

## House Bill 48

By: Representatives Powell of the 171<sup>st</sup>, Lindsey of the 54<sup>th</sup>, Stephens of the 164<sup>th</sup>, England of the 108<sup>th</sup>, Allison of the 8<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia  
2 Annotated, relating to ad valorem tax exemptions, so as to revise and change certain  
3 provisions regarding applications for, waiver of, denial of, renewal of, and granting of  
4 freeport exemptions; to provide for level 1 and level 2 freeport exemptions; to provide for  
5 applicability to business inventory; to provide for procedures, conditions, and limitations; to  
6 provide an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
10 relating to ad valorem tax exemptions, is amended by revising Code Section 48-5-48.1,  
11 relating to freeport exemption applications, waivers, denials, and renewals, as follows:

12 "48-5-48.1.

13 (a) Any person, firm, or corporation seeking ~~an~~ a level 1 freeport exemption from ad  
14 valorem taxation of certain tangible personal property inventory when such exemption has  
15 been authorized by the governing authority of any county or municipality after approval  
16 of the electors of such county or municipality pursuant to the authority of the Constitution  
17 of Georgia or Code Section 48-5-48.2 shall file a written application and schedule of  
18 property with the county board of tax assessors on forms furnished by such board. Such  
19 application shall be filed in the year in which exemption from taxation is sought no later  
20 than the date on which the tax receiver or tax commissioner of the county in which the  
21 property is located closes ~~his~~ the books for the return of taxes.

22 (b) The application for the ~~tangible personal property inventory~~ level 1 freeport exemption  
23 shall provide for:

24 (1) A schedule of the inventory of goods in the process of manufacture or production  
25 which shall include all partly finished goods and raw materials held for direct use or

26 consumption in the ordinary course of the taxpayer's manufacturing or production  
27 business in the State of Georgia;

28 (2) A schedule of the inventory of finished goods manufactured or produced within the  
29 State of Georgia in the ordinary course of the taxpayer's manufacturing or production  
30 business when held by the original manufacturer or producer of such finished goods; and

31 (3) A schedule of the inventory of finished goods which on January 1 are stored in a  
32 warehouse, dock, or wharf, whether public or private, and which are destined for  
33 shipment outside the State of Georgia and the inventory of finished goods which are  
34 shipped into the State of Georgia from outside this state and which are stored for  
35 transshipment to a final destination outside this state. The information required by Code  
36 Section 48-5-48.2 to be contained in the official books and records of the warehouse,  
37 dock, or wharf where such property is being stored, which official books and records are  
38 required to be open to the inspection of taxing authorities of this state and political  
39 subdivisions thereof, shall not be required to be included as a part of or to accompany the  
40 application for such exemption.

41 (c)(1) For purposes of this subsection, the term 'file properly' shall mean and include the  
42 timely filing of the application and complete schedule of the inventory for which  
43 exemption is sought on or before the due date specified in subsection (a) of this Code  
44 section.

45 (2) The failure to file properly the application and schedule shall constitute a waiver of  
46 the exemption on the part of the person, firm, or corporation failing to make the  
47 application for such exemption for that year as follows:

48 (A) The failure to report any inventory for which such exemption is sought in the  
49 schedule provided for in the application shall constitute a waiver of the exemption on  
50 the part of the person, firm, or corporation failing to so report for that taxable year in  
51 an amount equal to the difference between fair market value of the inventory as  
52 reported and the fair market value finally determined to be applicable to the inventory  
53 for which the exemption is sought; and

54 (B) The failure to file timely such application and schedule shall constitute a waiver  
55 of the exemption until the first day of the month following the month such application  
56 and schedule are filed properly with the county tax assessor; provided, however, that  
57 unless the application and schedule are filed on or before June 1 of such year, the  
58 exemption shall be waived for that entire year.

