

2023 -- S 0474

LC002148

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- FACILITATING BUSINESS RAPID
RESPONSE TO STATE DECLARED DISASTER ACT OF 2023

Introduced By: Senator Mark P. McKenney

Date Introduced: March 07, 2023

Referred To: Senate Commerce

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 93

4 FACILITATING BUSINESS RAPID RESPONSE TO STATE DECLARED DISASTER ACT

5 OF 2023

6 **5-93-1. Short title.**

7 This chapter shall be known and may be cited as the "Facilitating Business Rapid Response
8 to State Declared Disaster Act of 2023."

9 **5-93-2. Legislative findings.**

10 The general assembly hereby makes the following findings:

11 (1) During times of storm, flood, fire, earthquake, hurricane or other disaster or emergency,
12 many businesses bring in resources and personnel from other states throughout the United States
13 on a temporary basis to expedite the often enormous and overwhelming task of cleaning up,
14 restoring and repairing damaged buildings, equipment and property or even deploying or building
15 replacement facilities in the state;

16 (2) This action may involve the need for out-of-state businesses, including out-of-state
17 affiliates of businesses based in the state, to bring in resources, property and/or personnel that
18 previously have had no connection to the state, to perform activity in the state including, but not

1 limited to, repairing, renovating, installing, building, rendering services or other business activities
2 and for which personnel may be located in the state for extended periods of time to perform such
3 activities;

4 (3) During such time of operating in the state on a temporary basis solely for purposes of
5 helping the state recover from the disaster or emergency, these businesses and individual employees
6 should not be burdened by any requirements for business and employee taxes as a result of such
7 activities in the state for a temporary period;

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

12 (5) To ensure that businesses may focus on quick response to the needs of the state and its
13 citizens during a declared state disaster or emergency, it is appropriate for the general assembly to
14 deem that such activity, for a reasonable period of time before, during and after the disaster or
15 emergency for repairing and restoration of the often devastating damage to critical infrastructure
16 shall not establish presence, residency, nor doing business in the state nor any other criteria for
17 purposes of state and local taxes, and specified licensing and regulatory requirements.

18 **5-93-3. Definitions.**

19 As used in this chapter, the following terms shall have the following meanings:

20 (1) "Critical infrastructure" means property and equipment located in this state that is
21 owned or used by communications networks, cable, video, or broadband networks; gas and electric
22 distribution systems; water pipelines, railways, public roads and bridges and related support
23 facilities that service multiple customers or citizens including, but not limited to, real and personal
24 property such as buildings, offices, lines, poles, pipes, structures and equipment.

25 (2) "Declared state disaster or emergency" means a disaster or emergency event for which
26 a governor's state of emergency proclamation has been issued or for which a presidential
27 declaration of a federal major disaster or emergency has been issued.

28 (3) "Disaster or emergency-related work" means repairing, renovating, installing, building,
29 rendering services or other business activities that relate to critical infrastructure that has been
30 damaged, destroyed or lost as a result of the declared state disaster or emergency during the disaster
31 period.

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

1 (5) “Out-of-state business” means a business entity that, except for disaster or emergency-
2 related work, has no presence in the state and conducts no business in the state whose services are
3 requested by a registered business or by a state or local government for purposes of performing
4 disaster or emergency-related work in the state. This definition shall also include a business entity
5 that is affiliated with the registered business in the state solely through common ownership. The
6 “out-of-state business” has no registrations or tax filings or nexus in the state prior to the declared
7 state disaster or emergency, other than disaster or emergency-related work during the tax year
8 immediately preceding the declared state disaster or emergency.

9 (6) “Out-of-state employee” means an employee who does not work in the state, except for
10 disaster or emergency-related work during the disaster response period.

11 (7) “Registered business in the state” or “registered business” means a business entity that
12 is currently registered to do business in the state prior to the declared state disaster or emergency.

13 **5-93-4. Obligations, rights and duties.**

14 (a) An out-of-state business that conducts operations within the state for purposes of
15 performing work or services on critical infrastructure damaged, destroyed, or lost as a result of a
16 declared state disaster or emergency during the disaster period shall not be considered to have
17 established a level of presence that would require that business to register, file and remit state or
18 local taxes or that would require that business or its out-of-state employees to be subject to the state
19 telecommunications technician, contractor or installer licensing requirements as long as they are
20 under the supervision of the registered business. This exemption includes any state or local
21 telecommunications business licensing or registration requirements or state and local taxes or fees
22 such as unemployment insurance, state or local occupational telecommunications technician
23 licensing fees and use tax on equipment brought into the state on a temporary basis that is used
24 during the disaster period as well as public service commission or secretary of state licensing and
25 regulatory requirements. For purposes of any state or local tax on or measured by, in whole or in
26 part, net or gross income or receipts, all activity of the out-of-state business that is conducted in
27 this state pursuant to this chapter shall be disregarded with respect to any filing requirements for
28 such tax, including the filing required for a unitary or combined group of which the out-of-state
29 business may be a part. For purposes of apportioning income, revenue, or receipts, the performance
30 by an out-of-state business of any work pursuant to this chapter shall not be sourced to or shall not
31 otherwise impact or increase the amount of income, revenue, or receipts apportioned to this state.

32 (b) Any out-of-state employee shall not be considered to have established residency or a
33 presence in the state that would require that person or that person’s employer to file and pay income
34 taxes or to be subjected to income tax withholdings or to file and pay any other state or local tax or

1 fee during the disaster period. This exemption includes any related state or local employer
2 withholding and remittance obligations.

3 (c) Out-of-state businesses and out-of-state employees shall be required to pay transaction
4 taxes and fees including, but not limited to, fuel taxes or sales and use taxes, except use tax on
5 equipment specified in subsection (a) of this section, hotel taxes, car rental taxes or fees unless such
6 taxes or fees are otherwise exempted during a disaster period.

7 (d) Any out-of- state business or out-of-state employee that remains in the state after the
8 disaster period will become subject to the state’s normal standards for establishing presence,
9 residency or doing business in the state and will therefore become responsible for any business or
10 employee tax requirements that ensue.

11 **5-93-5. Administration.**

12 (a) Notification of out-of-state business during disaster period.

13 (1) The out-of-state business that enters the state shall, upon request, provide to the Rhode
14 Island emergency management agency a statement that it is in the state for purposes of responding
15 to the disaster or emergency, which statement shall include the business name, state of domicile,
16 principal business address, federal tax identification number, date of entry, and contact information.

17 (2) A registered business in the state shall, upon request, provide the information required
18 in subsection (a)(1) of this section for any affiliate that enters the state. The notification shall also
19 include contact information for the registered business in the state.

20 (b) Notification of intent to remain in state. An out-of-state business or an employee that
21 remains in the state after the disaster period shall complete state and local registration, licensing
22 and filing requirements that ensue as a result of establishing the requisite business presence or
23 residency in the state applicable under the existing rules.

24 (c) Procedures. The emergency management agency shall promulgate necessary rules and
25 regulations as well as develop and issue forms or online processes to implement these
26 administrative procedures.

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

=====
LC002148
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- FACILITATING BUSINESS RAPID
RESPONSE TO STATE DECLARED DISASTER ACT OF 2023

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

5 This act would take effect upon passage.

=====
LC002148
=====