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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- STATE DECLARED DISASTERS

Introduced By: Representatives Kennedy, San Bento, Williams, Naughton, and E Coderre

Date Introduced: February 02, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 5 of the General Laws entitled "BUSINESSES AND PROFESSIONS"
2 is hereby amended by adding thereto the following chapter:

3 CHAPTER 86

4 FACILITATING BUSINESS-RAPID RESPONSE TO STATE DECLARED DISASTER ACT

5 OF 2012

6 **5-86-1. Short title.** – This act shall be known and may be cited as the “Facilitating
7 Business Rapid Response to State Declared Disasters Act of 2012.”

8 **5-86-2. Legislative findings.** – (a) During times of storm, flood, fire, earthquake,
9 hurricane or other disaster or emergency, many companies bring in resources and personnel from
10 other states throughout the U.S. on a temporary basis to expedite the often enormous and
11 overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and
12 property or even deploying or building replacement facilities in the state;

13 (b) This may involve the need for out-of-state companies, including out-of-state affiliates
14 of companies based in the state to bring in resources, property and/or personnel that previously
15 have had no connection to the state, to perform activity in the state including, but not limited to,
16 repairing, renovating, installing, building, rendering services or other business activities and for
17 which personnel may be located in the state for extended periods of time to perform such
18 activities;

19 (c) During such time of operating in the state on a temporary basis solely for purposes of

1 helping the state recover from the disaster or emergency, these companies and individual
2 employees should not be burdened by any requirements for business and employee taxes as a
3 result of such activities in the state for a temporary period;

4 (d) The state’s nexus and residency thresholds are intended for businesses and individuals
5 in the state as part of the conduct of regular business operations or who intend to reside in the
6 state and should not be directed at companies and individuals coming into the state on a
7 temporary basis to provide assistance in response to a declared state disaster or emergency; and

8 (e) To ensure that companies may focus on quick response to the needs of the state and
9 its citizens during a declared state disaster or emergency it is appropriate for the legislature to
10 deem that such activity, for a reasonable period of time during and after the disaster or emergency
11 for repairing and restoration of the often devastating damage to property and infrastructure in the
12 state, shall not establish presence, residency, nor doing business in the state nor any other criteria
13 for purposes of state and local taxes, licensing and regulatory requirements.

14 **5-86-3. Definitions.** – As used in this chapter, the following terms shall have the
15 following meanings:

16 (1) “Registered business in the state” (or “registered business”) means a business entity
17 that is currently registered to do business in the state prior to the declared state disaster or
18 emergency.

19 (2) “Out-of-state business” means a business entity that has no presence in the state and
20 conducts no business in the state whose services are requested by a registered business or by a
21 state or local government for purposes of performing disaster or emergency-related work in the
22 state. This shall also include a business entity that is affiliated with the registered business in the
23 state solely through common ownership. The “out-of-state business” has no registrations or tax
24 filings or nexus in the state prior to the declared state disaster or emergency.

25 (3) “Out-of-state employee” means this legislation an employee of an out-of-state
26 business who does not work in the state.

27 (4) “Disaster or emergency-related work” means repairing, renovating, installing,
28 building, rendering services or other business activities that relate to infrastructure that has been
29 damaged impaired or destroyed by the declared state disaster or emergency.

30 (5) “Infrastructure” means property and equipment owned or used by communications
31 networks, gas and electric distribution systems, water pipelines, and public roads and bridges and
32 related support facilities that services multiple customers or citizens including, but not limited to,
33 real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment.

34 (6) “Declared state disaster or emergency” means a disaster or emergency event for

1 which a governor's state of emergency proclamation has been issued or for which a presidential
2 declaration of a federal major disaster or emergency has been issued.

3 (7) "Disaster period" means a period that begins within ten (10) days of the first day of
4 the governor's proclamation or the president's declaration (whichever occurs first) and that
5 extends for a period of sixty (60) calendar days after the end of the declared disaster or
6 emergency period.

7 **5-86-4. Obligations, rights and duties.** – (a) An out-of-state business that conducts
8 operations within the state for purposes of performing work or services related to a declared state
9 disaster or emergency during the disaster period shall not be considered to have established a
10 level of presence that would require that business to register, file and remit state or local taxes or
11 that would require that business or its out-of-state employees to be subject to any state licensing
12 or registration requirements. This includes any and all state or local business licensing or
13 registration requirements or state and local taxes or fees such as unemployment insurance, state or
14 local occupational licensing fees and sales and use tax on equipment used or consumed during the
15 disaster period, public service commission or secretary of state licensing and regulatory
16 requirements.

17 (b) Any out-of-state employee as defined herein shall not be considered to have
18 established residency or a presence in the state that would require that person or that person's
19 employer to file and pay income taxes or to be subjected to income tax withholdings or to file and
20 pay any other state or local tax or fee during the Disaster Period. This includes any related state or
21 local employer withholding and remittance obligations.

22 (c) Out-of-state businesses and out-of-state employees shall be required to pay
23 transaction taxes and fees including, but not limited to, fuel taxes or sales/use taxes on materials
24 or services subject to sales/use tax, hotel taxes, car rental taxes or fees that the out-of-state
25 affiliated business or out-of-state employee purchases for use or consumption in the state during
26 the disaster period, unless such taxes are otherwise exempted during a disaster period.

27 (d) any out-of- state business or out-of-state employee that remains in the state after the
28 disaster period will become subject to the state's normal standards for establishing presence,
29 residency or doing business in the state and will therefore become responsible for any business or
30 employee tax requirements that ensue.

31 **5-86-5. Administration.** – (a) Notification of out-of-state business during disaster period.

32 (1) The out-of-state business that enters the state shall provide notification as soon as is
33 practicable after the declared disaster or emergency to the Rhode Island emergency agency that it
34 is in the state for purposes of responding to the disaster or emergency. Information to be provided

1 to such agency shall include the name, state of domicile, its principal business address, its federal
2 tax identification number, the date that the business entered the state, and contact information.

3 (2) A registered business in the state shall provide the information required in subdivision
4 (1) of this section for any affiliate that enters the state that is an out-of-state business. The
5 notification shall also include contact information for the registered business in the state.

6 (b) Notification of intent to remain in state. an out-of-state business or an employee that
7 remains in the state after the disaster period must report this information to the Rhode Island
8 emergency agency and proceed to complete all state and local registration, licensing and filing
9 requirements that ensue as a result of establishing the requisite business presence or residency in
10 the state.

11 (c) Procedures. The emergency management agency shall promulgate necessary
12 regulations, develop and issue forms or online processes to carry out these administrative
13 procedures.

14 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- STATE DECLARED DISASTERS

1 This act would provide thresholds for establishing presence, residency or doing business
2 in the state for out-of-state employees and companies including affiliates of in-state companies
3 that temporarily provide resources and personnel in the state during a state of emergency declared
4 by either the governor or the president of the United States.

5 This act would take effect upon passage.

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