

House Bill 1134

By: Representatives Stephens of the 164th, Sainz of the 180th, and Buckner of the 137th

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,
2 relating to the imposition, rate, computation, exemptions, and credits relative to income
3 taxes, so as to extend the sunset date for the tax credits for the rehabilitation of historic
4 structures; to expand the criteria for historic homes to qualify for such credits; to increase the
5 aggregate caps for credits related to historic structures other than historic homes; to provide
6 for a five-year carry-forward period for credits for historic structures other than historic
7 homes; to extend a provision for an automatic repeal; to provide for related matters; to
8 provide for an effective date and applicability; to repeal conflicting laws; and for other
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
13 imposition, rate, computation, exemptions, and credits relative to income taxes, is amended
14 by revising Code Section 48-7-29.8, relating to tax credits for the rehabilitation of historic
15 structures and conditions, and limitations, as follows:

H. B. 1134

16 "48-7-29.8.

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

18 (1) 'Certified rehabilitation' means repairs or alterations to a certified structure which are
19 certified by the Department of Community Affairs as meeting the United States Secretary
20 of the Interior's Standards for Rehabilitation or the Georgia Standards for Rehabilitation
21 as provided by the Department of Community Affairs.

22 (2) 'Certified structure' means a historic building or structure that is located within a
23 national historic district, individually listed on the National Register of Historic Places,
24 individually listed in the Georgia Register of Historic Places, or is certified by the
25 Department of Community Affairs as contributing to the historic significance of a
26 Georgia Register Historic District; provided, however, that on and after January 1, 2026,
27 such term, as it relates to historic homes, means a historic building or structure that is
28 certified by the Department of Community Affairs as contributing to the historic
29 significance of a listed National Register Historic District, individually listed on the
30 National Register of Historic Places, is certified by the Department of Community Affairs
31 as contributing to the historic significance of a listed Georgia Register Historic District,
32 individually listed in the Georgia Register of Historic Places, or designated as a historic
33 property or contributing to a district under local law and certified by the Department of
34 Community Affairs as meeting National Register criteria.

35 (3) 'Historic home' means a certified structure which, or any portion of which is or will,
36 within a reasonable period, be owned and used as the principal residence of the person
37 claiming the tax credit allowed under this Code section. ~~Historic home~~ Such term shall
38 include any structure or group of structures that constitute a multifamily or multipurpose
39 structure, including a cooperative or condominium. If only a portion of a building is used
40 as such person's principal residence, only those qualified rehabilitation expenditures that
41 are properly allocable to such portion shall be deemed to be made to a historic home.

42 (4) 'Qualified rehabilitation expenditure' means any qualified rehabilitation expenditure
43 as defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and any amount
44 properly chargeable to a capital account expended in the substantial rehabilitation of a
45 structure that by the end of the taxable year in which the certified rehabilitation is
46 completed is a certified structure. ~~This~~ Such term ~~does~~ shall not include the cost of
47 acquisition of the certified structure, the cost attributable to enlargement or additions to
48 an existing building, site preparation, or personal property.

49 (5) 'Substantial rehabilitation' means rehabilitation of a certified structure for which the
50 qualified rehabilitation expenditures, at least 5 percent of which ~~must~~ shall be allocable
51 to the exterior during the 24 month period selected by the taxpayer ending with or within
52 the taxable year, exceed:

53 (A) For a historic home, the lesser of \$25,000.00 or 50 percent of the adjusted basis of
54 the property as ~~defined~~ provided for in subparagraph (a)(1)(B) of Code Section
55 48-5-7.2; or, in the case of a historic home located in a target area, \$5,000.00; or

56 (B) For any other certified structure, the greater of \$5,000.00 or the adjusted basis of
57 the property.

58 (6) 'Target area' means a qualified census tract under Section 42 of the Internal Revenue
59 Code of 1986, found in the United States Department of Housing and Urban
60 Development document number N-94-3821; FR-3796-N-01.

61 (b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter in the
62 year that the certified rehabilitation is placed in service, which may be up to two years after
63 the end of the taxable year for which the credit was originally reserved:

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

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

70 Qualified rehabilitation expenditures ~~may~~ shall only be counted once in determining the
71 amount of the tax credit available, and more than one entity ~~may~~ shall not claim a credit
72 for the same qualified rehabilitation expenditures.

