

By: Lucio III, Anderson of Dallas

H.B. No. 2358

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the exemption from certain registration and licensing
3 requirements and taxes for certain businesses and employees who
4 enter this state in response to a disaster or emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
7 amended by adding Chapter 112 to read as follows:

8 CHAPTER 112. FACILITATING BUSINESS RAPID RESPONSE TO STATE

9 DECLARED DISASTERS ACT

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

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

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

22 (2) accomplishing those tasks may necessitate
23 out-of-state businesses, including out-of-state affiliates of
24 Texas businesses, bringing into Texas resources, property, and

1 personnel that previously had no connection to Texas to perform
2 business activities in Texas, including repairing, renovating,
3 installing, and building, for extended periods of time;

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

10 (4) to ensure that out-of-state businesses may focus
11 on quickly responding to the needs of Texas and its citizens during
12 a disaster or emergency, it is appropriate for the legislature to
13 provide that those businesses and their employees are not subject
14 to certain state and local registration and licensing requirements
15 and taxes for performing business activities before, during, and
16 after the disaster or emergency to repair and restore devastating
17 damage to critical property and infrastructure in the state.

18 Sec. 112.003. DEFINITIONS. In this chapter:

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

21 (2) "Critical infrastructure" means equipment and
22 property that is owned or used by a telecommunications provider or
23 cable operator or for communications networks, electric
24 generation, electric transmission and distribution systems,
25 natural gas and natural gas liquids gathering, processing, and
26 storage, transmission and distribution systems, and water
27 pipelines and related support facilities, equipment, and property

1 that serve multiple persons, including buildings, offices,
2 structures, lines, poles, and pipes.

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

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

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

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

15 (5) "Disaster response period" means:

16 (A) the period that:

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

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

27 (B) the period that, with respect to an

1 out-of-state business entity described by this paragraph:

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

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

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

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

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

24 (A) that:

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

27 (a) has no physical presence in this

1 state and is not authorized to transact business in this state
2 immediately before a disaster response period; and

3 (b) is not registered with the
4 secretary of state to transact business in this state, does not file
5 a tax report with this state or a political subdivision of this
6 state, and does not have a nexus with this state for the purpose of
7 taxation during the tax year immediately preceding the disaster
8 response period; and

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

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

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

21 Sec. 112.004. EXEMPTION OF OUT-OF-STATE BUSINESS ENTITY
22 FROM CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD.

23 Notwithstanding any other law and except as provided by Section
24 112.006, an out-of-state business entity whose transaction of
25 business in this state is limited to the performance of disaster- or
26 emergency-related work during a disaster response period is not
27 required to:

1 (1) register with the secretary of state;

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

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

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

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

13 Sec. 112.005. EXEMPTION OF OUT-OF-STATE EMPLOYEE FROM
14 CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD.

15 Notwithstanding any other law and except as provided by Section
16 112.006, an out-of-state employee whose only employment in this
17 state is for the performance of disaster- or emergency-related work
18 during a disaster response period is not required to:

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

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

25 Sec. 112.006. TRANSACTION TAXES AND FEES. An out-of-state
26 business entity whose transaction of business in this state is
27 limited to the performance of disaster- or emergency-related work

1 during a disaster response period or an out-of-state employee whose
2 only employment in this state is for the performance of disaster- or
3 emergency-related work during a disaster response period is subject
4 to a transaction tax or fee, including a motor fuels tax, sales or
5 use tax, hotel occupancy tax, and the tax imposed on the rental of a
6 motor vehicle, that is imposed in this state, unless the entity or
7 employee is otherwise exempt from the tax or fee.

8 Sec. 112.007. NOTIFICATION PROCEDURES. (a) If requested
9 by the secretary of state, an out-of-state business entity shall
10 provide to the secretary of state a statement that the entity came
11 to this state for the purpose of performing disaster- or
12 emergency-related work during a disaster response period and that
13 includes:

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

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

26 (c) The secretary of state shall keep records of and make
27 available to the public any statements or information provided to

1 the secretary of state under this section.

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

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

10 SECTION 2. (a) Subchapter B, Chapter 151, Tax Code, is
11 amended by adding Section 151.0241 to read as follows:

12 Sec. 151.0241. PERSONS PERFORMING DISASTER- OR
13 EMERGENCY-RELATED WORK. (a) In this section, "disaster- or
14 emergency-related work," "disaster response period," and
15 "out-of-state business entity" have the meanings assigned by
16 Section 112.003, Business & Commerce Code.

17 (b) An out-of-state business entity is not engaged in
18 business in this state for purposes of Sections 151.107 and 151.403
19 or any other provision of this chapter applicable to a person
20 engaged in business in this state if the entity's physical presence
21 in this state is solely from the entity's performance of disaster-
22 or emergency-related work during a disaster response period.

23 (b) Section 151.0241, Tax Code, as added by this section,
24 does not affect tax liability accruing before the effective date of
25 this Act. That liability continues in effect as if this Act had not
26 been enacted, and the former law is continued in effect for the
27 collection of taxes due and for civil and criminal enforcement of

1 the liability for those taxes.

2 SECTION 3. This Act takes effect immediately if it receives
3 a vote of two-thirds of all the members elected to each house, as
4 provided by Section 39, Article III, Texas Constitution. If this
5 Act does not receive the vote necessary for immediate effect, this
6 Act takes effect September 1, 2015.