

House Bill 488

By: Representatives Reeves of the 99th, Daniel of the 117th, Hilton of the 48th, Washburn of the 144th, Frye of the 122nd, and others

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 tax credits for certain contributions made by taxpayers to
3 certain mortgage loan originators; to provide for definitions; to provide for an aggregate
4 annual limit; to provide for terms and conditions; to provide for applications and
5 certifications; to provide for the revocation of qualified status; to provide for certain
6 penalties; to provide for the promulgation of rules and regulations; to provide for related
7 matters; to provide for a short title; to provide for an effective date and applicability; to
8 repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 **SECTION 1.**

11 This Act shall be known and may be cited as the "American Dream Workforce Housing Tax
12 Credit."

13 **SECTION 2.**

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

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16 "48-7-29.26.

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

18 (1) 'Mortgage loan originator' means an individual who for compensation or gain or in
19 the expectation of compensation or gain takes a residential mortgage loan application or
20 offers or negotiates terms of a residential mortgage loan. Generally, this does not include
21 an individual engaged solely as a loan processor or underwriter except as otherwise
22 provided in subsection (a.1) of Code Section 7-1-1002; a person or entity that only
23 performs real estate brokerage activities and is licensed or registered in accordance with
24 Georgia law unless the person or entity is compensated by a mortgage lender, mortgage
25 broker, or other mortgage loan originator or by any agent of such mortgage lender,
26 mortgage broker, or other mortgage loan originator; and does not include a person or
27 entity solely involved in extensions of credit relating to time-share plans, as that term is
28 defined in 11 U.S.C. Section 101(53D).

29 (2) 'Qualified mortgage loan originator' means any nonprofit corporation that:

30 (A) Acts as a mortgage loan originator to make mortgage loans to individuals to
31 promote home ownership or improvements for the disadvantaged;

32 (B) Maintains its status of a tax-exempt organization under Section 501(c)(3) of the
33 Internal Revenue Code of 1986;

34 (C) Promotes affordable housing;

35 (D) Conducts its activities in a manner that serves public or charitable purposes, rather
36 than commercial purposes;

37 (E) Receives funding and revenue and charges fees in a manner that does not
38 incentivize it or its employees to act other than in the best interests of its clients;

39 (F) Compensates its employees in a manner that does not incentivize employees to act
40 other than in the best interests of its clients;

41 (G) Provides or identifies for the borrower mortgage loans with terms favorable to the
42 borrower and comparable to mortgage loans and housing assistance provided under

43 government housing assistance programs. The department shall determine whether
44 mortgage loans have terms that are favorable to the borrower, if such loans are
45 consistent with loan origination in a public or charitable context, rather than in a
46 commercial context; and

47 (H) Is exempt from licensure as a mortgage loan originator pursuant to paragraph (13)
48 of subsection (a) of Code Section 7-1-1001.

49 (b)(1) The aggregate amount of tax credits allowed under this Code section shall not
50 exceed \$20 million per calendar year. Each qualified mortgage loan originator shall be
51 limited to accepting \$2 million per year of contributions made under this Code section.

52 (2) Subject to the aggregate limit provided in paragraph (1) of this subsection, from
53 January 1, 2024, through December 31, 2028, each taxpayer shall be allowed a credit
54 against the tax imposed by this chapter for qualified contributions made by the taxpayer
55 on or after January 1, 2024, as follows:

56 (A) In the case of a single individual or a head of household, the actual amount of
57 qualified contributions made or \$5,000.00 per year, whichever is less;

58 (B) In the case of a married couple filing a joint return, the actual amount of qualified
59 contributions made or \$10,000.00 per year, whichever is less;

60 (C) Anything to the contrary contained in subparagraph (A) or (B) of this paragraph
61 notwithstanding, in the case of an individual taxpayer who is a member of a limited
62 liability company duly formed under state law, a shareholder of a Subchapter 'S'
63 corporation, or a partner in a partnership, the actual amount of qualified contributions
64 it made or \$10,000.00, whichever is less; provided, however, that tax credits pursuant
65 to this paragraph shall only be allowed for the portion of the income on which such tax
66 was actually paid by such member of the limited liability company, shareholder of a
67 Subchapter 'S' corporation, or partner in a partnership; or

68 (D) A corporation or other entity not provided for in subparagraphs (A) through (C)
69 of this paragraph shall be allowed a credit against the tax imposed by this chapter, for

70 qualified contributions in an amount not to exceed the actual amount of qualified
71 contributions made or 75 percent of such corporation's or other entity's income tax
72 liability, whichever is less.

