

House Bill 223 (AS PASSED HOUSE AND SENATE)

By: Representatives Burchett of the 176th, Efstration of the 104th, McDonald III of the 26th,
Hong of the 103rd, Gambill of the 15th, and others

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to authorize certain local governing authorities to provide temporary tax relief
3 from ad valorem taxes levied for the harvest or sale of standing timber from eligible timber
4 property that was severely damaged or destroyed in certain disaster areas; to provide for
5 conditions and procedures; to provide for the establishment of a certification form; to provide
6 for audits; to provide for grants to such local governing authorities to offset the loss of certain
7 revenues resulting from certain disaster damage to standing timber and such temporary tax
8 relief; to provide for an appropriations contingency; to provide for a grant cap; to provide for
9 the calculation of equalized adjusted property tax digests; to require the establishment of
10 criteria regarding damage or destruction; to exclude from the calculation of taxable net
11 income certain disaster relief or assistance grant program payments and crop insurance
12 proceeds for agricultural losses suffered due to Hurricane Helene; to provide for refundable
13 income tax credits for certain timber producers based on certain casualty losses related to
14 Hurricane Helene; to provide for transferability of such credits; to provide for an aggregate
15 annual cap; to provide for terms and conditions; to provide for credit preapproval; to provide
16 for legislative findings; to provide for definitions; to provide for a sales and use tax
17 exemption for a limited period of time for building materials used to repair or replace
18 greenhouses and real property structures or fixtures used exclusively for the production of

19 animals; to provide for rules and regulations; to provide for definitions; to provide for related
20 matters; to provide for a short title and legislative findings and intent; to provide for an
21 effective date; to repeal conflicting laws; and for other purposes.

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

23 **PART I**

24 **SECTION 1-1.**

25 This part shall be known and may be cited as the "Timberlands Recovery, Exemption, and
26 Earnings Stability (TREES) Act."

27 **SECTION 1-2.**

28 The General Assembly finds that:

- 29 (1) Hurricane Helene has had a catastrophic impact on the citizens and the economy of
30 many areas in this state, has particularly devastated the timber industry on which the
31 citizens of southwest Georgia are heavily dependent for their livelihood by reducing or
32 eliminating the long-held investments in standing timber and timberlands of businesses and
33 families, and has created both a public fire hazard and a danger of insect infestations due
34 to the massive amounts of downed timber caused by the severity of this natural disaster;
35 (2) As of November, 2024, the estimated losses to standing timber caused by Hurricane
36 Helene as measured by the State Forestry Commission were nearly \$1.3 billion;
37 (3) Timberlands as investments are unique as an agriculture product in this state, as timber
38 products often take ten years or longer to realize any return on the investment;
39 (4) Many counties, municipalities, and local school districts rely on the taxes levied at the
40 time of timber's harvest or sale pursuant to Code Section 48-5-7.5, but with the destruction
41 of timberlands throughout this state, that tax revenue will likely not be realized; and

(5) It is the intent of the General Assembly to authorize local governing authorities to provide temporary tax relief from the taxes levied pursuant to Code 48-5-7.5 so that the timber industry, and the businesses and families that provide timber products to such industry, will realize a reduced cost for growing new product and recovering from the devastating effects of Hurricane Helene. These reduced costs will help stabilize the market and allow for quicker harvesting and recovery of lands where some timber is still salvageable.

SECTION 1-3.

Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is amended by adding a new Code section to read as follows:

"48-5-33.1.

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

(1) 'Disaster area' means any county designated for public assistance or individual and public assistance pursuant to the Federal Emergency Management Agency FEMA-4830-DR Georgia disaster declaration as of November 4, 2024.

(2) 'Eligible governing authority' means the governing authority of any county, consolidated government, or municipality or the governing body of any county or independent board of education that is located in whole or in part in the disaster area.

(3) 'Eligible standing timber' means any timber which is subject to taxation pursuant to Code Section 48-5-7.5 that is on eligible timber property.

