperson of the Public Service Commission;

(7) The commissioner of economic development, or his or her designee;

(8) The commissioner of community affairs, or his or her designee; and

(9) The executive director of the Georgia Technology Authority, or his or her designee.

(c) All members shall serve for the duration of the commission. Any vacancy shall be filled in the same manner in which the original appointment was made.

(d) The commission shall elect a chairperson and may elect other officers as it deems necessary."

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PART IV
SECTION 4-1.

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- (a) Part I of this Act shall become effective on January 1, 2025, and shall be applicable to taxable years beginning on or after such date, and Section 1-1 of this Act shall apply to projects certified by the Department of Economic Development on or after January 1, 2025.
- (b) Part II of this Act shall become effective on January 1, 2026, and shall be applicable to taxable years beginning on or after such date.
- (c) Part III of this Act shall become effective on July 1, 2024.

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SECTION 4-2.

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