

The Senate Committee on Economic Development and Tourism offered the following substitute to SB 463:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 44, Chapter 7 of Title 48, and Chapter 1 of Title 33 of the
2 Official Code of Georgia Annotated, relating to regulation of specialized land transactions,
3 income taxes, and general provisions relative to insurance, respectively, so as to prohibit
4 business enterprises or business enterprises controlled by natural born persons from owning
5 an interest in more than 500 single-family residential properties; to prohibit foreign
6 investment vehicles from owning any interest in a single-family residential property to be
7 used as rental property; to provide a private cause of action against a business enterprise that
8 owns an interest in more than 500 single-family residential properties and foreign investment
9 vehicles; to preclude business enterprises owning or possessing an interest in more than 500
10 single-family residences from claiming certain income tax credits related to such ownership
11 or possession; to revise deductions related to depreciation for single-family residential
12 property owned or possessed by such business enterprises; to provide for the disclosure of
13 information by brokers; to provide an effective date and applicability; to provide for related
14 matters; to repeal conflicting laws; and for other purposes.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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PART I
SECTION 1-1.

18 Chapter 3 of Title 44 of the Official Code of Georgia Annotated, relating to regulation of
19 specialized land transactions, is amended by adding a new article to read as follows:

20

"ARTICLE 8

21 44-3-260.22 As used in this article, the term:23 (1) 'Affiliate' means any entity that directly or indirectly owns or controls, is owned or
24 controlled by, or is under any other common ownership or control with a business
25 enterprise.26 (2) 'Business enterprise' means any corporation, association, partnership, limited liability
27 company, limited partnership, trust, issuer, or other private legal entity organized under
28 the laws of this state, the United States, the District of Columbia, or any other state,
29 territory, or dependency of the United States or under the laws of a foreign country.30 (3) 'Claimant' means an aggrieved person who seeks recovery of damages under this
31 article; provided, however, that such term shall not include a government entity or any
32 officer or employee of a government entity acting in his or her official capacity.33 (4) 'Foreign investment vehicle' means any business enterprise that is domiciled in a
34 foreign country or is domiciled in the United States, but the ownership of at least 25
35 percent of which is composed of any business entity or business enterprise controlled by
36 a natural person that is domiciled in a country other than the United States. Such term
37 shall not include natural persons from foreign countries.38 (5) 'Government entity' means any office, agency, authority, department, commission,
39 board, body, division, instrumentality, or institution of the executive, legislative, or

40 judicial branch of the state government, the state or its departments, or of any political
41 subdivision within this state.

42 (6) 'Residential property' means a single-family residence, including all improvements
43 thereon.

44 (7) 'Single-family residence' means a parcel of real property that has upon it a detached
45 residential structure that contains between one and three individual dwelling units, each
46 of which is designed for the exclusive use and occupation by one family.

47 44-3-261.

48 (a)(1) On and after January 1, 2027, it shall be unlawful for any business enterprise to
49 obtain, own, or possess, directly or indirectly, including, but not limited to, through one
50 or more affiliates of such business enterprise, an interest in more than 500 single-family
51 residences; provided, however, that a business enterprise may hold an interest in more
52 than 500 single-family residences if such business enterprise constructed such
53 single-family residences. Such prohibition shall include a business enterprise acquiring
54 an interest in more than 500 single-family residences by purchasing another business
55 enterprise with interests in single-family residences.

56 (2) Business enterprises with an interest in more than 500 single-family residences
57 before such date shall not gain an interest in any additional single-family residences;
58 provided, however, that business enterprises shall not be required to divest any interests
59 on or after such date.

60 (b) On or after January 1, 2027, it shall be unlawful for any foreign investment vehicle or
61 business enterprise controlled by a natural person domiciled in a country other than the
62 United States to obtain, own, or possess, directly or indirectly, including, but not limited
63 to, through one or more affiliates of such foreign investment vehicle or business enterprise,
64 any interest in a single-family residence to be used as a rental property.

