

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 349 of the Regular Session

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H2/20/09

A Bill

HOUSE BILL 1471

5 By: Representatives Moore, Blount, Cheatham, Dunn, Hall, Maxwell, Rainey, Reep, T. Rogers
6 By: Senators J. Jeffress, J. Taylor
7
8

For An Act To Be Entitled

9
10 AN ACT TO AMEND THE DELTA GEOTOURISM INCENTIVE
11 ACT OF 2007 TO ALLOW A GEOTOURISM INCOME TAX
12 CREDIT TO TRANSFER TO OTHER *TOURISM* PROJECTS; TO
13 ALLOW A GEOTOURISM INCOME TAX CREDIT TO CARRY
14 FORWARD; AND FOR OTHER PURPOSES.
15

Subtitle

16
17 TO ALLOW A GEOTOURISM INCOME TAX CREDIT
18 TO TRANSFER TO OTHER *TOURISM* PROJECTS
19 AND TO ALLOW A GEOTOURISM INCOME TAX
20 CREDIT TO CARRY FORWARD.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Uncodified Acts 2007, No. 518, §§ 3 through 6, are amended,
26 and a new section is added to read as follows:
27

28 "SECTION 3. Definitions.

29 As used in this act:

30 (1) "Economically distressed area" means a county-wide area in
31 Arkansas in which the percentage of families that earn income below poverty
32 level exceeds twenty-three percent (23%), based on year 2000 income levels as
33 compiled by the Bureau of the Census, United States Department of Commerce
34 demographic profiles;

35 (2) "Geotourism" means tourism that sustains or enhances the



1 geographical character of an area including without limitation, its
2 environment, heritage, aesthetics, culture, natural resources, and well-being
3 of its residents.

4 (3) "Geotourism attraction" means an environmental, aesthetic,
5 cultural, or natural point of interest in an area of natural phenomena or
6 scenic beauty that attracts tourists to experience and appreciate the
7 environmental, aesthetic, cultural, or natural point of interest including
8 without limitation:

9 (A) A geological monument;

10 (B) A lake;

11 (C) A mountain;

12 (D) A park;

13 (E) A river;

14 (F) A species of animal abundant or unique to a particular
15 area;

16 (G) A species of bird abundant or unique to a particular
17 area;

18 (H) A species of insect abundant or unique to a particular
19 area;

20 (I) A wetland or aquatic resources area; and

21 (J) An historic site;

22 (4)(A) "Geotourism-supporting business" means a business
23 necessary to support a geotourism attraction by constructing, expanding, or
24 re-modeling a retail facility including without limitation, cultural or
25 educational centers, indoor or outdoor plays or music shows, recreational or
26 entertainment facilities, sporting goods retail and rental establishments,
27 guide services, transient lodging facilities including RV parks, arts and
28 antique shops, campgrounds, bed and breakfasts, and dining establishments.

29 (B) "Geotourism-supporting business" does not include:

30 (i) Facilities that are not open to the general
31 public; or

32 (ii) Facilities owned by the State of Arkansas or a
33 political subdivision of the state.

34 (5) "Geotourism tax credit" means an tax credit against the
35 income tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., or a
36 credit against the premium taxes under §§ 26-57-603 - 26-57-605.

1 ~~(5)~~(6) "Geotourist" means a person who travels to an area to
2 enjoy the area's natural habitats, heritage sites, scenic appeals, and local
3 culture;

4 (7) "Holder" means the holder of a geotourism tax credit that
5 is:

6 (A) A person or entity subject to the income tax imposed
7 by the Income Tax Act of 1929, § 26-51-101 et seq.; or

8 (B) An insurance company paying an annual premium tax on
9 its gross premium receipts under §§ 26-57-603 - 26-57-605.

10 ~~(6)~~(8) "Lower Mississippi River Delta" means a county in
11 Arkansas or portion of a county in Arkansas whose land area includes an
12 alluvial plain created by the Mississippi River;~~and~~

13 ~~(7)~~(9) "Person or entity" means a sole proprietorship,
14 partnership, LLC, or corporation~~;~~;

15 (10) "Tourism attraction" means the same as defined under A.C.A.
16 § 15-11-503;

17 (11) "Tourism attraction project" means the same as defined
18 under A.C.A. § 15-11-503; and

19 (12) "Tourism-supporting business" means a business that is open
20 to the general public and provides goods or services necessary to support a
21 tourism attraction and includes without limitation, restaurants, retail
22 establishments, and lodging.

23
24 ~~SECTION 3.~~ SECTION 4. Income tax credit or premium tax credit for
25 geotourism development.

26 (a) To qualify for ~~an income~~ a geotourism tax credit, a person or
27 entity shall invest a minimum of twenty-five thousand dollars (\$25,000) in a
28 geotourism-supporting business located in the Lower Mississippi River Delta
29 that ~~meets the following criteria~~ is:

30 (1) In an economically distressed area or a county that borders
31 two (2) counties defined as economically distressed.

32 (2) In an unincorporated area or a city with a population of
33 less than sixteen-thousand (16,000) as determined by the U.S. Census Report
34 of 2000;

35 (3) Within five (5) miles of a national scenic byway; and

36 (4) Within fifteen (15) miles of:

- 1 (A) Public access to a navigable river; or
2 (B) An Arkansas State Park; or
3 (C) An Arkansas State Game and Fish Commission Wildlife
4 Management Area; or
5 (D) A National Wildlife Refuge.

