

House Bill 213

By: Representatives Park of the 107th, Miller of the 62nd, Drenner of the 85th, Romman of the 97th, Herring of the 145th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to imposition, rate, computation, exemption, and credits from income taxes, so as to
3 create a tax credit for investment in clean energy; to provide for the calculation of credit
4 amounts; to provide for definitions; to provide for terms and conditions; to provide for
5 transferability; to require the Environmental Protection Division to annually publish
6 greenhouse gas emission rates for purposes of such tax credit; to provide for rules and
7 regulations; to provide for a short title; to provide for related matters; to provide for an
8 effective date and applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "Clean Energy Investment Tax Credit Act."

12 **SECTION 2.**

13 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
14 imposition, rate, computation, exemption, and credits from income taxes, is amended by
15 revising Code Section 48-7-40.10, which is reserved, as follows:

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16 "48-7-40.10.

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

18 (1) 'CO₂e per KWh,' 'energy storage technology,' 'greenhouse gas,' and 'qualified
19 interconnection property' shall have the same meaning as provided for such terms in 26
20 U.S.C. Section 48E, as effective on January 1, 2025.

21 (2) 'Eligible person' means any person that demonstrates eligibility for the tax credit
22 allowed pursuant to this Code section in accordance with the requirements of this Code
23 section and rules and regulations of the department. Such term shall not include any
24 person or any form of business owned, affiliated, or controlled, in whole or in part, by
25 any company or person which is in default on any tax obligation to the state, any loan
26 made by the state, or any loan guaranteed by the state.

27 (3) 'Greenhouse gas emissions rate' means the amount of greenhouse gases emitted into
28 the atmosphere by a facility in the production of electricity, expressed as grams of CO₂e
29 per KWh, as provided by the Environmental Protection Division pursuant to
30 subsection (e) of this Code section. In the case of a facility which produces electricity
31 through combustion or gasification, the greenhouse gas emissions rate for such facility
32 shall be equal to the net rate of greenhouse gases emitted into the atmosphere by such
33 facility, taking into account lifecycle greenhouse gas emissions in the production of
34 electricity, expressed as grams of CO₂e per KWh. The amount of greenhouse gases
35 emitted into the atmosphere by a facility in the production of electricity shall not include
36 any qualified carbon dioxide that is captured by the qualified person and disposed of by
37 the eligible person in secure geological storage or utilized by the qualified person.

38 (4) 'Qualified facility' means a facility located in this state which is used for the
39 generation of electricity, is placed in service after July 1, 2025, and for which the
40 greenhouse gas emissions rate is not greater than zero. Such term shall not include any
41 facility for which a state income tax credit for clean energy production is allowed for the
42 taxable year.

43 (5) 'Qualified investment' means:

44 (A) With respect to any qualified facility for any taxable year, the sum of:

45 (i) The basis of any qualified property placed in service by the eligible person during
46 such taxable year which is part of a qualified facility; and

47 (ii) The amount of any expenditures which are:

48 (I) Paid or incurred by the eligible person for qualified interconnection property in
49 connection with a qualified facility which has a maximum net output of not greater
50 than 5 megawatts, as measured in alternating current, and placed in service during
51 the taxable year; and

52 (II) Properly chargeable to the capital account of the taxpayer; and

53 (B) With respect to energy storage technology for any taxable year, the basis of any
54 energy storage technology placed in service by the eligible person during such taxable
55 year.

56 (6) 'Qualified property' means property:

57 (A) Which is tangible personal property, or other tangible property, not including a
58 building or its structural components, but only if such property is used as an integral
59 part of the qualified facility:

60 (B) With respect to which depreciation, or amortization in lieu of depreciation, is
61 allowable; and

62 (C)(i) The construction, reconstruction, or erection of which is completed by the
63 eligible person; or

64 (ii) Which is acquired by the eligible person if the original use of such property
65 commences with the eligible person.

66 (b) For taxable years beginning on or after January 1, 2026, a tax credit is allowed against
67 the tax imposed under this article to any eligible person in an amount equal to 6 percent of
68 the qualified investment for such taxable year with respect to any qualified facility and any
69 energy storage technology located in this state.

70 (c) The tax credit allowed by this Code section shall be subject to the following conditions
71 and limitations:

72 (1) If used by the eligible person, in no event shall the amount of the tax credit used in
73 a taxable year exceed the taxpayer's income tax liability. No such credit shall be used
74 against the eligible person's prior years' tax liability;

75 (2) If transferred or sold to a Georgia taxpayer as provided for in subsection (d) of this
76 Code section, in no event shall the amount of the tax credit used in a taxable year exceed
77 the taxpayer's income tax liability. No such credit shall be used against the taxpayer's
78 prior years' tax liability;

79 (3) Any unused credit amount shall be allowed to be carried forward for three years from
80 the taxable year for which it was claimed; and

81 (4) To claim a credit allowed by this Code section, the eligible person shall provide any
82 information required by the department. Every eligible person claiming a credit under
83 this Code section shall maintain and make available for inspection by the department any
84 records that either entity considers necessary to determine and verify the amount of the
85 credit to which the eligible person is entitled. The burden of proving eligibility for a
86 credit and the amount of the credit rests upon the eligible person, and no credit shall be
87 allowed to an eligible person that fails to maintain adequate records or to make them
88 available for inspection.

89 (d) Any tax credits allowed to an eligible person pursuant to this Code section and
90 previously claimed but not used by such person against its income tax liability may be
91 transferred or sold in whole or in part by such eligible person to any Georgia taxpayer,
92 subject to the following conditions:

93 (1) Such eligible person shall make only a single transfer or sale of tax credits earned in
94 a taxable year; provided, however, that the transfer or sale may involve one or more
95 transferees;

96 (2) Such eligible person shall submit to the department a written notification of any
97 transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits.
98 Such notification shall include the tax credit balance prior to transfer, the credit certificate
99 number, the remaining balance after transfer, all tax identification numbers for each
100 transferee, the date of transfer, the amount transferred, and any other information required
101 by the department;

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

105 (4) A transferee shall have only such rights to claim and use the tax credit that were
106 available to such eligible person at the time of the transfer. To the extent that such
107 eligible person did not have rights to claim or use the tax credit at the time of the transfer,
108 the department shall either disallow the tax credit claimed by the transferee or recapture
109 the tax credit from the transferee; and

110 (5) The transferee shall acquire such tax credits for a minimum of 60 percent of the
111 amount of the tax credits so transferred.

112 (e) The Environmental Protection Division shall annually publish a table that sets forth the
113 greenhouse gas emissions rates for types or categories of facilities, which an eligible person
114 and the department shall use for purposes of this Code section.

115 (f) The department shall promulgate any rules and regulations necessary to implement and
116 administer the provisions of this Code section. Reserved."

117 **SECTION 3.**

118 This Act shall become effective on July 1, 2025, and shall be applicable to taxable years
119 beginning on or after January 1, 2026.

120

SECTION 4.

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