

Senate Bill 463

By: Senators Dolezal of the 27th, Walker III of the 20th, Anavitarte of the 31st, Robertson of the 29th, Still of the 48th and others

**AS PASSED SENATE**

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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16

**PART I**

17

**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 821 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.

250

**SECTION 4-2.**

251 All laws and parts of laws in conflict with this Act are repealed.