

House Bill 128

By: Representatives Peake of the 141st, Meadows of the 5th, Willard of the 51st, Dempsey of the 13th, Lindsey of the 54th, 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 tax, so as to
3 revise and change provisions regarding state income tax credits; to provide for state income
4 tax credits for certain downtown investments; to provide for state income tax credits for
5 qualified contributions to a Georgia Renaissance Fund; to provide for state income tax credits
6 for certain downtown housing investments; to provide for short titles; to provide for
7 definitions; to provide for procedures, conditions, and limitations; to provide for powers,
8 duties, and authority of the state revenue commissioner, the Department of Revenue, and the
9 Department of Community Affairs; to provide for related matters; to provide for an effective
10 date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

13 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
14 imposition, rate, computation, and exemptions from state income tax, is amended by adding
15 new Code sections to read as follows:

16 "48-7-40.31.

17 (a) This Code section shall be known and may be cited as the 'Georgia Downtown
18 Renaissance Investment Tax Credit Act.'

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

20 (1) 'Credit' means a state income tax credit against the tax imposed pursuant to this
21 chapter in an amount equal to 10 percent, 15 percent, 20 percent, or 25 percent of the
22 taxpayer's qualified investment based on the designation of the municipal corporation in
23 which the investment is made.

24 (2) 'Qualified investment' means all construction related expenses for a qualified project,
25 including labor, materials, professional services, equipment, and other tangible personal
26 property but excluding the cost of real property and building acquisition.

27 (3) 'Qualified project' means one or more commercial, retail, multifamily housing, or
 28 mixed use facilities constructed, renovated, or substantially improved in accordance with
 29 a downtown development strategy and located within a renaissance district.

30 (4) 'Renaissance district' means the geographical area within a municipal corporation
 31 designated as such by ordinance or resolution of the governing body of the municipal
 32 corporation as modified by any subsequent ordinance or resolution of the governing body
 33 of the municipal corporation and as approved by the Department of Community Affairs.
 34 The renaissance district may incorporate a larger geographic area than the traditional
 35 central business district. In designating such districts, the Department of Community
 36 Affairs shall consider that the district reflects the municipal corporation's historical
 37 downtown or center of town and connecting neighborhoods. The Department of
 38 Community Affairs shall promulgate such rules and regulations as are necessary to
 39 implement and administer renaissance district designations.

40 (c) Each municipal corporation in this state shall receive a designation at a certain
 41 investment ready achievement level based on the significant local commitments made to
 42 improving the municipal corporation's downtown as a place to work, live, or establish a
 43 business and developing a downtown development strategy. All municipal corporations
 44 are initially designated at the basic investment ready achievement level. Each municipal
 45 corporation may petition the Department of Community Affairs for the higher investment
 46 ready achievement level designation of bronze, silver, or gold. Any municipal corporation
 47 achieving a designation of bronze, silver, or gold shall retain that designation for a period
 48 of three years from the date of achieving the designation; however, a municipal corporation
 49 may, no more than once in a calendar year, petition for a higher investment ready
 50 achievement level, and upon attainment of such higher designation, a new three-year period
 51 shall commence. 'Investment ready achievement level' means the basic level designation
 52 to which a municipal corporation is entitled or the bronze, silver, or gold level designation
 53 assigned by the Department of Community Affairs pursuant to regulations promulgated by
 54 the Department of Community Affairs. The investment ready achievement level attained
 55 establishes the percentage of credit available for a qualified investment.

56 (d) The investment ready achievement levels and percentage of credit available for a
 57 qualified investment are as follows:

58 (1) All municipal corporations are initially designated at the basic level. Qualified
 59 investments in a renaissance district located within a municipal corporation designated
 60 at the basic level are eligible for a tax credit of 10 percent of the qualified investment.

61 (2) Bronze level designees must have in place a downtown strategy approved by the
 62 governing authority of the municipal corporation to guide development in the renaissance
 63 district and must reach a threshold of points to be established by the Department of

64 Community Affairs in the categories of downtown organization development and staff
65 development. Qualified investments in a renaissance district located within a municipal
66 corporation designated at the bronze level are eligible for a tax credit of 15 percent of the
67 qualified investment.

68 (3) Silver level designees must meet the bronze level criteria; must reach a threshold of
69 points to be established by the Department of Community Affairs in the categories of
70 leadership and community commitment, physical environment, financial tools, and fiscal
71 readiness; and must actively facilitate the development process. Qualified investments
72 in a renaissance district located within a municipal corporation designated at the silver
73 level are eligible for a tax credit of 20 percent of the qualified investment.

