

House Bill 498 (AS PASSED HOUSE AND SENATE)

By: Representatives Watson of the 172nd, Dickey of the 140th, LaHood of the 175th, England of the 116th, and Pirkle of the 155th

A BILL TO BE ENTITLED
AN ACT

1 To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to
2 exemptions from sales and use tax, so as to exempt certain sales of mechanically propelled
3 watercraft by a dealer licensed under this article to an individual who resides outside of this
4 state under certain conditions; to amend Part 1 of Article 2 of Chapter 5 of Title 48 of the
5 Official Code of Georgia Annotated, relating to property tax exemptions, so as to expand an
6 exemption for agricultural equipment and certain farm products held by certain entities to
7 include entities comprising two or more family owned farm entities; to add dairy products
8 and unfertilized eggs of poultry as qualified farm products with respect to such exemption;
9 to provide for a referendum; to provide for effective dates, applicability, and automatic
10 repeal; to provide for compliance with constitutional requirements; to provide for related
11 matters; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **PART I**

14 **SECTION 1-1.**

15 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
16 sales and use tax, is amended by revising paragraph (33.1) as follows:

17 "(33.1) Sales of mechanically propelled watercraft by a dealer licensed under this article
18 to an individual who resides outside of this state, provided that:

19 (A) Such watercraft is to be taken immediately by such individual outside of this state
20 and used exclusively outside of this state; and

21 (B) The purchaser provides documentation of his or her residency to the dealer on a
22 form to be prescribed by the commissioner, which shall be filed with the commissioner
23 together with a copy of the bill of sale Reserved;"

24 **PART II**

25 **SECTION 2-1.**

26 Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,
27 relating to property tax exemptions, is amended by revising Code Section 48-5-41.1, relating
28 to exemption of qualified farm products and harvested agricultural products from taxation,
29 as follows:

30 "48-5-41.1.

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

32 (1) 'Agricultural equipment' means farm tractors, combines, and all other farm equipment
33 other than motor vehicles, whether fixed or mobile, which are owned by or held under
34 a lease-purchase agreement and directly used in the production of farm products by a
35 family owned qualified farm products producer.

36 (2) 'Family owned farm entity' means an entity that has derived 80 percent or more of its
 37 gross income from bona fide agricultural uses within this state within the year
 38 immediately preceding the year in which the exemption provided by this Code section
 39 is sought and that is organized as:

40 (A) A a family corporation, a family partnership, a family general partnership, a family
 41 limited partnership, a family limited corporation, or a family limited liability company
 42 all of the interest of which is owned by one or more natural or naturalized citizens
 43 related to each other within the fourth degree of civil reckoning;

44 (B) An entity created by the merger or consolidation of two or more entities that would
 45 qualify independently as a family owned farm entity as defined in subparagraph (A) of
 46 this paragraph;

47 (C) ~~An~~ It shall include an estate of which the devisees or heirs are one or more natural
 48 or naturalized citizens related to each other within the fourth degree of civil reckoning;
 49 or

50 (D) ~~A~~ It shall include a trust of which the beneficiaries are one or more natural or
 51 naturalized citizens related to each other within the fourth degree of civil reckoning.
 52 ~~Such family owned farm entity must have derived 80 percent or more of its gross~~
 53 ~~income from bona fide agricultural uses within this state within the year immediately~~
 54 ~~preceding the year in which the exemption provided by this Code section is sought.~~

55 (3) 'Family owned qualified farm products producer' means an individual or family
 56 owned farm entity primarily engaged in the direct cultivation of the soil, including soil
 57 removed from the land and placed in pots or containers, or operation of land for the
 58 production of qualified farm products. A family owned qualified farm products producer
 59 shall not include wholesalers, distributors, storage facility owners, manufacturers,
 60 processors, or other similar entities that primarily prepare qualified farm products for any
 61 intermediate or final market or that primarily operate to move or facilitate the movement
 62 of qualified farm products from a producer to any intermediate or final markets.

63 (4) 'Farm products' means only those farm products eligible to qualify for exemption
64 from ad valorem taxation pursuant to the former provisions of paragraph (10) of
65 subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.

