

1-1 By: Lucio III, Anderson of Dallas H.B. No. 2358
 1-2 (Senate Sponsor - Eltife)
 1-3 (In the Senate - Received from the House May 5, 2015;
 1-4 May 6, 2015, read first time and referred to Committee on Business
 1-5 and Commerce; May 15, 2015, reported favorably by the following
 1-6 vote: Yeas 8, Nays 0; May 15, 2015, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9			X	
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 A BILL TO BE ENTITLED
 1-19 AN ACT

1-20 relating to the exemption from certain registration and licensing
 1-21 requirements and taxes for certain businesses and employees who
 1-22 enter this state in response to a disaster or emergency.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle C, Title 5, Business & Commerce Code, is
 1-25 amended by adding Chapter 112 to read as follows:

1-26 CHAPTER 112. FACILITATING BUSINESS RAPID RESPONSE TO STATE
 1-27 DECLARED DISASTERS ACT

1-28 Sec. 112.001. SHORT TITLE. This chapter may be cited as the
 1-29 Facilitating Business Rapid Response to State Declared Disasters
 1-30 Act.

1-31 Sec. 112.002. LEGISLATIVE FINDINGS. The legislature finds
 1-32 that:

1-33 (1) during times of storm, flood, fire, earthquake,
 1-34 hurricane, or other disaster or emergency, many Texas businesses
 1-35 bring in resources and personnel from other states on a temporary
 1-36 basis to expedite the often enormous and overwhelming tasks of
 1-37 cleaning up, restoring, and repairing damaged buildings,
 1-38 equipment, and property, and deploying and building new replacement
 1-39 facilities in the state;

1-40 (2) accomplishing those tasks may necessitate
 1-41 out-of-state businesses, including out-of-state affiliates of
 1-42 Texas businesses, bringing into Texas resources, property, and
 1-43 personnel that previously had no connection to Texas to perform
 1-44 business activities in Texas, including repairing, renovating,
 1-45 installing, and building, for extended periods of time;

1-46 (3) during those periods of time, out-of-state
 1-47 businesses and employees performing business activities in Texas on
 1-48 a temporary basis solely for the purpose of helping the state
 1-49 recover from a disaster or emergency should not be burdened by any
 1-50 requirements that the out-of-state businesses or employees pay
 1-51 taxes as a result of performing those activities; and

1-52 (4) to ensure that out-of-state businesses may focus
 1-53 on quickly responding to the needs of Texas and its citizens during
 1-54 a disaster or emergency, it is appropriate for the legislature to
 1-55 provide that those businesses and their employees are not subject
 1-56 to certain state and local registration and licensing requirements
 1-57 and taxes for performing business activities before, during, and
 1-58 after the disaster or emergency to repair and restore devastating
 1-59 damage to critical property and infrastructure in the state.

1-60 Sec. 112.003. DEFINITIONS. In this chapter:

1-61 (1) "Affiliate" means a member of a combined group as

2-1 that term is described by Section 171.1014, Tax Code.

2-2 (2) "Critical infrastructure" means equipment and
 2-3 property that is owned or used by a telecommunications provider or
 2-4 cable operator or for communications networks, electric
 2-5 generation, electric transmission and distribution systems,
 2-6 natural gas and natural gas liquids gathering, processing, and
 2-7 storage, transmission and distribution systems, and water
 2-8 pipelines and related support facilities, equipment, and property
 2-9 that serve multiple persons, including buildings, offices,
 2-10 structures, lines, poles, and pipes.

2-11 (3) "Declared state disaster or emergency" means a
 2-12 disaster or emergency event that occurs in this state and:

2-13 (A) in response to which the governor issues an
 2-14 executive order or proclamation declaring a state of disaster or a
 2-15 state of emergency; or

2-16 (B) that the president of the United States
 2-17 declares a major disaster or emergency.

2-18 (4) "Disaster- or emergency-related work" means
 2-19 repairing, renovating, installing, building, rendering services,
 2-20 or performing other business activities relating to the repair or
 2-21 replacement of critical infrastructure that has been damaged,
 2-22 impaired, or destroyed by a declared state disaster or emergency.

