

BUSINESS AND COMMERCE CODE

TITLE 5. REGULATION OF BUSINESSES AND SERVICES

SUBTITLE C. BUSINESS OPERATIONS

CHAPTER 112. FACILITATING BUSINESS RAPID RESPONSE TO STATE

DECLARED DISASTERS ACT

Sec. 112.001. SHORT TITLE. This chapter may be cited as the Facilitating Business Rapid Response to State Declared Disasters Act.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 1, eff. June 16, 2015.

Sec. 112.002. LEGISLATIVE FINDINGS. The legislature finds that:

(1) during times of storm, flood, fire, earthquake, hurricane, or other disaster or emergency, many Texas businesses bring in resources and personnel from other states on a temporary basis to expedite the often enormous and overwhelming tasks of cleaning up, restoring, and repairing damaged buildings, equipment, and property, and deploying and building new replacement facilities in the state;

(2) accomplishing those tasks may necessitate out-of-state businesses, including out-of-state affiliates of Texas businesses, bringing into Texas resources, property, and personnel that previously had no connection to Texas to perform business activities in Texas, including repairing, renovating, installing, and building, for extended periods of time;

(3) during those periods of time, out-of-state businesses and employees performing business activities in Texas on a temporary basis solely for the purpose of helping the state recover from a disaster or emergency should not be burdened by any requirements that the out-of-state businesses or employees pay taxes as a result of performing those activities; and

(4) to ensure that out-of-state businesses may focus on quickly responding to the needs of Texas and its citizens during a disaster or emergency, it is appropriate for the legislature to provide that those businesses and their employees are not subject

to certain state and local registration and licensing requirements and taxes for performing business activities before, during, and after the disaster or emergency to repair and restore devastating damage to critical property and infrastructure in the state.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 1, eff. June 16, 2015.

Sec. 112.003. DEFINITIONS. In this chapter:

(1) "Affiliate" means a member of a combined group as that term is described by Section 171.1014, Tax Code.

(2) "Critical infrastructure" means equipment and property that is owned or used by a telecommunications provider or cable operator or for communications networks, electric generation, electric transmission and distribution systems, natural gas and natural gas liquids gathering, processing, and storage, transmission and distribution systems, and water pipelines and related support facilities, equipment, and property that serve multiple persons, including buildings, offices, structures, lines, poles, and pipes.

(3) "Declared state disaster or emergency" means a disaster or emergency event that occurs in this state and:

(A) in response to which the governor issues an executive order or proclamation declaring a state of disaster or a state of emergency; or

(B) that the president of the United States declares a major disaster or emergency.

(4) "Disaster- or emergency-related work" means repairing, renovating, installing, building, rendering services, or performing other business activities relating to the repair or replacement of critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.

(5) "Disaster response period" means:

(A) the period that:

(i) begins on the 10th day before the date of the earliest event establishing a declared state disaster or emergency by the issuance of an executive order or proclamation by the governor or a declaration of the president of the United States;

and

(ii) ends on the earlier of the 120th day after the start date or the 60th day after the ending date of the disaster or emergency period established by the executive order or proclamation or declaration, or on a later date as determined by an executive order or proclamation by the governor; or

(B) the period that, with respect to an out-of-state business entity described by this paragraph:

(i) begins on the date that the out-of-state business entity enters this state in good faith under a mutual assistance agreement and in anticipation of a state disaster or emergency, regardless of whether a state disaster or emergency is actually declared; and

(ii) ends on the earlier of the date that the work is concluded or the seventh day after the out-of-state business entity enters this state.

(6) "In-state business entity" means a domestic entity or foreign entity that is authorized to transact business in this state immediately before a disaster response period.

(7) "Mutual assistance agreement" means an agreement to which one or more business entities are parties and under which a public utility, municipally owned utility, or joint agency owning, operating, or owning and operating critical infrastructure used for electric generation, transmission, or distribution in this state may request that an out-of-state business entity perform work in this state in anticipation of a state disaster or emergency.