74 (4) Gold level designees must meet the silver level criteria and exhibit a long-term
75 public-private commitment to downtown development. Qualified investments in a
76 renaissance district located within a municipal corporation designated at the gold level
77 are eligible for a tax credit of 25 percent of the qualified investment.

78 (e) A taxpayer shall be entitled to a credit for any qualified investment subject to the
79 conditions and limitations set forth in this Code section. In no event shall the aggregate
80 amount of tax credit allowed under this Code section exceed \$20 million per tax year.

81 (f) The aggregate amount of credit allowed a taxpayer for one or more qualified
82 investments made in a single taxable year under this Code section shall not exceed
83 \$500,000.00.

84 (g) A taxpayer making a qualified investment in a qualified property shall be allowed to
85 take the credit provided by this Code section under the following conditions:

86 (1) The taxpayer files an application with the Department of Community Affairs for a
87 reservation of a tax credit on a first come, first served basis starting on January 1 of each
88 calendar year and such application:

89 (A) Describes the qualified project to be undertaken by the taxpayer, including the
90 location of the project, when such project will commence and the expected completion
91 date, and all planned qualified investments to be completed in the taxable year, and
92 provides evidence of total project costs and qualified expenditures; and

93 (B) Certifies that the qualified investment in the qualified project meets the eligibility
94 criteria for the credit.

95 (2) The Department of Community Affairs shall approve or deny the application within
96 30 days after receipt of the taxpayer's application and any necessary supporting
97 documentation and, if approved, shall issue a tax credit reservation indicating such
98 approval. Upon receiving a reservation, the applicant shall have until December 15 of the
99 year of reservation to complete 60 percent of the project as evidenced by documented
100 eligible expenditures. The Department of Community Affairs shall then issue an

101 allocation of credit to the project and such allocation shall be reported to the department.
102 If a project does not meet the 60 percent threshold requirement by December 15, the tax
103 credit reservation shall be lost. For the allocation of credit eligible to be used to offset
104 Georgia based income tax liabilities, the applicant must submit documentation to the
105 Department of Community Affairs within 24 months of the date of reservation outlining
106 the total qualified expenditures and evidence of a certificate of occupancy. If the
107 taxpayer does not comply with this paragraph, the Department of Community Affairs
108 shall not include the approved credit amount for the qualified investment when
109 calculating the limit prescribed in subsection (e) of this Code section.

110 (3) Approval by the Department of Community Affairs shall be based solely on the
111 availability of credits subject to the aggregate total limit established in subsection (e) of
112 this Code section.

113 (4) The Department of Community Affairs is authorized to establish allocation
114 reservation categories for the first six months of the calendar year to ensure the
115 availability of tax credits for projects geographically distributed across the state, but after
116 the first six months of the year, any unallocated tax credit reservations shall be made
117 available to any qualified project on a first come, first served basis.

118 (h) In no event shall the amount of the credit allowed a taxpayer under this Code section
119 for a taxable year exceed such taxpayer's net income tax liability. Any unused credit
120 amount shall be allowed to be carried forward for five years from the close of the taxable
121 year in which the qualified investment was made. No such credit shall be allowed against
122 prior years' tax liability.

123 (i) Any tax credit under this Code section earned and claimed by a taxpayer but not used
124 by such taxpayer against its income tax may be transferred or sold in whole or in part to
125 another Georgia taxpayer subject to the following conditions:

126 (1) Such transferring taxpayer may make only a single transfer or sale of the tax credits
127 earned in a taxable year; however, the transfer or sale may involve one or more
128 transferees;

129 (2) Such transferring taxpayer shall submit to the department a written notification of any
130 transfer or sale of tax credits within 30 days after the transfer or sale of such tax credits.
131 The notification shall include the taxpayer's tax credit balance prior to the transfer, the
132 credit certificate number, the remaining balance after transfer, all tax identification
133 numbers for each transferee, the date of transfer, the amount transferred, and any other
134 information required by the department;

135 (3) Failure to comply with this subsection shall result in disallowance of the tax credit
136 until the transferring taxpayer is in full compliance;

137 (4) The transfer or sale of the tax credit shall not extend the time in which such credit can
 138 be used. The carry-forward period for the credit that is transferred or sold shall begin on
 139 the date on which the credit was originally earned;

140 (5) A transferee shall have only such rights to claim and use the credit that were
 141 available to the transferring taxpayer at the time of the transfer. To the extent that the
 142 transferring taxpayer did not have rights to claim or use the credit at the time of the
 143 transfer, the department shall either disallow the credit claimed by the transferee or
 144 recapture the credit from the transferee. The transferee's recourse shall be against the
 145 transferring taxpayer; and

146 (6) The transferee must acquire the credit in this Code section for a minimum of 60
 147 percent of the amount of the credit transferred.