65 (c)(1) For purposes of this Code section, an interest in residential property shall not
66 include a deed to secure debt, security deed, mortgage, security interest, deed of trust, or
67 other lien upon residential property that secures a debt or other obligation, and nothing
68 in this Code section shall be construed as prohibiting a business enterprise from owning
69 or acquiring a deed to secure debt, security deed, mortgage, security interest, deed of
70 trust, or other lien upon residential property located in this state.

71 (2) An interest in residential property acquired pursuant to the enforcement of a deed to
72 secure debt, security deed, mortgage, security interest, deed of trust, or other lien
73 described in paragraph (1) of this subsection by a business enterprise that would
74 otherwise violate subsection (a) of this Code section shall not constitute a violation of
75 subsection (a) of this Code section, provided that such interest in residential property is
76 sold or otherwise transferred to another person by the business enterprise within two
77 years from the date such interest is acquired.

78 44-3-262.

79 (a) Any claimant may bring a civil action in any court of competent jurisdiction against
80 a business enterprise or foreign investment vehicle that obtains, owns, or possesses an
81 interest in residential property in violation of subsection (a) of Code Section 44-3-261 to
82 recover:

83 (1) The greater of:

84 (A) Actual damages caused by such violation; or

85 (B) Statutory damages in the amount of \$100,000.00 for each violation; and

86 (2) The costs incurred by the claimant in bringing such action, including reasonable
87 attorney's fees.

88 (b) For purposes of this Code section, each residential property for which a business
89 enterprise or foreign investment vehicle, or shareholder of a business enterprise or foreign

90 investment vehicle obtains, owns, or possesses an interest in residential property in
91 violation of subsection (a) of Code Section 44-2-261 shall constitute separate violations.

92 (c) It shall be an affirmative defense to an award of monetary relief in an action brought
93 pursuant to subsection (a) of this Code section if the defendant business enterprise or
94 foreign investment vehicle in such action can demonstrate that:

95 (1) The claimant who brought such action can only recover statutory damages under
96 paragraph (1) of subsection (a) of this Code section;

97 (2) It has, during the pendency of such action or no more than 30 days prior to the
98 initiation of such action, paid a judgment for the full amount of statutory damages
99 provided under subparagraph (a)(1)(B) of this Code section that was awarded in a
100 separate action brought pursuant to subsection (a) of this Code section for the same
101 violation of subsection (a) of Code Section 44-3-261 giving rise to the current action; and

102 (3) It no longer owns or possesses an interest in the residential property that is the subject
103 of such action.

104 (d) An action pursuant to subsection (a) of this Code section shall be brought within four
105 years from the last day a business enterprise or foreign investment vehicle obtained, owned,
106 or possessed an interest in residential property in violation of subsection (a) of Code
107 Section 44-3-261 and such action may be brought in a representative capacity and may be
108 the subject of a class action under Code Section 9-11-23.

109 (e) Notwithstanding any provision of law to the contrary, the following shall not be a
110 defense to an action brought pursuant to subsection (a) of this Code section:

111 (1) Ignorance or mistake of law;

112 (2) The business enterprise's or foreign investment vehicle's reliance on any court
113 decision that has been overruled on appeal or by a subsequent court, even if such court
114 decision had not been overruled at the time the business enterprise violated the provisions
115 of subsection (a) of Code Section 44-3-261;

116 (3) The business enterprise's reliance on any state or federal court decision that is not
 117 binding on the court where such action has been brought;

118 (4) Nonmutual issue preclusion or nonmutual claim preclusion; or

119 (5) Any claim that the enforcement of this Code section or the imposition of civil
 120 liability against the business enterprise would violate the constitutional rights of third
 121 parties.

122 44-3-263.

123 A broker who is engaged by a client that is a business enterprise or foreign investment
 124 vehicle and that is a prospective buyer or prospective lessor of an interest in residential
 125 property shall timely disclose to such client the prohibitions set forth in this article. For
 126 purposes of this Code section, the terms 'broker,' 'client,' and 'timely' shall have the same
 127 meanings as set forth in Code Section 10-6A-3."

