

House Bill 86 (AS PASSED HOUSE AND SENATE)

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

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 December 31, 2026, or until the aggregate ~~state~~ sales and use tax refunded

17 pursuant to this paragraph exceeds \$4.5 million, whichever occurs first. A qualifying  
18 aquarium must pay sales and use tax on all purchases and uses of tangible personal  
19 property and may obtain the benefit of this exemption from state sales and use tax by  
20 filing a claim for refund of tax paid on qualifying items. All refunds made pursuant to  
21 this paragraph 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~~  
 60 December 31, 2026, or until the aggregate state sales and use tax refunded pursuant to  
 61 this paragraph exceeds ~~\$350,000.00~~ \$800,000.00, whichever occurs first. A qualifying  
 62 zoological institution shall pay sales and use tax on all purchases and uses of tangible  
 63 personal property and may obtain the benefit of this exemption from state sales and use  
 64 tax by filing a claim for refund of tax paid on qualifying items. All refunds made  
 65 pursuant to 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.