2-23 (5) "Disaster response period" means:

2-24 (A) the period that:

2-25 (i) begins on the 10th day before the date
 2-26 of the earliest event establishing a declared state disaster or
 2-27 emergency by the issuance of an executive order or proclamation by
 2-28 the governor or a declaration of the president of the United States;
 2-29 and

2-30 (ii) ends on the earlier of the 120th day
 2-31 after the start date or the 60th day after the ending date of the
 2-32 disaster or emergency period established by the executive order or
 2-33 proclamation or declaration, or on a later date as determined by an
 2-34 executive order or proclamation by the governor; or

2-35 (B) the period that, with respect to an
 2-36 out-of-state business entity described by this paragraph:

2-37 (i) begins on the date that the
 2-38 out-of-state business entity enters this state in good faith under
 2-39 a mutual assistance agreement and in anticipation of a state
 2-40 disaster or emergency, regardless of whether a state disaster or
 2-41 emergency is actually declared; and

2-42 (ii) ends on the earlier of the date that
 2-43 the work is concluded or the seventh day after the out-of-state
 2-44 business entity enters this state.

2-45 (6) "In-state business entity" means a domestic entity
 2-46 or foreign entity that is authorized to transact business in this
 2-47 state immediately before a disaster response period.

2-48 (7) "Mutual assistance agreement" means an agreement
 2-49 to which one or more business entities are parties and under which a
 2-50 public utility, municipally owned utility, or joint agency owning,
 2-51 operating, or owning and operating critical infrastructure used for
 2-52 electric generation, transmission, or distribution in this state
 2-53 may request that an out-of-state business entity perform work in
 2-54 this state in anticipation of a state disaster or emergency.

2-55 (8) "Out-of-state business entity" means a foreign
 2-56 entity that enters this state at the request of an in-state business
 2-57 entity under a mutual assistance agreement or is an affiliate of an
 2-58 in-state business entity and:

2-59 (A) that:

2-60 (i) except with respect to the performance
 2-61 of disaster- or emergency-related work:

2-62 (a) has no physical presence in this
 2-63 state and is not authorized to transact business in this state
 2-64 immediately before a disaster response period; and

2-65 (b) is not registered with the
 2-66 secretary of state to transact business in this state, does not file
 2-67 a tax report with this state or a political subdivision of this
 2-68 state, and does not have a nexus with this state for the purpose of
 2-69 taxation during the tax year immediately preceding the disaster

3-1 response period; and

3-2 (ii) enters this state at the request of an
 3-3 in-state business entity, the state, or a political subdivision of
 3-4 this state to perform disaster- or emergency-related work in this
 3-5 state during the disaster response period; or

3-6 (B) that performs work in this state under a
 3-7 mutual assistance agreement.

3-8 (9) "Out-of-state employee" means an employee who
 3-9 enters this state to perform disaster- or emergency-related work
 3-10 during a disaster response period. The term does not include a
 3-11 security guard or other employee whose primary function is to
 3-12 provide security services or an employee whose primary function is
 3-13 to install or repair heating or cooling equipment.

3-14 Sec. 112.004. EXEMPTION OF OUT-OF-STATE BUSINESS ENTITY
 3-15 FROM CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD.
 3-16 Notwithstanding any other law and except as provided by Section
 3-17 112.006, an out-of-state business entity whose transaction of
 3-18 business in this state is limited to the performance of disaster- or
 3-19 emergency-related work during a disaster response period is not
 3-20 required to:

3-21 (1) register with the secretary of state;

3-22 (2) file a tax report with or pay taxes or fees to this
 3-23 state or a political subdivision of this state;

3-24 (3) pay an ad valorem tax or use tax on equipment that
 3-25 is brought into the state by the entity, used only by the entity to
 3-26 perform disaster- or emergency-related work during the disaster
 3-27 response period, and removed from the state by the entity following
 3-28 the disaster response period;

3-29 (4) comply with state or local business licensing or
 3-30 registration requirements; or

3-31 (5) comply with state or local occupational licensing
 3-32 requirements or related fees.

