

House Bill 1212

By: Representatives Stephens of the 164th, Carpenter of the 4th, Barton of the 5th, Cannon of the 172nd, LaHood of the 175th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
2 specific, business, and occupation taxes, so as to impose an excise tax upon certain proceeds
3 of judgments and settlements intended for the abatement, removal, and remediation of PFAS
4 contamination of land but unused for that purpose; to provide for exceptions; to provide for
5 notice of receipt of damages, filing of returns and payment, and credits; to provide for rules
6 and regulations; to provide for definitions; to provide for a short title; to provide for
7 legislative findings; to provide for notice of excise tax and tax credit to putative PFAS
8 tortfeasors; to provide for related matters; to provide for an effective date and applicability;
9 to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to specific,
13 business, and occupation taxes, is amended by adding a new article to read as follows:

14 "ARTICLE 9

15 48-13-150.

16 This article shall be known and may be cited as the 'PFAS Removal and Remediation
17 Promotion Act.'

18 48-13-151.

19 The General Assembly finds that:

20 (1) The natural resources and environment of this state are of vital importance to the state
21 and its citizens, and the protection and preservation of natural resources and the
22 environment is an essential concern and responsibility of the government of this state;

23 (2) Perfluoroalkyl and polyfluoroalkyl substances, commonly known as 'PFAS,' are
24 widely used chemicals that are present and persistent in the environment in Georgia and
25 throughout the United States and the world;

26 (3) Studies have associated human exposure to certain types of PFAS with risks to
27 human health;

28 (4) Lawsuits have been filed by landowners in this state alleging that their lands have
29 been contaminated by PFAS and seeking damages and other monetary relief for purposes
30 of PFAS abatement, removal, and remediation;

31 (5) Without comment on the merits of such claims, when the proceeds of judgments and
32 settlements intended to fund PFAS abatement, removal, and remediation are not used by
33 a landowner for such purposes, the recovery of such proceeds is a windfall to the
34 landowner, and the unremoved and unremediated PFAS contamination threatens further
35 risk to adjacent lands and waters, including the waters of this state, and imposes a greater
36 burden on the state and its citizens; and

37 (6) Sound public policy should encourage the use of proceeds of judgments and
38 settlements intended to fund PFAS abatement, removal, and remediation for such

39 purposes and, to the extent that such proceeds are directed to other purposes and the
40 PFAS contamination of lands in this state is left unremoved and unremediated, revenue
41 should be raised to offset the greater burden on the state and its citizens.

42 48-13-152.

43 As used in this article, the term:

44 (1) 'Landowner' means any person who owns land in this state.

45 (2) 'PFAS' means any perfluoroalkyl or polyfluoroalkyl substance, any substance that
46 degrades to a perfluoroalkyl or polyfluoroalkyl substance, and any precursor of a
47 perfluoroalkyl or polyfluoroalkyl substance.

48 (3) 'PFAS abatement, removal, and remediation' means activities to abate or remove
49 PFAS from land in this state, including from soil, surface waters, or groundwaters on or
50 beneath such land, or to otherwise remediate PFAS contamination.

51 (4) 'PFAS contamination' means the introduction or presence of PFAS on land in this
52 state, including in soil, surface waters, or groundwaters on or beneath such land.

53 (5) 'Putative PFAS tortfeasor' means any person alleged to be responsible in tort,
54 nuisance, or equity, for PFAS contamination.

55 (6)(A) 'Taxable PFAS damages' means gross amounts paid by, or on behalf of, a
56 putative PFAS tortfeasor to a landowner as damages or other monetary relief in an
57 action alleging property damage from PFAS contamination for the costs and expenses
58 of PFAS abatement, removal, and remediation.

59 (B) Such term shall not include damages or other monetary relief awarded by judgment
60 or agreed by settlement to be paid for other purposes, including, but not limited to,
61 amounts paid as damages or other monetary relief for:

62 (i) Diminution of the value of land;

63 (ii) Loss of use or enjoyment of land; or

64 (iii) Bodily injury, mental or emotional distress, or wrongful death of a landowner,
65 any member of the household of a landowner, or any other person.

66 48-13-153.

67 There shall be imposed an excise tax on all taxable PFAS damages received by a
68 landowner in the amount of 50 percent of such taxable PFAS damages.

69 48-13-154.

70 (a) Within 30 days after a landowner receives any taxable PFAS damages, the landowner
71 or his or her counsel shall file a notice of receipt of damages for PFAS abatement, removal,
72 and remediation with the commissioner.

73 (b) Each landowner who receives any taxable PFAS damages shall file a return and pay
74 the tax due on January 15 of the calendar year following the third anniversary of the receipt
75 of such taxable PFAS damages.

76 (c)(1) A landowner shall be entitled to a credit against the tax due under subsection (b)
77 of this Code section for:

78 (A) Fifty percent of any funds expended by the landowner, directly or indirectly, for
79 PFAS abatement, removal, and remediation of the land that was the subject of the
80 judgment or settlement under which the amounts taxed were paid to the landowner,
81 provided that such funds are expended on or before December 31 of the calendar year
82 immediately preceding the year in which the return is due; and

83 (B) Fifty percent of any funds placed into an irrevocable trust for the exclusive purpose
84 of financing PFAS abatement, removal, and remediation of the land in this state that
85 was the subject of the judgment or settlement under which the amounts taxed were paid
86 to the landowner, provided that such trust is established and the funds are irrevocably
87 paid into the trust on or before December 31 of the calendar year immediately
88 preceding the year in which the return is due.

89 (2) A landowner may claim the credit provided for in paragraph (1) of this subsection in
90 the return due pursuant to subsection (b) of this Code section.

91 (c) The return and payment of the tax due pursuant to this Code section shall be made to
92 the commissioner. The return shall be signed and sworn to by the landowner; provided,
93 however, that, if the landowner is a corporation, limited liability company, partnership,
94 trust, or other entity, the return shall be signed and sworn to by an authorized officer,
95 director, executor, or member of such entity.

96 (e) The commissioner is authorized to prescribe the form of the notice due under
97 subsection (a) of this Code section and the return due under subsection (b) of this Code
98 section.

99 (f) The department is authorized to adopt and enforce such rules and regulations as may
100 be necessary to enforce this article."

101 **SECTION 2.**

102 Chapter 1 of Title 51 of the Official Code of Georgia Annotated, relating to general
103 provisions regarding torts, is amended by adding a new Code section to read as follows:

104 "51-1-58.

105 Prior to initiating an action pursuant to this title against a putative PFAS tortfeasor, as
106 defined in Code Section 48-13-152, a plaintiff or plaintiff's attorney shall provide notice
107 in writing by statutory overnight delivery to the putative PFAS tortfeasor of the excise tax
108 and tax credit provided for by Article 9 of Chapter 13 of Title 48."

109 **SECTION 3.**

110 This Act shall become effective on January 1, 2027, and shall apply to amounts paid to
111 landowners on and after such date.

112

SECTION 4.

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