128

PART II

129

SECTION 2-1.

130 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
 131 is amended by adding a new Code section to read as follows:

132 "48-7-43.

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

134 (1) 'Affiliate' means any entity that, directly or indirectly, owns or controls, is owned or
 135 controlled by, or is under any other common ownership or control with a business
 136 enterprise.

137 (2) 'Business enterprise' means any corporation, association, partnership, limited liability
 138 company, limited partnership, trust, issuer, or other private legal entity organized under

139 the laws of this state, the United States, the District of Columbia, or any other state,
140 territory, or dependency of the United States or under the laws of a foreign country.

141 (3) 'Residential property' means a single-family residence, including all improvements
142 thereon.

143 (4) 'Single-family residence' means a parcel of real property that has upon it a detached
144 residential structure that contains between one and three individual dwelling units, each
145 of which is designed for the exclusive use and occupation by one family.

146 (b) On and after January 1, 2027, any business enterprise owning or possessing, directly
147 or indirectly, including, but not limited to, through one or more affiliates of such business
148 enterprise, an interest in more than 500 single-family residences not constructed by such
149 business enterprise or its affiliates shall not be eligible to receive any credit against its
150 Georgia taxable net income pursuant to Code Section 33-1-18, 48-7-29.6, 48-7-29.8,
151 or 48-7-39.

152 (c) A broker that is engaged by a client that is a business enterprise that is a prospective
153 buyer or prospective lessor of an interest in residential property shall timely disclose to
154 such client the client's ineligibility for income tax credits under this Code section. For
155 purposes of this Code section, the terms 'broker,' 'client,' and 'timely' shall have the same
156 meanings as set forth in Code Section 10-6A-3."

157

PART III

158

SECTION 3-1.

159 Chapter 1 of Title 33 of the Official Code of Georgia Annotated, relating to general
160 provisions relative to insurance, is amended by revising paragraph (1) of subsection (b) of
161 Code Section 33-1-18, relating to housing tax credit for qualified projects, and rules and
162 regulations, as follows:

163 "(b)(1) Except as otherwise provided in Code Section 48-7-43, A tax credit against the
164 taxes imposed under Code Sections 33-5-31, 33-8-4, and 33-40-5, to be termed the
165 Georgia housing tax credit, shall be allowed with respect to each qualified Georgia
166 project placed in service after January 1, 2001. The amount of such credit shall, when
167 combined with the total amount of credit authorized under Code Section 48-7-29.6, in no
168 event exceed an amount equal to the federal housing tax credit allowed with respect to
169 such qualified Georgia project."

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SECTION 3-2.

171 Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes,
172 is amended by revising paragraph (14) of subsection (b) of Code Section 48-7-21, relating
173 to taxation of corporations, as follows:

174 "(14)(A) As used in this paragraph, the terms 'affiliate,' 'business enterprise,' 'residential
175 property,' and 'single-family residence' shall have the same meanings as set forth in
176 paragraph (15) of subsection (a) of Code Section 48-7-27.

177 (B) The deduction provided and allowed by Section 179 of the Internal Revenue Code
178 of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not
179 been included in federal adjusted gross income, as defined under the Internal Revenue
180 Code of 1986, and the expenses have not been included in itemized nonbusiness
181 deductions; provided, however, that. for taxable years beginning on or after
182 January 1, 2027, the provisions of this subparagraph shall not be applicable for any
183 single-family residence owned or possessed by a business enterprise owning or
184 possessing, directly or indirectly, including, but not limited to, through one or more
185 affiliates of such business enterprise, an interest in more than 500 single-family
186 residences not constructed by such business enterprise or its affiliates.

