

House Bill 782 (AS PASSED HOUSE AND SENATE)

By: Representatives Williamson of the 115<sup>th</sup>, Peake of the 141<sup>st</sup>, Abrams of the 89<sup>th</sup>, Shaw of the 176<sup>th</sup>, Powell of the 32<sup>nd</sup>, 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; cable, video, or broadband networks; gas and electric distribution systems;

25 water pipelines; railways; public roads and bridges; and related support facilities that  
26 service multiple customers, including but not limited to real and personal property such  
27 as buildings, offices, lines, poles, pipes, 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 who does not work in this state that is  
36 temporarily working in this state during the disaster or emergency period to perform  
37 disaster or emergency related work in this state to repair, renovate, install, build, or render  
38 services or other business activities that relate to infrastructure that has been damaged or  
39 destroyed during a declared state of disaster or emergency.

40 (7) 'Registered business' means a business entity that owns or operates infrastructure in  
41 this state and is currently registered or is required to be registered to do business in this  
42 state prior to the declared state of disaster or 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 business operations or who intend to  
61 reside in the state and should not be applied to businesses and individuals coming into the

62 state on a temporary basis to provide help and assistance in response to a declared state  
63 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 of performing work or services on infrastructure related to  
72 a declared state of disaster or emergency during the disaster or emergency period shall  
73 not be considered to have established a level of presence that would require that business  
74 to register, file, and remit certain state or local taxes or that would require that business  
75 to be subject to any licensing or registration requirements in this state. This exemption  
76 includes any state or local business licensing or registration requirements, any state or  
77 local employer income tax withholding, unemployment insurance, any state or local  
78 occupational licensing fees, public service commission or secretary of state licensing and  
79 regulatory requirements, and any state or local tax on or measured by, in whole or in part,  
80 net or gross income or receipts or net worth, including the filing required for a combined  
81 group of which the out-of-state business may be a part. For the apportionment of income  
82 pursuant to Chapter 7 of this title, the performance by an out-of-state business of any  
83 work in accordance with this Code section shall not increase the amount of income  
84 apportioned to this state.

85 (2) Any out-of-state employee shall not be considered to have established residency or  
86 a presence in this state that would require that employee to file and pay income taxes, to  
87 be subjected to income tax withholdings, or to be subject to any licensing or registration  
88 requirements in this state.

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 pursuant to Chapter 8 of this title.

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.