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

75 (2) The maximum credit for any other individual certified structure shall be ~~\$5~~ \$7.5
76 million for any taxable year, except in the case that the project creates 200 or more
77 full-time, permanent jobs or \$5 million in annual payroll within two years of the placed
78 in service date, in which case the project is shall be eligible for credits up to ~~\$10~~ \$15
79 million for an individual certified structure. In no event shall more than one application
80 for any individual certified structure under this paragraph be approved in any 120 month
81 period.

82 ~~(3)(A) Prior to January 1, 2022, in no event shall credits issued under this Code section~~
83 ~~for projects earning more than \$300,000.00 in credits exceed in the aggregate \$25~~
84 ~~million per calendar year.~~

85 ~~(B) For calendar year 2022, in no event shall credits issued under this Code section~~
86 ~~exceed \$5 million in aggregate for all projects earning \$300,000.00 or less, or \$25~~
87 ~~million in aggregate for all projects earning more than \$300,000.00.~~

88 ~~(C) For calendar years 2023 and 2024, in In no event shall credits issued under this~~
89 ~~Code section for historic homes exceed \$5 million in aggregate per year. ~~On and after~~~~
90 ~~January 1, 2025, no credits shall be issued under this Code section for historic homes.~~

91 ~~(D)~~(B) For calendar years 2023 through 2027, in In no event shall credits issued under
92 this Code section for certified structures other than historic homes exceed ~~\$30~~ \$60
93 million in aggregate per year.

94 ~~(E)~~(C) On and after January 1, 2028 2029, in no event shall credits be issued under this
95 Code section.

96 (d)(1) A taxpayer seeking to claim a tax credit under paragraph (2) of subsection (b) of
97 this Code section shall submit an application to the commissioner for preapproval of such
98 tax credit. Such application shall include a precertification from the Department of
99 Community Affairs certifying that the improvements to the certified structure are to be
100 consistent with the Department of Community Affairs Standards for Rehabilitation. The
101 ~~Department~~ department shall have the authority to require electronic submission of such
102 application in the manner specified by the department. The commissioner shall
103 preapprove the tax credits within 30 days based on the order in which properly completed
104 applications were submitted. In the event that two or more applications were submitted
105 on the same day and the amount of funds available will not be sufficient to fully fund the
106 tax credits requested, the commissioner shall prorate the available funds between or
107 among the applicants. Applications submitted after the annual limitations provided for
108 in paragraph (3) of subsection (c) of this Code section have been met shall be given
109 priority the following year.

110 (2) In order to be eligible to receive the credit authorized under subsection (b) of this
111 Code section, a taxpayer ~~must~~ shall attach to the taxpayer's state tax return a copy of the
112 completed certification of the Department of Community Affairs verifying that the
113 improvements to the certified structure are consistent with the Department of Community
114 Affairs Standards for Rehabilitation.

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

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

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

122 (2) If the credit allowed under paragraph (2) of subsection (b) of this Code section in any
123 taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable year,
124 the taxpayer may apply the excess as a credit for succeeding years until the earlier of:

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

126 (B) The expiration of the fifth taxable year after the taxable year in which the certified
127 rehabilitation has been completed.

128 ~~(2)~~(3) Any tax credits with respect to credits earned by a taxpayer under paragraph (2)
129 of subsection (b) of this Code section and previously claimed but not used by such
130 taxpayer against its income tax may be transferred or sold in whole or in part by such
131 taxpayer to another Georgia taxpayer, subject to the following conditions:

132 (A) A taxpayer ~~who~~ that makes qualified rehabilitation expenditures may sell or assign
133 all or part of the tax credit that may be claimed for such costs and expenses to one or
134 more entities, but no further sale or assignment of any credit previously sold or assigned
135 pursuant to this subparagraph shall be allowed. All such transfers shall be subject to
136 the maximum total limits provided by subsection (c) of this Code section;

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

141 (i) The date of the sale or assignment;

142 (ii) The amount of the credit sold or assigned;

143 (iii) The names and federal tax identification numbers of the entity that sold or
144 assigned the credit or part of the credit and the entity to which the credit or part of the
145 credit was sold or assigned; and

146 (iv) The amount of the credit owned by the selling or assigning entity before the sale
147 or assignment and the amount the selling or assigning entity retained, if any, after the
148 sale or assignment;

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

154 (D) Notwithstanding the requirements of this subsection, a credit earned or purchased
155 by, or assigned to a partnership, limited liability company, Subchapter 'S' corporation,
156 or other pass-through entity may be allocated to the partners, members, or shareholders
157 of that entity and claimed under this Code section in accordance with the provisions of
158 any agreement among the partners, members, or shareholders of that entity and without
159 regard to the ownership interest of the partners, members, or shareholders in the
160 rehabilitated certified structure, provided that the entity or person that claims the credit
161 ~~must~~ shall be subject to Georgia tax; and

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

165 ~~(3)~~(4) No such credit shall be allowed the taxpayer against prior years' tax liability.