(4) 'Eligible timber property' means any parcel, tract, stand, or other identifiable unit of property that:

(A) Contains standing timber which would, in the ordinary course of business, be sold or harvested;

(B) Is timberland property as such term is defined in Code Section 48-5-600;

(C) Is located within the disaster area; and

68 (D) Was severely damaged or destroyed as a result of the natural disaster.

69 (5) 'Severely damaged or destroyed' means damaged to the extent which would require
70 salvage thinning, a salvage operation, or clear-cut of eligible standing timber based on
71 criteria established by the State Forestry Commission pursuant to subsection (k) of this
72 Code section.

73 (b) Pursuant to Article VII, Section I, Paragraph III(h) of the Constitution of Georgia and
74 in accordance with the provisions of this Code section, an eligible governing authority may
75 grant temporary tax relief from taxes levied for eligible standing timber pursuant to Code
76 Section 48-5-7.5 during:

77 (1) The final quarter of 2024; and

78 (2) Each quarter of 2025.

79 (c) To grant the temporary tax relief authorized by subsection (b) of this Code section, an
80 eligible governing authority shall adopt a resolution or ordinance that:

81 (1) Declares that its jurisdiction contains eligible timber property;

82 (2) Consents to grant the tax relief provided under this Code section;

83 (3) Requires that taxpayers seeking such tax relief submit the certification established
84 pursuant to subsection (f) of this Code section and that such certification shall be
85 accepted by the eligible governing authority; and

86 (4) Waives the levy and collection of payment of taxes otherwise due pursuant to Code
87 Section 48-5-7.5 for the final quarter of 2024 and during each quarter of 2025.

88 (d) Upon adoption of the resolution or ordinance provided under subsection (c) of this
89 Code section, no taxpayer who submits the certification established pursuant to
90 subsection (f) of this Code section shall be required to pay taxes otherwise levied pursuant
91 to Code Section 48-5-7.5 for eligible standing timber during the final quarter of 2024 or
92 during any quarter of 2025.

93 (e) In the event taxes were levied and paid by a taxpayer pursuant to Code
94 Section 48-5-7.5 for eligible standing timber during the final quarter of 2024 or during any

quarter of 2025, the eligible governing authority to which such taxes were payable or collected shall provide that a refund be issued to such taxpayer for the total amount paid in the same manner as otherwise provided under Code Section 48-5-380. If such taxes were levied but unpaid, the eligible governing authority to which such taxes are payable or collected shall waive payment and collection as provided in the resolution or ordinance adopted pursuant to subsection (c) of this Code section, and shall be provided by the tax collector or tax commissioner an updated tax bill reflecting that the amount is no longer due.

(f)(1) A certification form shall be established by the State Forestry Commission in consultation with the commissioner and Association County Commissioners of Georgia within ten days of the effective of this Code section. In addition to requiring necessary identification and location information, such certification shall:

(A) Require such taxpayer to declare that their otherwise taxable property is eligible standing timber;

(B) Require such taxpayer to declare that they are making a claim for temporary tax relief for eligible standing timber pursuant to this Code section; and

(C) Allow the taxpayer to attach photographs of their eligible timber property, verification by a registered forester that the otherwise taxable property is eligible timber property, or other supporting documentation.

(2) Such certification shall be completed by the taxpayer and shall be submitted to the eligible governing authority as provided in the resolution or ordinance adopted pursuant to subsection (c) of this Code section.

(3) The State Forestry Commission shall distribute or otherwise make available such certification form to taxpayers.

(g) The State Forestry Commission is authorized to conduct audits of property for compliance with this Code section at the request of the tax collector or tax commissioner for an eligible governing authority. In the event the State Forestry Commission conducts

an audit and finds that the temporary tax relief granted to a taxpayer pursuant to this Code section was improper, the State Forestry Commission shall report such findings to the tax collector or tax commissioner who may pursue all remedies available by law as necessary to recapture the tax that would have been due but for being wrongfully claimed by a taxpayer.

(h) Any temporary tax relief approved or allowed under this Code section shall be paid from funds of the eligible governing authority to which the taxes were or were to have been paid.

