

House Bill 193 (AS PASSED HOUSE AND SENATE)

By: Representative Stephens of the 164<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-8-2 of the Official Code of Georgia Annotated, relating to  
2 definitions regarding state sales and use taxes, so as to change a certain definition; to amend  
3 Code Section 48-8-271 of the Official Code of Georgia Annotated, relating to definitions  
4 regarding the "Georgia Tourism Development Act," so as to change a certain definition; to  
5 amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to  
6 exemptions from sales and use tax, so as to provide a new exemption from state sales and use  
7 tax only for a limited period of time regarding the sale or use of tangible personal property  
8 to certain nonprofit health centers; to provide a new exemption for a limited period of time  
9 with respect to certain nonprofit volunteer health clinics; to provide a new exemption for a  
10 limited period of time with respect to certain sales of eligible food and beverages to a  
11 qualified food bank; to provide a new exemption for a limited period of time with respect to  
12 the use of food which is donated to a qualified nonprofit agency and which is used for hunger  
13 relief purposes; to provide a new exemption for a limited period of time with respect to the  
14 use of food donated for disaster relief purposes; to change the dates for the school sales tax  
15 holiday in 2013; to provide for an exemption from state sales and use tax only with respect  
16 to certain sales to a qualified job training organization; to amend Code Section 48-8-89 of  
17 the Official Code of Georgia Annotated, relating to distribution and use of proceeds,  
18 certificate specifying percentage of proceeds for each political subdivision, determination of  
19 proceeds for absent municipalities, procedure for filing certificates, effect of failure to file,  
20 and renegotiation of certificate, so as to provide for the filing of a certificate providing for  
21 the distribution of local option sales and use tax proceeds following certain judicial review;  
22 to provide an effective date; to repeal conflicting laws; and for other purposes.

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

24 **SECTION 1.**

25 Code Section 48-8-2 of the Official Code of Georgia Annotated, relating to definitions  
26 regarding state sales and use taxes, is amended by revising paragraph (10) as follows:

27 "(10) 'Delivery charges' means charges by the seller of personal property or services for  
 28 preparation and delivery to a location designated by the purchaser of personal property  
 29 or services including, but not limited to, transportation, shipping, postage, handling,  
 30 crating, and packing. Delivery charges shall not include postage charges for the delivery  
 31 of direct mail when the postage charge is passed on dollar-for-dollar without being  
 32 marked up to the purchaser of the direct mail and separately stated on an invoice or other  
 33 similar billing document given to the purchaser."

### 34 SECTION 1.1.

35 Code Section 48-8-271 of the Official Code of Georgia Annotated, relating to definitions  
 36 regarding the "Georgia Tourism Development Act," is amended by revising paragraph (7)  
 37 as follows:

38 "~~(4)(7)~~ 'Incremental sales and use tax' means ~~those~~ state and local sales and use taxes  
 39 remitted to the state that were generated by the tourism attraction project above the  
 40 amount of such sales and use taxes generated by the previous use of the property on  
 41 which such project is located except as otherwise provided in Code Section 48-8-278  
 42 sales to the general public at the approved tourism attraction from the date on which  
 43 construction of the expansion project is completed through the end of the calendar year  
 44 immediately preceding the date of filing the incremental sales and use tax refund claim,  
 45 less the state and local sales and use taxes that were generated by sales to the general  
 46 public at the approved tourism attraction during the 12 month period immediately  
 47 preceding the commencement of construction of the expansion project."

### 48 SECTION 2.

49 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from  
 50 sales and use tax, is amended by revising subparagraph (A) of paragraph (7.05),  
 51 paragraph (7.3), subparagraph (A) of paragraph (57.1), subparagraph (A) of paragraph (57.2),  
 52 subparagraph (A) of paragraph (57.3), and subparagraph (A) of paragraph (75), by deleting  
 53 "or" at the end of paragraph (94), by deleting the period and adding "; or" at the end of  
 54 paragraph (95), and by adding a new paragraph (96) to read as follows:

55 "(7.05)(A) For the period commencing on July 1, ~~2008~~ 2013, and ending on  
 56 ~~June 30, 2010~~ June 30, 2015, sales of tangible personal property to a nonprofit health  
 57 center in this state which has been established under the authority of and is receiving  
 58 funds pursuant to the United States Public Health Service Act, 42 U. S. C. Section 254b  
 59 if such health clinic obtains an exemption determination letter from the commissioner."