6 (b)(1) ~~A person or entity is eligible to receive an income~~ A
7 geotourism tax credit ~~under this act~~ is equal to twenty-five percent (25%) of
8 the amount of an investment ~~for a purpose~~ described in subsection (a) of this
9 ~~section~~ Section 4 ~~for the year that the investment is made provided that the~~
10 ~~geotourism supporting business is currently operating as a business.~~

11 (2) For any tax year, the maximum amount of investment ~~to be~~
12 ~~considered in determining the income~~ for a geotourism tax credit under this
13 act is one hundred thousand dollars (\$100,000).
14

15 ~~SECTION 4.~~ SECTION 5. Rules and regulations.

16 (a) To claim a geotourism tax credit under Section 4 of this act, a
17 person or entity shall submit evidence to the Department of Finance and
18 Administration that:

19 (1) The person or entity has made a minimum investment of twenty
20 five thousand dollars (\$25,000); and

21 (2) The investment is used to construct, expand, or remodel a
22 geotourism-supporting business.

23 (b) To claim a geotourism tax credit that has been transferred, sold,
24 or assigned to another person or entity, the transferee, buyer, or assignee
25 of the geotourism tax credit shall submit evidence to the Department of
26 Finance and Administration that:

27 (1) The person or entity has made a minimum investment of one
28 hundred thousand dollars (\$100,000); and

29 (2) The investment is used to construct, expand, or remodel a
30 geotourism-supporting business, a tourism attraction, or tourism-supporting
31 business project within the state but not within the Lower Mississippi River
32 Delta.

33 (c) If a geotourism tax credit is transferred, sold, or assigned to a
34 person or entity that qualifies for a geotourism tax credit under Section 4
35 of this act, the minimum investment is twenty-five thousand dollars
36 (\$25,000).

1 ~~(a)~~(d) The Department of Finance and Administration shall promulgate
2 rules necessary to implement this act.

3 ~~(b)~~(e) The Department of Finance and Administration shall consult with
4 the Arkansas Department of Parks and Tourism in promulgating rules under this
5 act.

6 ~~(e)~~(f) The Department of Finance and Administration and the Department
7 of Parks and Tourism may inspect facilities and records of a person or an
8 entity requesting or receiving an income tax credit under this act as
9 necessary to verify a claim.

10
11 SECTION 6. Use and transfer of credit.

12 (a)(1) A holder may claim all or part of a geotourism tax credit for a
13 taxable year up to an amount that is equal to, but that does not exceed, the
14 amount of income tax or premium tax due by the holder.

15 (2) If a holder does not use the total amount of the geotourism
16 tax credit for a taxable year, a holder may carry forward any remainder of
17 the geotourism tax credit.

18 (3) A holder may carry forward any remainder of a geotourism tax
19 credit for five (5) taxable years after the date of the original issuance of
20 the geotourism tax credit or until the amount of the geotourism tax credit is
21 exhausted, whichever occurs first.

22 (b)(1) A holder may transfer, sell, or assign all or part of the
23 geotourism tax credit to:

24 (A) A person or entity that meets the criteria in Section
25 4 of this act; or

26 (B) A person or entity that invests a minimum of one
27 hundred thousand dollars (\$100,000) in any county for the purpose of
28 constructing, expanding, or remodeling a geotourism-supporting business, a
29 tourism attraction, or tourism-supporting business project within the state.

30 (2) A holder is not required to have any ownership or other
31 interest in the investment for which a geotourism tax credit is claimed.

32 (c)(1) If there is no executed agreement for an alternative
33 distribution of a geotourism tax credit, a geotourism tax credit granted to a
34 partnership, a limited liability company taxed as a partnership, an S-
35 corporation, or multiple owners of property is passed through to the
36 partners, members, or owners on a pro rata basis.

1 (d) A holder that transfers, sells, or assigns all or part of a
2 geotourism tax credit shall perfect the transfer, sale, or assignment by
3 notifying the Department of Finance and Administration in writing within
4 thirty (30) calendar days following the effective date of the transfer, sale,
5 or assignment.

6 (e)(1) Any consideration received for the transfer, sale, or
7 assignment of the geotourism tax credit shall not be included as income
8 taxable by the State of Arkansas.

9 (2) Any consideration paid for the transfer, sale, or assignment
10 of the geotourism tax credit shall not be deducted from income taxable by the
11 State of Arkansas.

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13 ~~SECTION 5. Expiration.~~ SECTION 7. Expiration and effective date.

14 (a) This act expires at the end of the 2011 2016 tax year and is
15 effective for income tax years beginning January 1, 2009.

16 ~~(b) If the geotourism supporting business is currently operating as a~~
17 ~~business, an unused income tax credit under this act may be carried forward~~
18 ~~on an income tax return for five (5) years after the year in which the income~~
19 ~~tax credit was first earned or until exhausted, whichever event occurs first.~~

20
21 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the General
22 Assembly of the State of Arkansas that the Lower Mississippi River Delta is
23 an area of the state that is rich in culture, diversity, history and natural
24 environmental beauty and yet is economically distressed; that the development
25 of a geotourism industry in the Lower Mississippi River Delta through the use
26 of income tax credits and easy transferability of the income tax credits will
27 spur growth and economic opportunity for all Arkansans; and that the economy
28 of the Lower Mississippi River Delta cannot withstand any delay of economic
29 incentive or relief. Therefore, an emergency is declared to exist and this
30 act being necessary for the preservation of the public peace, health, and
31 safety shall become effective on:

32 (1) The date of its approval by the Governor;

33 (2) If the bill is neither approved nor vetoed by the Governor,
34 the expiration of the period of time during which the Governor may veto the
35 bill; or

36 (3) If the bill is vetoed by the Governor and the veto is

1 overridden, the date the last house overrides the veto.”

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/s/ Moore

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APPROVED: 3/10/2009

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