(i)(1) For the purpose of offsetting an eligible governing authority's revenue loss in the final quarter of 2024 and any quarter of 2025 due to the destruction of eligible standing timber in the disaster area and the temporary tax relief authorized pursuant to this Code section, the commissioner shall, subject to an appropriation by the General Assembly specifically referencing the provisions of this Code section, provide a grant to each eligible governing authority that has consented to grant the temporary tax relief authorized pursuant to this Code section.

(2) A grant provided for in paragraph (1) of this subsection shall be allotted to each eligible governing authority based on:

(A) The governing authority's estimated revenue loss as described in paragraph (1) of this subsection;

(B) The revenue received by such governing authority pursuant to Code Section 48-5-7.5 in each of the preceding three years; and

(C) The estimated damage to eligible standing timber in the jurisdiction as provided in the *Hurricane Helene Timber Damage Assessment* published by the State Forestry Commission on November 5, 2024, or other reliable data from the State Forestry Commission.

(3) No grant to an eligible governing authority provided pursuant to paragraph (1) of this subsection shall exceed the average of the total revenue received by such governing authority pursuant to Code Section 48-5-7.5 in 2021, 2022, and 2023.

(j)(1) The grants provided pursuant to subsection (i) of this Code section shall not be included in the calculation of the equalized adjusted property tax digest under Code Section 48-5-274 for the purpose of calculating the required local five mill share for school funding purposes under Code Section 20-2-164.

(2) The temporary tax relief authorized pursuant to this Code section shall not affect the requirement provided for in paragraph (2) of subsection (m) of Code Section 48-5-7.5 that the fair market value of timber harvested or sold be added to a digest and be included in the calculation of the equalized adjusted property tax digest under Code Section 48-5-274 for the purpose of calculating the required local five mill share for school funding purposes under Code Section 20-2-164.

(k)(1) The commissioner, tax collectors, and tax commissioners shall be authorized to consult with the State Forestry Commission to implement the provisions of this Code section.

(2) The State Forestry Commission shall establish criteria for determining whether timber property is severely damaged or destroyed. In establishing such criteria, such commission may consider:

(A) The average damage sustained throughout the timber property;

(B) Whether the timber property has adequate remaining trees per acre to maintain viable timber property; and

(C) The risk of insect and disease damage to the timber property as a result of the disaster.

(l) The commissioner may promulgate any rules and regulations necessary to implement and administer the provisions this Code section."

173 **PART II**

174 **SECTION 2-1.**

175 Said title is further amended in Code Section 48-7-27, relating to computation of taxable net
176 income, by adding new paragraphs to subsection (a) to read as follows:

177 "(11.3) For taxable years beginning on or after January 1, 2025, and ending on or before
178 December 31, 2029, income received as payments from a federal disaster relief or
179 assistance grant program administered by this state or its instrumentalities or the United
180 States Department of Agriculture, if such federal grant program was established
181 specifically to address agricultural losses suffered due to Hurricane Helene which was a
182 weather event declared to be a major disaster in this state by the President of the United
183 States during the 2024 calendar year, to the extent such income is included in federal
184 adjusted gross income or federal taxable income;

185 (11.4) For taxable years beginning on or after January 1, 2025, and ending on or before
186 December 31, 2025, federal crop insurance proceeds received for the destruction or
187 damage to crops due to Hurricane Helene which was a weather event declared to be a
188 major disaster in this state by the President of the United States during the 2024 calendar
189 year, to the extent such proceeds are included in federal adjusted gross income or federal
190 taxable income;"

191 **SECTION 2-2.**

192 Said title is further amended by adding a new Code section to read as follows:

193 "48-7-40.37.

194 (a)(1) The General Assembly finds and determines that Hurricane Helene has had a
195 catastrophic impact on the citizens and the economy of Georgia, has particularly
196 devastated the timber industry on which the citizens of Georgia are heavily dependent for
197 their livelihood, and has created both a public fire hazard and a danger of insect

infestations due to the massive amounts of downed timber caused by the severity of this natural disaster.

