

TITLE 36. LOCAL GOVERNMENT
PROVISIONS APPLICABLE TO COUNTIES, MUNICIPAL CORPORATIONS, AND OTHER
GOVERNMENTAL ENTITIES
CHAPTER 88. ENTERPRISE ZONE EMPLOYMENT ACT

*** Current through the 2009 Regular Session ***

§ 36-88-1. Short title

This chapter shall be known and may be cited as the "Enterprise Zone Employment Act of 1997."

HISTORY: Code 1981, § 36-88-1, enacted by Ga. L. 1997, p. 1481, § 1.

§ 36-88-2. Legislative findings and intent; construction

The General Assembly finds and determines that there is a need for revitalization in many areas of Georgia. Revitalization will improve geographic areas within cities and counties which are suffering from disinvestment, underdevelopment, and economic decline and will encourage private businesses to reinvest and rehabilitate such areas. The General Assembly recognizes that increased employment opportunities for the citizens of Georgia will assist in the implementation of welfare reform. It is the intent of the General Assembly that this chapter be liberally construed to accomplish these purposes.

HISTORY: Code 1981, § 36-88-2, enacted by Ga. L. 1997, p. 1481, § 1.

§ 36-88-3. Definitions

As used in this chapter, the term:

(1) "Ad valorem tax" means property taxes levied for state, county, or municipal operating purposes but does not include property taxes imposed by school districts or property taxes imposed for general obligation debt.

(2) "Business enterprise" means any business engaged primarily in retail, manufacturing, warehousing and distribution, processing, telecommunications, tourism, research and development industries, new residential construction, and residential rehabilitation.

(3) "Department" means the Department of Community Affairs.

(4) "Enterprise zone" means the geographic area designated pursuant to Code Section 36-88-5.

(5) "Full-time job equivalent" means a job or jobs with no predetermined end date, with a regular work week of 30 hours or more, and with the same benefits provided to similar employees.

(6) "Low-income and moderate-income individual" means a person currently:

(A) Unemployed or unemployed for three of the six months prior to the date of hire;

(B) Homeless;

(C) A resident of public housing;

(D) Receiving temporary assistance for needy families or who has received temporary assistance for needy families at any time during the 18 months previous to the date of hire;

(E) A participant in the Workforce Investment Act or who has participated in the Workforce Investment Act at any time during the 18 months previous to the date of hire;

(F) A participant in a job opportunity where basic skills are required or who has participated in such a job opportunity at any time during the 18 months previous to the date of hire;

(G) Receiving supplemental social security income; or

(H) Receiving food stamps.

(7) "New job" means employment for an individual created within an enterprise zone by a new or expanded qualified business or service enterprise at the time of the initial staffing of such new or expanded enterprise.

(8) "Qualified or qualifying business" means an employer that meets the requirements of Code Section 36-88-4 and other applicable requirements of this chapter.

(9) "Service enterprise" means an entity engaged primarily in finance, insurance, and real estate activity or activities listed under the Standard Industrial Classification (SIC) Codes 60 through 67 according to the Federal Office of Management and Budget Standard Industrial Classification Manual, 1987 edition, or engaged primarily in day-care activities.

(10) "Urban redevelopment plan" means a plan prepared and adopted pursuant to the requirements of Chapter 61 of this title.

HISTORY: Code 1981, § 36-88-3, enacted by Ga. L. 1997, p. 1481, § 1; Ga. L. 1998, p. 128, § 36; Ga. L. 1999, p. 333, § 1; Ga. L. 2003, p. 818, § 1; Ga. L. 2004, p. 939, §§ 2, 3.

§ 36-88-4. Available incentives; qualifying business; exemptions

(a) The following incentives are available to qualifying business and service enterprises to encourage revitalization within enterprise zones:

(1) The enterprise zone property tax exemption provided in Code Section 36-88-8; and

(2) The occupational tax, regulatory fee, and business inspection fee abatement or reduction provided in Code Section 36-88-9.

(b) A qualifying business or service enterprise is an enterprise which increased employment by five or more new full-time job equivalents in an area designated as an enterprise zone and which provides additional economic stimulus in such zone. The quality and quantity of such additional economic stimulus shall be determined, on a case-by-case basis, by the local governing body or bodies that have designated the enterprise zone. Such business or service enterprise may be new, an expansion or reinvestment of an existing business or service enterprise, or a successor to such business or service enterprise. Whenever possible, 10 percent of such new employees shall be low-income or moderate-income individuals.

