



## INDUSTRY ALERT

April 15, 2011

# Georgia State Legislature Amendments to Renewable Energy and Conservation Tax Credits

### Background

An important piece of amended legislation regarding renewable energy and conservation tax credits was passed last night by the Georgia state legislature prior to the closing of the 2011 legislative session. The amendments are expected to be signed by Governor Nathan Deal. The conservation tax credit (Section 3 of House Bill 346) and the renewable energy tax credit (Section 3A of HB 346) amendments are summarized below:

1. Section 3 of HB 346: Amends the income tax credit for the donation of real property for conservation purposes.

This new law would provide taxpayers who earned and previously claimed the state tax credit (but did not use it against their income tax) the ability to transfer or sell their state tax credits in whole or in part to another Georgia taxpayer.

If signed by the Governor, the sale or transfer of this state conservation tax credits would be subject to four (4) conditions:

- The transferor must notify the GA Dept. of Revenue of the transfer or sale of tax credits within 30 days. Other additional information must be included in this written notification.
- Failure to comply with the requirements will result in the disallowance of the credit until the taxpayer is in full compliance.
- In no event shall the tax credit allowed exceed the buyer's income tax liability for the year. Any unused credit may be carried forward to a subsequent taxable year, with the carry forward period beginning on the date on which the tax credit was originally earned.
- A seller shall have only the rights to claim and use the credit that were available to the transferor at the time of transfer.

2. Section 3A of Senate Substitute for HB 346: Amends and expands the existing Georgia Renewable Energy Tax Credit, O.C.G.A. Section 48-7-29.14.

The amendment extends the renewable energy tax credit to the year ending Dec. 31, 2014, and for the years 2012, 2013 and 2014 it newly expands the total statewide credit amount from \$2.5 million to \$5.0 Million in each of the years 2012-2014. The tax credit in these later periods is to be realized over a 4 year period.

In addition, in any year where the amounts above are fully claimed, those who apply for the state energy credit but couldn't get any are added to a list based on the date they first applied for the credit, and are given first priority in the next year, over and above others in the later year who also filed.

All other aspects of the existing tax credit remain the same.

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