66 (5) 'Harvested agricultural products' means only those harvested agricultural products
67 eligible to qualify for exemption from ad valorem taxation pursuant to the former
68 provisions of paragraph (10) of subsection (a) of Code Section 48-5-41 as it existed prior
69 to January 1, 1999.

70 (6) 'Initial production' means:

71 (A) When applied to a laying hen, a period beginning at the time the laying hen comes
72 into production at age six months rather than a period beginning when the laying hen
73 is hatched; or

74 (B) When applied to a brood cow, a period of nine months from the time the brood cow
75 is able to conceive at age 12 months rather than a period beginning when the brood cow
76 is born.

77 (7) 'Lease-purchase agreement' means a financing agreement under which lessee
78 payments are credited toward the purchase of agricultural equipment or that provides for
79 a fixed amount purchase option to a lessee during the lease term. Under a lease-purchase
80 agreement the title of ownership may remain with the lessor during the lease.

81 (8) 'Producer' means any entity that produces farm products.

82 (9) 'Qualified farm products' means livestock; dairy products; unfertilized eggs of
83 poultry; crops; fruit or ~~nut-bearing~~ nut-bearing trees, bushes, or plants; annual and
84 perennial plants; Christmas trees; and plants and trees grown in nurseries for
85 transplantation elsewhere. Qualified farm products shall not include standing timber.

86 (b) The following property shall be exempt from all ad valorem property taxes in this state:

87 (1) All farm products grown in this state and remaining in the hands of the producer
88 during the one year beginning immediately after their initial production;

- 89 (2) Harvested agricultural products which have a planting-to-harvest cycle of 12 months
90 or less, which are customarily cured or aged for a period in excess of one year after
91 harvesting and before manufacturing, and which are held in this state for manufacturing
92 and processing purposes;
- 93 (3) All qualified farm products grown in this state:
- 94 (A) Remaining in the hands of a family owned qualified farm products producer;
- 95 (B) Still in their natural and unprocessed condition, unless processed solely for further
96 use in the production of other qualified farm products; and
- 97 (C) Not held for direct retail sale by someone other than the original family owned
98 qualified farm products producer; and
- 99 (4) Agricultural equipment."

100

SECTION 2-2.

101 The Secretary of State shall call and conduct an election as provided in this section for the
102 purpose of submitting Part II of this Act to the electors of the entire state for approval or
103 rejection. The Secretary of State shall conduct such election on the Tuesday next following
104 the first Monday in November, 2022, and shall issue the call and conduct that election as
105 provided by general law. The Secretary of State shall cause the date and purpose of the
106 election to be published once a week for two weeks immediately preceding the date thereof
107 in the official organ of each county in the state. The ballot shall have written or printed
108 thereon the words:

109 "() YES Shall the Act be approved which expands a state-wide exemption from ad
110 () NO valorem taxes for agricultural equipment and certain farm products held by
111 certain entities to include entities comprising two or more family owned
112 farm entities, and which adds dairy products and unfertilized eggs of poultry
113 as qualified farm products with respect to such exemption?"

114 All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
115 to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
116 such question are for approval of the Act, Part II of this Act shall become of full force and
117 effect on January 1, 2023, and shall be applicable to all tax years beginning on or after such
118 date. If the Act is not so approved or if the election is not conducted as provided in this
119 section, Part II of this Act shall not become effective, and Part II of this Act shall be
120 automatically repealed on the first day of January immediately following that election date.
121 It shall be the duty of each county election superintendent to certify the result thereof to the
122 Secretary of State.

123 **PART III**

124 **SECTION 3-1.**

125 Except as otherwise provided in Part II of this Act, this Act shall become effective upon its
126 approval by the Governor or upon its becoming law without such approval.

127 **SECTION 3-2.**

128 In accordance with the requirements of Article VII, Section II, Paragraph II(a)(1) of the
129 Constitution of the State of Georgia, Part II of this Act shall not become law unless it
130 receives the requisite two-thirds' majority vote in both the Senate and the House of
131 Representatives.

132 **SECTION 3-3.**

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