148 (j) A taxpayer that claims a credit allowed under this Code section shall also be eligible
 149 to claim the credit provided for in Code Section 48-7-29.8 but shall not be eligible to claim
 150 a credit under Code Section 48-7-40.33 for the same taxable year or for the same qualified
 151 property.

152 (k) The commissioner shall promulgate such rules and regulations as are necessary to
 153 implement and administer the tax provisions of this Code section.

154 (l) The Department of Community Affairs shall be authorized to charge reasonable
 155 application fees to offset its administrative costs.

156 48-7-40.32.

157 (a) This Code section shall be known and may be cited as the 'Georgia Renaissance Fund
 158 Tax Credit Act.'

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

160 (1) 'Credit' means a state income tax credit against the tax imposed pursuant to this
 161 chapter equal to the actual amount contributed to a Georgia Renaissance Fund and not to
 162 exceed \$500,000.00 or 100 percent of the taxpayer's income tax liability, whichever is
 163 less.

164 (2) 'Georgia Renaissance Fund' means a revolving loan fund originating low interest
 165 loans for qualified investments on qualified property managed by a charitable
 166 organization in this state that:

167 (A) Is exempt from federal income taxation under Section 501(c)(3) of the Internal
 168 Revenue Code and is certified as a community development financial institution by the
 169 United States Department of the Treasury;

170 (B) Has focused its operations primarily or exclusively on operation of a state-wide
 171 revolving loan fund for downtown development projects within Georgia;

172 (C) Has raised and expended private sector capital to operate a state-wide revolving
173 loan fund for downtown development projects within Georgia for at least ten years in
174 coordination with the State of Georgia; and

175 (D) Has notified the department of its eligibility and availability to administer Georgia
176 Renaissance Fund donations from taxpayers.

177 (3) 'Qualified investment' means all construction related expenses for a qualified project,
178 including labor, materials, professional services, equipment, and other tangible personal
179 property, including the cost of real property and building acquisition.

180 (4) 'Qualified project' means one or more commercial, retail, multifamily housing, or
181 mixed use facilities constructed, renovated, or substantially improved in accordance with
182 a downtown development strategy and located within a renaissance district established
183 pursuant to paragraph (4) of subsection (b) of Code Section 48-7-40.31.

184 (c) The tax credit shall not be allowed if the taxpayer designates the recipient or recipients
185 of funds from a Georgia Renaissance Fund.

186 (d) In no event shall the total amount of the tax credit under this Code section for a taxable
187 year exceed the taxpayer's income tax liability. Any unused tax credit shall be allowed the
188 taxpayer against the succeeding five years' tax liability. No such tax credit shall be allowed
189 the taxpayer against prior years' tax liability.

190 (e)(1) In no event shall the aggregate amount of tax credits allowed under this Code
191 section exceed \$5 million per tax year.

192 (2) The commissioner shall allow the tax credits on a first come, first served basis.

193 (3) For the purposes of paragraph (1) of this subsection, the taxpayer must notify the
194 department of the total amount of contributions that the taxpayer intends to make to a
195 Georgia Renaissance Fund. The commissioner shall preapprove or deny the requested
196 amount within 30 days after receiving the request from the taxpayer. In order to receive
197 a tax credit under this Code section, the taxpayer must make the contribution to a Georgia
198 Renaissance Fund within 60 days after receiving notice from the department that the
199 requested amount was preapproved. If the taxpayer does not comply with this paragraph,
200 the commissioner shall not include this preapproved contribution amount when
201 calculating the limit prescribed in paragraph (1) of this subsection. The department shall
202 establish on its website a donation approval process as a part of the implementation of
203 this subsection.