187 (C) For taxable years beginning on or after January 1, 2027, to the extent any amount
188 was taken by a business enterprise owning or possessing, directly or indirectly,

189 including, but not limited to, through one or more affiliates of such business enterprise,
 190 an interest in more than 500 single-family residences, not constructed by such business
 191 enterprise or its affiliates as a deduction allowed by Section 179 of the Internal Revenue
 192 Code in connection with any single-family residential property, such amount shall be
 193 added to the taxable income of the business enterprise."

194 **SECTION 3-3.**

195 Said chapter is further amended by revising paragraphs (3.1) and (15) of subsection (a) of
 196 Code Section 48-7-27, relating to computation of taxable income, as follows:

197 "(3.1) Except as otherwise provided in Code Section 48-7-43, The the amount of
 198 mortgage interest eliminated from federal itemized deductions for the purpose of
 199 computing mortgage interest credit on the federal return;"

200 (15)(A) As used in this paragraph, the term:

201 (i) 'Affiliate' means any entity that directly or indirectly owns or controls, is owned
 202 or controlled by, or is under any other common ownership or control with a business
 203 enterprise.

204 (ii) 'Business enterprise' means any corporation, association, partnership, limited
 205 liability company, limited partnership, trust, issuer, or other private legal entity
 206 organized under the laws of this state, the United States, the District of Columbia, or
 207 any other state, territory, or dependency of the United States or under the laws of a
 208 foreign country.

209 (iii) 'Residential property' means a single-family residence, including all
 210 improvements thereon.

211 (iv) 'Single-family residence' means a parcel of real property that has upon it a
 212 detached residential structure that contains between one and three individual dwelling
 213 units, each of which is designed for the exclusive use and occupation by one family.

214 (B) The deduction provided and allowed by Section 179 of the Internal Revenue Code
215 of 1986 as enacted on or before January 1, 2005, to the extent the deduction has not
216 been included in federal adjusted gross income, as defined under the Internal Revenue
217 Code of 1986, and the expenses have not been included in itemized nonbusiness
218 deductions; provided, however, that, for taxable years beginning on or after
219 January 1, 2027, the provisions of this subparagraph shall not be applicable for any
220 single-family residence owned or possessed by a business enterprise owning or
221 possessing, directly or indirectly, including, but not limited to, through one or more
222 affiliates of such business enterprise, an interest in more than 500 single-family
223 residences not constructed by such business enterprise or its affiliates.

224 (C) For taxable years beginning on or after January 1, 2027, to the extent any amount
225 was taken by a business enterprise owning or possessing, directly or indirectly,
226 including, but not limited to, through one or more affiliates of such business enterprise,
227 an interest in more than 500 single-family residences not constructed by such business
228 enterprise or its affiliates, as a deduction allowed by Section 179 of the Internal
229 Revenue Code in connection with any single-family residential property, such amount
230 shall be added to the taxable income of the business enterprise."

231 **SECTION 3-4.**

232 Said chapter is further amended by revising paragraph (2) of subsection (c) of Code
233 Section 48-7-31, relating to taxation of corporations, computation, allocation, and
234 apportionment of income, as follows:

235 (2)(A) As used in this paragraph, the terms 'affiliate,' 'business enterprise,' 'residential
236 property,' and 'single-family residence' shall have the same meanings as set forth in
237 paragraph (15) of subsection (a) of Code Section 48-7-27.

238 (B) Rentals received from real estate held purely for investment purposes and not used
239 in the operation of any business are not subject to apportionment. Except as it relates

240 to any business enterprise owning or possessing, directly or indirectly, including, but
241 not limited to, through one or more affiliates of such business enterprise, an interest in
242 more than 500 single-family residences not constructed by such business enterprise or
243 its affiliates. All expenses connected with such investment income shall be applied
244 against the investment income. The net investment income from tangible property
245 located in this state shall be allocated to this state."

246

PART IV

247

SECTION 4-1.

248 This Act shall become effective on January 1, 2027, and shall apply to the purchase of any
249 single-family residence on or after such date.

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SECTION 4-2.

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