

The Senate Finance Committee offered the following substitute to HB 193:

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to
2 a state income tax credit for film, video, or digital production, so as to allow transfers of
3 entertainment tax credits to certain entities; to amend Code Section 48-8-3 of the Official
4 Code of Georgia Annotated, relating to exemptions from sales and use tax, so as to provide
5 a new exemption from state sales and use tax only for a limited period of time regarding the
6 sale or use of tangible personal property to certain nonprofit health centers; to provide a new
7 exemption for a limited period of time with respect to certain nonprofit volunteer health
8 clinics; to provide a new exemption for a limited period of time with respect to certain sales
9 of eligible food and beverages to a qualified food bank; to provide a new exemption for a
10 limited period of time with respect to the use of food which is donated to a qualified
11 nonprofit agency and which is used for hunger relief purposes; to provide a new exemption
12 for a limited period of time with respect to the use of food donated for disaster relief
13 purposes; to change the dates for the school sales tax holiday in 2013; to provide for an
14 exemption from state sales and use tax only with respect to certain sales to a qualified job
15 training organization; to provide an effective date; to repeal conflicting laws; and for other
16 purposes.

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

18 Code Section 48-7-40.26 of the Official Code of Georgia Annotated, relating to a state
19 income tax credit for film, video, or digital production, is amended by revising subsection
20 (g) as follows:
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22 "(g) Any tax credits with respect to a state certified production earned by a production
23 company or qualified interactive entertainment production company and previously
24 claimed but not used by such production company or qualified interactive entertainment
25 production company against its income tax may be transferred or sold in whole or in part
26 by such production company or qualified interactive entertainment production company
27 to another Georgia taxpayer, subject to the following conditions:

- 28 (1) Such production company or qualified interactive entertainment production company
29 may make only a single transfer or sale of tax credits earned in a taxable year; however,
30 the transfer or sale may involve one or more transferees, including a transfer or sale to
31 a pass-through entity in the form of a partnership, Subchapter 'S' corporation, or limited
32 liability company, which may then transfer or sell such tax credits to a final purchaser;
- 33 (2) Such production company, ~~or~~ qualified interactive entertainment production
34 company, or pass-through entity as specified in paragraph (1) of this subsection shall
35 submit to the Department of Economic Development and to the Department of Revenue
36 a written notification of any transfer or sale of tax credits within 30 days after the transfer
37 or sale of such tax credits. The notification shall include such production company's, ~~or~~
38 qualified interactive entertainment production company's, or pass-through entity's tax
39 credit balance prior to transfer, the credit certificate number, the remaining balance after
40 transfer, all tax identification numbers for each transferee, the date of transfer, the amount
41 transferred, and any other information required by the Department of Economic
42 Development or the Department of Revenue;
- 43 (3) Failure to comply with this subsection shall result in the disallowance of the tax
44 credit until the production company, ~~or~~ qualified interactive entertainment production
45 company, or pass-through entity as specified in paragraph (1) of this subsection is in full
46 compliance;
- 47 (4) The transfer or sale of this tax credit does not extend the time in which such tax credit
48 can be used. The carry-forward period for tax credit that is transferred or sold shall begin
49 on the date on which the tax credit was originally earned;
- 50 (5) A transferee shall have only such rights to claim and use the tax credit that were
51 available to such production company or qualified interactive entertainment production
52 company at the time of the transfer, except for the use of the credit in paragraph (1) of
53 subsection (f) of this Code section. To the extent that such production company or
54 qualified interactive entertainment production company did not have rights to claim or
55 use the tax credit at the time of the transfer, the Department of Revenue shall either
56 disallow the tax credit claimed by the transferee or recapture the tax credit from the
57 transferee. The transferee's recourse is against such production company or qualified
58 interactive entertainment production company; and
- 59 (6) The transferee must acquire the tax credits in this Code section for a minimum of 60
60 percent of the amount of the tax credits so transferred."

SECTION 2.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, is amended by revising subparagraph (A) of paragraph (7.05), paragraph (7.3), subparagraph (A) of paragraph (57.1), subparagraph (A) of paragraph (57.2), subparagraph (A) of paragraph (57.3), and subparagraph (A) of paragraph (75), by deleting "or" at the end of paragraph (94), by deleting the period and adding "; or" at the end of paragraph (95), and by adding a new paragraph (96) to read as follows:

"(7.05)(A) For the period commencing on July 1, ~~2008~~ 2013, and ending on ~~June 30, 2010~~ June 30, 2015, sales of tangible personal property to a nonprofit health center in this state which has been established under the authority of and is receiving funds pursuant to the United States Public Health Service Act, 42 U. S. C. Section 254b if such health clinic obtains an exemption determination letter from the commissioner."

"(7.3) For the period commencing July 1, ~~2008~~ 2013, and ending ~~June 30, 2010~~ June 30, 2015, sales of tangible personal property and services to a nonprofit volunteer health clinic which primarily treats indigent persons with incomes below 200 percent of the federal poverty level and which property and services are used exclusively by such volunteer health clinic in performing a general treatment function in this state when such volunteer health clinic is a tax exempt organization under the Internal Revenue Code and obtains an exemption determination letter from the commissioner;"

"(57.1)(A) From July 1, ~~2006~~ 2013, until June 30, ~~2010~~ 2015, sales of food and food ingredients to a qualified food bank."

"(57.2)(A) For the period commencing July 1, ~~2007~~ 2013, and ending on June 30, ~~2011~~ 2015, the use of prepared food which is donated to a qualified nonprofit agency and which ~~are~~ is used for hunger relief purposes."

"(57.3)(A) For the period commencing July 1, ~~2007~~ 2013, and ending on June 30, ~~2011~~ 2015, the use of prepared food which is donated following a natural disaster and which ~~are~~ is used for disaster relief purposes."

"(75)(A) The sale of any covered item. The exemption provided by this paragraph shall apply only to sales occurring during periods:

(i) Commencing at 12:01 A.M. on August 10, 2012, and concluding at 12:00 Midnight on August 11, 2012; and

(ii) Commencing at 12:01 A.M. on August ~~9~~ 2, 2013, and concluding at 12:00 Midnight on August ~~10~~ 3, 2013."

"(96)(A) For the period commencing July 1, 2013, and ending on June 30, 2015, sales of tangible personal property and services to a qualified job training organization when such organization obtains an exemption determination letter from the commissioner.

- 97 (B) For the purposes of this paragraph, 'qualified job training organization' means an
 98 organization which:
- 99 (i) Is located in this state;
 - 100 (ii) Is exempt from income taxation under Section 501(c)(3) of the Internal Revenue
 101 Code;
 - 102 (iii) Specializes in the retail sale of donated items;
 - 103 (iv) Provides job training and employment services to individuals with workplace
 104 disadvantages and disabilities; and
 - 105 (v) Uses a majority of its revenues for job training and placement programs.
- 106 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' means any
 107 sales tax, use tax, or local sales and use tax which is levied and imposed in an area
 108 consisting of less than the entire state, however authorized, including, but not limited
 109 to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant
 110 to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,
 111 the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; and by or pursuant
 112 to Article 2, Article 2A, Part 1 or Part 2 of Article 3, Article 4, or Article 5 of this
 113 chapter.
- 114 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply
 115 to any local sales and use tax levied or imposed at any time.
- 116 (D) The commissioner shall promulgate any rules and regulations necessary to
 117 implement and administer this paragraph."

118 **SECTION 3.**

119 This Act shall become effective on July 1, 2013.

120 **SECTION 4.**

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