204 (4) Preapproval of contributions by the commissioner shall be based solely on the
205 availability of tax credits subject to the aggregate total limit established under paragraph
206 (1) of this subsection. The department shall maintain an ongoing, current list on its
207 website of the Georgia Renaissance Funds and the amount of tax credits available under
208 this Code section.

209 (5) Notwithstanding any laws to the contrary, the department shall not take any adverse
 210 action against donors to a Georgia Renaissance Fund if the commissioner preapproved
 211 a donation for a tax credit prior to the date the Georgia Renaissance Fund is removed
 212 from the department's list pursuant to subsection (i) of this Code section, and all such
 213 donations shall remain as preapproved tax credits subject only to the donor's compliance
 214 with paragraph (3) of this subsection.

215 (f) In order for the taxpayer to claim the tax credit under this Code section, a letter of
 216 confirmation of donation issued by a Georgia Renaissance Fund must be attached to the
 217 taxpayer's tax return. The letter of confirmation of donation must contain the taxpayer's
 218 name, address, and tax identification number, the date of the contribution, and the amount
 219 of the contribution.

220 (g) The commissioner shall be authorized to promulgate any rules and regulations
 221 necessary to implement and administer the tax provisions of this Code section.

222 (h) Each Georgia Renaissance Fund must:

223 (1) Obligate for qualified investments on qualified projects at least 90 percent of its
 224 revenue received from donations made pursuant to this Code section;

225 (2) Maintain separate accounts for contribution funds and operating funds;

226 (3) Conduct an audit of its accounts by an independent certified public accountant within
 227 120 days after the completion of its fiscal year and provide such audit to the department;
 228 and

229 (4) Report to the department within 30 days of the end of each calendar year the total
 230 number and dollar value of contributions received and a list of donors, including the
 231 dollar value of each donation.

232 (i) Any Georgia Renaissance Fund that fails to comply with any requirements under this
 233 chapter shall be given written notice by the department of such failure to comply by
 234 certified mail and shall have 90 days from the receipt of such notice to correct all
 235 deficiencies. Upon failure to correct all deficiencies within 90 days, such Georgia
 236 Renaissance Fund shall:

237 (1) Be immediately removed from the list provided for in paragraph (4) of subsection (e)
 238 of this Code section;

239 (2) Be required to cease all operations as a Georgia Renaissance Fund and transfer all
 240 funds donated under this Code section to a properly operating Georgia Renaissance Fund
 241 within 30 calendar days of receipt of notice from the department of removal from the
 242 approved list; and

243 (3) Have all applications for preapproval of tax credits under this Code section rejected
 244 by the department on or after the date the department removes the Georgia Renaissance
 245 Fund from its list provided for in paragraph (4) of subsection (e) of this Code section.

246 48-7-40.33.

247 (a) This Code section shall be known and may be cited as the 'Georgia Downtown
248 Renaissance Housing Tax Credit Act.'

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

250 (1) 'Credit' means a state income tax credit against the tax imposed pursuant to this
251 chapter in an amount equal to 5 percent of the cost of acquisition of a qualified home,
252 equal to 15 percent of qualified expenditures on a qualified home, or equal to 20 percent
253 of both the cost of acquisition and qualified expenditures on a qualified home. The cost
254 of acquisition of a qualified home used to calculate the tax credit allowed under this Code
255 section shall not exceed the fair market value of property as defined in paragraph (3) of
256 Code Section 48-5-2.

257 (2) 'Qualified expenditure' means amounts equal to or in excess of 25 percent of the cost
258 of acquisition of a qualified home that are properly chargeable to a capital account
259 expended on physical alterations or repairs to a qualified home that is or by the end of the
260 taxable year in which the substantial improvements are completed will be occupied by
261 the taxpayer as his or her principal or second residence. This term does not include the
262 cost of acquisition of the qualified home or personal property and does not include home
263 appliances, such as a washer, dryer, dishwasher, refrigerator, stove, or oven.

264 (3) 'Qualified home' means a single-family residential housing unit owned by the
265 taxpayer and located within a Renaissance District which is or will, within a reasonable
266 period, be used primarily as the principal or second residence of the taxpayer claiming
267 the tax credit allowed under this Code section. If only a portion of the single-family
268 residential housing unit is used as such person's principal residence or second residence,
269 only the cost of acquisition and the qualified expenditures properly allocable to such
270 portion shall be deemed made to a qualified home.