59 (d) Upon receiving the application required by this Code section, the county board of tax  
60 assessors shall determine the eligibility of all types of tangible personal property listed on  
61 the application. If any property has been listed which the board believes is not eligible for  
62 the exemption, the board shall issue a letter notifying the applicant that all or a portion of

63 the application has been denied. The denial letter shall list the type and total fair market  
 64 value of all property listed on the application for which the exemption has been approved  
 65 and the type and total fair market value of all property listed on the application for which  
 66 the exemption has been denied. The applicant shall have the right to appeal from the denial  
 67 of the exemption for any property listed and such appeal shall proceed as provided in Code  
 68 Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code  
 69 section, the county board of assessors shall not send a second letter of notification denying  
 70 the exemption of all or a portion of such property listed on the application on new grounds  
 71 that could and should have been discerned at the time the initial denial letter was issued.  
 72 (e) If the ~~tangible personal property inventory~~ level 1 freeport exemption has been granted  
 73 to a taxpayer for a taxable year, the county board of tax assessors shall issue a notice of  
 74 renewal to the taxpayer for the immediately following taxable year. Such notice of renewal  
 75 shall be issued not later than January 15 of such immediately following taxable year to  
 76 facilitate the filing of a timely application and schedule by the taxpayer for such taxable  
 77 year."

## 78 SECTION 2.

79 Said part is further amended by revising Code Section 48-5-48.2, relating to the freeport  
 80 exemption, as follows:

81 "48-5-48.2.

82 (a) This Code section shall be known and may be cited as the 'Level 1 Freeport  
 83 Exemption.'

84 (b) As used in this Code section, the term:

85 (1) 'Destined for shipment to a final destination outside this state' ~~includes~~ means, for  
 86 purposes of a level 1 freeport exemption, that portion or percentage of an inventory of  
 87 finished goods which the taxpayer can establish, through a historical sales or shipment  
 88 analysis, either of which utilizes information from the preceding calendar year, or other  
 89 reasonable, documented method, is reasonably anticipated to be shipped to a final  
 90 destination outside this state. Such other reasonable, documented method may only be  
 91 utilized in the case of a new business, in the case of a substantial change in scope of an  
 92 existing business, or in other unusual situations where a historical sales or shipment  
 93 analysis does not adequately reflect future anticipated shipments to a final destination  
 94 outside this state. It is not necessary that the actual final destination be known as of  
 95 January 1 in order to qualify for the exemption.

96 (2) 'Finished goods' ~~shall mean~~ means, for purposes of a level 1 freeport exemption,  
 97 goods, wares, and merchandise of every character and kind but shall not include

98 unrecovered, unextracted, or unsevered natural resources or raw materials or goods in the  
 99 process of manufacture or production or the stock in trade of a retailer.

100 (3) 'Raw materials' ~~shall mean~~ means, for purposes of a level 1 freeport exemption, any  
 101 material, whether crude or processed, that can be converted by manufacture, processing,  
 102 or a combination thereof into a new and useful product but shall not include unrecovered,  
 103 unextracted, or unsevered natural resources.

104 (4) 'Stock in trade of a retailer' means, for purposes of a level 1 freeport exemption,  
 105 finished goods held by one in the business of making sales of such goods at retail in this  
 106 state, within the meaning of Chapter 8 of this title, when such goods are held or stored  
 107 at a business location from which such retail sales are regularly made. Goods stored in  
 108 a warehouse, dock, or wharf, including a warehouse or distribution center which is part  
 109 of or adjoins a place of business from which retail sales are regularly made, shall not be  
 110 considered stock in trade of a retailer to the extent that the taxpayer can establish, through  
 111 a historical sales or shipment analysis, either of which utilizes information from the  
 112 preceding calendar year, or other reasonable, documented method, the portion or  
 113 percentage of such goods which is reasonably anticipated to be shipped outside this state  
 114 for resale purposes.

