

House Bill 59

By: Representatives Stephens of the 164th, Powell of the 171st, Williams of the 119th, and Buckner of the 137th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-29.8 of the Official Code of Georgia Annotated, relating to tax
2 credits for the rehabilitation of historic structures, so as to revise procedures, conditions, and
3 limitations; to provide for related matters; to provide an effective date; to provide for
4 applicability; to provide for a sunset date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 style="text-align:center">**SECTION 1.**

7 Code Section 48-7-29.8 of the Official Code of Georgia Annotated, relating to tax credits for
8 the rehabilitation of historic structures, is amended by revising subsections (b) through (e)
9 and (k) as follows:

10 "(b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter for the
11 taxable year in which the certified rehabilitation is completed:

12 (1) In the case of a historic home, equal to 25 percent of qualified rehabilitation
13 expenditures, except that, in the case of a historic home located within a target area, an
14 additional credit equal to 5 percent of qualified rehabilitation expenditures shall be
15 allowed; and

16 (2) In the case of any other certified structure, equal to 25 percent of qualified
17 rehabilitation expenditures.

18 Qualified rehabilitation expenditures may only be counted once in determining the amount
19 of the tax credit available, and more than one entity may not claim a credit for the same
20 qualified rehabilitation expenditures.

21 (c)(1) In no event shall credits for a historic home exceed \$100,000.00 in any 120 month
22 period.

23 ~~(2) The maximum credit for any other individual certified structure shall be \$5 million~~
24 ~~for any taxable year, except in the case that the project creates 200 or more full-time,~~
25 ~~permanent jobs or \$5 million in annual payroll within two years of the placed in service~~
26 ~~date, in which case the project is eligible for credits up to \$10 million for an individual~~

27 ~~certified structure. In no event shall more than one application for any individual~~
 28 ~~certified structure under this paragraph be approved in any 120 month period.~~

29 ~~(3) In no event shall credits issued under this Code section for projects earning more than~~
 30 ~~\$300,000.00 in credits exceed in the aggregate \$25 million per calendar year.~~

31 (d)(1) A taxpayer seeking to claim a tax credit under paragraph (2) of subsection (b) of
 32 this Code section shall submit an application to the commissioner for preapproval of such
 33 tax credit. Such application may be submitted by a taxpayer who is a party to a fully
 34 executed written agreement for the purchase of real property for which such tax credit is
 35 to be claimed. Such application shall include a precertification from the Department of
 36 Natural Resources certifying that the improvements to the certified structure are to be
 37 consistent with the Department of Natural Resources Standards for Rehabilitation. The
 38 Department shall have the authority to require electronic submission of such application
 39 in the manner specified by the department. The commissioner shall preapprove the tax
 40 credits within 30 days based on the order in which properly completed applications were
 41 submitted. In the event that two or more applications were submitted on the same day
 42 and the amount of funds available will not be sufficient to fully fund the tax credits
 43 requested, the commissioner shall prorate the available funds between or among the
 44 applicants. For applications on projects over the annual \$25 million limitation, those
 45 applications shall be given priority the following year.

46 (2) In order to be eligible to receive the credit authorized under subsection (b) of this
 47 Code section, a taxpayer must attach to the taxpayer's state tax return a copy of the
 48 completed certification of the Department of Natural Resources verifying that the
 49 improvements to the certified structure are consistent with the Department of Natural
 50 Resources Standards for Rehabilitation.

51 (e)(1) If the credit allowed under paragraph (1) of subsection (b) of this Code section in
 52 any taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable
 53 year, the taxpayer may apply the excess as a credit for succeeding years until the earlier
 54 of:

55 (A) The full amount of the excess is used; or

56 (B) The expiration of the tenth taxable year after the taxable year in which the certified
 57 rehabilitation has been completed.

58 (2) Any tax credits with respect to credits ~~earned~~ held by a taxpayer under paragraph (2)
 59 of subsection (b) of this Code section and previously claimed but not used by such
 60 taxpayer against its income tax may be transferred or sold in whole or in part by such
 61 taxpayer to another Georgia taxpayer, subject to the following conditions:

62 (A) A taxpayer who makes qualified rehabilitation expenditures may sell or assign all
 63 or part of the tax credit that may be claimed for such costs and expenses to one or more

64 entities, but no further sale or assignment of any credit previously sold or assigned
 65 pursuant to this subparagraph shall be allowed. All such transfers shall be subject to
 66 the maximum total limits provided by subsection (c) of this Code section;

67 (B) A taxpayer who sells or assigns a credit under this Code section and the entity to
 68 which the credit is sold or assigned shall jointly submit written notice of the sale or
 69 assignment to the department not later than 30 days after the date of the sale or
 70 assignment. The notice must include:

- 71 (i) The date of the sale or assignment;
- 72 (ii) The amount of the credit sold or assigned;
- 73 (iii) The names and federal tax identification numbers of the entity that sold or
 74 assigned the credit or part of the credit and the entity to which the credit or part of the
 75 credit was sold or assigned; and
- 76 (iv) The amount of the credit owned by the selling or assigning entity before the sale
 77 or assignment and the amount the selling or assigning entity retained, if any, after the
 78 sale or assignment;

79 (C) The sale or assignment of a credit in accordance with this Code section does not
 80 extend the period for which a credit may be carried forward and does not increase the
 81 total amount of the credit that may be claimed. After an entity claims a credit for
 82 eligible costs and expenses, another entity may not use the same costs and expenses as
 83 the basis for claiming a credit; and

84 (D) Notwithstanding the requirements of this subsection, a credit earned or purchased
 85 by, or assigned to, a partnership, limited liability company, Subchapter 'S' corporation,
 86 or other pass-through entity may be allocated to the partners, members, or shareholders
 87 of that entity and claimed under this Code section in accordance with the provisions of
 88 any agreement among the partners, members, or shareholders of that entity and without
 89 regard to the ownership interest of the partners, members, or shareholders in the
 90 rehabilitated certified structure, provided that the entity or person that claims the credit
 91 must be subject to Georgia tax.

92 (E) Only a taxpayer who earned a credit, and no subsequent good faith transferee, shall
 93 be responsible in the event of a recapture, reduction, disallowance, or other failure
 94 related to such credit.

95 (3) No such credit shall be allowed the taxpayer against prior years' tax liability."

96 "(k) The tax credit allowed under paragraph (1) of subsection (b) of this Code section, and
 97 any recaptured tax credit, shall be allocated among some or all of the partners, members,
 98 or shareholders of the entity ~~owning the project~~ claiming the credit in any manner agreed
 99 to by such persons, whether or not such persons are allocated or allowed any portion of any
 100 other tax credit with respect to the project."

101 **SECTION 2.**

102 The amendments enacted in this Act shall take effect on January 1, 2018, and shall be
103 applicable to certified rehabilitations completed on or after January 1, 2019, and shall stand
104 repealed on December 31, 2027, unless repealed earlier by the General Assembly. In the
105 event the amendments provided for in this Act are repealed, the provisions of Code Section
106 48-7-29.8 as they existed prior to January 1, 2016, shall remain in full force and effect.

107 **SECTION 3.**

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