House Bill 1380

By: Representatives Corbett of the 174th, Houston of the 170th, Smith of the 133rd, Burchett of the 176th, and England of the 116th

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to revise provisions related to the sunset and automatic repeal of an income tax credit for revitalization zones; to provide for a period of time after which certain qualifying actions or expenditures may occur or be completed; to provide for limitations; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, is amended by revising Code Section 48-7-40.32, relating to revitalization zone tax credits, follows:

″48-7-40.32.

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

(1) 'Certified entity' means any eligible business which establishes a new location within a revitalization zone on or after January 1, 2018, and prior to December 31, 2032, or any existing eligible business located within a revitalization zone that prior to December 31, 2032, expands its operations, and which:

(A) Has created at least two new full-time equivalent jobs in a taxable year; and

(B) Has been certified by the commissioner of community affairs as eligible to receive the revitalization zone tax credit based on established criteria in this Code section and promulgated in regulations by the commissioner of community affairs. Such certification shall be attached to the income tax return when the credit is claimed.

(2) 'Certified investor' means an investor or investors who:

(A) Acquire and develop real estate within a designated revitalization zone; and

(B) Have been certified by the commissioner of community affairs as eligible to receive the revitalization zone tax credit based on criteria established in this Code section and promulgated in regulations by the commissioner of community affairs. Such certification shall be attached to the income tax return when the credit is claimed.

(3) 'Eligible business' means any establishment that is primarily engaged in providing professional services or in retailing merchandise and rendering services incidental to the sale of merchandise, including, but not limited to, the North American Industry Classification System Codes 31, 44-45, 54, and 72.

(4) 'Full-time equivalent' means an aggregate of employee hours worked totaling 40 hours per week, the equivalent of one full-time job.

(5) 'Local government' means a county, municipality, or consolidated local government created pursuant to Article IX, Sections I, II, or III of the Constitution; applicable general state statutes; a local Act of the General Assembly; or such other method as was valid at the time of its creation.

(6) 'Qualified rehabilitation expenditure' means labor and material costs incurred prior to December 31, 2032, and that are associated with the rehabilitation of a certified investor property which:

(A) Complies with the state minimum standard codes and any applicable local codes; and

(B) Has been certified by the commissioner of community affairs as eligible to receive the revitalization zone tax credit based on established criteria in this Code section and promulgated in regulations by the commissioner of community affairs. Such certification shall be attached to the income tax return when the credit is claimed.

(7) 'Revitalization zone' means a specified geographic region that meets all criteria provided by this Code section and has been designated, prior to December 31, 2027, by the commissioner of community affairs and the commissioner of economic development to be in need of economic revitalization.

(b) Until December 31, 2027, the ~~The~~ commissioner of community affairs and the commissioner of economic development are authorized to designate a specified area as a revitalization zone, enabling new and established businesses and new business investments in the zone to qualify for revitalization zone tax credits. The commissioner of community affairs and the commissioner of economic development may designate up to ten revitalization zones in any given year; provided, however, that there shall not be more than 50 revitalization zones in existence at the same time. This designation shall last for five consecutive years upon approval of the commissioners, but in no event shall a designation extend beyond December 31, 2032. To be eligible to apply for revitalization zone status, local governments ~~must~~ shall have a population of fewer than 15,000 residents. In addition, local governments ~~must~~ shall prove economic distress based on poverty rate, vacancy of the downtown area, or blight and shall meet the three following characteristics:

(1) A concentration of historic commercial structures at least 50 years old within the targeted area;

(2) A feasibility study or market analysis identifying the business activities which can be supported in the targeted area; and

(3) A master plan or strategic plan designed to assist private and public investment.

(c)(1) Certified entities shall receive the revitalization zone tax credit for five years beginning with the first taxable year that occurs prior to December 31, 2032, in which new full-time equivalent jobs are created in a revitalization zone, and for years two, three, four, and five of the taxable years immediately following, provided that the new full-time equivalent jobs are maintained for each year the tax credit is claimed.

