

House Bill 970

By: Representatives Smith of the 133rd, Smyre of the 135th, Rich of the 97th, Hatchett of the 150th, Buckner of the 137th, and others

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, and exemptions from state income taxes, so as
3 to revise procedures, conditions, and limitations relating to tax credits for the rehabilitation
4 of historic structures; to authorize promulgation of regulations; to provide for preapproval
5 of additional tax credits for current recipients of tax credits; to provide for related matters;
6 to provide for effective dates; to provide for applicability; to provide for an automatic repeal
7 and for reenactment of prior provisions; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

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

14 "48-7-29.8.

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

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

20 (2) 'Certified structure' means a historic building or structure that is located within a
21 national historic district, individually listed on the National Register of Historic Places,
22 individually listed in the Georgia Register of Historic Places, or is certified by the
23 Department of Natural Resources as contributing to the historic significance of a Georgia
24 Register Historic District.

25 (3) 'Historic home' means a certified structure which, or any portion of which is or will,
26 within a reasonable period, be owned and used as the principal residence of the person

27 claiming the tax credit allowed under this Code section. Historic home shall include any
 28 structure or group of structures that constitute a multifamily or multipurpose structure,
 29 including a cooperative or condominium. If only a portion of a building is used as such
 30 person's principal residence, only those qualified rehabilitation expenditures that are
 31 properly allocable to such portion shall be deemed to be made to a historic home.

32 (4) 'Qualified rehabilitation expenditure' means any qualified rehabilitation expenditure
 33 as defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and any amount
 34 properly chargeable to a capital account expended in the substantial rehabilitation of a
 35 structure that by the end of the taxable year in which the certified rehabilitation is
 36 completed is a certified structure. This term does not include the cost of acquisition of
 37 the certified structure, the cost attributable to enlargement or additions to an existing
 38 building, site preparation, or personal property.

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

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

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

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

51 (b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter ~~in the~~
 52 ~~year that~~ at such time as the certified rehabilitation is completed:

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

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

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

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

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

70 (3) In no event shall credits issued under this Code section for projects earning more than
 71 ~~\$300,000.00~~ \$500,000.00 in credits exceed in the aggregate \$25 million per calendar
 72 year. If in any calendar year the aggregate amount available is not fully applied,
 73 allocated, returned, and used, the balance of unused aggregate amount shall increase the
 74 aggregate maximum of the subsequent calendar year by such balance.

75 (d)(1) An applicant ~~A taxpayer~~ seeking to claim a tax credit under paragraph (2) of
 76 subsection (b) of this Code section shall submit an application to the ~~commissioner~~
 77 department for preapproval of such tax credit. An applicant shall, at the time of
 78 application, either own the real property for which said tax credit is to be claimed, or be
 79 a party to a written purchase contract, written option contract, written lease-purchase
 80 contract, or written lease having a term of more than 40 years. Such application shall
 81 include a precertification from the Department of Natural Resources certifying that the
 82 improvements to the certified structure are to be consistent with the Department of
 83 Natural Resources Standards for Rehabilitation. ~~The department~~ commissioner shall
 84 have the authority to require electronic submission of such application in the manner
 85 specified by the department. The commissioner shall preapprove the tax credits within
 86 30 days based on the order in which properly completed applications were submitted. In
 87 the event that two or more applications were submitted on the same day and the amount
 88 of funds available will not be sufficient to fully fund the tax credits requested, the
 89 commissioner shall prorate the available funds between or among the applicants. For
 90 applications on projects over the annual \$25 million limitation together with any
 91 applicable rollover as authorized under paragraph (3) of subsection (c) of this Code
 92 section, those applications shall be given priority the following year.

93 (2) In order to be eligible to receive the credit authorized under subsection (b) of this
 94 Code section, a taxpayer ~~must~~ shall attach to ~~the~~ such taxpayer's state tax return a copy
 95 of the completed certification of the Department of Natural Resources verifying that the
 96 improvements to the certified structure are consistent with the Department of Natural
 97 Resources Standards for Rehabilitation.