(c) Notwithstanding any provision of this Code section to the contrary, a local governing body or bodies creating an enterprise zone prior to January 1, 2000, may provide the exemptions and abatements as provided in this chapter to any qualifying business or service enterprise which employs at least 5,000 persons and which creates ten or more new full-time job equivalents that did not exist prior to July 1, 1997, provided such qualifying business or service enterprise provides economic stimulus to such zone and the quality and quantity of such stimulus is acceptable to the local governing body or bodies creating the enterprise zone.

HISTORY: Code 1981, § 36-88-4, enacted by Ga. L. 1997, p. 1481, § 1.

§ 36-88-5. Designation of enterprise zones

A local governing body or bodies may designate one or more geographic areas as enterprise zones. In such enterprise zone, local ad valorem taxes, occupation taxes, license fees, and other local fees and taxes, except local sales and use taxes or any combination thereof, may be exempted or reduced from applying to qualified business and service enterprises in accordance with the provisions of this chapter. A joint resolution by a county and one or more municipalities may provide such exemptions for jointly designated enterprise zones. Any areas designated as an enterprise zone may be redesignated as an enterprise zone after the expiration of its initial term as an enterprise zone if the area continues to meet the criteria for an enterprise zone contained in this chapter.

HISTORY: Code 1981, § 36-88-5, enacted by Ga. L. 1997, p. 1481, § 1.

§ 36-88-6. Criteria for enterprise zone

(a) In order to be designated as an enterprise zone, a nominated area shall meet at least three of the five criteria specified in subsections (b), (c), (d), (e), and (f) of this Code section. In determining whether an area suffers from poverty, unemployment, or general distress, the governing body shall use data from the most current United States decennial census and from other information published by the Federal Bureau of the Census, the Federal Bureau of Labor Statistics, and the Georgia Department of Labor. In determining whether an area suffers from underdevelopment, the governing body shall use the data specified in subsection (e) of this Code section. The data shall be comparable in point or period of time and methodology employed.

(b) Pervasive poverty shall be evidenced by showing that poverty is widespread throughout the nominated area and shall be established by using the following criteria:

(1) The poverty rate shall be determined from the data in the most current United States decennial census prepared by the U.S. Bureau of Census;

(2) For parcels within the nominated area, the parcels must be within or adjacent to a census block group where the ratio of income to poverty level for at least 15 percent of the residents shall be less than 1.0;

(3) Census geographic block groups with no population shall be treated as having a poverty rate which meets the standards of paragraph (2) of this subsection; and

(4) All parcels of a nominated area must abut and may not contain a noncontiguous parcel, unless such nonabutting parcel qualifies separately under the criteria set forth under paragraph (2) of this subsection.

(c) Unemployment shall be evidenced by the use of data published by the Office of Labor Information Systems of the Georgia Department of Labor indicating that the average rate of unemployment for the nominated area for the preceding calendar year is at least 10 percent higher than the state average rate of unemployment or by evidence of adverse economic conditions brought about by significant job dislocation within the nominated area such as the closing of a manufacturing plant or federal facility.

(d) General distress shall be evidenced by adverse conditions within the nominated area other than those of pervasive poverty and unemployment. Examples of such adverse conditions include, but are not limited to, a high incidence of crime, abandoned or dilapidated structures, deteriorated infrastructure, and substantial population decline.

(e) Underdevelopment shall be evidenced by data indicating development activities, or lack thereof, through land disturbance permits, business license fees, building permits, development fees, or other similar data indicating that the level of development in the nominated area is lower than development activity within the local governing body's jurisdiction.

(f) General blight within the nominated area shall be evidenced by the inclusion of any portion of the nominated area in an urban redevelopment area as defined by paragraph (20) of Code Section 36-61-2 for which an urban redevelopment plan has been adopted by the affected governing bodies according to the requirements of Chapter 61 of this title.

HISTORY: Code 1981, § 36-88-6, enacted by Ga. L. 1997, p. 1481, § 1; Ga. L. 1999, p. 81, § 36; Ga. L. 2004, p. 939, § 4; Ga. L. 2009, § 1/ HB 427.

§ 36-88-7. Local ordinances' effect on enterprise zone

(a) (1) Each ordinance adopted by a local government possessing an approved enterprise zone, when applicable, shall provide encouragement and incentives to

increase rehabilitation, renovation, restoration, improvement for new construction for housing and the economic viability and profitability of businesses and commerce located within such enterprise zones.