73 (3) Nothing in this Code section shall be construed to limit the ability of a qualified
74 mortgage loan originator to receive gifts, grants, and other benefits from any source
75 allowed by law; provided, however, that no qualified mortgage loan originator shall,
76 under this Code section, accept or receive more than \$2 million in contributions in any
77 calendar year.

78 (c) The commissioner shall establish a page on the department's website for the purpose
79 of implementing this Code section. Such page shall contain, at a minimum:

80 (1) The application and requirements for certification as a qualified mortgage loan
81 originator;

82 (2) The current list of all qualified mortgage loan originators;

83 (3) The total amount of tax credits remaining and available for preapproval for each year;

84 (4) A web based method for taxpayers seeking the preapproval status for contributions;
85 and

86 (5) The information received by the department from each qualified organization
87 pursuant to paragraph (1) of subsection (g) except for division (g)(1)(B)(iv) of this Code
88 section.

89 (d) Any valid qualified mortgage loan originator as a qualified mortgage loan originator
90 shall be certified by the commissioner following the commissioner's receipt of a properly
91 completed application and after the commissioner has confirmed that a single qualified
92 mortgage loan originator has validly designated the applicant as its sole qualified mortgage
93 loan originator. Such application created by the division shall include an agreement
94 submitted by the applicant to fully comply with the terms and conditions of this Code
95 section.

96 (e)(1) Prior to making a contribution to any qualified organization, the taxpayer shall
97 electronically notify the department, in a manner specified by the commissioner, of the
98 total amount of contribution that such taxpayer intends to make to such qualified
99 mortgage loan originator.

100 (2) Within 30 days after receiving a request for preapproval of contributions, the
101 commissioner shall preapprove, deny, or prorate requested amounts on a first come, first
102 served basis and shall provide notice to such taxpayer and the qualified organization of
103 such preapproval, denial, or proration. Such notices shall not require any signed release
104 or notarized approval by the taxpayer. The preapproval of contributions by the
105 commissioner shall be based solely on the availability of tax credits subject to the
106 aggregate total limit established under paragraph (1) of subsection (b) of this Code
107 section.

108 (3) Within 60 days after receiving the preapproval notice issued by the commissioner
109 pursuant to paragraph (2) of this subsection, the taxpayer shall contribute the preapproved
110 amount to the qualified mortgage loan originator or such preapproved contribution
111 amount shall expire. The commissioner shall not include such expired amounts in
112 determining the remaining amount available under the aggregate limit for the respective
113 calendar year.

114 (f)(1) Each qualified mortgage loan originator shall issue to each contributor a letter of
115 confirmation of contribution, which shall include the taxpayer's name, address, tax
116 identification number, the amount of the qualified contribution, the date of the qualified
117 contribution, and the total amount of the credit allowed to the taxpayer.

118 (2) In order for a taxpayer to claim the tax credit allowed under this Code section, all
119 such applicable letters as provided for in paragraph (1) of this subsection shall be attached
120 to the taxpayer's tax return. When the taxpayer files an electronic return such
121 confirmation shall only be required to be electronically attached to the return if the
122 Internal Revenue Service allows such attachments to be affixed and transmitted to the

123 department. In any such event, the taxpayer shall maintain such confirmation and such
124 confirmation shall only be made available to the commissioner upon request.

125 (3) The commissioner shall allow tax credits for any preapproved contributions made to
126 a mortgage loan originator, if at the time the contributions were made, such mortgage
127 loan originator was a qualified mortgage loan originator at the time of the commissioner's
128 preapproval of the contributions and the taxpayer has otherwise complied with this Code
129 section.

