

House Bill 223

By: Representatives Burchett of the 176th, Efstration of the 104th, McDonald III of the 26th, Hong of the 103rd, Gambill of the 15th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to exclude from the calculation of taxable net income certain disaster relief
3 or assistance grant program payments for agricultural losses suffered due to Hurricane
4 Helene; to provide for refundable income tax credits for certain timber producers based on
5 certain casualty losses related to Hurricane Helene; to provide for transferability of such
6 credits; to provide for an aggregate annual cap; to provide for terms and conditions; to
7 provide for credit preapproval; to provide for legislative findings; to provide for definitions;
8 to provide for a sales and use tax exemption for a limited period of time for building
9 materials used to repair real property structures or fixtures used exclusively for the
10 production of animals; to provide for related matters; to provide for an effective date; to
11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
15 amended in Chapter 7, relating to income taxes, by adding a new paragraph to subsection (a)
16 of Code Section 48-7-27, relating to computation of taxable net income, to read as follows:

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17 "(11.3) For taxable years beginning on or after January 1, 2025, and ending on or before
18 December 31, 2029, income received as payments from a federal disaster relief or
19 assistance grant program administered by this state or its instrumentalities or the United
20 States Department of Agriculture, if such federal grant program was established
21 specifically to address agricultural losses suffered due to Hurricane Helene which was a
22 weather event declared to be a major disaster in this state by the President of the United
23 States during the 2024 calendar year, to the extent such income is included in federal
24 adjusted gross income or federal taxable income;"

25 **SECTION 2.**

26 Said title is further amended by adding a new Code section to read as follows:

27 "48-7-40.37.

28 (a)(1) The General Assembly finds and determines that Hurricane Helene has had a
29 catastrophic impact on the citizens and the economy of Georgia, has particularly
30 devastated the timber industry on which the citizens of Georgia are heavily dependent for
31 their livelihood, and has created both a public fire hazard and a danger of insect
32 infestations due to the massive amounts of downed timber caused by the severity of this
33 natural disaster.

34 (2) The General Assembly further finds and declares that it is appropriate and advisable
35 to provide relief to the timber industry in the form of a tax credit targeted to those
36 taxpayers that have suffered substantial economic losses and that will have to incur
37 significant expenses for salvaging downed timber, site clearance, restoration, and
38 reforestation over the coming years.

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

40 (1) 'Disaster area' means the real property encompassed by the borders of the 66 counties
41 included in the renewal of the State of Emergency pronounced in the Executive Order of

42 the Governor dated October 29, 2024, and filed in the official records of the office of the
43 Governor as Executive Order No. 10.29.24.01.

44 (2) 'Eligible timber property' means timber which on September 24, 2024, was being
45 grown by a taxpayer in a disaster area as part of a trade or business or a transaction
46 entered into for profit.

47 (3) 'Timber' means trees grown for the primary purpose of commercial production of
48 food or wood or wood fiber products.

49 (4) 'Timber casualty loss' means the amount of the diminution of value included in the
50 computation of the casualty loss deduction for such casualty losses claimed and allowed
51 pursuant to Section 165 of the Internal Revenue Code of 1986 as casualty losses incurred
52 by a taxpayer between September 24, 2024, and December 31, 2024, as a result of
53 damage to or destruction of eligible timber property caused by Hurricane Helene.

54 (c)(1) A taxpayer shall be allowed tax credits against the tax imposed by this article in
55 an amount equal to 100 percent of such taxpayer's timber casualty loss; provided,
56 however, that the credit amount shall not exceed the number of the taxpayer's affected
57 acres of eligible timber property in such disaster areas multiplied by \$400.00.

58 (2) To be allowed such tax credits, a taxpayer shall submit an application for preapproval
59 of such credits based on timber casualty losses incurred by such taxpayer. A taxpayer
60 shall submit its preapproval application between July 1, 2025, and December 31, 2025,
61 for such preapproval.

62 (d)(1) The commissioner shall require preapproval applications to contain such
63 information as is necessary to substantiate a taxpayer's eligibility for tax credits allowed
64 pursuant to this Code section.

65 (2) The commissioner is authorized to require electronic submission of preapproval
66 applications in the manner specified by the commissioner.

67 (3) The commissioner shall review completed preapproval applications in the order in
68 which such applications were submitted and shall provide notice to each taxpayer that

69 submitted an application within 30 days of receipt stating whether such taxpayer's
70 application is complete or incomplete.

71 (4) In no event shall the commissioner preapprove tax credits pursuant to this Code
72 section in an amount that exceeds \$200 million in aggregate.

73 (5) In the event that properly completed and timely submitted preapproval applications
74 are submitted for an amount that exceeds the amount of funds available to fully fund the
75 tax credits requested, the commissioner shall prorate the available funds between or
76 among the applicants.

77 (6) The commissioner shall approve properly completed and timely submitted
78 preapproval applications and issue a preapproval certificate to the taxpayer by
79 January 31, 2026, certifying the amount of credits such taxpayer is eligible to claim if the
80 taxpayer meets the conditions of this Code section.

81 (e) In no event shall the amount of the tax credits allowed pursuant to this Code section
82 exceed \$200 million in aggregate.

83 (f)(1)(A) Tax credits allowed pursuant to this Code section shall be eligible to be
84 claimed only by the taxpayer to which the commissioner issued a preapproval
85 certificate.

