

29C.24 Facilitating business rapid response to state-declared disasters Act.

1. *Title.* This section may be cited as the “Facilitating Business Rapid Response to State-Declared Disasters Act”.

2. *Definitions.* For purposes of this section, unless the context otherwise requires:

a. (1) “Critical infrastructure” means real and personal property and equipment owned or used by any of the following networks or systems, including related support facilities, which network or system provides service to more than one customer or person:

- (a) Communication and video networks.
- (b) Electric generation, transmission, and distribution systems.
- (c) Gas distribution systems.
- (d) Water and wastewater pipeline systems.

(2) “Critical infrastructure” includes but is not limited to buildings, structures, offices, lines, poles, pipes, and equipment.

b. “Declared state disaster or emergency” means a disaster or emergency event that meets at least one of the following conditions:

(1) A disaster emergency proclamation has been issued by the governor pursuant to section 29C.6 in relation to the event.

(2) A presidential declaration of a major disaster has been issued in relation to the event.

c. “Disaster or emergency-related work” means repairing, renovating, installing, building, or rendering services or other business activities, that relate to critical infrastructure that has been damaged, impaired, or destroyed by a declared state disaster or emergency.

d. “Disaster response period” means, with respect to each declared state disaster or emergency, a period of time that begins ten calendar days prior to the day the governor proclaims a disaster emergency or the president declares a major disaster, whichever occurs first, and extends for a period of sixty calendar days after the end of the declared state disaster or emergency.

e. (1) “Out-of-state business” means a business entity that meets all of the following requirements:

(a) The business entity is requested to perform disaster or emergency-related work in the state by a registered business or by the state or a political subdivision of the state.

(b) Except for disaster or emergency-related work, the business entity has no presence in the state and conducts no business in the state.

(c) Except for disaster or emergency-related work, the business entity had no registrations, tax filings, or nexus in the state for the tax year immediately preceding the year in which the relevant declared state disaster or emergency occurs.

(2) “Out-of-state business” may include a business entity that is affiliated with a registered business solely through common ownership.

f. “Out-of-state employee” means an employee who does not work in this state except to perform disaster or emergency-related work during a disaster response period.

g. “Registered business” means a business entity that is registered to do business in the state prior to the declared state disaster or emergency.

3. *Business and employee status during disaster response period.*

a. Notwithstanding any other provision of law to the contrary, an out-of-state business that conducts operations within the state solely for the purpose of performing disaster or emergency-related work during a disaster response period shall not be considered to have established a level of presence that would subject the out-of-state business to any of the following:

(1) The requirement to complete or obtain any state or local registration, license, or similar authorization as a condition of doing business in this state or engaging in an occupation in this state, or to pay any related fee, including but not limited to the requirement to register with the secretary of state or a political subdivision. This subparagraph (1) does not apply to the notification and insurance verification requirements in subsection 5.

(2) (a) The requirement to collect and remit any tax imposed upon another person or file any related tax return or obtain any related tax permit. This subparagraph division (a) does not apply to an out-of-state business for the collection and remittance of sales and use taxes

under [chapter 423](#) if the out-of-state business is registered voluntarily as a seller under the streamlined sales and use tax agreement.

(b) Subparagraph division (a) shall not be construed to protect or otherwise exempt any person liable for the payment of a tax, other than the out-of-state business, from the responsibility to pay such tax.

(3) The imposition of income taxes under [chapter 422](#), [subchapters II and III](#), including the requirement to file tax returns under [sections 422.13 through 422.15](#), [section 422.16B](#), or [section 422.36](#), as applicable, and including the requirement to withhold and remit income tax from out-of-state employees under [section 422.16](#). In addition, the performance of disaster or emergency-related work during a disaster response period by an out-of-state business or out-of-state employee shall not require an out-of-state business to be included in a consolidated return under [section 422.37](#), and shall not increase the amount of net income of the out-of-state business allocated and apportioned to the state under [section 422.8](#) or [422.33](#), as applicable.

(4) The employment security requirements under [chapter 96](#), including but not limited to the payment of employer contributions under [section 96.7](#).

(5) The use tax under [chapter 423](#), [subchapter III](#), or the equipment tax under [chapter 423D](#), on tangible personal property or equipment purchased outside the state and brought into the state to aid in the performance of disaster or emergency-related work during a disaster response period if such tangible personal property or equipment does not remain in the state after the conclusion of the disaster response period.

