

TITLE 48. REVENUE AND TAXATION  
CHAPTER 8. SALES AND USE TAXES  
ARTICLE 6. GEORGIA TOURISM DEVELOPMENT

\*\*\* Current Through the 2013 Regular Session \*\*\*

**§ 48-8-270. Short title**

This article shall be known and may be cited as the "Georgia Tourism Development Act."

**HISTORY:** Code 1981, § 48-8-270, enacted by Ga. L. 2011, p. 302, § 2/HB 234.

**§ 48-8-271. Definitions**

As used in this article, the term:

(1) "Agreement" means an agreement for a tourism attraction project between the Department of Community Affairs and an approved company pursuant to Code Section 48-8-275.

(2) "Annual sales and use tax" means those state and local sales and use taxes generated by sales to the general public at the approved tourism attraction during the calendar year immediately preceding the date of filing the sales and use tax refund claim.

(3) "Approved company" means the entity that has submitted an application to undertake a tourism attraction project, which has been approved pursuant to Code Section 48-8-274. For each tourism attraction project, only one company may be approved under this article.

(4) "Approved costs" means:

(A) For new tourism attractions:

(i) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a new tourism attraction project;

(ii) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(iii) All costs for construction materials and equipment installed at the new tourism attraction project;

(iv) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a new tourism attraction project which is not paid by the vendor, supplier, deliveryman, or contractor or otherwise provided;

(v) All costs of architectural and engineering services, including, but not limited to, estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a new tourism attraction project;

(vi) All costs required to be paid under the terms of any contract for the acquisition,

construction, equipping, and installation of a new tourism attraction project;

(vii) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions if paid for by the approved company; and

(viii) All other costs comparable with those described in this subparagraph; or

(B) For existing tourism attractions, any approved costs otherwise specified in subparagraph (A) of this paragraph; provided, however, that such costs are limited to the expansion only of an existing tourism attraction and not the renovation of an existing tourism attraction.

(5) "Approved tourism attraction" means a project that was approved pursuant to Code Section 48-8-274 and that has since opened to the public and become operational as a tourism attraction.

(6) "Expansion" means the addition of equipment, facilities, or real estate to an existing tourism attraction for the purpose of increasing its size, scope, or visitor capacity.

(7) "Incremental sales and use tax" means state and local sales and use taxes generated by sales to the general public at the approved tourism attraction from the date on which construction of the expansion project is completed through the end of the calendar year immediately preceding the date of filing the incremental sales and use tax refund claim, less the state and local sales and use taxes that were generated by sales to the general public at the approved tourism attraction during the 12 month period immediately preceding the commencement of construction of the expansion project.

(8) "Incremental sales and use tax refund" means the amount equal to the lesser of the incremental sales and use tax or 2.5 percent of the total of all approved costs incurred at any time prior to January 1 of the year during which the claim for the incremental sales and use tax refund is filed.

(9) "Local sales and use tax" means any sales and use tax, excluding the sales tax for educational purposes levied pursuant to Part 2 of Article 3 of this chapter and Article VIII, Section VI, Paragraph IV of the Constitution, that is levied and imposed in an area consisting of less than the entire state, however authorized.

(10) "Renovation" means the restoration, rebuilding, redesign, repair, or replacement of worn elements so that the functionality, quality, or attractiveness of buildings or structures is equivalent to a former state.

(11) "Sales and use tax refund" means the amount equal to the lesser of the annual sales and use tax or 2.5 percent of the total of all approved costs incurred at any time prior to January 1 of the year during which the claim for the sales and use tax refund is filed.

(12) "Tourism attraction" means a cultural or historical site; a recreation or entertainment facility; a convention hotel and conference center; an automobile race track, including, but not limited to, Atlanta Motor Speedway, with other tourism amenities; a golf course facility with other tourism amenities; marinas and water parks with lodging and restaurant facilities designed to attract tourists to the State of Georgia; or a Georgia crafts and products center. A tourism attraction shall not be primarily devoted to the retail sale of goods, shopping centers, restaurants, or movie theaters.

(13) "Tourism attraction project" or "project" includes the real estate acquisition, including

the acquisition of real estate by a leasehold interest with a minimum term of 30 years, construction, and equipping of a tourism attraction; the construction and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including, but not limited to, surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions if paid for by the approved company. Such term shall not include the renovation of an existing tourism attraction.

**HISTORY:** Code 1981, § 48-8-271, enacted by Ga. L. 2011, p. 302, § 2/HB 234; Ga. L. 2013, p. 243, § 7/HB 318.

#### **§ 48-8-272. Purpose of article; legislative findings**

The General Assembly finds and declares that the general welfare and material well-being of the citizens of this state depend in large measure upon the development of tourism in the state; that it is in the best interest of this state to induce the creation of tourism attractions or expansion of existing tourism attractions within this state in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the sales and use tax refund offered by the State of Georgia to approved companies and preserving and creating sources of tax revenues for the support of public services provided by the state; that the purposes to be accomplished under the provisions of this article are proper governmental and public purposes for which public moneys may be expended; and that the inducement of the creation of tourism attraction projects is of paramount importance to the economy of the state, mandating that the provisions of this article are to be liberally construed and applied in order to advance public purposes.

**HISTORY:** Code 1981, § 48-8-272, enacted by Ga. L. 2011, p. 302, § 2/HB 234.

#### **§ 48-8-273. Tourism attractions agreements; execution; 10-year term; sales and use tax refund; administrative regulations**

(a) In the discretion of the commissioner of economic development and the commissioner of community affairs, in consideration of the execution of the agreement and subject to the approved company's compliance with the terms of the agreement, an approved company shall be granted a sales and use tax refund for new projects or an incremental sales and use tax refund for expansions of existing tourism attractions.