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

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

(1) 'Disaster area' means the real property encompassed by the borders of the 66 counties included in the renewal of the State of Emergency pronounced in the Executive Order of the Governor dated October 29, 2024, and filed in the official records of the office of the Governor as Executive Order No. 10.29.24.01.

(2) 'Eligible timber property' means timber which on September 24, 2024, was being grown by a taxpayer in a disaster area as part of a trade or business or a transaction entered into for profit.

(3) 'Timber' means trees grown for the primary purpose of commercial production of food or wood or wood fiber products.

(4) 'Timber casualty loss' means the amount of the diminution of value included in the computation of the casualty loss deduction for such casualty losses claimed and allowed pursuant to Section 165 of the Internal Revenue Code of 1986 as casualty losses incurred by a taxpayer between September 24, 2024, and December 31, 2024, as a result of damage to or destruction of eligible timber property caused by Hurricane Helene.

(c)(1) A taxpayer shall be allowed tax credits against the tax imposed by this article in an amount equal to 100 percent of such taxpayer's timber casualty loss; provided, however, that the credit amount shall not exceed the number of the taxpayer's affected acres of eligible timber property in such disaster areas multiplied by \$550.00.

(2) To be allowed such tax credits, a taxpayer shall submit an application for preapproval of such credits based on timber casualty losses incurred by such taxpayer by December 31, 2025.

(d)(1) The commissioner shall require preapproval applications to contain such information as is necessary to substantiate a taxpayer's eligibility for tax credits allowed pursuant to this Code section.

(2) The commissioner is authorized to require electronic submission of preapproval applications in the manner specified by the commissioner.

(3) The commissioner shall review completed preapproval applications in the order in which such applications were submitted and shall provide notice to each taxpayer that submitted an application within 30 days of receipt stating whether such taxpayer's application is complete or incomplete.

(4) In no event shall the commissioner preapprove tax credits pursuant to this Code section in an amount that exceeds \$200 million in aggregate.

(5) In the event that properly completed and timely submitted preapproval applications are submitted for an amount that exceeds the amount of funds available to fully fund the tax credits requested, the commissioner shall prorate the available funds between or among the applicants.

(6) The commissioner shall approve properly completed and timely submitted preapproval applications and issue a preapproval certificate to the taxpayer by January 31, 2026, certifying the amount of credits such taxpayer is eligible to claim if the taxpayer meets the conditions of this Code section.

(e) In no event shall the amount of the tax credits allowed pursuant to this Code section exceed \$200 million in aggregate.

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

(B) Tax credits allowed pursuant to this Code section shall only be claimed in the taxable year in which the taxpayer first completes:

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

(ii) The replanting of timber in a quantity projected to yield at maturity at least 90 percent of the value of the timber casualty loss claimed. Such timber shall be planted within the same county in which the eligible timber property was being grown when the timber casualty loss was incurred. Timber market conditions as of September 25, 2024, shall be used for the purposes of establishing projected value.

(2) To claim tax credits allowed pursuant to this Code section, a taxpayer shall attach to such taxpayer's state tax return certification from the taxpayer that the requirements of this Code section have been met and any other information required by the commissioner, including information which demonstrates that it has completed the restoration or replanting of timber required pursuant to paragraph (1) of this subsection.

(3) Any tax credits allowed pursuant to this Code section shall be claimed on or before December 31, 2030.

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

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

(h) Tax credits claimed pursuant to this Code section but neither used by the taxpayer against its income tax liability nor refunded may be transferred or sold one time to one single other Georgia taxpayer, subject to the following conditions:

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

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

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

(B) The credit certificate number;

(C) The remaining balance of credits after transfer;

(D) The tax identification number of the transferee;

(E) The date of transfer;

(F) The amount of credits transferred; and

(G) Other information as may be required by the department;

(3) Failure to comply with any provision of this subsection shall result in the disallowance of the tax credits allowed pursuant to this Code section until the taxpayer that claimed the credits is in full compliance;

