

House Bill 782

By: Representatives Williamson of the 115th, Peake of the 141st, Abrams of the 89th, Shaw of the 176th, Powell of the 32nd, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to state
2 administration and enforcement of taxation, so as to grant immunity to certain tax liabilities
3 for businesses and employees entering Georgia to repair damage due to a disaster or
4 emergency; to provide for a short title; to provide for definitions; to provide for procedures,
5 conditions, and limitations; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Chapter 2 of Title 48 of the Official Code of Georgia Annotated, relating to state
9 administration and enforcement of taxation, is amended by adding a new article as follows:

10 "ARTICLE 4

11 48-2-100.

12 (a) This Code section shall be known and may be cited as the 'Facilitating Business Rapid
13 Response to State Declared Disasters Act of 2014.'

14 (b) For purposes of this Code section, the term:

15 (1) 'Affected state' means a state where a declared state of disaster or emergency exists.

16 (2) 'Declared state of disaster or emergency' means a disaster or emergency event for
17 which the Governor's state of emergency declaration has been issued or for which a
18 presidential declaration of a federal major disaster or emergency has been issued.

19 (3) 'Disaster or emergency period' means a period that begins ten days prior to the first
20 day of the Governor's declaration or the president's declaration, whichever occurs first,
21 and extends for a period of 60 calendar days after the end of the declared disaster or
22 emergency period.

23 (4) 'Infrastructure' means property and equipment owned or used by communications
24 networks, gas and electric distribution systems, water pipelines, railways, public roads

25 and bridges, and related support facilities that service multiple customers, including but
26 not limited to real and personal property such as buildings, offices, lines, poles, pipes,
27 structures, and equipment.

28 (5) 'Out-of-state business' means a business entity that has no presence in this state and
29 conducts no business in this state whose services are requested by a registered business
30 in this state or by the state or a local government in this state for purposes of performing
31 disaster or emergency related work in this state. This shall also include a business entity
32 that is affiliated with a registered business in this state solely through common ownership
33 if the affiliate has no registrations or required registrations or tax filings or required tax
34 filings or nexus in this state prior to the declared state of disaster or emergency.

35 (6) 'Out-of-state employee' means an employee of an out-of-state business who does not
36 routinely work in this state that is temporarily working in this state to perform disaster
37 or emergency related work, including but not limited to repairing, renovating, installing,
38 building, or rendering services or other business activities that relate to infrastructure that
39 has been damaged or destroyed during a declared state of disaster or emergency.

40 (7) 'Registered business' means a business entity that is currently registered or is required
41 to be registered to do business in this state prior to the declared state of disaster or
42 emergency.

43 (c) The General Assembly finds that:

44 (1) When storms, floods, fires, earthquakes, hurricanes, or other natural disasters or
45 emergencies occur, many businesses assign resources and personnel to the affected state
46 from other states throughout the United States on a temporary basis to expedite the
47 enormous and overwhelming task of cleaning, restoring, and repairing damaged
48 equipment, property, and infrastructure.

49 (2) Most often this disaster or emergency relief effort involves the need for out-of-state
50 businesses, including out-of-state affiliates of businesses registered in the affected state,
51 to bring in resources, property, and personnel to perform disaster related activity in the
52 affected state. In some instances, personnel may be located in the affected state for
53 extended periods of time to perform such activities.

54 (3) During such time of operating in the affected state on a temporary basis solely for
55 purposes of helping the affected state recover from the disaster or emergency, these
56 businesses and employees should not be burdened by any requirements for certain tax
57 liabilities incurred as a result of such activities in the affected state for a temporary
58 period.

59 (4) The affected state's nexus and residency thresholds for tax liability are intended for
60 businesses and individuals in such state conducting regular business operations or who
61 intend to reside permanently in the state and should not be applied to businesses and

62 individuals coming into the state on a temporary basis to provide help and assistance in
63 response to a declared state of disaster or emergency.

64 (5) To ensure that businesses and individuals focus on quick response to the needs of this
65 state and its citizens during a declared state of disaster or emergency, it is appropriate for
66 the General Assembly to deem that such disaster or emergency relief activity for a
67 reasonable period of time during and after the disaster or emergency period shall not
68 establish any liability for purposes of certain state and local taxes, licensing, and
69 regulatory requirements imposed in this state.

70 (d)(1) An out-of-state business whose presence is solely that of conducting operations
71 within this state for purposes related to a declared state of disaster or emergency during
72 the disaster or emergency period shall not be considered to have established a level of
73 presence that would require that business to register, file, and remit certain state or local
74 taxes or that would require that business or its out-of-state employees to be subject to any
75 licensing or registration requirements in this state. This exemption includes, but is not
76 limited to, any state or local business licensing or registration requirements or state and
77 local taxes or fees such as unemployment insurance, state or local occupational licensing
78 fees, and public service commission or secretary of state licensing and regulatory
79 requirements. For purposes of any state or local tax on or measured by, in whole or in
80 part, net or gross income or receipts or net worth, all activity of the out-of-state business
81 that is conducted in this state pursuant to a declared state of disaster or emergency shall
82 not be included in any filing requirements for such tax, including the filing required for
83 a combined group of which the out-of-state business may be a part.

84 (2) Any out-of-state employee shall not be considered to have established residency or
85 a presence in this state that would require that employee or his or her employer to file and
86 pay income taxes, to be subjected to income tax withholdings, or to file and pay any other
87 state or local tax or fee during the disaster or emergency period. This includes any related
88 state or local employer withholding and remittance obligations.

89 (e) Out-of-state businesses and out-of-state employees shall be required to pay transaction
90 taxes and fees including but not limited to fuel taxes or sales and use taxes on materials or
91 services subject to sales and use taxes in this state, hotel taxes, and car rental taxes or fees
92 that the out-of-state business or out-of-state employee purchases for use or consumption
93 in the affected state during the disaster or emergency period, unless such taxes are
94 otherwise exempted during a disaster or emergency period.

95 (f) Any out-of-state business or out-of-state employee that remains in this state after the
96 disaster or emergency period shall become subject to the state's normal requirements for
97 establishing presence, residency, or doing business and shall comply with all state and local
98 registration, licensing, and filing requirements.

99 (g)(1) Any out-of-state business that enters this state to perform qualified work during
100 a disaster or emergency period shall provide to the department and to the Georgia
101 Emergency Management Agency a statement that it is in this state for purposes of
102 responding to the disaster or emergency, which statement shall include the business'
103 name, state of domicile, principal business address, federal tax identification number,
104 date of entry, and contact information.

105 (2) A registered business in this state shall provide the information required in paragraph
106 (1) of this subsection to the department and to the Georgia Emergency Management
107 Agency for any affiliate that enters this state that is an out-of-state business. The
108 notification shall also include contact information for the registered business in this state.

109 (h) The Georgia Emergency Management Agency and the department shall promulgate
110 regulations as necessary to comply with the requirements of this Code section."

111 **SECTION 2.**

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