(8) "Out-of-state business entity" means a foreign entity that enters this state at the request of an in-state business entity under a mutual assistance agreement or is an affiliate of an in-state business entity and:

(A) that:

(i) except with respect to the performance of disaster- or emergency-related work:

(a) has no physical presence in this state and is not authorized to transact business in this state immediately before a disaster response period; and

(b) is not registered with the

secretary of state to transact business in this state, does not file a tax report with this state or a political subdivision of this state, and does not have a nexus with this state for the purpose of taxation during the tax year immediately preceding the disaster response period; and

(ii) enters this state at the request of an in-state business entity, the state, or a political subdivision of this state to perform disaster- or emergency-related work in this state during the disaster response period; or

(B) that performs work in this state under a mutual assistance agreement.

(9) "Out-of-state employee" means an employee who enters this state to perform disaster- or emergency-related work during a disaster response period. The term does not include a security guard or other employee whose primary function is to provide security services or an employee whose primary function is to install or repair heating or cooling equipment.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. [2358](#)), Sec. 1, eff. June 16, 2015.

Sec. 112.004. EXEMPTION OF OUT-OF-STATE BUSINESS ENTITY FROM CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD. Notwithstanding any other law and except as provided by Section [112.006](#), an out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period is not required to:

(1) register with the secretary of state;

(2) file a tax report with or pay taxes or fees to this state or a political subdivision of this state;

(3) pay an ad valorem tax or use tax on equipment that is brought into the state by the entity, used only by the entity to perform disaster- or emergency-related work during the disaster response period, and removed from the state by the entity following the disaster response period;

(4) comply with state or local business licensing or registration requirements; or

(5) comply with state or local occupational licensing requirements or related fees.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 1, eff. June 16, 2015.

Sec. 112.005. EXEMPTION OF OUT-OF-STATE EMPLOYEE FROM CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD. Notwithstanding any other law and except as provided by Section 112.006, an out-of-state employee whose only employment in this state is for the performance of disaster- or emergency-related work during a disaster response period is not required to:

(1) file a tax report with or pay taxes or fees to this state or a political subdivision of this state; or

(2) comply with state or local occupational licensing requirements or related fees, if the employee is in substantial compliance with applicable occupational licensing requirements in the employee's state of residence or principal employment.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 1, eff. June 16, 2015.

Sec. 112.006. TRANSACTION TAXES AND FEES. An out-of-state business entity whose transaction of business in this state is limited to the performance of disaster- or emergency-related work during a disaster response period or an out-of-state employee whose only employment in this state is for the performance of disaster- or emergency-related work during a disaster response period is subject to a transaction tax or fee, including a motor fuels tax, sales or use tax, hotel occupancy tax, and the tax imposed on the rental of a motor vehicle, that is imposed in this state, unless the entity or employee is otherwise exempt from the tax or fee.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. 2358), Sec. 1, eff. June 16, 2015.

Sec. 112.007. NOTIFICATION PROCEDURES. (a) If requested by the secretary of state, an out-of-state business entity shall provide to the secretary of state a statement that the entity came to this state for the purpose of performing disaster- or

emergency-related work during a disaster response period and that includes:

- (1) the entity's name;
- (2) the entity's jurisdiction of formation;
- (3) the address of the principal office of the entity;
- (4) the entity's federal tax identification number;
- (5) the date that the entity entered the state; and
- (6) contact information for the entity.

(b) If requested by the secretary of state, an in-state business entity shall provide to the secretary of state, along with the in-state business entity's contact information, the information listed in Subsection (a) for any affiliate of the in-state business entity that entered the state as an out-of-state business entity.

(c) The secretary of state shall keep records of and make available to the public any statements or information provided to the secretary of state under this section.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. [2358](#)), Sec. 1, eff. June 16, 2015.

Sec. 112.008. OBLIGATIONS OF OUT-OF-STATE BUSINESS ENTITIES AND EMPLOYEES AFTER DISASTER RESPONSE PERIOD. An out-of-state business entity or out-of-state employee who remains in this state after a disaster response period is not entitled to any exemptions from obligations provided by this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. [2358](#)), Sec. 1, eff. June 16, 2015.

Sec. 112.009. REGULATIONS. The secretary of state shall adopt regulations, including developing any necessary forms or processes, to implement this chapter.

Added by Acts 2015, 84th Leg., R.S., Ch. 559 (H.B. [2358](#)), Sec. 1, eff. June 16, 2015.