(2) Creation of an enterprise zone shall be consistent with the comprehensive plan or plans of the jurisdiction or jurisdictions designating the enterprise zone which plan or plans are adopted pursuant to Chapter 70 of this title.

(3) Each local government possessing an enterprise zone may review its ordinances to determine which ordinances may have a negative effect upon the rehabilitation, renovation, restoration, improvement, or new construction of housing, or the economic viability and profitability of businesses and commerce located within an enterprise zone. Such local government may waive, amend, or otherwise modify such ordinances so as to minimize such adverse effect.

(b) Nothing in this Code section shall authorize any local government to waive, amend, provide exceptions to or otherwise modify or alter any ordinance which is:

(1) Expressly required to implement or enforce any statutory provisions; or

(2) Designed to protect persons against discrimination on the basis of race, color, creed, national origin, sex, age, or handicap.

(c) Nothing in this Code section shall be construed so as to rescind the authority granted to local governments to create, maintain, and regulate enterprise zones pursuant to any local enterprise zone law in effect on July 1, 1997.

HISTORY: Code 1981, § 36-88-7, enacted by Ga. L. 1997, p. 1481, § 1.

§ 36-88-8. Tax exemption

(a)(1) The governing body of a local government or governments creating an enterprise zone shall include in the creating ordinance a provision to exempt qualifying business and service enterprises from state, county, and municipal ad valorem taxes that would otherwise be levied on the qualifying business and service enterprises not to exceed the following schedule:

(A) One hundred percent of the property taxes shall be exempt for the first five years;

(B) Eighty percent of the property taxes shall be exempt for the next two years;

(C) Sixty percent of the property taxes shall be exempt for the next year;

(D) Forty percent of the property taxes shall be exempt for the next year; and

(E) Twenty percent of the property taxes shall be exempt for the last year.

(2) For any qualifying business or service enterprise, the schedule provided for in paragraph (1) of this subsection may begin in any year during which an area has an enterprise zone designation. Such tax exemption may continue even if the area's enterprise zone designation has terminated. A minimum of five new jobs must be

maintained for a qualifying business or service enterprise to maintain eligibility for the tax exemption provided pursuant to this Code section.

(b) If the project consists of new residential construction, residential rehabilitation, or other rehabilitation of an existing structure and the value of the improvement exceeds the value of the land by a ratio of five to one, then the exemption schedule in subsection (a) of this Code section shall also apply whether or not the project is carried out by a qualifying business or service enterprise.

(c) In no event shall the value of the property tax exemptions granted to qualifying business and service enterprises within an enterprise zone created by a city, a county, or both, exceed 10 percent of the value of the property tax digest of the creating jurisdiction or jurisdictions.

HISTORY: Code 1981, § 36-88-8, enacted by Ga. L. 1997, p. 1481, § 1; Ga. L. 1999, p. 333, § 2; Ga. L. 2004, p. 939, § 5.

§ 36-88-9. Other tax incentives; reporting

(a) In addition to other incentives, the local governing body or bodies creating an enterprise zone may include in the creating ordinance an exemption or abatement from occupation taxes, regulatory fees, building inspection fees, and other fees that would otherwise have been imposed on a qualifying business. Such governing bodies may grant any of these incentives either when the enterprise is initially created or by subsequent resolution making such incentives applicable to an existing enterprise zone.

(b) Local governments shall report designations of enterprise zones to the department, providing sufficient information to identify at a minimum the geographic boundaries of the zones, the specific fees and taxes to be exempted or abated, and the beginning and end dates of the designation period. The time and manner of reporting shall be determined by the department.

HISTORY: Code 1981, § 36-88-9, enacted by Ga. L. 1997, p. 1481, § 1.

§ 36-88-10. Time limitations

An area designated as an enterprise zone shall remain in existence for ten years from the first day of the calendar year immediately following its designation as an enterprise zone. Municipal and county governments may enter into agreements with qualifying business or service enterprises in designated enterprise zones to provide for modification or termination of the tax and fee exemptions and abatements. Property tax incentives available to a qualified business or service enterprise in an enterprise zone shall remain in effect for the full ten-year period established by Code Section 36-88-8, regardless of the termination of the designation of the enterprise zone.

HISTORY: Code 1981, § 36-88-10, enacted by Ga. L. 1997, p. 1481, § 1.