166 (f) In the case of any rehabilitation which may reasonably be expected to be completed in
167 phases set forth in architectural plans and specifications completed before the rehabilitation
168 begins, a 60 month period may be substituted for the 24 month period provided for in
169 paragraph (5) of subsection (a) of this Code section.

170 (g)(1) Except as otherwise provided in subsection (h) of this Code section, in the event
171 a tax credit under this Code section has been claimed and allowed the taxpayer, upon the
172 sale or transfer of the certified structure, the taxpayer shall be authorized to transfer the

173 remaining unused amount of such credit to the purchaser of such certified structure. If
174 a historic home for which a certified rehabilitation has been completed by a nonprofit
175 corporation is sold or transferred, the full amount of the credit to which the nonprofit
176 corporation would be entitled if taxable shall be transferred to the purchaser or transferee
177 at the time of sale or transfer.

178 (2) Such purchaser shall be subject to the limitations of subsection (e) of this Code
179 section. Such purchaser shall file with such purchaser's tax return a copy of the approval
180 of the rehabilitation by the Department of Community Affairs as provided in subsection
181 (d) of this Code section and a copy of the form evidencing the transfer of the tax credit.

182 (3) Such purchaser shall be entitled to rely in good faith on the information contained in
183 and used in connection with obtaining the approval of the credit including, without
184 limitation, the amount of qualified rehabilitation expenditures.

185 (h)(1) If an owner other than a nonprofit corporation sells a historic home within three
186 years of receiving the credit, the seller shall recapture the credit to the Department of
187 Revenue as follows:

188 (A) If the property is sold within one year of receiving the credit, the recapture amount
189 ~~will~~ shall equal the lesser of the credit or the net profit of the sale;

190 (B) If the property is sold within two years of receiving the credit, the recapture
191 amount ~~will~~ shall equal the lesser of two-thirds of the credit or the net profit of the sale;
192 or

193 (C) If the property is sold within three years of receiving the credit, the recapture
194 amount ~~will~~ shall equal the lesser of one-third of the credit or the net profit of the sale.

195 (2) The recapture provisions of this subsection shall not apply to a sale resulting from the
196 death of the owner.

197 (i)(1) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection
198 (b) of this Code section and leases such certified structure, the department shall aggregate
199 all total sales tax receipts from the certified structure.

200 (2) Any taxpayer claiming credits under paragraph (2) of subsection (b) of this Code
201 section shall report to the department the average full-time employees employed at the
202 certified structure. A full-time employee for the purposes of this Code section shall mean
203 a person who works a job that requires 30 or more hours per week. Such reports ~~must~~
204 shall be submitted to the department for five calendar years following the year in which
205 the credit is claimed by the taxpayer.

206 (3) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection
207 (b) of this Code section and leases such certified structure, the department shall aggregate
208 all total full-time employees at the certified structure.

209 (j) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, the department shall
210 furnish a report to the chairperson of the House Committee on Ways and Means and the
211 chairperson of the Senate Finance Committee by June 30 of each year. Such report shall
212 contain the total sales tax collected in the prior calendar year and the average number of
213 full-time employees at the certified structure and the total value of credits claimed for each
214 taxpayer claiming credits under paragraph (2) of subsection (b) of this Code section.

215 (k) The tax credit allowed under paragraph (1) of subsection (b) of this Code section, and
216 any recaptured tax credit, shall be allocated among some or all of the partners, members,
217 or shareholders of the entity owning the project in any manner agreed to by such persons,
218 whether or not such persons are allocated or allowed any portion of any other tax credit
219 with respect to the project.

220 (l) The Department of Community Affairs and the Department of Revenue shall prescribe
221 such regulations as may be appropriate to carry out the purposes of this Code section.

222 (m) The Department of Community Affairs shall report, on an annual basis, on the overall
223 economic activity, usage, and impact to the state from the rehabilitation of eligible
224 properties for which credits provided by this Code section have been allowed.

225 (n) This Code section shall stand repealed and reserved by operation of law on December
226 31, ~~2027~~ 2028."

227 **SECTION 3.**

228 This Act shall become effective on January 1, 2025, and shall be applicable to taxable years
229 beginning on or after such date.

230 **SECTION 4.**

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