

House Bill 888 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 130<sup>th</sup>, Harrell of the 106<sup>th</sup>, Rhodes of the 120<sup>th</sup>, Efstration of the 104<sup>th</sup>, and Rogers of the 10<sup>th</sup>

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 tax exemptions from property tax, so as to change certain reporting  
3 and proof of filing requirements; to provide for related matters; to provide for an effective  
4 date; to repeal conflicting laws; and for other purposes.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

6 SECTION 1.

7 Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
8 relating to tax exemptions from property tax, is amended by revising Code Section 48-5-48.1,  
9 relating to the tangible personal property inventory exemption, as follows:

10 "48-5-48.1.

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

20 (b) The application for the level 1 freeport exemption shall provide for:

21 (1) A ~~schedule~~ summary, as prescribed by the department, of the inventory of goods in  
22 the process of manufacture or production which shall include all partly finished goods  
23 and raw materials held for direct use or consumption in the ordinary course of the  
24 taxpayer's manufacturing or production business in the State of Georgia;

25 (2) A ~~schedule~~ summary, as prescribed by the department, of the inventory of finished  
26 goods manufactured or produced within the State of Georgia in the ordinary course of the

27 taxpayer's manufacturing or production business when held by the original manufacturer  
28 or producer of such finished goods;

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

39 (4) A ~~schedule~~ summary, as prescribed by the department, of the stock in trade of a  
40 fulfillment center which on January 1 is stored in the fulfillment center. The information  
41 required by Code Section 48-5-48.2 to be contained in the official books and records of  
42 the fulfillment center where such property is being stored, which official books and  
43 records are required to be open to the inspection of the taxing authorities of this state and  
44 political subdivisions thereof, shall not be required to be included as a part of or to  
45 accompany the application for such exemption.

46 (c)(1) For purposes of this subsection, the term 'file properly' shall mean and include the  
47 timely filing of the completed application ~~and complete schedule of the inventory~~ for  
48 which exemption is sought on or before the due date specified in subsection (a) of this  
49 Code section. Any clerical error, including, but not limited to, a typographical error,  
50 scrivener's error, or any unintentional immaterial error or omission in the application shall  
51 not be construed as a failure to file properly.

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

55 (A) The failure to report any inventory for which such exemption is sought in the  
56 ~~schedule~~ summary provided for in the application shall constitute a waiver of the  
57 exemption on the part of the person, firm, or corporation failing to so report for that  
58 taxable year in an amount equal to the difference between fair market value of the  
59 inventory as reported and the fair market value finally determined to be applicable to  
60 the inventory for which the exemption is sought; and

61 (B) The failure to file timely such completed application ~~and schedule~~ shall constitute  
62 a waiver of the exemption until the first day of the month following the month such  
63 completed application ~~and schedule~~ are is filed properly with the county tax assessor;

64 provided, however, that unless ~~the such completed application and schedule are~~ is filed  
 65 on or before June 1 of such year, the exemption shall be waived for that entire year.

66 (d) Upon receiving the application required by this Code section, the county board of tax  
 67 assessors shall determine the eligibility of all types of tangible personal property listed on  
 68 the application. If any property has been listed which the board believes is not eligible for  
 69 the exemption, the board shall issue a letter notifying the applicant, not later than 180 days  
 70 after receiving the application, that all or a portion of the application has been denied. The  
 71 denial letter shall list the type and total fair market value of all property listed on the  
 72 application for which the exemption has been approved and the type and total fair market  
 73 value of all property listed on the application for which the exemption has been denied.  
 74 The applicant shall have the right to appeal from the denial of the exemption for any  
 75 property listed and such appeal shall proceed as provided in Code Section 48-5-311.  
 76 Except as otherwise provided in subparagraph (c)(2)(A) of this Code section, the county  
 77 board of assessors shall not send a second letter of notification denying the exemption of  
 78 all or a portion of such property listed on the application on new grounds that could and  
 79 should have been discerned at the time the initial denial letter was issued. If, however, the  
 80 county board of tax assessors fails to issue a letter of denial within 180 days after receiving  
 81 the taxpayer's application, then the freeport exemption sought in the application shall be  
 82 deemed accepted in its entirety.

83 (e) If the level 1 freeport exemption has been granted to a taxpayer for a taxable year, the  
 84 county board of tax assessors shall issue a notice of renewal to the taxpayer for the  
 85 immediately following taxable year. Such notice of renewal shall be issued not later than  
 86 January 15 of such immediately following taxable year to facilitate the filing of a timely  
 87 completed application and schedule by the taxpayer for such taxable year."

