House Bill 498 (AS PASSED HOUSE AND SENATE)
By: Representatives Watson of the 172nd, Dickey of the 140th, LaHood of the 175th, England of the 116th, and Pirkle of the 155th

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, so as to exempt certain sales of mechanically propelled watercraft by a dealer licensed under this article to an individual who resides outside of this state under certain conditions; to amend Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to property tax exemptions, so as to expand an exemption for agricultural equipment and certain farm products held by certain entities to include entities comprising two or more family owned farm entities; to add dairy products and unfertilized eggs of poultry as qualified farm products with respect to such exemption; to provide for a referendum; to provide for effective dates, applicability, and automatic repeal; to provide for compliance with constitutional requirements; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:
PART I
SECTION 1-1.

Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from sales and use tax, is amended by revising paragraph (33.1) as follows:

“(33.1) Sales of mechanically propelled watercraft by a dealer licensed under this article to an individual who resides outside of this state, provided that:

(A) Such watercraft is to be taken immediately by such individual outside of this state and used exclusively outside of this state; and

(B) The purchaser provides documentation of his or her residency to the dealer on a form to be prescribed by the commissioner, which shall be filed with the commissioner together with a copy of the bill of sale Reserved;”

PART II
SECTION 2-1.

Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated, relating to property tax exemptions, is amended by revising Code Section 48-5-41.1, relating to exemption of qualified farm products and harvested agricultural products from taxation, as follows:

"48-5-41.1.

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

(1) 'Agricultural equipment' means farm tractors, combines, and all other farm equipment other than motor vehicles, whether fixed or mobile, which are owned by or held under a lease-purchase agreement and directly used in the production of farm products by a family owned qualified farm products producer.
(2) 'Family owned farm entity' means an entity that has derived 80 percent or more of its gross income from bona fide agricultural uses within this state within the year immediately preceding the year in which the exemption provided by this Code section is sought and that is organized as:

(A) A family corporation, a family partnership, a family general partnership, a family limited partnership, a family limited corporation, or a family limited liability company all of the interest of which is owned by one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning;

(B) An entity created by the merger or consolidation of two or more entities that would qualify independently as a family owned farm entity as defined in subparagraph (A) of this paragraph;

(C) An estate of which the devisees or heirs are one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning;

or

(D) A trust of which the beneficiaries are one or more natural or naturalized citizens related to each other within the fourth degree of civil reckoning. Such family owned farm entity must have derived 80 percent or more of its gross income from bona fide agricultural uses within this state within the year immediately preceding the year in which the exemption provided by this Code section is sought.

(3) 'Family owned qualified farm products producer' means an individual or family owned farm entity primarily engaged in the direct cultivation of the soil, including soil removed from the land and placed in pots or containers, or operation of land for the production of qualified farm products. A family owned qualified farm products producer shall not include wholesalers, distributors, storage facility owners, manufacturers, processors, or other similar entities that primarily prepare qualified farm products for any intermediate or final market or that primarily operate to move or facilitate the movement of qualified farm products from a producer to any intermediate or final markets.
(4) 'Farm products' means only those farm products eligible to qualify for exemption from ad valorem taxation pursuant to the former provisions of paragraph (10) of subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.

(5) 'Harvested agricultural products' means only those harvested agricultural products eligible to qualify for exemption from ad valorem taxation pursuant to the former provisions of paragraph (10) of subsection (a) of Code Section 48-5-41 as it existed prior to January 1, 1999.

(6) 'Initial production' means:
   (A) When applied to a laying hen, a period beginning at the time the laying hen comes into production at age six months rather than a period beginning when the laying hen is hatched; or
   (B) When applied to a brood cow, a period of nine months from the time the brood cow is able to conceive at age 12 months rather than a period beginning when the brood cow is born.

(7) 'Lease-purchase agreement' means a financing agreement under which lessee payments are credited toward the purchase of agricultural equipment or that provides for a fixed amount purchase option to a lessee during the lease term. Under a lease-purchase agreement the title of ownership may remain with the lessor during the lease.

(8) 'Producer' means any entity that produces farm products.

(9) 'Qualified farm products' means livestock; dairy products; unfertilized eggs of poultry; crops; fruit or nut-bearing nut-bearing trees, bushes, or plants; annual and perennial plants; Christmas trees; and plants and trees grown in nurseries for transplantation elsewhere. Qualified farm products shall not include standing timber.

(b) The following property shall be exempt from all ad valorem property taxes in this state:

(1) All farm products grown in this state and remaining in the hands of the producer during the one year beginning immediately after their initial production;
(2) Harvested agricultural products which have a planting-to-harvest cycle of 12 months or less, which are customarily cured or aged for a period in excess of one year after harvesting and before manufacturing, and which are held in this state for manufacturing and processing purposes;

(3) All qualified farm products grown in this state:
   (A) Remaining in the hands of a family owned qualified farm products producer;
   (B) Still in their natural and unprocessed condition, unless processed solely for further use in the production of other qualified farm products; and
   (C) Not held for direct retail sale by someone other than the original family owned qualified farm products producer; and

(4) Agricultural equipment."

SECTION 2-2.
The Secretary of State shall call and conduct an election as provided in this section for the purpose of submitting Part II of this Act to the electors of the entire state for approval or rejection. The Secretary of State shall conduct such election on the Tuesday next following the first Monday in November, 2022, and shall issue the call and conduct that election as provided by general law. The Secretary of State shall cause the date and purpose of the election to be published once a week for two weeks immediately preceding the date thereof in the official organ of each county in the state. The ballot shall have written or printed thereon the words:

"( ) YES  Shall the Act be approved which expands a state-wide exemption from ad valorem taxes for agricultural equipment and certain farm products held by certain entities to include entities comprising two or more family owned farm entities, and which adds dairy products and unfertilized eggs of poultry as qualified farm products with respect to such exemption?"

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All persons desiring to vote for approval of the Act shall vote "Yes," and all persons desiring
to vote for rejection of the Act shall vote "No." If more than one-half of the votes cast on
such question are for approval of the Act, Part II of this Act shall become of full force and
effect on January 1, 2023, and shall be applicable to all tax years beginning on or after such
date. If the Act is not so approved or if the election is not conducted as provided in this
section, Part II of this Act shall not become effective, and Part II of this Act shall be
automatically repealed on the first day of January immediately following that election date.

It shall be the duty of each county election superintendent to certify the result thereof to the
Secretary of State.

PART III

SECTION 3-1.

Except as otherwise provided in Part II of this Act, this Act shall become effective upon its
approval by the Governor or upon its becoming law without such approval.

SECTION 3-2.

In accordance with the requirements of Article VII, Section II, Paragraph II(a)(1) of the
Constitution of the State of Georgia, Part II of this Act shall not become law unless it
receives the requisite two-thirds' majority vote in both the Senate and the House of
Representatives.

SECTION 3-3.

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