(b) The approved company shall have no obligation to refund or otherwise return any amount of this sales and use tax refund to the persons from whom the sales and use tax was collected.

(c) The term of the agreement granting a refund under this article shall be ten years, commencing on the date the tourism attraction opens for business and begins to collect sales and use taxes or, for an expansion, the date construction is complete.

(d) For each calendar year or partial calendar year occurring during the term of the agreement, an approved company shall file with the Department of Revenue a claim for a refund under this article by March 31 of the following year.

(e) The Department of Revenue, in consultation with the Department of Community Affairs and other appropriate state agencies, shall promulgate administrative regulations and

require the filing of a refund form designed by the Department of Revenue to reflect the intent of this article.

(f) No sales and use tax refund shall be granted to an approved company that is during a tax year simultaneously receiving any other state tax incentive associated with any one tourism attraction project.

(g) Any sales and use tax refund shall be first applied to any outstanding tax obligation of the approved company that is due and payable to the state.

(h) By resolution and at the discretion of the county and city, if any, where the tourism attraction project is to be located, the local sales and use tax may be refunded under the same terms and conditions as any refund of state sales and use taxes.

(i) Refunds under this article shall be made without interest.

**HISTORY:** Code 1981, § 48-8-273, enacted by Ga. L. 2011, p. 302, § 2/HB 234; Ga. L. 2013, p. 243, § 8/HB 318.

**§ 48-8-274. Standards for filing tourism attraction project applications; analysis of projects by independent consultants; conditions of eligibility and approval**

(a) The commissioner of community affairs, in consultation with other appropriate state agencies, shall establish standards for the filing of an application for tourism attraction projects by the promulgation of administrative regulations.

(b) In addition to any standards set forth pursuant to subsection (a) of this Code section, an application for a tourism attraction project filed with the Department of Community Affairs shall include:

(1) Marketing plans for the tourism attraction that target individuals who are not residents of this state;

(2) A description and location of the tourism attraction project;

(3) Capital and other specific expenditures for the tourism attraction project and the anticipated sources of funding for such project;

(4) The anticipated employment and wages to be paid at the tourism attraction;

(5) Business plans that indicate the average number of days in a year in which the tourism attraction will be in operation and open to the public;

(6) The anticipated revenues to be generated by the tourism attraction; and

(7) Resolutions from the governing authority of the county or the city, if any, in which the tourism attraction will be located endorsing the tourism attraction project and, where applicable, including appropriate affirmative clauses regarding permitting, land use, local incentives, and the provision of local public infrastructure.

(c) Following the filing of the application, the Department of Community Affairs shall submit the application to an independent consultant who shall perform an in depth analysis of the proposed project. All costs associated with such application and analysis shall be paid for by the approved company.

(d) The commissioner of economic development and the commissioner of community affairs may grant approval to the tourism attraction project if the project shall:

- (1) Have approved costs in excess of \$1 million and such project is to be a tourism attraction;
- (2) Have a significant and positive economic impact on the state considering, among other factors, the extent to which the tourism attraction project will compete directly with tourism attractions in this state;
- (3) Produce sufficient revenues and public demand to be operating and open to the public for a minimum of 100 days per year, including the first year of operation;
- (4) Not adversely affect existing employment in this state; and
- (5) For each year following the third year of operation, attract a minimum of 25 percent of its visitors from nonresidents of this state.

**HISTORY:** Code 1981, § 48-8-274, enacted by Ga. L. 2011, p. 302, § 2/HB 234; Ga. L. 2013, p. 243, § 9/HB 318.

**§ 48-8-275. Authority of Department of Community Affairs to enter into agreements with approved companies; required terms and provisions of agreements**

Following approval of a project, the Department of Community Affairs shall enter into an agreement with any approved company. The agreement may include as a partner any local development authority. The terms and provisions of each agreement shall include, but not be limited to:

- (1) The projected amount of approved costs;
- (2) A date certain by which the approved company shall have completed the tourism attraction project and begun operations. Upon request from any approved company that has received final approval, the Department of Community Affairs shall grant an extension or change, which in no event shall exceed 18 months from the date of final approval, to the completion date as specified in the agreement with an approved company; and
- (3) A statement specifying the term of the agreement in accordance with subsection (c) of Code Section 48-8-273.

**HISTORY:** Code 1981, § 48-8-275, enacted by Ga. L. 2011, p. 302, § 2/HB 234; Ga. L. 2013, p. 243, § 10/HB 318.

**§ 48-8-276. Compliance subject to review by Department of Community Affairs; failure to abide by terms of agreement**

- (a) Compliance with the agreement is subject to review by the Department of Community Affairs.
- (b) In the event an approved company fails to abide by the terms of the agreement, then such agreement shall be void and all sales and use tax proceeds that were refunded shall

become immediately due and payable back to the state.

**HISTORY:** Code 1981, § 48-8-276, enacted by Ga. L. 2011, p. 302, § 2/HB 234; Ga. L. 2013, p. 243, § 11/HB 318.

**§ 48-8-277. Transfer of rights, duties, and obligations to successor company**

An approved company may, in the discretion of the Governor, transfer its rights, duties, and obligations under the agreement to a successor company if the successor company meets the qualifications of an approved company and, upon such approval by the Governor, such successor approved company shall be authorized to receive the sales and use tax refunds for the remaining duration of the agreement if it abides by the terms of the agreement.

**HISTORY:** Code 1981, § 48-8-277, enacted by Ga. L. 2011, p. 302, § 2/HB 234.

**§ 48-8-278. Article inapplicable to sales tax levied for educational purposes**

Repealed by Ga. L. 2013, p. 243, § 12/HB 318, effective April 29, 2013.