## 88 SECTION 2.

89 Said part is further amended by revising Code Section 48-5-48.2, relating to the level 1  
 90 freeport exemption and referendum, as follows:

91 "48-5-48.2.

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

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

95 (1) 'Destined for shipment to a final destination outside this state' means, for purposes  
 96 of a level 1 freeport exemption, that portion or percentage of an inventory of finished  
 97 goods which the taxpayer can establish, through a historical sales or shipment analysis,  
 98 either of which utilizes information from the preceding calendar year, or other reasonable,  
 99 documented method, is reasonably anticipated to be shipped to a final destination outside

100 this state. Such other reasonable, documented method may only be utilized in the case  
101 of a new business, in the case of a substantial change in scope of an existing business, or  
102 in other unusual situations where a historical sales or shipment analysis does not  
103 adequately reflect future anticipated shipments to a final destination outside this state.  
104 It is not necessary that the actual final destination be known as of January 1 in order to  
105 qualify for the exemption.

106 (2) 'Finished goods' means, for purposes of a level 1 freeport exemption, goods, wares,  
107 and merchandise of every character and kind but shall not include unrecovered,  
108 unextracted, or unsevered natural resources or raw materials or goods in the process of  
109 manufacture or production or the stock in trade of a retailer.

110 (3) 'Foreign merchandise in transit' means, for purposes of a level 1 freeport exemption,  
111 any goods which are in international commerce where the title has passed to a foreign  
112 purchaser and the goods are temporarily stored in this state while awaiting shipment  
113 overseas.

114 (4) 'Fulfillment center' means, for purposes of a level 1 freeport exemption, a business  
115 location in Georgia which is used to pack, ship, store, or otherwise process tangible  
116 personal property sold by electronic, Internet, telephonic, or other remote means,  
117 provided that such a business location does not allow customers to purchase or receive  
118 goods onsite at such business location.

119 (5) 'Raw materials' means, for purposes of a level 1 freeport exemption, any material,  
120 whether crude or processed, that can be converted by manufacture, processing, or a  
121 combination thereof into a new and useful product but shall not include unrecovered,  
122 unextracted, or unsevered natural resources.

123 (6) 'Stock in trade of a fulfillment center' means, for purposes of a level 1 freeport  
124 exemption, goods, wares, and merchandise held by one in the business of making sales  
125 of such goods when such goods are held or stored at a fulfillment center.

126 (7) 'Stock in trade of a retailer' means, for purposes of a level 1 freeport exemption,  
127 finished goods held by one in the business of making sales of such goods at retail in this  
128 state, within the meaning of Chapter 8 of this title, when such goods are held or stored  
129 at a business location from which such retail sales are regularly made. Goods stored in  
130 a warehouse, dock, or wharf, including a warehouse or distribution center which is part  
131 of or adjoins a place of business from which retail sales are regularly made, shall not be  
132 considered stock in trade of a retailer to the extent that the taxpayer can establish, through  
133 a historical sales or shipment analysis, either of which utilizes information from the  
134 preceding calendar year, or other reasonable, documented method, the portion or  
135 percentage of such goods which is reasonably anticipated to be shipped outside this state  
136 for resale purposes.

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

141 (1) Inventory of goods in the process of manufacture or production which shall include  
142 all partly finished goods and raw materials held by the taxpayer or the taxpayer's  
143 designated agent for direct use or consumption in the ordinary course of the taxpayer's  
144 manufacturing or production business in this state. The exemption provided for in this  
145 paragraph shall apply only to tangible personal property which is substantially modified,  
146 altered, combined, or changed in the ordinary course of the taxpayer's manufacturing,  
147 processing, or production operations in this state. For purposes of this paragraph, the  
148 following activities shall constitute substantial modification in the ordinary course of  
149 manufacturing, processing, or production operations:

150 (A) The cleaning, drying, pest control treatment, or segregation by grade of grain,  
151 peanuts or other oil seeds, or cotton;

152 (B) The remanufacture of aircraft engines or aircraft engine parts or components,  
153 meaning the substantial overhauling or rebuilding of aircraft engines or aircraft engine  
154 parts or components; ~~and~~

155 (C) The blending of fertilizer bulk materials into a custom mixture, whether performed  
156 at a commercial fertilizer blending plant, retail outlet, or any application site; and

157 (D) The substantial assembly of finished parts;

158 (2) Inventory of finished goods manufactured or produced within this state in the  
159 ordinary course of the taxpayer's manufacturing or production business when held by the  
160 original manufacturer or producer of such finished goods. The exemption provided for  
161 in this paragraph shall be for a period not exceeding 12 months from the date such  
162 property is produced or manufactured;