98 (e)(1) If the credit allowed under paragraph (1) of subsection (b) of this Code section in
 99 any taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable

100 year, the taxpayer may apply the excess as a credit for succeeding years until the earlier
101 of:

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

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

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

109 (A) An applicant or ~~A~~ taxpayer who makes qualified rehabilitation expenditures may
110 sell or assign all or part of the tax credit that may be claimed for such costs and
111 expenses to one or more entities until the full amount of the credit is fully used, ~~but no~~
112 ~~further sale or assignment of any credit previously sold or assigned pursuant to this~~
113 ~~subparagraph shall be allowed~~. All such transfers shall be subject to the maximum total
114 limits provided by subsection (c) of this Code section;

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

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

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

121 (iii) The names and federal tax identification numbers of the entity that sold or
122 assigned the credit or part of the credit and the entity to which the credit or part of the
123 credit was sold or assigned; and

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

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

132 (D) Notwithstanding the requirements of this subsection, a credit earned or purchased
133 by, or assigned to, a partnership, limited liability company, Subchapter 'S' corporation,
134 or other pass-through entity may be allocated to the partners, members, or shareholders
135 of that entity and claimed under this Code section in accordance with the provisions of
136 any agreement among the partners, members, or shareholders of that entity and without

137 regard to the ownership interest of the partners, members, or shareholders in the
138 rehabilitated certified structure, provided that the entity or person that claims the credit
139 ~~must~~ shall be subject to Georgia tax; and

140 (E) ~~Only a~~ The original taxpayer who earned a credit, ~~and no subsequent good faith~~
141 ~~transferee~~ shall be responsible in the event of a recapture, reduction, disallowance, or
142 other failure related to such credit.

143 (2.1) If the credit allowed under paragraph (2) of subsection (b) of this Code section in
144 any taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable
145 year, the taxpayer may apply the excess as a credit for succeeding years until the earlier
146 of:

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

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

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

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

155 (g)(1) Except as otherwise provided in subsection (h) of this Code section, in the event
156 a tax credit under this Code section has been claimed and allowed the taxpayer, upon the
157 sale or transfer of the certified structure, the taxpayer shall be authorized to transfer the
158 remaining unused amount of such credit to the purchaser of such certified structure. If
159 a historic home for which a certified rehabilitation has been completed by a nonprofit
160 corporation is sold or transferred, the full amount of the credit to which the nonprofit
161 corporation would be entitled if taxable shall be transferred to the purchaser or transferee
162 at the time of sale or transfer.

163 (2) Such purchaser shall be subject to the limitations of subsection (e) of this Code
164 section. Such purchaser shall file with such purchaser's tax return a copy of the approval
165 of the rehabilitation by the Department of Natural Resources as provided in subsection
166 (d) and a copy of the form evidencing the transfer of the tax credit.

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

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

- 173 (A) If the property is sold within one year of receiving the credit, the recapture amount
 174 will equal the lesser of the credit or the net profit of the sale;
- 175 (B) If the property is sold within two years of receiving the credit, the recapture
 176 amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or
- 177 (C) If the property is sold within three years of receiving the credit, the recapture
 178 amount will equal the lesser of one-third of the credit or the net profit of the sale.
- 179 (2) The recapture provisions of this subsection shall not apply to a sale resulting from the
 180 death of the owner.
- 181 (i)(1) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection
 182 (b) of this Code section and leases such certified structure, the department shall aggregate
 183 all total sales tax receipts from the certified structure.
- 184 (2) Any taxpayer claiming ~~credits~~ a tax credit under paragraph (2) of subsection (b) of
 185 this Code section shall report to the department the average full-time employees
 186 employed at the certified structure. A full-time employee for the purposes of this Code
 187 section shall mean a person who works a job that requires 30 or more hours per week.
 188 Such reports ~~must~~ shall be submitted to the department for five calendar years following
 189 the year in which the credit is claimed by the taxpayer.
- 190 (3) In the event that a taxpayer claims the tax credit under paragraph (2) of subsection
 191 (b) of this Code section and leases such certified structure, the department shall aggregate
 192 all total full-time employees at the certified structure.
- 193 (j) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, the department shall
 194 furnish a report to the chairperson of the House Committee on Ways and Means and the
 195 chairperson of the Senate Finance Committee by June 30 of each year. Such report shall
 196 contain the total sales tax collected in the prior calendar year and the average number of
 197 full-time employees at the certified structure and the total value of credits claimed for each
 198 taxpayer claiming credits under paragraph (2) of subsection (b) of this Code section.
- 199 (k) The tax credit allowed under paragraph (1) of subsection (b) of this Code section, and
 200 any recaptured tax credit, shall be allocated among some or all of the partners, members,
 201 or shareholders of the entity ~~owning the project~~ claiming the credit in any manner agreed
 202 to by such persons, whether or not such persons are allocated or allowed any portion of any
 203 other tax credit with respect to the project.
- 204 (l) The Department of Natural Resources and the Department of Revenue shall prescribe
 205 such regulations as may be appropriate to carry out the purposes of this Code section.
- 206 (m) The Department of Natural Resources shall report, on an annual basis, on the overall
 207 economic activity, usage, and impact to the state from the rehabilitation of eligible
 208 properties for which credits provided by this Code section have been allowed."