60 "(7.3) For the period commencing July 1, ~~2008~~ 2013, and ending ~~June 30, 2010~~ June 30,  
 61 2015, sales of tangible personal property and services to a nonprofit volunteer health

62 clinic which primarily treats indigent persons with incomes below 200 percent of the  
 63 federal poverty level and which property and services are used exclusively by such  
 64 volunteer health clinic in performing a general treatment function in this state when such  
 65 volunteer health clinic is a tax exempt organization under the Internal Revenue Code and  
 66 obtains an exemption determination letter from the commissioner;"

67 "(57.1)(A) From July 1, ~~2006~~ 2013, until June 30, ~~2010~~ 2015, sales of food and food  
 68 ingredients to a qualified food bank."

69 "(57.2)(A) For the period commencing July 1, ~~2007~~ 2013, and ending on June 30, ~~2011~~  
 70 2015, the use of prepared food which is donated to a qualified nonprofit agency and  
 71 which ~~are~~ is used for hunger relief purposes."

72 "(57.3)(A) For the period commencing July 1, ~~2007~~ 2013, and ending on June 30, ~~2011~~  
 73 2015, the use of prepared food which is donated following a natural disaster and which  
 74 ~~are~~ is used for disaster relief purposes."

75 "(75)(A) The sale of any covered item. The exemption provided by this paragraph  
 76 shall apply only to sales occurring during periods:

77 (i) Commencing at 12:01 A.M. on August 10, 2012, and concluding at 12:00  
 78 Midnight on August 11, 2012; and

79 (ii) Commencing at 12:01 A.M. on August ~~9~~ 2, 2013, and concluding at 12:00  
 80 Midnight on August ~~10~~ 3, 2013."

81 "(96)(A) For the period commencing July 1, 2013, and ending on June 30, 2015, sales  
 82 of tangible personal property and services to a qualified job training organization when  
 83 such organization obtains an exemption determination letter from the commissioner.

84 (B) For the purposes of this paragraph, 'qualified job training organization' means an  
 85 organization which:

86 (i) Is located in this state;

87 (ii) Is exempt from income taxation under Section 501(c)(3) of the Internal Revenue  
 88 Code;

89 (iii) Specializes in the retail sale of donated items;

90 (iv) Provides job training and employment services to individuals with workplace  
 91 disadvantages and disabilities; and

92 (v) Uses a majority of its revenues for job training and placement programs.

93 (C)(i) For the purposes of this paragraph, the term 'local sales and use tax' means any  
 94 sales tax, use tax, or local sales and use tax which is levied and imposed in an area  
 95 consisting of less than the entire state, however authorized, including, but not limited  
 96 to, such taxes authorized by or pursuant to constitutional amendment; by or pursuant  
 97 to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243), as amended,  
 98 the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965'; and by or pursuant

99 to Article 2, Article 2A, Part 1 or Part 2 of Article 3, Article 4, or Article 5 of this  
 100 chapter.

101 (ii) The exemption provided for in subparagraph (A) of this paragraph shall not apply  
 102 to any local sales and use tax levied or imposed at any time.

103 (D) The commissioner shall promulgate any rules and regulations necessary to  
 104 implement and administer this paragraph."

105 **SECTION 2.1.**

106 Code Section 48-8-89 of the Official Code of Georgia Annotated, relating to distribution and  
 107 use of proceeds, certificate specifying percentage of proceeds for each political subdivision,  
 108 determination of proceeds for absent municipalities, procedure for filing certificates, effect  
 109 of failure to file, and renegotiation of certificate, is amended in paragraph (4) of subsection  
 110 (d) by adding a new subparagraph to read as follows:

111 "(G) Notwithstanding any provision in this Code section to the contrary, any county  
 112 or qualified municipality whose distribution certificate is subject to a determination by  
 113 a superior court in accordance with this paragraph shall have 120 days from the  
 114 conclusion of such process, including time for appeal, if any, to file a new certificate  
 115 with the commissioner if a certificate has not been previously filed."

116 **SECTION 3.**

117 (a) This section and Sections 1, 2, 2.1, and 4 of this Act shall become effective July 1,  
 118 2013.

119 (b) Section 1.1 of this Act shall only become effective if HB 318 becomes law on or before  
 120 July 1, 2013.

121 **SECTION 4.**

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