163 (3) Inventory of finished goods which, on January 1, are stored in a warehouse, dock, or  
164 wharf, whether public or private, and which are destined for shipment to a final  
165 destination outside this state and inventory of finished goods which are shipped into this  
166 state from outside this state and stored for transshipment to a final destination outside this  
167 state, including foreign merchandise in transit. The exemption provided for in this  
168 paragraph shall be for a period not exceeding 12 months from the date such property is  
169 stored in this state. Such period shall be determined based on application of a first-in,  
170 first-out method of accounting for the inventory. The official books and records of the  
171 warehouse, dock, or wharf where such property is being stored shall contain a full, true,  
172 and accurate inventory of all such property, including the date of the receipt of the  
173 property, the date of the withdrawal of the property, the point of origin of the property,

174 and the point of final destination of the same, if known. The official books and records  
175 of any such warehouse, dock, or wharf, whether public or private, pertaining to any such  
176 property for which a freeport exemption has been claimed shall be at all times open to the  
177 inspection of all taxing authorities of this state and of any political subdivision of this  
178 state; or

179 (4) Stock in trade of a fulfillment center which, on January 1, is stored in a fulfillment  
180 center and which is made available to remote purchasers who may make such purchases  
181 by electronic, Internet, telephonic, or other remote means, and where such stock in trade  
182 of a fulfillment center will be shipped from the fulfillment center and delivered to the  
183 purchaser at a location other than the location of the fulfillment center. The exemption  
184 provided for in this paragraph shall be for a period not exceeding 12 months from the date  
185 such property is stored in this state. Such period shall be determined based on application  
186 of a first-in, first-out method of accounting for the inventory. The official books and  
187 records of the fulfillment center where such property is being stored shall contain a full,  
188 true, and accurate inventory of all such property, including the date of the receipt of the  
189 property and the date of the withdrawal of the property. The official books and records  
190 of any such fulfillment center pertaining to any such property for which a freeport  
191 exemption has been claimed shall be at all times open to the inspection of all taxing  
192 authorities of this state and of any political subdivision of this state.

193 (d) Whenever the governing authority of any county or municipality wishes to exempt  
194 such tangible property from ad valorem taxation, as provided in this Code section, the  
195 governing authority thereof shall notify the election superintendent of such political  
196 subdivision, and it shall be the duty of said election superintendent to issue the call for an  
197 election for the purpose of submitting to the electors of the political subdivision the  
198 question of whether such exemption shall be granted. The referendum ballot shall specify  
199 as separate questions the type or types of property as defined in this Code section which  
200 are being proposed to be exempted from taxation. The election superintendent shall issue  
201 the call and shall conduct the election on a date and in the manner authorized under Code  
202 Section 21-2-540.

203 (e) The governing authority of any county or municipality wherein an exemption has been  
204 approved by the voters as provided in this Code section may, by appropriate resolution, a  
205 copy of which shall be immediately transmitted to the state revenue commissioner, exempt  
206 from taxation 20 percent, 40 percent, 60 percent, 80 percent, or all of the value of such  
207 tangible personal property as defined in this Code section; provided, however, that once  
208 an exemption has been granted, no reduction in the percent of the value of such property  
209 to be exempted may be made until and unless such exemption is revoked or repealed as  
210 provided in this Code section. An increase in the percent of the value of the property to be

211 exempted may be accomplished by appropriate resolution of the governing authority of  
 212 such county or municipality, and a copy thereof shall be immediately transmitted to the  
 213 state revenue commissioner, provided that such increase shall be in increments of 20  
 214 percent, 40 percent, 60 percent, or 80 percent of the value of such tangible personal  
 215 property as defined in this Code section, within the discretion of such governing authority.

216 (f)(1) If more than one-half of the votes cast on such question are in favor of such  
 217 exemption, then such exemption may be granted by the governing authority commencing  
 218 on the first day of any ensuing calendar year; otherwise, such exemption may not be  
 219 granted. This paragraph is intended to clearly provide that following approval of such  
 220 exemption in such referendum, such exemption may be granted on the first day of any  
 221 calendar year following the year in which such referendum was conducted. This  
 222 paragraph shall not be construed to imply that the granting of such exemption could not  
 223 previously be delayed to any such calendar year.

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

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

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

234 **SECTION 3.**

235 Said part is further amended by revising Code Section 48-5-48.5, relating to the application  
 236 for the level 2 freeport exemption, as follows:

237 "48-5-48.5.