209 **SECTION 2.**

210 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
 211 income tax imposition, rate, computation, and exemptions, is amended by repealing Code
 212 Section 48-7-29.8, relating to tax credits for the rehabilitation of historic structures, and
 213 enacting a new Code Section 48-7-29.8 to read as follows:

214 "48-7-29.8.

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

216 (1) 'Certified rehabilitation' means repairs or alterations to a certified structure which are
 217 certified by the Department of Natural Resources as meeting the United States Secretary
 218 of the Interior's Standards for Rehabilitation or the Georgia Standards for Rehabilitation
 219 as provided by the Department of Natural Resources.

220 (2) 'Certified structure' means a historic building or structure that is located within a
 221 national historic district, individually listed on the National Register of Historic Places,
 222 individually listed in the Georgia Register of Historic Places, or is certified by the
 223 Department of Natural Resources as contributing to the historic significance of a Georgia
 224 Register Historic District.

225 (3) 'Historic home' means a certified structure which, or any portion of which is or will,
 226 within a reasonable period, be owned and used as the principal residence of the person
 227 claiming the tax credit allowed under this Code section. Historic home shall include any
 228 structure or group of structures that constitute a multifamily or multipurpose structure,
 229 including a cooperative or condominium. If only a portion of a building is used as such
 230 person's principal residence, only those qualified rehabilitation expenditures that are
 231 properly allocable to such portion shall be deemed to be made to a historic home.

232 (4) 'Qualified rehabilitation expenditure' means any qualified rehabilitation expenditure
 233 as defined by Section 47(c)(2) of the Internal Revenue Code of 1986 and any amount
 234 properly chargeable to a capital account expended in the substantial rehabilitation of a
 235 structure that by the end of the taxable year in which the certified rehabilitation is
 236 completed is a certified structure. This term does not include the cost of acquisition of
 237 the certified structure, the cost attributable to enlargement or additions to an existing
 238 building, site preparation, or personal property.

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

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

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

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

251 (b) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter at such
 252 time as the certified rehabilitation is completed:

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

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

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

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

264 (2) The maximum credit for any other individual certified structure shall be \$1 million
 265 for any taxable year. In no event shall more than one application for any individual
 266 certified structure under this paragraph be approved in any 120 month period.

267 (3) In no event shall credits issued under this Code section for projects earning more than
 268 \$500,000.00 in credits exceed in the aggregate \$5 million per calendar year. If in any
 269 calendar year the aggregate amount available is not fully applied, allocated, returned, and
 270 used, the balance of unused aggregate amount shall increase the aggregate maximum of
 271 the subsequent calendar year by such balance.

272 (d)(1) An applicant seeking to claim a tax credit under paragraph (2) of subsection (b)
 273 of this Code section shall submit an application to the department for preapproval of such
 274 tax credit. An applicant shall, at the time of application, either own the real property for
 275 which said tax credit is to be claimed, or be a party to a written purchase contract, written
 276 option contract, written lease-purchase contract, or written lease having a term of more
 277 than 40 years. Such application shall include a precertification from the Department of
 278 Natural Resources certifying that the improvements to the certified structure are to be
 279 consistent with the Department of Natural Resources Standards for Rehabilitation. The
 280 commissioner shall have the authority to require electronic submission of such
 281 application in the manner specified by the department. The commissioner shall
 282 preapprove the tax credits within 30 days based on the order in which properly completed

283 applications were submitted. In the event that two or more applications were submitted
 284 on the same day and the amount of funds available will not be sufficient to fully fund the
 285 tax credits requested, the commissioner shall prorate the available funds between or
 286 among the applicants. For applications on projects over the annual \$5 million limitation
 287 together with any applicable rollover as authorized under paragraph (3) of subsection (c)
 288 of this Code section, those applications shall be given priority the following year.

289 (2) In order to be eligible to receive the credit authorized under subsection (b) of this
 290 Code section, a taxpayer shall attach to such taxpayer's state tax return a copy of the
 291 completed certification of the Department of Natural Resources verifying that the
 292 improvements to the certified structure are consistent with the Department of Natural
 293 Resources Standards for Rehabilitation.

