

The House Committee on Ways and Means offers the following substitute to HB 4EX:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
2 income taxes, so as to provide for legislative findings; to provide for definitions; to provide
3 for refundable income tax credits for certain timber producers based on certain casualty
4 losses related to Hurricane Michael; to provide for related matters; to provide for an effective
5 date; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

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

10 "48-7-40.36.

11 (a)(1) The General Assembly finds and determines that Hurricane Michael has had a
12 catastrophic impact on the citizens and the economy of southwest Georgia, has
13 particularly devastated the timber industry on which the citizens of southwest Georgia are
14 heavily dependent for their livelihood, and has created both a public fire hazard and a
15 danger of insect infestations due to the massive amounts of downed timber caused by the
16 severity of this natural disaster.

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

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

23 (1) 'Disaster area' means the real property encompassed by the borders of the 28 counties
24 included in the renewal of the State of Emergency pronounced in the Executive Order of
25 the Governor dated November 6, 2018, and filed in the official records of the office of
26 the Governor as Executive Order 11.06.18.01.

27 (2) 'Eligible timber property' means timber which on October 8, 2018, was being grown
28 by a taxpayer in a disaster area as part of a trade or business or a transaction entered into
29 for profit.

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

32 (4) 'Timber casualty loss' means the amount of the diminution of value included in the
33 computation of the casualty loss deduction for such casualty losses claimed and allowed
34 pursuant to Section 165 of the Internal Revenue Code of 1986 as casualty losses incurred
35 by a taxpayer between October 9, 2018, and December 31, 2018, as a result of damage
36 to or destruction of eligible timber property caused by Hurricane Michael.

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

41 (2) To claim such tax credits, a taxpayer shall submit an application for preapproval of
42 such credits based on timber casualty losses incurred by such taxpayer. A taxpayer shall
43 either submit its preapproval application between January 1, 2019, and May 31, 2019, for
44 a first round of preapprovals or between July 1, 2019, and December 31, 2019, for a
45 second round of preapprovals, if applicable.

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

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

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

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

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

61 (6) The commissioner shall approve properly completed and timely submitted
62 preapproval applications and issue a preapproval certificate to the taxpayer by

63 June 30, 2019, certifying the amount of credits such taxpayer is eligible to claim if the
64 taxpayer meets the conditions of this Code section.

65 (d.1)(1) If, on July 1, 2019, the commissioner has not preapproved tax credits in the
66 amount of \$200 million in aggregate pursuant to this Code section, a second round of
67 preapproval applications shall be reviewed by the commissioner. Preapproval
68 applications for the second round shall be submitted on or after July 1, 2019, and on or
69 before December 31, 2019.

70 (2) In the event that properly completed and timely submitted preapproval applications
71 are submitted during the second round for an amount that exceeds the amount of funds
72 available to fully fund the tax credits requested, the commissioner shall prorate the
73 available funds between or among the applicants.

74 (3) The commissioner shall approve all properly completed and timely submitted
75 preapproval applications during the second round and issue a preapproval certificate to
76 the taxpayer by January 31, 2020, certifying the amount of credits such taxpayer is
77 eligible to claim if the taxpayer meets the conditions of this Code section.

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

80 (f)(1) Tax credits allowed pursuant to this Code section shall be eligible to be claimed
81 only by the taxpayer to which a preapproval certificate was issued by the commissioner.
82 Such tax credits shall only be claimed in the taxable year in which the taxpayer first
83 completes the replanting of timber in a quantity projected to yield at maturity at least 90
84 percent of the value of the timber casualty loss claimed. Such timber shall be planted
85 within the same county in which the eligible timber property was being grown when the
86 timber casualty loss was incurred. Timber market conditions as of October 8, 2018, shall
87 be used for the purposes of establishing projected value.

88 (2) In order to claim such tax credits, a taxpayer shall attach to such taxpayer's state tax
89 return certification from the taxpayer that the requirements of this Code section have been
90 met and any other information required by the commissioner including information which
91 demonstrates that it has completed the replanting of timber required pursuant to
92 paragraph (1) of this subsection.

93 (3) Any tax credits allowed pursuant to this Code section shall be claimed on or before
94 December 31, 2024.

95 (g)(1) The total amount of the tax credits allowed pursuant to this Code section for a
96 taxable year may exceed the taxpayer's income tax liability. Such tax credits allowed in
97 excess of a taxpayer's income tax liability shall be refundable to such taxpayer.

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

101 (h)(1) A taxpayer claiming tax credits allowed pursuant to this Code section shall be
102 required to reimburse the department for any department initiated audits relating to the
103 tax credits, provided that such amount shall not exceed the value of the credits claimed
104 by the taxpayer. This paragraph shall not apply to routine tax audits of such taxpayer that
105 may include the review of the tax credits provided in this Code section.

106 (2) The commissioner shall have access to timber property for the purpose of
107 determining eligibility for both the preapproval and claiming of tax credits allowed and
108 conducting audits pursuant to this Code section, provided that prior notice is given to any
109 taxpayer that submitted an application for the preapproval of tax credits or that
110 transferred or claimed such tax credits and the owner of the underlying real property.

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

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

116 (i) The commissioner shall be authorized to promulgate any rules and regulations
117 necessary to implement and administer this Code section."

118 **SECTION 2.**

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

121 **SECTION 3.**

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