

House Bill 428 (AS PASSED HOUSE AND SENATE)

By: Representative Stephens of the 164th

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 taxes, so as to provide a state and local sales tax exemption
3 for tangible personal property used for or in the renovation or expansion of an aquarium
4 owned or operated by an organization which is exempt from taxation under Section 501(c)(3)
5 of the Internal Revenue Code; to extend a sales tax exemption for materials to be used in
6 certain construction projects of zoological institutions; to provide for an effective date; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

10 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
11 sales and use taxes, is amended by revising paragraphs (76) and (87) as follows:

12 "(76)(A) The sale or use of tangible personal property used for or in the renovation or
13 expansion of an aquarium located in this state that charges for admission and that is
14 owned or operated by an organization which is exempt from taxation under Section
15 501(c)(3) of the Internal Revenue Code, to the extent provided in subparagraphs (B) and
16 (C) of this paragraph.

17 (B) This exemption shall apply from July 1, 2015, until January 1, 2017, or until the
18 aggregate state sales and use tax refunded pursuant to this paragraph exceeds
19 \$750,000.00, whichever occurs first. A qualifying aquarium must pay sales and use tax
20 on all purchases and uses of tangible personal property and may obtain the benefit of
21 this exemption from state sales and use tax by filing a claim for refund of tax paid on
22 qualifying items. All refunds made pursuant to this paragraph will not include interest.

23 (C) This exemption shall apply from July 1, 2015, until January 1, 2017, to any local
24 sales and use tax levied or imposed at any time in any area consisting of less than the
25 entire state, however authorized, including, but not limited to, such taxes authorized by
26 or pursuant to Section 25 of an Act approved March 10, 1965 (Ga. L. 1965, p. 2243).

27 as amended, the 'Metropolitan Atlanta Rapid Transit Authority Act of 1965,' or such
 28 taxes as authorized by or pursuant to Article 2, 2A, 3, 4, or 5 of this chapter.

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

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

40 ~~Notwithstanding any provision of Code Section 48-8-63 to the contrary, from June 4,~~
 41 ~~2003, until January 1, 2007, sales of tangible personal property to, or used in the~~
 42 ~~construction of, an aquarium owned or operated by an organization which is exempt from~~
 43 ~~taxation under Section 501(c)(3) of the Internal Revenue Code;"~~

44 ~~"(87)(A) Notwithstanding any provision of Code Section 48-8-63 to the contrary, from~~
 45 ~~July 1, 2013, until June 30, 2015, sales of tangible personal property used for and in the~~
 46 ~~renovation or expansion of a zoological institution. (B) The sale or use of tangible~~
 47 ~~personal property used for or in the renovation or expansion of a zoological institution~~
 48 ~~to the extent provided in subparagraphs (B) and (C) of this paragraph. As used in this~~
 49 ~~paragraph, the term 'zoological institution' means a nonprofit wildlife park, terrestrial~~
 50 ~~institution, or facility which:~~

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

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

56 (B) This exemption shall apply from July 1, 2016, until June 30, 2018, or until the
 57 aggregate state sales and use tax refunded pursuant to this paragraph exceeds
 58 \$350,000.00, whichever occurs first. A qualifying zoological institution shall pay sales
 59 and use tax on all purchases and uses of tangible personal property and may obtain the
 60 benefit of this exemption from state sales and use tax by filing a claim for refund of tax
 61 paid on qualifying items. All refunds made pursuant to this paragraph shall not include
 62 interest.

63 ~~(C) Any person making a sale of tangible personal property for the purpose specified~~
 64 ~~in this paragraph shall collect the tax imposed on this sale unless the purchaser~~
 65 ~~furnishes such person with an exemption determination letter issued by the~~
 66 ~~commissioner certifying that the purchaser is entitled to purchase the tangible~~
 67 ~~personal property without paying the tax; (i) This exemption shall apply from July~~
 68 ~~1, 2016, until June 30, 2018. A qualifying zoological institution shall pay sales and~~
 69 ~~use tax on all purchases and uses of tangible personal property and may obtain the~~
 70 ~~benefit of this exemption from local sales and use tax by filing a claim for refund of~~
 71 ~~tax paid on qualifying items. All refunds made pursuant to this paragraph shall not~~
 72 ~~include interest.~~

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

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

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

91 **SECTION 2.**

92 This Act shall become effective on July 1, 2015.

93 **SECTION 3.**

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