238 (a) Any person, firm, or corporation seeking a level 2 freeport exemption from ad valorem  
 239 taxation of certain tangible personal property inventory when such exemption has been  
 240 authorized by the governing authority of any county or municipality after approval of the  
 241 electors of such county or municipality pursuant to the authority of the Constitution of  
 242 Georgia and Code Section 48-5-48.6 shall file a written application and ~~schedule~~ summary,  
 243 as prescribed by the department, of property with the county board of tax assessors on  
 244 forms furnished by such board. Such application shall be filed in the year in which  
 245 exemption from taxation is sought no later than the date on which the tax receiver or tax

246 commissioner of the county in which the property is located closes the books for the return  
247 of taxes.

248 (b) The application for the level 2 freeport exemption shall provide for a ~~schedule~~  
249 summary, as prescribed by the department, of the inventory of finished goods held by one  
250 in the business of making sales of such goods in this state.

251 (c)(1) For purposes of this subsection, the term 'file properly' shall mean and include the  
252 timely filing of the application and complete ~~schedule~~ summary, as prescribed by the  
253 department, of the inventory for which exemption is sought on or before the due date  
254 specified in subsection (a) of this Code section. Any clerical error, including, but not  
255 limited to, a typographical error, scrivener's error, or any unintentional immaterial error  
256 or omission in the application shall not be construed as a failure to file properly.

257 (2) The failure to file properly the application and ~~schedule~~ summary, as prescribed by  
258 the department, shall constitute a waiver of the exemption on the part of the person, firm,  
259 or corporation failing to make the application for such exemption for that year as follows:

260 (A) The failure to report any inventory for which such exemption is sought in the  
261 ~~schedule~~ summary, as prescribed by the department, provided for in the application  
262 shall constitute a waiver of the exemption on the part of the person, firm, or corporation  
263 failing to so report for that taxable year in an amount equal to the difference between  
264 fair market value of the inventory as reported and the fair market value finally  
265 determined to be applicable to the inventory for which the exemption is sought; and

266 (B) The failure to file timely such application and ~~schedule~~ summary, as prescribed by  
267 the department, shall constitute a waiver of the exemption until the first day of the  
268 month following the month such application and ~~schedule~~ summary, as prescribed by  
269 the department, are filed properly with the county tax assessor; provided, however, that  
270 unless the application and schedule are filed on or before June 1 of such year, the  
271 exemption shall be waived for that entire year.

272 (d) Upon receiving the application required by this Code section, the county board of tax  
273 assessors shall determine the eligibility of all types of tangible personal property listed on  
274 the application. If any property has been listed which the board believes is not eligible for  
275 the exemption, the board shall issue a letter notifying the applicant that all or a portion of  
276 the application has been denied. The denial letter shall list the type and total fair market  
277 value of all property listed on the application for which the exemption has been approved  
278 and the type and total fair market value of all property listed on the application for which  
279 the exemption has been denied. The applicant shall have the right to appeal from the denial  
280 of the exemption for any property listed, and such appeal shall proceed as provided in Code  
281 Section 48-5-311. Except as otherwise provided in subparagraph (c)(2)(A) of this Code  
282 section, the county board of assessors shall not send a second letter of notification denying



283 the exemption of all or a portion of such property listed on the application on new grounds  
 284 that could and should have been discerned at the time the initial denial letter was issued.  
 285 (e) If the level 2 freeport exemption has been granted to a taxpayer for a taxable year, the  
 286 county board of tax assessors shall issue a notice of renewal to the taxpayer for the  
 287 immediately following taxable year. Such notice of renewal shall be issued not later than  
 288 January 15 of such immediately following taxable year to facilitate the filing of a timely  
 289 application and ~~schedule~~ summary, as prescribed by the department, by the taxpayer for  
 290 such taxable year."

291 **SECTION 4.**

292 Said part is further amended by adding a new Code section to read as follows:

293 "48-5-48.7.

294 (a) Any document required to be filed under Code Section 48-5-48.1 or 48-5-48.5 shall be  
 295 considered properly and timely filed if the postal date on the mailed document, whether  
 296 metered or stamped, is on or before the date on which the tax receiver or tax commissioner  
 297 of the county in which the property is located closes the book for the return of taxes.

298 (b) Any document properly and timely filed pursuant to subsection (a) of this Code section  
 299 and incorrectly determined to be untimely filed, upon sufficient proof thereof, shall entitle  
 300 the applicant to a credit against future ad valorem assessments from the county which  
 301 improperly denied the applicant the exemption under Code Section 48-5-48.1 or  
 302 48-5-48.5."

303 **SECTION 5.**

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

306 **SECTION 6.**

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