

House Bill 1052

By: Representatives Parsons of the 44th, Harrell of the 106th, and Blackmon of the 146th

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 state sales and use taxes, so as to provide for an exemption from state and
3 local sales and use taxes for the sale or use of equipment used in the business of providing
4 communications services; to provide for conditions and limitations; to provide for an
5 aggregate annual cap for refunded amounts and pro rata refunds if such cap is exceeded; to
6 provide for definitions; to provide for an effective date; to provide for related matters; to
7 repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-8-3 of the Official Code of Georgia Annotated, relating to exemptions from
11 state sales and use taxes, is amended by revising paragraph (85), which is reserved, as
12 follows:

13 "(85)(A) Sales of equipment used in the business of providing communications services
14 to the extent provided and limited by this paragraph.

15 (B) As used in this paragraph:

16 (i) 'Affiliate' means the members of an affiliated group of a business enterprise within
17 the meaning of Section 1504(a) of the Internal Revenue Code and also means any
18 entity, notwithstanding its form of organization, that would otherwise qualify as a
19 member of such affiliated group.

20 (ii) 'Communications services' means internet access as such term is defined in 47
21 U.S.C. Section 151, note, telecommunications services, video programming services,
22 or any combination thereof.

23 (iii) 'Communications services provider' means a provider of communications
24 services or an affiliate of a provider of communications services.

25 (iv) 'Eligible tangible personal property' means tangible personal property used to
26 transmit, convey, amplify, or route information such as images, text, voice, video

27 programming, other video content, or data. The term shall include, but not be limited
 28 to, cable modem termination system components and Wifi equipment; headend and
 29 hub equipment; monitoring equipment; fiber optic cable; coaxial cable; conduit;
 30 distribution plants; customer connection equipment; telecommunications radio,
 31 routing, and switching equipment; software; equipment enclosures above or below
 32 ground; towers; poles; mounts; electricity; transmitters; power equipment; diagnostic
 33 equipment; storage devices; servers; multiplexers; amplifiers; antennas; other related
 34 property and equipment; and expenses incurred to apply, install, maintain, operate,
 35 or repair such tangible personal property.

36 (v) 'Equipment used in the business of providing communications services' means all
 37 eligible tangible personal property used by a communications services provider to
 38 furnish communications services in this state.

39 (vi) 'Video programming service' means the sale, offering, transmission, conveyance,
 40 or routing of video programming or other video content for purchase by subscribers
 41 or customers, regardless of the medium, technology, or method of display and
 42 regardless of the payment schedule or storage method used to purchase or access such
 43 video programming or video content. The term shall also include, but shall not be
 44 limited to, the provision of video programming by a multichannel video programming
 45 distributor, as defined in paragraphs (20) and (13) of 47 U.S.C. Section 522, including
 46 cable service, as defined in 47 U.S.C. Section 522, and any substantially equivalent
 47 successor technology.

48 (C) Notwithstanding the exemption granted by this paragraph, each communications
 49 services provider shall pay the taxes imposed by this chapter on the purchase or use of
 50 any equipment used in the business of providing communications services; provided,
 51 however, that a communication services provider shall be entitled to obtain the benefit
 52 of the exemption granted by this paragraph by filing a claim for refund of such taxes.
 53 Refunds made pursuant to this subparagraph shall not include interest.

54 (D) The aggregate amount of refund issued pursuant to subparagraph (C) of this
 55 paragraph shall not exceed \$100 million in any calendar year. If the aggregate amount
 56 of refunds filed pursuant to subparagraph (C) of this paragraph exceeds \$100 million
 57 in a calendar year, a pro rata share of the eligible amount of each communication
 58 services provider's refund shall be refunded to each communications services provider.
 59 Eligible amounts filed that are not refunded to a communications service provider
 60 pursuant to this subparagraph in a calendar year cannot be refunded or refiled during
 61 any other calendar year.

62 (E) The commissioner shall adopt rules and regulations governing the process for
 63 applying for a refund as provided in this section Reserved;"

64 **SECTION 2.**

65 This Act shall become effective on July 1, 2020.

66 **SECTION 3.**

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