130 (g)(1) Each qualified mortgage loan originator shall annually submit to the department
131 no later than May 15 of each year:

132 (A) A complete copy of its IRS Form 990 including applicable attachments, or for any
133 qualified mortgage originator that is not required by federal law to file an IRS Form
134 990, such mortgage originator shall submit to the commissioner equivalent information
135 on a form prescribed by the commissioner; and

136 (B) A report detailing the contributions received during the calendar year pursuant to
137 this Code section on a date determined by, and on a form provided by, the
138 commissioner which shall include:

139 (i) The total number and dollar value of individual contributions and tax credits
140 approved. Individual contributions shall include contributions made by those filing
141 income tax returns as a single individual or head of household and those filing joint
142 returns;

143 (ii) The total number and dollar value of corporate contributions and tax credits
144 approved;

145 (iii) The total number and dollar value of all qualified expenditures made; and

146 (iv) A list of contributors, including the dollar value of each contribution and the
147 dollar value of each approved tax credit.

148 (2) Except for the information published in accordance with subsection (c) of this Code
149 section, all information or reports relative to this Code section that were provided by

150 mortgage loan originators to the department shall be confidential taxpayer information,
151 governed by Code Sections 48-2-15, 48-7-60, and 48-7-61, whether such information
152 relates to the contributor or the mortgage loan originator.

153 (h) Each qualified mortgage loan originator shall publicly post on its website a copy of its
154 affiliated mortgage loan originator's prior year's annual budget containing the total amount
155 of funds received for its local governing body. If a qualified mortgage loan originator does
156 not maintain a public website, such information shall be otherwise made available by the
157 qualified mortgage loan originator to the public upon request.

158 (i)(1) A taxpayer shall not be allowed to designate or direct the taxpayer's qualified
159 contributions to any particular purpose or for the direct benefit of any particular
160 individual.

161 (2) A taxpayer that operates, owns, or is a subsidiary of an association, organization, or
162 other entity that contracts directly with a qualified organization shall not be eligible for
163 tax credits allowed under this Code section for contributions made to such qualified
164 mortgage loan originator.

165 (3) In soliciting contributions, no person shall represent or direct that, in exchange for
166 making qualified contributions to any qualified mortgage loan originator, a taxpayer shall
167 receive any direct or particular benefit. The status as a qualified mortgage loan originator
168 shall be revoked for any qualified organization determined to be in violation of this
169 paragraph and shall not be renewed for at least two years.

170 (j)(1) Qualified contributions shall only be used to make qualified expenditures. Each
171 qualified organization shall maintain accurate and current records of all expenditures of
172 such funds and provide such records to the commissioner upon his or her request.

173 (2) A qualified mortgage loan originator that fails to comply with any of the
174 requirements under this Code section shall be given written notice by the department of
175 such failure to comply by certified mail and shall have 90 days from the receipt of such
176 notice to correct all deficiencies.

177 (3) Upon failure to correct all deficiencies within 90 days, the department shall revoke
178 the mortgage loan originator's status as a qualified organization and such entity shall be
179 immediately removed from the department's list of organizations. All applications for
180 preapproval of tax credits for contributions to such mortgage loan originator under this
181 Code section made on or after the date of such removal shall be rejected.

182 (4) Each mortgage loan originator that has had its status revoked and has been delisted
183 pursuant to this Code section shall immediately cease all expenditures of funds received
184 relative to this Code section, and shall transfer all of such funds that are not yet expended,
185 to a properly operating qualified mortgage loan originator within 30 calendar days of its
186 removal from the department's list of qualified mortgage loan originators.

187 (k)(1) No credit shall be allowed under this Code section to a taxpayer for any amount
188 of qualified contributions that were utilized as deductions or exemptions from taxable
189 income.

190 (2) In no event shall the total amount of the tax credit under this Code section for a
191 taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall be
192 allowed the taxpayer against the succeeding five years' tax liability. No such credit shall
193 be allowed the taxpayer against prior years' tax liability.

194 (l) The commissioner shall promulgate rules and regulations necessary to implement and
195 administer the provisions of this Code section."

196 **SECTION 3.**

197 This Act shall become effective on July 1, 2023, and shall be applicable to taxable years
198 beginning on or after January 1, 2024.

199 **SECTION 4.**

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