

House Bill 911

By: Representatives Duncan of the 26th, Watson of the 172nd, Harrell of the 106th, Buckner of the 137th, Powell of the 171st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated,
2 relating to sales and use tax, so as to provide for administration by the Department of
3 Revenue of the exemption for agricultural machinery and equipment; to provide for a change
4 to the qualifying amounts for the agricultural exemption; to provide for the separation of
5 qualifying items at the point of sale; to provide for related matters; to provide for an effective
6 date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to sales
10 and use tax, is amended by revising paragraph (5) of subsection (a) and subsections (c)
11 through (f) of Code Section 48-8-3.3, relating to the sales and use tax exemption for
12 agricultural machinery and equipment, as follows:

13 "(5) 'Qualified agricultural producer' includes producers of agricultural products who
14 meet one of the following criteria:

15 (A) The person or entity is the owner or lessee of agricultural land or other real
16 property from which ~~\$2,500.00~~ \$10,000.00 or more of agricultural products were
17 produced and sold during the year, including payments from government sources;

18 (B) The person or entity is in the business of performing agricultural operations and
19 has provided ~~\$2,500.00~~ \$10,000.00 of such services during the year;

20 (C) The person or entity is in the business of producing long-term agricultural products
21 from which there might not be annual income, including, but not limited to, timber,
22 pulpwood, orchard crops, pecans, and horticultural or other multiyear agricultural or
23 farm products. Applicants must demonstrate that sufficient volumes of such long-term
24 agricultural products will be produced which have the capacity to generate at least
25 ~~\$2,500.00~~ \$10,000.00 in sales annually in the future; or

26 (D) The person or entity must establish, to the satisfaction of the ~~Commissioner of~~
 27 ~~Agriculture commissioner~~, that the person or entity is actively engaged in the
 28 production of agricultural products and has or will have created sufficient volumes to
 29 generate at least ~~\$2,500.00~~ \$10,000.00 in sales annually."

30 "(c) The ~~Commissioner of Agriculture commissioner~~ shall require applicants to
 31 acknowledge and produce, upon request, at least one of the following forms to ~~determine~~
 32 aid in the determination of eligibility under this Code section:

- 33 (1) Business activity on IRS schedule F (Profit or Loss from Farming);
- 34 (2) Farm rental activity on IRS form 4835 (Farm Rental Income and Expenses) or
- 35 schedule E (Supplemental Income and Loss);
- 36 (3) IRS Form 4797;
- 37 (4) IRS Form 1065; or
- 38 (5) IRS Form 1120 or 1120(s).

39 (d) Qualified agricultural producers that meet the criteria provided for in paragraph (5) of
 40 subsection (a) of this Code section must apply to the ~~Commissioner of Agriculture~~
 41 commissioner to request an agricultural sales and use tax exemption certificate that
 42 contains an exemption number. Upon request, the qualified agricultural producer shall
 43 produce ~~the form~~ any forms requested by the ~~Commissioner of Agriculture commissioner~~
 44 under subsection (c) of this Code section ~~to the commissioner~~. To facilitate the use of the
 45 exemption certificate, a wallet-sized card containing that same information shall also be
 46 issued by the ~~Commissioner of Agriculture commissioner~~.

47 (e) The ~~Commissioner of Agriculture commissioner~~ is authorized to promulgate rules and
 48 regulations governing the issuance and renewal of agricultural exemption certificates and
 49 the administration of this Code section. The regulations shall contain a provision requiring
 50 the seller of products to make a good faith effort to separate items exempt from taxation
 51 under this Code section from items subject to taxation and to complete the sales in separate
 52 transactions. The ~~Commissioner of Agriculture commissioner~~ is authorized ~~to establish an~~
 53 ~~oversight board and direct staff and is authorized~~ to charge annual fees of not less than
 54 \$15.00 nor more than \$25.00 per year ~~in accordance with Code Section 2-1-5~~, but in no
 55 event shall the total amount of the proceeds from such fees exceed the cost of administering
 56 this Code section.

57 (f) The ~~commissioner~~ Commissioner of Agriculture is authorized to promulgate rules and
 58 regulations as necessary to facilitate compliance with ~~and the administration of~~ the
 59 provisions of this Code section. The ~~department, in conjunction with the~~ Department of
 60 Agriculture; is authorized to ~~conduct audits, as necessary, to monitor~~ provide customer
 61 service and assist the department in monitoring compliance with the provisions of this
 62 Code section."

63

SECTION 2.

64 This Act shall become effective on July 1, 2016, and shall be applicable to all transactions
65 occurring on or after January 1, 2017.

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SECTION 3.

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