House Bill 1107 (AS PASSED HOUSE AND SENATE)

By: Representatives Roberts of the 154th, Golick of the 34th, Smith of the 129th, Maddox of the 172nd, Smith of the 70th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, so as to provide for income tax credits with respect to qualified donations of real property for conservation purposes; to provide for definitions; to provide for conditions, limitations, and exclusions; to provide for authority of the state revenue commissioner and the Department of Natural Resources with respect to the foregoing; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, is amended by adding a new Code section immediately following Code Section 48-7-29.9, to be designated Code Section 48-7-29.10, to read as follows:

"48-7-29.10.

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

(1) 'Conservation purposes' means real property which is qualified as conservation land pursuant to Chapter 22 of Title 36.

(2) 'Qualified donation' means the fee simple conveyance to the state; a county, a municipality, or a consolidated government of this state; or a bona fide charitable nonprofit organization qualified under the Internal Revenue Code of 100 percent of all right, title, and interest in the entire parcel of donated real property, which donation is accepted by such state, county, municipality, consolidated government, or bona fide charitable nonprofit organization. Such term shall also include the donation to and acceptance by the state; a county, a municipality, or a consolidated government of this state; or a bona fide charitable nonprofit organization qualified under the Internal Revenue Code of an interest in real property which qualifies as a conservation easement

under paragraph (4) of Code Section 36-22-2. Any real property which is otherwise required to be dedicated pursuant to local government regulations or ordinances or to increase building density levels shall not be eligible as a qualified donation under this Code section. Any real property which is used for or associated with the playing of golf, or is planned to be so used or associated shall not be eligible as a qualified donation under this Code section.

(b) A taxpayer shall be allowed a state income tax credit against the tax imposed by Code Section 48-7-20 or Code Section 48-7-21 for each qualified donation of real property for conservation purposes. Except as otherwise provided in subsection (d) of this Code section, such credit shall be limited to an amount not to exceed the lesser of $500,000.00 or 25 percent of the fair market value of the donated real property as fair market value is established pursuant to Code Section 48-5-2(3) for the year in which the donation occurred.

(c) No tax credit shall be allowed under this Code section unless the taxpayer files with the taxpayer´s income tax return a copy of a certification by the Department of Natural Resources that the donated property is suitable for conservation purposes. The Board of Natural Resources shall promulgate any rules and regulations necessary to implement and administer this subsection, including, but not limited to, policies to guide the determination of whether or not donated property is suitable for conservation purposes. A final determination by the Department of Natural Resources with respect to the suitability of donated property for conservation purposes shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'

(d) In no event shall the total amount of any tax credit under this Code section for a taxable year exceed the taxpayer´s income tax liability. In no event shall the total amount of the tax credit allowed to a taxpayer under subsection (b) of this Code section exceed $250,000.00 with respect to tax liability determined under Code Section 48-7-20 or $500,000.00 with respect to tax liability determined under Code Section 48-7-21. Any unused tax credit shall be allowed to be carried forward to apply to the taxpayer´s succeeding five years´ tax liability. However, the amount in excess of such annual dollar limits shall not be eligible for carryover to the taxpayer´s succeeding years´ tax liability. No such tax credit shall be allowed the taxpayer against prior years´ tax liability.

(e) The commissioner shall promulgate any rules and regulations necessary to implement and administer this Code section.″

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval, and shall be applicable to all taxable years beginning on or after January 1, 2006.

SECTION 3.

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