115 ~~(b)~~(c) The governing authority of any county or municipality may, subject to the approval  
 116 of the electors of such political subdivision, exempt from ad valorem taxation, including  
 117 all such taxes levied for educational purposes and for state purposes, all or any combination  
 118 of the following types of tangible personal property:

119 (1) Inventory of goods in the process of manufacture or production which shall include  
 120 all partly finished goods and raw materials held for direct use or consumption in the  
 121 ordinary course of the taxpayer's manufacturing or production business in this state. The  
 122 exemption provided for in this paragraph shall apply only to tangible personal property  
 123 which is substantially modified, altered, or changed in the ordinary course of the  
 124 taxpayer's manufacturing, processing, or production operations in this state. For purposes  
 125 of this paragraph, the cleaning, drying, pest control treatment, or segregation by grade of  
 126 grain, peanuts or other oil seeds, or cotton shall constitute substantial modification in the  
 127 course of processing or production operations. For purposes of this paragraph,  
 128 remanufacture of aircraft engines or aircraft engine parts or components shall constitute  
 129 manufacturing operations in this state. Remanufacture of aircraft engines or aircraft  
 130 engine parts or components means the substantial overhauling or rebuilding of aircraft  
 131 engines or aircraft engine parts or components;

132 (2) Inventory of finished goods manufactured or produced within this state in the  
 133 ordinary course of the taxpayer's manufacturing or production business when held by the  
 134 original manufacturer or producer of such finished goods. The exemption provided for

135 in this paragraph shall be for a period not exceeding 12 months from the date such  
 136 property is produced or manufactured; or

137 (3) Inventory of finished goods which, on January 1, are stored in a warehouse, dock, or  
 138 wharf, whether public or private, and which are destined for shipment to a final  
 139 destination outside this state and inventory of finished goods which are shipped into this  
 140 state from outside this state and stored for transshipment to a final destination outside this  
 141 state. The exemption provided for in this paragraph shall be for a period not exceeding  
 142 12 months from the date such property is stored in this state. Such period shall be  
 143 determined based on application of a first-in, first-out method of accounting for the  
 144 inventory. The official books and records of the warehouse, dock, or wharf where such  
 145 property is being stored shall contain a full, true, and accurate inventory of all such  
 146 property, including the date of the receipt of the property, the date of the withdrawal of  
 147 the property, the point of origin of the property, and the point of final destination of the  
 148 same, if known. The official books and records of any such warehouse, dock, or wharf,  
 149 whether public or private, pertaining to any such property for which a freeport exemption  
 150 has been claimed shall be at all times open to the inspection of all taxing authorities of  
 151 this state and of any political subdivision of this state.

152 ~~(c)~~(d) Whenever the governing authority of any county or municipality wishes to exempt  
 153 such tangible property from ad valorem taxation, as provided in this Code section, the  
 154 governing authority thereof shall notify the election superintendent of such political  
 155 subdivision, and it shall be the duty of said election superintendent to issue the call for an  
 156 election for the purpose of submitting to the electors of the political subdivision the  
 157 question of whether such exemption shall be granted. The referendum ballot shall specify  
 158 as separate questions the type or types of property as defined in this Code section which  
 159 are being proposed to be exempted from taxation. The election superintendent shall issue  
 160 the call and shall conduct the election on a date and in the manner authorized under Code  
 161 Section 21-2-540.

162 ~~(d)~~(e) The governing authority of any county or municipality wherein an exemption has  
 163 been approved by the voters as provided in this Code section may, by appropriate  
 164 resolution, a copy of which shall be immediately transmitted to the state revenue  
 165 commissioner, exempt from taxation 20 percent, 40 percent, 60 percent, 80 percent or all  
 166 of the value of such tangible personal property as defined in this Code section; provided,  
 167 however, that once an exemption has been granted, no reduction in the percent of the value  
 168 of such property to be exempted may be made until and unless such exemption is revoked  
 169 or repealed as provided in this Code section. An increase in the percent of the value of the  
 170 property to be exempted may be accomplished by appropriate resolution of the governing  
 171 authority of such county or municipality, and a copy thereof shall be immediately

172 transmitted to the state revenue commissioner, provided that such increase shall be in  
 173 increments of 20 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible  
 174 personal property as defined in this Code section, within the discretion of such governing  
 175 authority.