(4) The transfer or sale of the tax credits shall not extend the time during which such tax credits may be used. The carry-forward period for tax credits that are transferred or sold shall begin on the date on which such tax credits were originally claimed;

(5) A transferee shall have only such rights to claim and use the tax credits that were available to the transferor at the time of the transfer; provided, however, that a transferee shall not be eligible to transfer or receive a refund of such tax credits. To the extent that the transferor did not have rights to claim or use the tax credits at the time of the transfer, the commissioner shall disallow the tax credits claimed by the transferee or recapture the tax credits from the transferee or transferor. The transferee's recourse shall not be against the commissioner; and

(6) The transferee shall acquire the tax credits allowed pursuant to this Code section for a minimum of 60 percent of the amount of the tax credits so transferred.

(i)(1) A taxpayer claiming, transferring, or selling tax credits allowed pursuant to this Code section shall be required to reimburse the department for any department initiated audits relating to the tax credits, provided that such amount shall not exceed the value of the credits claimed by the taxpayer. This paragraph shall not apply to routine tax audits of such taxpayer that may include the review of the tax credits provided in this Code section.

(2) The commissioner shall have access to timber property for the purpose of determining eligibility for both the preapproval and claiming of tax credits allowed and conducting audits pursuant to this Code section, provided that prior notice is given to any taxpayer that submitted a preapproval application or transferred or claimed tax credits pursuant to this Code section and the owner of the underlying real property.

(3) The commissioner may pursue all remedies available by law as necessary to recapture tax credits wrongfully preapproved, allowed, or claimed by a taxpayer or a taxpayer's transferee.

(4) The commissioner shall be authorized to consult with the State Forestry Commission as necessary to administer and enforce the provisions of this Code section.

(j) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer the provisions of this Code section."

SECTION 2-3.

Said title is further amended in Chapter 8, relating to sales and use taxes, by revising paragraph (3) of subsection (a) of Code Section 48-8-3.3, relating to exemptions for agricultural operations and establishment of Georgia Agricultural Trust Fund, as follows:

"(3)(A) 'Agricultural production inputs' means seed; seedlings; plants grown from seed, cuttings, or liners; fertilizers; insecticides; livestock and poultry feeds, drugs, and

instruments used for the administration of such drugs; fencing products and materials used to produce agricultural products regardless of whether the fencing products or materials become incorporated into real property; fungicides; rodenticides; herbicides; defoliants; soil fumigants; plant growth regulating chemicals; desiccants, including, but not limited to, shavings and sawdust from wood, peanut hulls, fuller's earth, straw, and hay; feed for animals, including, but not limited to, livestock, fish, equine, hogs, or poultry; sugar used as food for honeybees kept for the commercial production of honey, beeswax, and honeybees; cattle, hogs, sheep, equine, poultry, or bees when sold for breeding purposes; ice or other refrigerants, including, but not limited to, nitrogen, carbon dioxide, ammonia, and propylene glycol used in the processing for market or the chilling of agricultural products in storage facilities, rooms, compartments, or delivery trucks; materials, containers, crates, boxes, labels, sacks, bags, or bottles used for packaging agricultural products when the product is either sold in the containers, sacks, bags, or bottles directly to the consumer or when such use is incidental to the sale of the product for resale; and containers, plastic, canvas, and other fabrics used in the care and raising of agricultural products or canvas used in covering feed bins, silos, greenhouses, and other similar storage structures.

(B)(i) For the period beginning on the effective date of this Act and ending on December 31, 2025, such term also means building materials used to repair or replace:

(I) Greenhouses; and

(II) Real property structures or fixtures used exclusively for the production of animals, including, but not limited to, poultry sheds and livestock barns.

(ii) Notwithstanding subsection (c) of Code Section 48-8-63, contractors shall not incur any use tax on any building materials that a qualified agricultural producer purchases tax-exempt under division (i) of this subparagraph for use in an agricultural operation and furnishes to such contractor for installation into real property."

357

PART III

358

SECTION 3-1.

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

361

SECTION 3-2.

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