271 (4) 'Renaissance District' means the geographical area within a municipal corporation
272 designated as such by ordinance or resolution of the governing body of the municipal
273 corporation as modified by any subsequent ordinance or resolution of the governing body
274 of the municipal corporation and as approved by the Department of Community Affairs.
275 The Renaissance District may incorporate a larger geographic area than the traditional
276 central business district. In designating such districts, the Department of Community
277 Affairs shall consider that the district reflects the municipal corporation's historical
278 downtown or center of town and connecting neighborhoods. The Department of
279 Community Affairs shall promulgate such rules and regulations as are necessary to
280 implement and administer Renaissance District designations.

281 (c) A taxpayer shall be allowed a tax credit against the tax imposed by this chapter as
282 follows:

283 (1) For the acquisition of a qualified home, up to a total of \$25,000.00 to be applied as
284 a credit in an equal amount over five years;

285 (2) For qualified expenditures on a qualified home, up to a total of \$37,500.00 to be
286 applied as a credit in an equal amount over five years; or

287 (3) For purchase of a qualified home and qualified expenditures, up to a total of
288 \$50,000.00 to be applied as a credit in an equal amount over five years.

289 (d) If the taxpayer sells the qualified home prior to the expiration of five years from the
290 first year the credit is applied, any remaining or unused credit amount shall be forfeited.

291 (e) In no event shall the amount of the tax credit for a taxable year exceed the taxpayer's
292 liability for the tax imposed under this chapter. If the credit allowed under this Code
293 section in any taxable year exceeds the total tax otherwise payable by the taxpayer for that
294 taxable year, the taxpayer may apply the excess as a credit for succeeding years until the
295 earlier of the full amount of the excess is used or the expiration of five years after the
296 qualified home was acquired or the qualified expenditure was completed. No such credit
297 shall be allowed the taxpayer against prior years' tax liability.

298 (f)(1) In no event shall the aggregate amount of tax credits allowed under this Code
299 section exceed \$5 million per tax year.

300 (2) The Department of Community Affairs is authorized to establish allocation
301 reservation categories for the first six months of the calendar year to ensure the
302 availability of tax credits for projects geographically distributed across the state, but after
303 the first six months of the year, any unallocated tax credit reservations must be made
304 available to any qualified project on a first come, first served basis.

305 (3) For the purposes of paragraph (1) of this subsection, the taxpayer must notify the
306 Department of Community Affairs of the total amount of tax credits that the taxpayer
307 intends to claim for the qualified home and any qualified expenditures. The Department
308 of Community Affairs shall preapprove or deny the requested amount within 30 days
309 after receiving the request from the taxpayer. In order to receive a tax credit under this
310 Code section, the taxpayer must purchase the qualified home or make the qualified
311 expenditures within six months or before the end of the calendar year, whichever comes
312 first. If the taxpayer does not comply with this paragraph, the Department of Community
313 Affairs shall not include this preapproved contribution amount when calculating the limit
314 prescribed in paragraph (1) of this subsection.

315 (4) Preapproval of contributions by the Department of Community Affairs shall be based
316 solely on the availability of tax credits subject to the aggregate total limit established in
317 paragraph (1) of this subsection.

318 (g) In order for the taxpayer to claim the tax credit under this Code section, the taxpayer
319 must attach to the taxpayer's tax return a copy of the approval letter from the Department
320 of Community Affairs and a schedule which identifies:
321 (1) The qualified home, its cost of acquisition, and its fair market value;
322 (2) The amount of qualified expenses incurred during the taxable year;
323 (3) The total credit claimed;
324 (4) The amount of the credit claimed in the taxable year;
325 (5) Any tax credit utilized by the taxpayer in prior taxable years;
326 (6) The amount of the credit carried over from prior years;
327 (7) The amount of the credit utilized by the taxpayer in the current taxable year; and
328 (8) The amount of the credit to be carried over to subsequent years.
329 (h) The credit allowed under this Code section shall be allocated among some or all of the
330 taxpayers owning the qualified home in any manner agreed to by such persons.
331 (i) The Department of Community Affairs shall be authorized to promulgate any rules and
332 regulations necessary to implement and administer this Code section.
333 (j) The Department of Community Affairs shall be authorized to charge reasonable
334 application fees to offset its administrative costs."

335 **SECTION 2.**

336 This Act shall become effective July 1, 2013, except the tax credits shall only be available
337 and applicable to qualified investments made in all taxable years beginning on or after
338 January 1, 2014.

339 **SECTION 3.**

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