176 ~~(e)(1)~~(f)(1) If more than one-half of the votes cast on such question are in favor of such  
 177 exemption, then such exemption may be granted by the governing authority commencing  
 178 on the first day of any ensuing calendar year; otherwise, such exemption may not be  
 179 granted. This paragraph is intended to clearly provide that following approval of such  
 180 exemption in such referendum, such exemption may be granted on the first day of any  
 181 calendar year following the year in which such referendum was conducted. This  
 182 paragraph shall not be construed to imply that the granting of such exemption could not  
 183 previously be delayed to any such calendar year.

184 (2) Exemptions may only be revoked by a referendum election called and conducted as  
 185 provided in this Code section, provided that the call for such referendum shall not be  
 186 issued within five years from the date such exemptions were first granted and, if the  
 187 results of said election are in favor of the revocation of such exemptions, then such  
 188 revocation shall be effective only at the end of a five-year period from the date of such  
 189 referendum.

190 (g) Level 1 freeport exemptions effected pursuant to this Code section may be granted  
 191 either in lieu of or in addition to level 2 freeport exemptions under Code Section 48-5-48.6.

192 ~~(f)~~(h) The commissioner shall by regulation adopt uniform procedures and forms for the  
 193 use of local officials in the administration of this Code section."

194 **SECTION 3.**

195 Said part is further amended by adding new Code sections to read as follows:

196 "48-5-48.5.

197 (a) Any person, firm, or corporation seeking a level 2 freeport exemption from ad valorem  
 198 taxation of certain tangible personal property inventory when such exemption has been  
 199 authorized by the governing authority of any county or municipality after approval of the  
 200 electors of such county or municipality pursuant to the authority of the Constitution of  
 201 Georgia and Code Section 48-5-48.6 shall file a written application and schedule of  
 202 property with the county board of tax assessors on forms furnished by such board. Such  
 203 application shall be filed in the year in which exemption from taxation is sought no later  
 204 than the date on which the tax receiver or tax commissioner of the county in which the  
 205 property is located closes the books for the return of taxes.

206 (b) The application for the level 2 freeport exemption shall provide for a schedule of the  
207 inventory of finished goods held by one in the business of making sales of such goods in  
208 this state.

209 (c)(1) For purposes of this subsection, the term 'file properly' shall mean and include the  
210 timely filing of the application and complete schedule of the inventory for which  
211 exemption is sought on or before the due date specified in subsection (a) of this Code  
212 section.

213 (2) The failure to file properly the application and schedule shall constitute a waiver of  
214 the exemption on the part of the person, firm, or corporation failing to make the  
215 application for such exemption for that year as follows:

216 (A) The failure to report any inventory for which such exemption is sought in the  
217 schedule provided for in the application shall constitute a waiver of the exemption on  
218 the part of the person, firm, or corporation failing to so report for that taxable year in  
219 an amount equal to the difference between fair market value of the inventory as  
220 reported and the fair market value finally determined to be applicable to the inventory  
221 for which the exemption is sought; and

222 (B) The failure to file timely such application and schedule shall constitute a waiver  
223 of the exemption until the first day of the month following the month such application  
224 and schedule are filed properly with the county tax assessor; provided, however, that  
225 unless the application and schedule are filed on or before June 1 of such year, the  
226 exemption shall be waived for that entire year.

227 (d) Upon receiving the application required by this Code section, the county board of tax  
228 assessors shall determine the eligibility of all types of tangible personal property listed on  
229 the application. If any property has been listed which the board believes is not eligible for  
230 the exemption, the board shall issue a letter notifying the applicant that all or a portion of  
231 the application has been denied. The denial letter shall list the type and total fair market  
232 value of all property listed on the application for which the exemption has been approved  
233 and the type and total fair market value of all property listed on the application for which  
234 the exemption has been denied. The applicant shall have the right to appeal from the denial  
235 of the exemption for any property listed and such appeal shall proceed as provided in Code  
236 Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code  
237 section, the county board of assessors shall not send a second letter of notification denying  
238 the exemption of all or a portion of such property listed on the application on new grounds  
239 that could and should have been discerned at the time the initial denial letter was issued.