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

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

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

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

305 (A) An applicant or taxpayer who makes qualified rehabilitation expenditures may sell
 306 or assign all or part of the tax credit that may be claimed for such costs and expenses
 307 to one or more entities. All such transfers shall be subject to the maximum total limits
 308 provided by subsection (c) of this Code section;

309 (B) An applicant or taxpayer who sells or assigns a credit under this Code section and
 310 the entity to which the credit is sold or assigned shall jointly submit written notice of
 311 the sale or assignment to the department not later than 30 days after the date of the sale
 312 or assignment. The notice shall include:

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

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

315 (iii) The names and federal tax identification numbers of the entity that sold or
 316 assigned the credit or part of the credit and the entity to which the credit or part of the
 317 credit was sold or assigned; and

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

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

326 (D) Notwithstanding the requirements of this subsection, a credit earned or purchased
327 by, or assigned to, a partnership, limited liability company, Subchapter 'S' corporation,
328 or other pass-through entity may be allocated to the partners, members, or shareholders
329 of that entity and claimed under this Code section in accordance with the provisions of
330 any agreement among the partners, members, or shareholders of that entity and without
331 regard to the ownership interest of the partners, members, or shareholders in the
332 rehabilitated certified structure, provided that the entity or person that claims the credit
333 shall be subject to Georgia tax; and

334 (E) The original taxpayer who earned a credit shall be responsible in the event of a
335 recapture, reduction, disallowance, or other failure related to such credit.

336 (2.1) If the credit allowed under paragraph (2) of subsection (b) of this Code section in
337 any taxable year exceeds the total tax otherwise payable by the taxpayer for that taxable
338 year, the taxpayer may apply the excess as a credit for succeeding years until the earlier
339 of:

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

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

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

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

348 (g)(1) Except as otherwise provided in subsection (h) of this Code section, in the event
349 a tax credit under this Code section has been claimed and allowed the taxpayer, upon the
350 sale or transfer of the certified structure, the taxpayer shall be authorized to transfer the
351 remaining unused amount of such credit to the purchaser of such certified structure. If
352 a historic home for which a certified rehabilitation has been completed by a nonprofit
353 corporation is sold or transferred, the full amount of the credit to which the nonprofit

354 corporation would be entitled if taxable shall be transferred to the purchaser or transferee
 355 at the time of sale or transfer.

356 (2) Such purchaser shall be subject to the limitations of subsection (e) of this Code
 357 section. Such purchaser shall file with such purchaser's tax return a copy of the approval
 358 of the rehabilitation by the Department of Natural Resources as provided in subsection
 359 (d) and a copy of the form evidencing the transfer of the tax credit.

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

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

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

368 (B) If the property is sold within two years of receiving the credit, the recapture
 369 amount will equal the lesser of two-thirds of the credit or the net profit of the sale; or

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

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

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

377 (2) Any taxpayer claiming a tax credit under paragraph (2) of subsection (b) of this Code
 378 section shall report to the department the average full-time employees employed at the
 379 certified structure. A full-time employee for the purposes of this Code section shall mean
 380 a person who works a job that requires 30 or more hours per week. Such reports shall be
 381 submitted to the department for five calendar years following the year in which the credit
 382 is claimed by the taxpayer.

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

386 (j) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, the department shall
 387 furnish a report to the chairperson of the House Committee on Ways and Means and the
 388 chairperson of the Senate Finance Committee by June 30 of each year. Such report shall
 389 contain the total sales tax collected in the prior calendar year and the average number of

390 full-time employees at the certified structure and the total value of credits claimed for each
391 taxpayer claiming credits under paragraph (2) of subsection (b) of this Code section.
392 (k) The tax credit allowed under paragraph (1) of subsection (b) of this Code section, and
393 any recaptured tax credit, shall be allocated among some or all of the partners, members,
394 or shareholders of the entity claiming the credit in any manner agreed to by such persons,
395 whether or not such persons are allocated or allowed any portion of any other tax credit
396 with respect to the project.
397 (l) The Department of Natural Resources and the Department of Revenue shall prescribe
398 such regulations as may be appropriate to carry out the purposes of this Code section.
399 (m) The Department of Natural Resources shall report, on an annual basis, on the overall
400 economic activity, usage, and impact to the state from the rehabilitation of eligible
401 properties for which credits provided by this Code section have been allowed."

402 **SECTION 3.**

403 (a) Section 1 of this Act shall be applicable to certified rehabilitations completed on or after
404 July 1, 2020.
405 (b) An Act to amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia
406 Annotated, relating to the imposition, computation, rate, and exemptions from state income
407 taxes, approved May 12, 2015 (Ga. L. 2015, p. 1340) is amended by repealing and reserving
408 Section 2 of said Act.
409 (c) Section 2 of this Act shall become effective on January 1, 2026.

410 **SECTION 4.**

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