

House Bill 446 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 130th, Rutledge of the 109th, Kelley of the 16th, and Harrell of the 106th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-7-40.36 of the Official Code of Georgia Annotated, relating to
2 income tax credits for timber producers incurring losses from Hurricane Michael, so as to
3 revise the conditions under which such tax credits for timber are earned; to clarify that
4 certain income tax credits that have been transferred shall not be refundable to the transferee
5 and shall not be eligible for transfer; to provide for an effective date; to repeal conflicting
6 laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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

9 Code Section 48-7-40.36 of the Official Code of Georgia Annotated, relating to income tax
10 credits for timber producers incurring losses from Hurricane Michael, is amended by revising
11 subsections (a), (f), (g), and (h) as follows:

12 "(a)(1) The General Assembly finds and determines that Hurricane Michael has had a
13 catastrophic impact on the citizens and the economy of southwest Georgia, has
14 particularly devastated the timber industry on which the citizens of southwest Georgia are
15 heavily dependent for their livelihood, and has created both a public fire hazard and a
16 danger of insect infestations due to the massive amounts of downed timber caused by the
17 severity of this natural disaster.

18 (2) The General Assembly further finds and declares that it is appropriate and advisable
19 to provide relief to the timber industry in the form of a tax credit targeted to those
20 taxpayers that have suffered substantial economic losses and that will have to incur
21 significant expenses for salvaging downed timber, site clearance, restoration, and
22 reforestation of timber over the coming years."

23 "(f)(1)(A) Tax credits allowed pursuant to this Code section shall be eligible to be
24 claimed only by the taxpayer to which a preapproval certificate was issued by the
25 commissioner.

26 (B) ~~Such tax~~ Tax credits allowed under paragraph (1) of subsection (c) of this Code
 27 section shall only be claimed in the taxable year in which the taxpayer first completes:

28 (i) The restoration of each acre for which timber casualty losses were incurred to a
 29 condition that has an adequately stocked stand that is expected to result in forest
 30 products or ecological services in the foreseeable future; or

31 (ii) ~~The~~ replanting of timber in a quantity projected to yield at maturity at least 90
 32 percent of the value of the timber casualty loss claimed. Such timber shall be planted
 33 within the same county in which the eligible timber property was being grown when
 34 the timber casualty loss was incurred. Timber market conditions as of
 35 October 8, 2018, shall be used for the purposes of establishing projected value.

36 (2) In order to claim such tax credits, a taxpayer shall attach to such taxpayer's state tax
 37 return certification from the taxpayer that the requirements of this Code section have been
 38 met and any other information required by the commissioner, including information
 39 which demonstrates that it has completed the replanting of timber or the salvaging,
 40 management, removal, or clearance of downed or destroyed timber required pursuant to
 41 paragraph (1) of this subsection.

42 (3) Any tax credits allowed pursuant to this Code section shall be claimed on or before
 43 December 31, 2024.

44 (g)(1) The total amount of the tax credits allowed pursuant to this Code section for a
 45 taxable year may exceed the taxpayer's income tax liability. Such tax credits allowed in
 46 excess of a taxpayer's income tax liability shall be refundable to such taxpayer, provided
 47 that such taxpayer is the same taxpayer that incurred the timber casualty loss.

48 (2) Tax credits claimed pursuant to this Code section but not used in any taxable year
 49 may be carried forward for ten years from the close of the taxable year in which the
 50 credits are claimed.

51 (h) Tax credits claimed pursuant to this Code section but not used by the taxpayer against
 52 its income tax or refunded may be transferred or sold one time to a single other Georgia
 53 taxpayer, subject to the following conditions:

54 (1) Only the taxpayer that claimed tax credits allowed pursuant to this Code section shall
 55 make the transfer or sale of such tax credits;

56 (2) The taxpayer that claimed the tax credits allowed pursuant to this Code section shall
 57 submit to the commissioner written notification of any transfer or sale of tax credits
 58 within 30 days after the transfer or sale of such tax credits. The notification shall include:

59 (A) Such taxpayer's credit balance prior to transfer;

60 (B) The credit certificate number;

61 (C) The remaining balance of credits after transfer;

62 (D) The tax identification numbers for the transferee;

- 63 (E) The date of transfer;
- 64 (F) The amount of credits transferred; and
- 65 (G) Other information as may be required by the department;
- 66 (3) Failure to comply with this subsection shall result in the disallowance of the tax
67 credits allowed pursuant to this Code section until the taxpayer that claimed the credits
68 is in full compliance;
- 69 (4) The transfer or sale of the tax credits does not extend the time during which such tax
70 credits can be used. The carry-forward period for tax credits that are transferred or sold
71 shall begin on the date on which such tax credits were originally claimed;
- 72 (5) A transferee shall have only such rights to claim and use the tax credits that were
73 available to the transferor at the time of the transfer, provided that a transferee shall not
74 be eligible to transfer or receive a refund of such tax credits. To the extent that the
75 transferor did not have rights to claim or use the tax credits at the time of the transfer, the
76 commissioner shall disallow the tax credits claimed by the transferee or recapture the tax
77 credits from the transferee or transferor. The transferee's recourse shall not be against the
78 commissioner; and
- 79 (6) The transferee must acquire the tax credits allowed pursuant to this Code section for
80 a minimum of 60 percent of the amount of the tax credits so transferred."

81 **SECTION 2.**

82 This Act shall become effective upon its approval by the Governor or upon its becoming law
83 without such approval.

84 **SECTION 3.**

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