

The House Committee on Ways and Means offers the following substitute to HB 223:

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 and crop insurance proceeds for agricultural losses
4 suffered due to Hurricane Helene; to provide for refundable income tax credits for certain
5 timber producers based on certain casualty losses related to Hurricane Helene; to provide for
6 transferability of such credits; to provide for an aggregate annual cap; to provide for terms
7 and conditions; to provide for credit preapproval; to provide for legislative findings; to
8 provide for definitions; to provide for a sales and use tax exemption for a limited period of
9 time for building materials used to repair or replace greenhouses and real property structures
10 or fixtures used exclusively for the production of animals; to provide for related matters; to
11 provide for an effective date; to 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 new paragraphs to subsection (a)
16 of Code Section 48-7-27, relating to computation of taxable net income, to read as follows:

H. B. 223 (SUB)

17 "(11.3) For taxable years beginning on or after January 1, 2024, 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 (11.4) For taxable years beginning on or after January 1, 2024, and ending on or before
26 December 31, 2029, federal crop insurance proceeds received for the destruction or
27 damage to crops due to Hurricane Helene which was a weather event declared to be a
28 major disaster in this state by the President of the United States during the 2024 calendar
29 year, to the extent such proceeds are included in federal adjusted gross income or federal
30 taxable income;"

31 **SECTION 2.**

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

33 "48-7-40.37.

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

40 (2) The General Assembly further finds and declares that it is appropriate and advisable
41 to provide relief to the timber industry in the form of a tax credit targeted to those
42 taxpayers that have suffered substantial economic losses and that will have to incur

43 significant expenses for salvaging downed timber, site clearance, restoration, and
44 reforestation over the coming years.

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

46 (1) 'Disaster area' means the real property encompassed by the borders of the 66 counties
47 included in the renewal of the State of Emergency pronounced in the Executive Order of
48 the Governor dated October 29, 2024, and filed in the official records of the office of the
49 Governor as Executive Order No. 10.29.24.01.

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

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

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

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

64 (2) To be allowed such tax credits, a taxpayer shall submit an application for preapproval
65 of such credits based on timber casualty losses incurred by such taxpayer by
66 December 31, 2025.

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

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

72 (3) The commissioner shall review completed preapproval applications in the order in
73 which such applications were submitted and shall provide notice to each taxpayer that
74 submitted an application within 30 days of receipt stating whether such taxpayer's
75 application is complete or incomplete.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

120 (2) The taxpayer that claimed the tax credits allowed pursuant to this Code section shall
121 submit to the commissioner written notification of any transfer or sale of such tax credits

122 within 30 days after the transfer or sale of the tax credits. Such written notification shall
123 include:

- 124 (A) Such taxpayer's credit balance prior to transfer;
- 125 (B) The credit certificate number;
- 126 (C) The remaining balance of credits after transfer;
- 127 (D) The tax identification number of the transferee;
- 128 (E) The date of transfer;
- 129 (F) The amount of credits transferred; and
- 130 (G) Other information as may be required by the department;

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

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

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

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

146 (i)(1) A taxpayer claiming, transferring, or selling tax credits allowed pursuant to this
147 Code section shall be required to reimburse the department for any department initiated
148 audits relating to the tax credits, provided that such amount shall not exceed the value of

149 the credits claimed by the taxpayer. This paragraph shall not apply to routine tax audits
 150 of such taxpayer that may include the review of the tax credits provided in this Code
 151 section.

152 (2) The commissioner shall have access to timber property for the purpose of
 153 determining eligibility for both the preapproval and claiming of tax credits allowed and
 154 conducting audits pursuant to this Code section, provided that prior notice is given to any
 155 taxpayer that submitted a preapproval application or transferred or claimed tax credits
 156 pursuant to this Code section and the owner of the underlying real property.

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

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

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

164 **SECTION 3.**

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

168 "(3)(A) 'Agricultural production inputs' means seed; seedlings; plants grown from seed,
 169 cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and
 170 instruments used for the administration of such drugs; fencing products and materials
 171 used to produce agricultural products regardless of whether the fencing products or
 172 materials become incorporated into real property; fungicides; rodenticides; herbicides;
 173 defoliant; soil fumigants; plant growth regulating chemicals; desiccants, including, but
 174 not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and

175 hay; feed for animals, including, but not limited to, livestock, fish, equine, hogs, or
176 poultry; sugar used as food for honeybees kept for the commercial production of honey,
177 beeswax, and honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for
178 breeding purposes; ice or other refrigerants, including, but not limited to, nitrogen,
179 carbon dioxide, ammonia, and propylene glycol used in the processing for market or
180 the chilling of agricultural products in storage facilities, rooms, compartments, or
181 delivery trucks; materials, containers, crates, boxes, labels, sacks, bags, or bottles used
182 for packaging agricultural products when the product is either sold in the containers,
183 sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale
184 of the product for resale; and containers, plastic, canvas, and other fabrics used in the
185 care and raising of agricultural products or canvas used in covering feed bins, silos,
186 greenhouses, and other similar storage structures.

187 (B)(i) For the period beginning on the effective date of this Act and ending on
188 December 31, 2025, such term also means building materials used to repair or
189 replace:

190 (I) Greenhouses; and

191 (II) Real property structures or fixtures used exclusively for the production of
192 animals, including, but not limited to, poultry sheds and livestock barns.

193 (ii) Notwithstanding subsection (c) of Code Section 48-8-63, contractors shall not
194 incur any use tax on any building materials that a qualified agricultural producer
195 purchases tax-exempt under division (i) of this subparagraph for use in an agricultural
196 operation and furnishes to such contractor for installation into real property."

197 **SECTION 4.**

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

200

SECTION 5.

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