(6) The assessment of property taxes by the department of revenue under [sections 428.24 through 428.26](#), [428.28](#), and [428.29](#), or [chapters 434](#), [435](#), and [437 through 438](#), or by a local assessor under another provision of law, on property brought into the state to aid in the performance of disaster or emergency-related work during a disaster response period if such property does not remain in the state after the conclusion of the disaster response period.

b. Notwithstanding any other provision of law to the contrary, the performance of disaster or emergency-related work during a disaster response period by an out-of-state employee shall not be used as the basis to determine that the out-of-state employee has established residency or a level of presence that would subject the out-of-state employee to any of the following:

(1) The requirement to complete or obtain any state or local registration, license, or similar authorization as a condition of doing business in this state or engaging in an occupation in this state, or to pay any related fee, including but not limited to the requirement to register with the secretary of state or a political subdivision.

(2) The imposition of income taxes under [chapter 422](#), [subchapter II](#), including the requirement to file tax returns under [section 422.13](#) and the requirement to be subject to withholding of income tax under [section 422.16](#). In addition, the performance of disaster or emergency-related work during a disaster response period by an out-of-state employee shall not increase the amount of net income of the out-of-state employee allocated and apportioned to the state under [section 422.8](#).

(3) The use tax under [chapter 423](#), [subchapter III](#), or the equipment tax under [chapter 423D](#), on tangible personal property or equipment purchased outside the state and used in the state to aid in the performance of disaster or emergency-related work during a disaster response period if such tangible personal property or equipment does not remain in the state after the conclusion of the disaster response period.

c. During a disaster response period, an out-of-state business or an out-of-state employee shall be subject to all taxes and fees not included in paragraphs “a” and “b”, and [this subsection](#) shall not be construed to provide protection or exemption during a disaster response period or any other period from taxes or taxable events not included in paragraphs “a” and “b”.

4. *Business and employee status after a disaster response period.* An out-of-state business or out-of-state employee that remains in the state after the conclusion of the disaster response period during which the disaster or emergency-related work was performed shall be fully subject to the state’s standards for establishing presence, residency, or doing

business as otherwise provided by law, and shall be responsible for any resulting taxes, fees, licensing, registration, filing, or other requirements.

5. *Notification and insurance verification during disaster response period.*

a. An out-of-state business that enters the state to perform disaster or emergency-related work during a disaster response period shall provide notification to the secretary of state, which notification shall contain all the following information related to the out-of-state business:

- (1) Name.
- (2) State of domicile.
- (3) Principal business address.
- (4) Federal employer identification number.
- (5) The date the out-of-state business entered the state.
- (6) Contact information.
- (7) A statement that the out-of-state business is in the state for the purpose of responding to a declared state disaster or emergency.

b. For an out-of-state business that enters this state to perform disaster or emergency-related work during a disaster response period as an affiliate of a registered business, the registered business shall provide, on behalf of the affiliate out-of-state business, the notification required in paragraph “a”, which notification shall also include contact information for the registered business.

c. Upon request of the secretary of state, an out-of-state business that enters the state to perform disaster or emergency-related work during a disaster response period shall provide proof of workers’ compensation insurance coverage and liability insurance coverage, if any. Such proof shall be provided within ten days of the request.

d. The secretary of state shall transmit notification and insurance verification information to the department, department of revenue, and other appropriate state and local government agencies and officials.

6. *Powers and duties not created.* This section shall not be construed to place any new mandates or duties upon a local emergency management commission or create any new authority or power for a local emergency management commission not already expressly granted in another provision of this chapter.

7. *Rules.* The department, the secretary of state, and the department of revenue shall each adopt rules pursuant to chapter 17A to jointly administer this section.

2016 Acts, ch 1095, §2, 14; 2016 Acts, ch 1138, §20, 21; 2017 Acts, ch 29, §23 – 25; 2018 Acts, ch 1158, §1, 28; 2020 Acts, ch 1062, §94; 2020 Acts, ch 1063, §20; 2021 Acts, ch 151, §8, 15

Referred to in §422.8, 422.13, 422.16, 422.16B, 422.33, 422.36, 422.37, 423.6, 423.33, 423.58, 423D.3, 427.1(41)

2021 amendment to subsection 3, paragraph a, subparagraph (3) applies to tax years beginning on or after January 1, 2022; 2021 Acts, ch 151, §15