

1 HB365
2 157465-2
3 By Representatives Greer, Tuggle, Williams (D), Sessions,
4 McMillan, Moore (B), Polizos, Patterson, Rich, Harper, Hill
5 and Hammon
6 RFD: Public Safety and Homeland Security
7 First Read: 30-JAN-14

1 c. A joint resolution of the Legislature has been
2 issued.

3 ~~d. A good faith response effort is required for~~
4 ~~which another authorized official of the state is given~~
5 ~~notification from a registered business in the state and such~~
6 ~~official designates such event as a disaster or emergency.~~

7 (2) DISASTER OR EMERGENCY RELATED WORK. Repairing,
8 renovating, installing, building, rendering service, or other
9 business activities that relate to infrastructure that has
10 been damaged, impaired, or destroyed by the declared state
11 disaster or emergency.

12 (3) DISASTER PERIOD. A period that begins 10
13 calendar days before the declared state disaster or emergency
14 and that extends for a period of 60 calendar days after the
15 end of the declared state disaster or emergency period, or any
16 longer period authorized by the Governor ~~or other authorized~~
17 ~~individual or entity,~~ the President of the United States, or
18 the Legislature.

19 (4) INFRASTRUCTURE. Property and equipment owned or
20 used by communications networks, broadband and internet
21 service provider, cable and video service provider, electric
22 generation, transmission and distribution systems, gas
23 distribution systems, water pipelines, ~~and public roads and~~
24 ~~bridges~~ and related support facilities that service multiple
25 customers or citizens including, but not limited to, real and
26 personal property, ~~such a~~ such as buildings, offices, lines,
27 poles, pipes, structures, and equipment.

1 ~~(5) OUT-OF-STATE BUSINESS. A business entity whose~~
2 ~~services are requested by a registered business in the state~~
3 ~~that owns or operates infrastructure in this state or by a~~
4 ~~state or local government for purposes of performing disaster~~
5 ~~or emergency related work in the state that meets one of the~~
6 ~~following tests:~~

7 (5) OUT-OF-STATE BUSINESS. A business entity whose
8 services are requested by (i) a registered business in the
9 state that owns or operates infrastructure in this state, or
10 (ii) a municipality, or public corporation the governing body
11 of which is appointed by a municipality or the governing body
12 thereof, that owns or operates infrastructure in this state,
13 for purposes of performing disaster or emergency related work
14 in the state that meets one of the following tests:

15 a. During the previous 12 months, the business
16 entity did not have employees in Alabama who were subject to
17 Alabama's income tax withholding requirements, excluding
18 employees who were in Alabama for previous disaster or
19 emergency related work.

20 b. The business entity is headquartered outside
21 Alabama and is affiliated through common ownership with the
22 registered business in the state requesting such disaster or
23 emergency related work in Alabama.

24 (6) OUT-OF-STATE EMPLOYEE. An employee who does not
25 work in the state except for disaster or emergency work
26 related work during one or more disaster periods.

1 (7) REGISTERED BUSINESS IN THE STATE. A business
2 entity that is registered to do business in the state before
3 the declared state disaster or emergency.

4 Section 3. (a) An out-of-state employee performing
5 disaster related work shall not be considered to have
6 established residency or a presence in the state that would
7 require that person or his or her employer to file and pay
8 income taxes or to be subject to tax withholdings or to file
9 and pay any other state or local tax or fee during one or more
10 disaster periods. This includes any related state or local
11 employer withholdings and remittance obligations, but does not
12 include any transaction taxes and fees as described in
13 subsection (d).

14 (b) Any out-of-state business that has no
15 ~~registrants~~ registrations or tax filings or nexus in the state
16 prior to a declared state disaster or emergency that enters
17 the state solely to conduct operations within the state for
18 purposes of performing disaster or emergency related work
19 during any disaster period shall not: (1) With respect to the
20 requirements of Alabama law other than those codified in Title
21 37, Code of Alabama 1975, be considered to have established a
22 level of presence that would require that business or its
23 out-of-state employees or property to be subject to any state
24 or local taxes, licensing, registration, or filing
25 requirements including, without limitation, state or local
26 income taxes, payroll taxes, occupational and business
27 licensing fees, privilege or franchise taxes, certification

