

House Bill 86 (COMMITTEE SUBSTITUTE)

By: Representatives Rhodes of the 124th, Stephens of the 164th, Corbett of the 174th, Williams of the 148th, and Sainz of the 180th

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 sales of tangible personal property used
3 for or in the renovation or expansion of certain aquariums or zoological institutions for a
4 certain period of time; to provide for related matters; to repeal conflicting laws; and for other
5 purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
9 sales and use tax, is amended by revising paragraph (76) as follows:

10 "(76)(A) The sale or use of tangible personal property used for or in the renovation or
11 expansion of an aquarium located in this state that charges for admission and that is
12 owned or operated by an organization which is exempt from taxation under Section
13 501(c)(3) of the Internal Revenue Code, to the extent provided in ~~subparagraphs (B)~~
14 ~~and (C)~~ of this paragraph.

15 (B) This exemption shall apply from ~~July 1, 2018, until January 1, 2022~~ July 1, 2023,
16 until June 30, 2027, or until the aggregate state sales and use tax refunded pursuant to

17 this paragraph exceeds \$4.5 million, whichever occurs first. A qualifying aquarium
18 must pay sales and use tax on all purchases and uses of tangible personal property and
19 may obtain the benefit of this exemption from state sales and use tax by filing a claim
20 for refund of tax paid on qualifying items. All refunds made pursuant to this paragraph
21 will not include interest.

22 ~~(C) This exemption shall apply from July 1, 2018, until January 1, 2022, to any local~~
23 ~~sales and use tax levied or imposed at any time in any area consisting of less than the~~
24 ~~entire state, however authorized, including, but not limited to, such taxes authorized by~~
25 ~~or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243),~~
26 ~~as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such~~
27 ~~taxes as authorized by or pursuant to Article 2, 2A, 3, 4, 5, or 5A of this chapter.~~

28 ~~(D)~~ Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases
29 by a contractor may qualify for the exemption provided for in this paragraph. However,
30 when a contractor purchases qualifying tangible personal property, the contractor shall
31 pay the tax at the time of purchase or at the time of first use in this state; and the
32 ultimate owner of the property may file a claim for refund of the tax paid on the
33 qualifying property.

34 ~~(E)~~(D) Items qualifying for exemption include all tangible personal property that will
35 remain at the aquarium facility after completion of construction and all tangible
36 personal property that becomes incorporated into the real property structures of the
37 aquarium facility. The exemption excludes all items that remain tangible personal
38 property in the possession of a contractor after the completion of construction.

39 ~~(F)~~(E) Notwithstanding Code Sections 48-2-15, 48-7-60, and 48-7-61, by June 30 each
40 year, any taxpayer seeking to claim the exemption provided for in subparagraph (A) of
41 this paragraph shall electronically submit to the department, at the time of application
42 for the exemption and any such annual renewal, the total number of visitors admitted,
43 the average monthly number of full-time employees, and the total amount of exempt

44 purchases made by the taxpayer in the preceding calendar year. The department shall
 45 then issue a report to the chairpersons of the House Committee on Ways and Means and
 46 the Senate Finance Committee containing such information;”

47 **SECTION 2.**

48 Said Code section is further amended by revising paragraph (87) as follows:

49 “(87)(A) The sale or use of tangible personal property used for or in the renovation or
 50 expansion of a zoological institution to the extent provided in subparagraphs (B) and
 51 (C) of this paragraph.

52 (B) As used in this paragraph, the term 'zoological institution' means a nonprofit
 53 wildlife park, terrestrial institution, or facility which:

54 (i) Is open to the public, charges for admission, exhibits and cares for a collection
 55 consisting primarily of animals other than fish, and has received accreditation from
 56 the Association of Zoos and Aquariums; and

57 (ii) Is located in this state and owned or operated by an organization which is exempt
 58 from taxation under Section 501(c)(3) of the Internal Revenue Code.

59 ~~(B)(C)~~ This exemption shall apply from July 1, ~~2016~~ 2023, until June 30, ~~2018~~ 2027,
 60 or until the aggregate ~~state~~ sales and use tax refunded pursuant to this paragraph
 61 exceeds ~~\$350,000.00~~ \$800,000.00, whichever occurs first. A qualifying zoological
 62 institution shall pay sales and use tax on all purchases and uses of tangible personal
 63 property and may obtain the benefit of this exemption from state sales and use tax by
 64 filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to
 65 this paragraph shall not include interest.

66 ~~(C)(i) This exemption shall apply from July 1, 2016, until June 30, 2018. A~~
 67 ~~qualifying zoological institution shall pay sales and use tax on all purchases and uses~~
 68 ~~of tangible personal property and may obtain the benefit of this exemption from local~~

69 ~~sales and use tax by filing a claim for refund of tax paid on qualifying items. All~~
70 ~~refunds made pursuant to this paragraph shall not include interest.~~

71 ~~(ii) For purposes of this subparagraph, local sales and use tax shall be defined as any~~
72 ~~local sales and use tax levied or imposed at any time in any area consisting of less~~
73 ~~than the entire state, however authorized, including, but not limited to, such taxes~~
74 ~~authorized by or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L.~~
75 ~~1965, p. 2243), as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act~~
76 ~~of 1965,' or such taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this~~
77 ~~chapter.~~

78 (D) Notwithstanding any provision of Code Section 48-8-63 to the contrary, purchases
79 by a contractor may qualify for the exemption provided for in this paragraph. However,
80 when a contractor purchases qualifying tangible personal property, the contractor shall
81 pay the tax at the time of purchase or at the time of first use in this state; and the
82 ultimate owner of the property may file a claim for refund of the tax paid on the
83 qualifying property.

84 (E) Items qualifying for exemption include all tangible personal property that will
85 remain at the zoological institution after completion of construction and all tangible
86 personal property that becomes incorporated into the real property structures of the
87 zoological institution. This exemption excludes all items that remain tangible personal
88 property in the possession of a contractor after the completion of construction;"

89 **SECTION 3.**

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