86 (B) Tax credits allowed pursuant to this Code section shall only be claimed in the
87 taxable year in which the taxpayer first completes:

88 (i) The restoration of each acre for which timber casualty losses were incurred to a
89 condition that has an adequately stocked stand that is expected to result in forest
90 products or ecological services in the foreseeable future; or

91 (ii) The replanting of timber in a quantity projected to yield at maturity at least 90
92 percent of the value of the timber casualty loss claimed. Such timber shall be planted
93 within the same county in which the eligible timber property was being grown when
94 the timber casualty loss was incurred. Timber market conditions as of
95 September 25, 2024, shall be used for the purposes of establishing projected value.

96 (2) To claim tax credits allowed pursuant to this Code section, a taxpayer shall attach to
97 such taxpayer's state tax return certification from the taxpayer that the requirements of
98 this Code section have been met and any other information required by the commissioner,
99 including information which demonstrates that it has completed the restoration or
100 replanting of timber required pursuant to paragraph (1) of this subsection.

101 (3) Any tax credits allowed pursuant to this Code section shall be claimed on or before
102 December 31, 2030.

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

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

110 (h) Tax credits claimed pursuant to this Code section but neither used by the taxpayer
111 against its income tax liability nor refunded may be transferred or sold one time to one
112 single other Georgia taxpayer, subject to the following conditions:

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

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

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

120 (B) The credit certificate number;

121 (C) The remaining balance of credits after transfer;

122 (D) The tax identification number of the transferee;

123 (E) The date of transfer;

124 (F) The amount of credits transferred; and

125 (G) Other information as may be required by the department;

126 (3) Failure to comply with any provision of this subsection shall result in the
127 disallowance of the tax credits allowed pursuant to this Code section until the taxpayer
128 that claimed the credits is in full compliance;

129 (4) The transfer or sale of the tax credits shall not extend the time during which such tax
130 credits may be used. The carry-forward period for tax credits that are transferred or sold
131 shall begin on the date on which such tax credits were originally claimed;

132 (5) A transferee shall have only such rights to claim and use the tax credits that were
133 available to the transferor at the time of the transfer; provided, however, that a transferee
134 shall not be eligible to transfer or receive a refund of such tax credits. To the extent that
135 the transferor did not have rights to claim or use the tax credits at the time of the transfer,
136 the commissioner shall disallow the tax credits claimed by the transferee or recapture the
137 tax credits from the transferee or transferor. The transferee's recourse shall not be against
138 the commissioner; and

139 (6) The transferee shall acquire the tax credits allowed pursuant to this Code section for
140 a minimum of 60 percent of the amount of the tax credits so transferred.

141 (i)(1) A taxpayer claiming, transferring, or selling tax credits allowed pursuant to this
142 Code section shall be required to reimburse the department for any department initiated
143 audits relating to the tax credits, provided that such amount shall not exceed the value of
144 the credits claimed by the taxpayer. This paragraph shall not apply to routine tax audits
145 of such taxpayer that may include the review of the tax credits provided in this Code
146 section.

147 (2) The commissioner shall have access to timber property for the purpose of
148 determining eligibility for both the preapproval and claiming of tax credits allowed and
149 conducting audits pursuant to this Code section, provided that prior notice is given to any

150 taxpayer that submitted a preapproval application or transferred or claimed tax credits
151 pursuant to this Code section and the owner of the underlying real property.

152 (3) The commissioner may pursue all remedies available by law as necessary to
153 recapture tax credits wrongfully preapproved, allowed, or claimed by a taxpayer or a
154 taxpayer's transferee.

155 (4) The commissioner shall be authorized to consult with the Georgia Forestry
156 Commission as necessary to administer and enforce the provisions of this Code section.

157 (j) The commissioner shall be authorized to promulgate any rules and regulations
158 necessary to implement and administer the provisions of this Code section."

159 **SECTION 3.**

160 Said title is further amended in Chapter 8, relating to sales and use taxes, by revising
161 paragraph (3) of subsection (a) of Code Section 48-8-3.3, relating to exemptions for
162 agricultural operations and establishment of Georgia Agricultural Trust Fund, as follows:

163 "(3)(A) 'Agricultural production inputs' means seed; seedlings; plants grown from seed,
164 cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and
165 instruments used for the administration of such drugs; fencing products and materials
166 used to produce agricultural products regardless of whether the fencing products or
167 materials become incorporated into real property; fungicides; rodenticides; herbicides;
168 defoliants; soil fumigants; plant growth regulating chemicals; desiccants, including, but
169 not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and
170 hay; feed for animals, including, but not limited to, livestock, fish, equine, hogs, or
171 poultry; sugar used as food for honeybees kept for the commercial production of honey,
172 beeswax, and honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for
173 breeding purposes; ice or other refrigerants, including, but not limited to, nitrogen,
174 carbon dioxide, ammonia, and propylene glycol used in the processing for market or
175 the chilling of agricultural products in storage facilities, rooms, compartments, or

176 delivery trucks; materials, containers, crates, boxes, labels, sacks, bags, or bottles used
177 for packaging agricultural products when the product is either sold in the containers,
178 sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale
179 of the product for resale; and containers, plastic, canvas, and other fabrics used in the
180 care and raising of agricultural products or canvas used in covering feed bins, silos,
181 greenhouses, and other similar storage structures.

182 (B) For the period beginning on the effective date of this Act and ending on
183 December 31, 2025, such term also means building materials used to repair real
184 property structures or fixtures used exclusively for the production of animals, including,
185 but not limited to, poultry sheds and livestock barns."

186 **SECTION 4.**

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

189 **SECTION 5.**

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