3-33 Sec. 112.005. EXEMPTION OF OUT-OF-STATE EMPLOYEE FROM
 3-34 CERTAIN OBLIGATIONS DURING DISASTER RESPONSE PERIOD.
 3-35 Notwithstanding any other law and except as provided by Section
 3-36 112.006, an out-of-state employee whose only employment in this
 3-37 state is for the performance of disaster- or emergency-related work
 3-38 during a disaster response period is not required to:

3-39 (1) file a tax report with or pay taxes or fees to this
 3-40 state or a political subdivision of this state; or

3-41 (2) comply with state or local occupational licensing
 3-42 requirements or related fees, if the employee is in substantial
 3-43 compliance with applicable occupational licensing requirements in
 3-44 the employee's state of residence or principal employment.

3-45 Sec. 112.006. TRANSACTION TAXES AND FEES. An out-of-state
 3-46 business entity whose transaction of business in this state is
 3-47 limited to the performance of disaster- or emergency-related work
 3-48 during a disaster response period or an out-of-state employee whose
 3-49 only employment in this state is for the performance of disaster- or
 3-50 emergency-related work during a disaster response period is subject
 3-51 to a transaction tax or fee, including a motor fuels tax, sales or
 3-52 use tax, hotel occupancy tax, and the tax imposed on the rental of a
 3-53 motor vehicle, that is imposed in this state, unless the entity or
 3-54 employee is otherwise exempt from the tax or fee.

3-55 Sec. 112.007. NOTIFICATION PROCEDURES. (a) If requested
 3-56 by the secretary of state, an out-of-state business entity shall
 3-57 provide to the secretary of state a statement that the entity came
 3-58 to this state for the purpose of performing disaster- or
 3-59 emergency-related work during a disaster response period and that
 3-60 includes:

3-61 (1) the entity's name;

3-62 (2) the entity's jurisdiction of formation;

3-63 (3) the address of the principal office of the entity;

3-64 (4) the entity's federal tax identification number;

3-65 (5) the date that the entity entered the state; and

3-66 (6) contact information for the entity.

3-67 (b) If requested by the secretary of state, an in-state
 3-68 business entity shall provide to the secretary of state, along with
 3-69 the in-state business entity's contact information, the

4-1 information listed in Subsection (a) for any affiliate of the
4-2 in-state business entity that entered the state as an out-of-state
4-3 business entity.

4-4 (c) The secretary of state shall keep records of and make
4-5 available to the public any statements or information provided to
4-6 the secretary of state under this section.

4-7 Sec. 112.008. OBLIGATIONS OF OUT-OF-STATE BUSINESS
4-8 ENTITIES AND EMPLOYEES AFTER DISASTER RESPONSE PERIOD. An
4-9 out-of-state business entity or out-of-state employee who remains
4-10 in this state after a disaster response period is not entitled to
4-11 any exemptions from obligations provided by this chapter.

4-12 Sec. 112.009. REGULATIONS. The secretary of state shall
4-13 adopt regulations, including developing any necessary forms or
4-14 processes, to implement this chapter.

4-15 SECTION 2. (a) Subchapter B, Chapter 151, Tax Code, is
4-16 amended by adding Section 151.0241 to read as follows:

4-17 Sec. 151.0241. PERSONS PERFORMING DISASTER- OR
4-18 EMERGENCY-RELATED WORK. (a) In this section, "disaster- or
4-19 emergency-related work," "disaster response period," and
4-20 "out-of-state business entity" have the meanings assigned by
4-21 Section 112.003, Business & Commerce Code.

4-22 (b) An out-of-state business entity is not engaged in
4-23 business in this state for purposes of Sections 151.107 and 151.403
4-24 or any other provision of this chapter applicable to a person
4-25 engaged in business in this state if the entity's physical presence
4-26 in this state is solely from the entity's performance of disaster-
4-27 or emergency-related work during a disaster response period.

4-28 (b) Section 151.0241, Tax Code, as added by this section,
4-29 does not affect tax liability accruing before the effective date of
4-30 this Act. That liability continues in effect as if this Act had not
4-31 been enacted, and the former law is continued in effect for the
4-32 collection of taxes due and for civil and criminal enforcement of
4-33 the liability for those taxes.

4-34 SECTION 3. This Act takes effect immediately if it receives
4-35 a vote of two-thirds of all the members elected to each house, as
4-36 provided by Section 39, Article III, Texas Constitution. If this
4-37 Act does not receive the vote necessary for immediate effect, this
4-38 Act takes effect September 1, 2015.

4-39

* * * * *