240 (e) If the level 2 freeport exemption has been granted to a taxpayer for a taxable year, the  
241 county board of tax assessors shall issue a notice of renewal to the taxpayer for the  
242 immediately following taxable year. Such notice of renewal shall be issued not later than

243 January 15 of such immediately following taxable year to facilitate the filing of a timely  
244 application and schedule by the taxpayer for such taxable year.

245 48-5-48.6.

246 (a) This Code section shall be known and may be cited as the 'Level 2 Freeport  
247 Exemption.'

248 (b) As used in this Code section, the term 'finished goods' means, for purposes of a level 2  
249 freeport exemption, goods, wares, and merchandise of every character and kind  
250 constituting a business's inventory which would not otherwise qualify for a level 1 freeport  
251 exemption.

252 (c) The governing authority of any county or municipality may, subject to the approval of  
253 the electors of such political subdivision, exempt from ad valorem taxation, including all  
254 such taxes levied for educational purposes and for state purposes, inventory of finished  
255 goods.

256 (d) Whenever the governing authority of any county or municipality wishes to exempt  
257 such tangible property from ad valorem taxation, as provided in this Code section, the  
258 governing authority thereof shall notify the election superintendent of such political  
259 subdivision, and it shall be the duty of said election superintendent to issue the call for an  
260 election for the purpose of submitting to the electors of the political subdivision the  
261 question of whether such exemption shall be granted. The referendum ballot shall specify  
262 retail business inventory as the types of property as defined in this Code section which are  
263 being proposed to be exempted from taxation. The election superintendent shall issue the  
264 call and shall conduct the election on a date and in the manner authorized under Code  
265 Section 21-2-540.

266 (e) The governing authority of any county or municipality wherein an exemption has been  
267 approved by the voters as provided in this Code section may, by appropriate resolution, a  
268 copy of which shall be immediately transmitted to the state revenue commissioner, exempt  
269 from taxation 20 percent, 40 percent, 60 percent, 80 percent or all of the value of such  
270 tangible personal property as defined in this Code section; provided, however, that once  
271 an exemption has been granted, no reduction in the percent of the value of such property  
272 to be exempted may be made until and unless such exemption is revoked or repealed as  
273 provided in this Code section. An increase in the percent of the value of the property to be  
274 exempted may be accomplished by appropriate resolution of the governing authority of  
275 such county or municipality, and a copy thereof shall be immediately transmitted to the  
276 state revenue commissioner, provided that such increase shall be in increments of 20  
277 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible personal  
278 property as defined in this Code section, within the discretion of such governing authority.



279 (f)(1) If more than one-half of the votes cast on such question are in favor of such  
 280 exemption, then such exemption may be granted by the governing authority commencing  
 281 on the first day of any ensuing calendar year; otherwise, such exemption may not be  
 282 granted. This paragraph is intended to clearly provide that following approval of such  
 283 exemption in such referendum, such exemption may be granted on the first day of any  
 284 calendar year following the year in which such referendum was conducted. This  
 285 paragraph shall not be construed to imply that the granting of such exemption could not  
 286 previously be delayed to any such calendar year.

287 (2) Exemptions may only be revoked by a referendum election called and conducted as  
 288 provided in this Code section, provided that the call for such referendum shall not be  
 289 issued within five years from the date such exemptions were first granted and, if the  
 290 results of said election are in favor of the revocation of such exemptions, then such  
 291 revocation shall be effective only at the end of a five-year period from the date of such  
 292 referendum.

293 (g) Level 2 freeport exemptions effected pursuant to this Code section may be granted  
 294 either in lieu of or in addition to level 1 freeport exemptions under Code Section 48-5-48.2.

295 (h) The commissioner shall by regulation adopt uniform procedures and forms for the use  
 296 of local officials in the administration of this Code section."

297 **SECTION 4.**

298 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 299 without such approval.

300 **SECTION 5.**

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