

House Bill 405 (AS PASSED HOUSE AND SENATE)

By: Representatives Knight of the 130<sup>th</sup>, Carpenter of the 4<sup>th</sup>, Stephens of the 164<sup>th</sup>, Kelley of the 16<sup>th</sup>, and Beasley-Teague of the 65<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 property tax exemptions, so as to modify provisions related to the  
3 Level 1 Freeport Exemption to include affiliated entities and inventory held for the repair or  
4 modification of goods; to provide for a definition; to provide for related matters; to repeal  
5 conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 2 of Chapter 5 of Title 48 of the Official Code of Georgia Annotated,  
9 relating to property tax exemptions, is amended by revising subsections (b) and (c) of Code  
10 Section 48-5-48.2, relating to the Level 1 Freeport Exemption, as follows:

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

12 (1) 'Affiliates' means those entities that are part of an affiliated group of the taxpayer as  
13 defined in Section 1504(a) of the Internal Revenue Code and all other entities that are  
14 directly or indirectly owned 50 percent or more by members of the affiliated group.

15 ~~(1)~~(2) 'Destined for shipment to a final destination outside this state' means, for purposes  
16 of a level 1 freeport exemption, that portion or percentage of an inventory of finished  
17 goods which the taxpayer can establish, through a historical sales or shipment analysis,  
18 either of which utilizes information from the preceding calendar year, or other reasonable,  
19 documented method, is reasonably anticipated to be shipped to a final destination outside  
20 this state. Such other reasonable, documented method may only be utilized in the case  
21 of a new business, in the case of a substantial change in scope of an existing business, or  
22 in other unusual situations where a historical sales or shipment analysis does not  
23 adequately reflect future anticipated shipments to a final destination outside this state.  
24 It is not necessary that the actual final destination be known as of January 1 in order to  
25 qualify for the exemption.

26 ~~(2)~~(3) 'Finished goods' means, for purposes of a level 1 freeport exemption, goods,  
 27 wares, and merchandise of every character and kind but shall not include unrecovered,  
 28 unextracted, or unsevered natural resources or raw materials or goods in the process of  
 29 manufacture or production or the stock in trade of a retailer.

30 ~~(3)~~(4) 'Foreign merchandise in transit' means, for purposes of a level 1 freeport  
 31 exemption, any goods which are in international commerce where the title has passed to  
 32 a foreign purchaser and the goods are temporarily stored in this state while awaiting  
 33 shipment overseas.

34 ~~(4)~~(5) 'Fulfillment center' means, for purposes of a level 1 freeport exemption, a business  
 35 location in Georgia which is used to pack, ship, store, or otherwise process tangible  
 36 personal property sold by electronic, ~~Internet~~ internet, telephonic, or other remote means,  
 37 provided that such a business location does not allow customers to purchase or receive  
 38 goods onsite at such business location.

39 ~~(5)~~(6) 'Raw materials' means, for purposes of a level 1 freeport exemption, any material,  
 40 whether crude or processed, that can be converted by manufacture, processing, or a  
 41 combination thereof into a new and useful product but shall not include unrecovered,  
 42 unextracted, or unsevered natural resources.

43 ~~(6)~~(7) 'Stock in trade of a fulfillment center' means, for purposes of a level 1 freeport  
 44 exemption, goods, wares, and merchandise held by one in the business of making sales  
 45 of such goods when such goods are held or stored at a fulfillment center.

46 ~~(7)~~(8) 'Stock in trade of a retailer' means, for purposes of a level 1 freeport exemption,  
 47 finished goods held by one in the business of making sales of such goods at retail in this  
 48 state, within the meaning of Chapter 8 of this title, when such goods are held or stored  
 49 at a business location from which such retail sales are regularly made. Goods stored in  
 50 a warehouse, dock, or wharf, including a warehouse or distribution center which is part  
 51 of or adjoins a place of business from which retail sales are regularly made, shall not be  
 52 considered stock in trade of a retailer to the extent that the taxpayer can establish, through  
 53 a historical sales or shipment analysis, either of which utilizes information from the  
 54 preceding calendar year, or other reasonable, documented method, the portion or  
 55 percentage of such goods which is reasonably anticipated to be shipped outside this state  
 56 for resale purposes.

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

61 (1) Inventory of goods in the process of manufacture or production which shall include  
 62 all partly finished goods and raw materials held by the taxpayer, the taxpayer's affiliate,

63 or the taxpayer's designated agent for direct use or consumption in the ordinary course  
64 of the taxpayer's manufacturing or production business in this state. The exemption  
65 provided for in this paragraph shall apply only to tangible personal property which is  
66 substantially modified, altered, combined, or changed in the ordinary course of the  
67 taxpayer's manufacturing, processing, or production operations in this state. For purposes  
68 of this paragraph, the following activities shall constitute substantial modification in the  
69 ordinary course of manufacturing, processing, or production operations:

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

72 (B) The remanufacture of aircraft engines or aircraft engine parts or components,  
73 meaning the substantial overhauling or rebuilding of aircraft engines or aircraft engine  
74 parts or components;

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

77 (D) The substantial assembly of finished parts; and

78 (E) The remanufacture, which includes repair or modification of goods manufactured,  
79 processed, or produced by the taxpayer;

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

85 (3) Inventory of finished goods which, on January 1, are stored in a warehouse, dock, or  
86 wharf, whether public or private, and which are destined for shipment to a final  
87 destination outside this state and inventory of finished goods which are shipped into this  
88 state from outside this state and stored for transshipment to a final destination outside this  
89 state, including foreign merchandise in transit. The exemption provided for in this  
90 paragraph shall be for a period not exceeding 12 months from the date such property is  
91 stored in this state. Such period shall be determined based on application of a first-in,  
92 first-out method of accounting for the inventory. The official books and records of the  
93 warehouse, dock, or wharf where such property is being stored shall contain a full, true,  
94 and accurate inventory of all such property, including the date of the receipt of the  
95 property, the date of the withdrawal of the property, the point of origin of the property,  
96 and the point of final destination of the same, if known. The official books and records  
97 of any such warehouse, dock, or wharf, whether public or private, pertaining to any such  
98 property for which a freeport exemption has been claimed shall be at all times open to the

99 inspection of all taxing authorities of this state and of any political subdivision of this  
100 state; or  
101 (4) Stock in trade of a fulfillment center which, on January 1, is stored in a fulfillment  
102 center and which is made available to remote purchasers who may make such purchases  
103 by electronic, ~~Internet~~ internet, telephonic, or other remote means, and where such stock  
104 in trade of a fulfillment center will be shipped from the fulfillment center and delivered  
105 to the purchaser at a location other than the location of the fulfillment center. The  
106 exemption provided for in this paragraph shall be for a period not exceeding 12 months  
107 from the date such property is stored in this state. Such period shall be determined based  
108 on application of a first-in, first-out method of accounting for the inventory. The official  
109 books and records of the fulfillment center where such property is being stored shall  
110 contain a full, true, and accurate inventory of all such property, including the date of the  
111 receipt of the property and the date of the withdrawal of the property. The official books  
112 and records of any such fulfillment center pertaining to any such property for which a  
113 freeport exemption has been claimed shall be at all times open to the inspection of all  
114 taxing authorities of this state and of any political subdivision of this state."

115 **SECTION 2.**

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