1 requirements, or Secretary of State licensing requirements,
2 and (2) with respect to the requirements of Title 37, Code of
3 Alabama 1975, be subject to the certification requirements of
4 Section 37-2-4 or Section 37-2A-9, Code of Alabama 1975.
5 Except as expressly provided in the preceding sentence,
6 nothing in this act shall be construed to amend or affect any
7 other provisions or requirements of Title 37, Code of Alabama
8 1975. For the purpose of apportioning income, the payroll,
9 sales or gross receipts, and property of the business related
10 to the conduct of disaster or emergency work shall not be
11 sourced or taxable to or by the state or any locality. The
12 business shall also not be subject to any use tax or ad
13 valorem tax on equipment brought into the state during a
14 disaster period for use or consumption during the disaster
15 period. Business that is conducted in this state pursuant to
16 this act shall be disregarded with respect to whether a return
17 must be filed for such tax or fee including any filing
18 required for a ~~military~~ unitary or combined group of which the
19 out-of-state business may be a part.

20 (c) Any out-of-state business that has registrations
21 or tax filings or nexus in the state prior to a declared state
22 disaster or emergency shall not: (1) With respect to the
23 requirements of Alabama law other than those codified in Title
24 37, Code of Alabama 1975, be considered to have established an
25 additional level of presence, to the extent such business
26 conducts additional operations within the state for purposes
27 of performing disaster or emergency related work during any

1 disaster period, that would require that business or its
2 out-of-state employees or property to be further subject to
3 any state or local taxes, licensing, registration, or filing
4 requirements including, without limitation, state or local
5 income taxes, occupational and business licensing fees,
6 payroll taxes, privilege or franchise taxes, certification
7 requirements, or Secretary of State licensing requirements,
8 and (2) with respect to the requirements of Title 37, Code of
9 Alabama 1975, be subject to the certification requirements of
10 Section 37-2-4 or Section 37-2A-9, Code of Alabama 1975.
11 Except as expressly provided in the preceding sentence,
12 nothing in this act shall be construed to amend or affect any
13 other provisions or requirements of Title 37, Code of Alabama
14 1975. For the purpose of apportioning income, the payroll,
15 sales or gross receipts, and property of the business related
16 to the conduct of disaster or emergency work shall not be
17 sourced or taxable to or by the state or any locality. The
18 business shall also not be subject to any use tax or ad
19 valorem tax on equipment brought into the state during a
20 disaster period for use or consumption during the disaster
21 period. Business that is conducted in this state pursuant to
22 this act shall be disregarded with respect to whether a return
23 must be filed for such tax or fee including any filing
24 required for a unitary or combined group of which the
25 out-of-state business may be a part.

26 (d) Except as otherwise provided in subsections (b)
27 and (c), with respect to equipment that is brought into the

1 state during a disaster period for use or consumption during
2 the disaster period, an out-of-state employee and out-of-state
3 business shall be required to pay transaction taxes and fees
4 including, but not limited to, fuel taxes, sales or use taxes
5 on materials or services subject to sales and use tax, hotel
6 taxes, and car rental taxes, or taxes or fees for use or
7 consumption of materials and services in the state during a
8 disaster period.

9 (e) Any out-of-state employee or out-of-state
10 business that remains in or otherwise enters the state after
11 one or more disaster periods shall thereafter become subject
12 to the state's normal standards for establishing presence,
13 residency, or doing business in the state, state and local
14 registration requirements, licensing requirements, filing
15 requirements, and employee and business tax requirements, but
16 not retroactive to the disaster period.

17 (f) An out-of-state business, upon request, shall
18 provide to the Secretary of State and to the Department of
19 Revenue a statement that the business is in the state for the
20 purpose of responding to the declared state disaster or
21 emergency, which statement shall include the name of the
22 business, state of domicile, principal business address,
23 federal taxpayer identification number, date of entry, and
24 contact information.

25 (g) A registered business in the state, upon
26 request, shall provide the information required in subsection

1 (f) for any affiliate that is an out-of-state business,
2 including contact information for the registered business.

3 Section 4. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Public Safety
and Homeland Security..... 30-JAN-14

Read for the second time and placed
on the calendar 2 amendments 06-FEB-14

Read for the third time and passed
as amended..... 18-FEB-14

Yeas 95, Nays 0, Abstains 0

Jeff Woodard
Clerk