(2) Each new full-time equivalent job created will be eligible for a $2,000.00 annual income tax credit. The amount of credit claimed by each certified entity shall not exceed $40,000.00 per taxable year.

(3) The number of new full-time equivalent jobs shall be determined by comparing the monthly average of full-time equivalent jobs subject to Georgia income tax withholding for a given taxable year with the corresponding period of the prior taxable year; provided, however, that a certified entity which begins operations during the taxable year may be certified by the commissioner of community affairs to base initial eligibility on a period of less than 12 months.

(4) This income tax credit shall not be allowed during a year if the net employment increase falls below the number required by subparagraph (a)(1)(A) of this Code section.

(5) Any credit generated and utilized in years prior to the year in which the net employment increase falls below the number required by subparagraph (a)(1)(A) of this Code section shall not be affected.

(d) Certified investors who acquire and develop property in a revitalization zone on or after January 1, 2018, and prior to December 31, 2032, shall receive the revitalization zone tax credit, subject to the following:

(1) Certified investors shall demonstrate a property's ongoing commercial benefit as follows:

(A) An eligible business is located in the investment property and qualifies to receive the tax credit pursuant to subsection (c) of this Code section; or

(B) An eligible business is located in the investment property and maintains a minimum of two full-time equivalent jobs for each year the tax credit is claimed;

(2) The amount of the tax credit per project shall be 25 percent of the purchase price and shall not exceed $125,000.00; provided, however, that the entire credit shall not be taken in the year in which the property is placed in commercial service but shall be prorated equally in five installments over five taxable years, beginning with the taxable year in which the property is placed in service; and

(3) A certified investor shall be allowed to preserve the revitalization zone tax credit for up to seven years from the date of initial eligibility in the event the commercial requirement in paragraph (1) of this subsection is not satisfied in consecutive years, but in no event shall the preservation period extend beyond December 31, 2032.

(e)(1) A certified investor or certified entity with qualified rehabilitation expenditures incurred on or after January 1, 2018, and prior to December 31, 2032, shall receive the revitalization zone tax credit for three years beginning with the year the property is placed in service, which shall occur prior to December 31, 2032. The amount of the tax credit per project shall be 30 percent of the qualified rehabilitation expenditures and shall not exceed $150,000.00; provided, however, that the entire credit shall not be taken in the year in which the property is placed in commercial service but shall be prorated equally in three installments over three taxable years, beginning with the taxable year in which the property is placed in service. The business shall maintain a minimum of two full-time equivalent jobs for each year the tax credit is claimed.

(2) A certified investor or certified entity shall meet minimum historic preservation standards in order to be qualified to receive the revitalization zone tax credit. The standards shall be identified with the assistance of the Department of Community Affairs.

(3) A taxpayer ~~who~~ that is entitled to and takes credits provided by this Code section for a project shall not be allowed to utilize the same qualified rehabilitation expenditures to generate any additional state income tax credits, including, but not limited to, the state income tax credit for rehabilitated historic property administered by the Department of

Community Affairs. Jobs created by, arising from, or connected in any way with the same project are not eligible to be used toward other job related tax credits.

(f) In no event shall the amount of the tax credits allowed by this Code section for a taxable year exceed a certified entity's or certified investor's state income tax liability. Any credit claimed under this Code section by a certified entity or certified investor but not used in any taxable year may be carried forward for ten years from the close of the taxable year in which the credit is claimed, but shall, in any event, fully expire on December 31, 2042. No such credit shall be allowed by the taxpayer against prior years' tax liability.

(g) Any tax credits earned under this Code section are nontransferable.

(h) A certified entity shall report to the revenue commissioner the qualifying net job increases or decreases each year. A certified investor shall report to the revenue commissioner the investment amount in the initial qualifying year. The revenue commissioner and the commissioner of community affairs shall have the authority to require reports and promulgate regulations as needed in order to perform their duties under this Code section.

(i) This Code section shall stand automatically repealed on December 31, 2032 ~~2027, unless reauthorized by the General Assembly prior to such date~~."

SECTION 2.

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