

CHAPTER 1201

WAIVERS FOR OUT-OF-STATE BUSINESSES AND EMPLOYEES

§9901. Findings

The Legislature finds that in times of emergency in this State, such as during or after a storm, flood, fire, earthquake, hurricane or other disaster, businesses from other states provide assistance by bringing in resources and personnel to assist the State with the often enormous and overwhelming task of cleaning up, restoring and repairing damaged buildings, equipment and property. This provision of assistance may require out-of-state businesses, including out-of-state affiliates of businesses based in the State, to bring in resources, property or personnel that previously have had no connection to the State to perform activities in the State, including, but not limited to, repairing, renovating, installing, building, rendering services and engaging in other business activities, some of which may require that personnel from the businesses be located in the State for extended periods of time. [PL 2011, c. 622, §1 (NEW).]

The Legislature further finds that, while these businesses are operating in the State providing assistance on a temporary basis solely for the purpose of helping the State recover from the disaster or emergency, these businesses and their employees should not be burdened by requirements for certain business and employee taxes as a result of such temporary activities. [PL 2011, c. 622, §1 (NEW).]

To ensure that these businesses focus on responding quickly to the needs of the State and its citizens during a declared state disaster or emergency, the Legislature finds that it is appropriate to consider that such activity for a reasonable period of time during and after the disaster or emergency undertaken to repair and restore property and infrastructure in the State does not establish presence or residency in the State or constitute doing business in the State for purposes of subjecting the businesses to certain taxes or licensing and regulatory requirements. [PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

§9902. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2011, c. 622, §1 (NEW).]

1. Declared state disaster or emergency. "Declared state disaster or emergency" means a disaster or emergency event for which a Governor's state of emergency proclamation has been issued pursuant to Title 37-B, section 742 or that the President of the United States has declared to be a major disaster or emergency.

[PL 2011, c. 622, §1 (NEW).]

2. Disaster period. "Disaster period" means the period of time that begins no later than 10 days following the Governor's proclamation of a state of emergency or the declaration by the President of the United States of a major disaster or emergency, whichever occurs first, and that extends for a period of 60 calendar days following the end of the declared disaster or emergency as proclaimed by the Governor pursuant to Title 37-B, section 743 or the President of the United States or pursuant to law, whichever occurs first.

[PL 2011, c. 622, §1 (NEW).]

3. Infrastructure. "Infrastructure" means:

A. Property and equipment, including related support facilities that provide service to more than one customer or person, owned or used by a public utility as defined in Title 35-A, section 102,

subsection 13 or by a communications service provider as defined in Title 35-A, section 9202, subsection 4. "Infrastructure" includes, without limitation, real and personal property such as buildings, offices, power lines, poles, pipes, structures and equipment; and [PL 2011, c. 622, §1 (NEW).]

B. Public roads and bridges. [PL 2011, c. 622, §1 (NEW).]
[PL 2011, c. 622, §1 (NEW).]

4. Out-of-state business. "Out-of-state business" means a business entity:

A. That does not have a presence in the State; [PL 2011, c. 622, §1 (NEW).]

B. That does not conduct business in the State; and [PL 2011, c. 622, §1 (NEW).]

C. Whose assistance in performing work in this State, such as repairing, renovating, installing or building infrastructure, rendering services or engaging in other business activities, related to a declared state disaster or emergency is requested by the State, a county, city, town or other political subdivision of the State or a registered business. [PL 2011, c. 622, §1 (NEW).]

"Out-of-state business" includes a business entity that is affiliated with a registered business solely through common ownership as long as that business entity does not have any registrations, tax filings or nexus in the State prior to the declared state disaster or emergency.

[PL 2011, c. 622, §1 (NEW).]

5. Out-of-state employee. "Out-of-state employee" means an individual who performs services for an out-of-state business in return for compensation and who, prior to the declared state disaster or emergency, was not a resident of this State.

[PL 2011, c. 622, §1 (NEW).]

6. Registered business. "Registered business" means a business entity that is registered or licensed to do business in the State prior to the declared state disaster or emergency.

[PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

§9903. Status of out-of-state businesses and employees during disaster period

1. Out-of-state businesses. Notwithstanding any other provision of law to the contrary, during a disaster period an out-of-state business that conducts operations within the State for the purpose of performing work or providing services related to a declared state disaster or emergency is deemed to have not established a level of presence that would require that business or its out-of-state employees to be subject to any of the following state or local employment, licensing or registration requirements:

A. Business licensing or registration requirements; [PL 2011, c. 622, §1 (NEW).]

B. Unemployment insurance taxes or fees or workers' compensation insurance taxes or fees; and [PL 2011, c. 691, Pt. E, §1 (AMD); PL 2011, c. 691, Pt. E, §2 (AFF).]

C. Occupational licensing fees. [PL 2011, c. 622, §1 (NEW).]

[PL 2011, c. 691, Pt. E, §1 (AMD); PL 2011, c. 691, Pt. E, §2 (AFF).]

2. Status after disaster period. After the termination of a disaster period, an out-of-state business or out-of-state employee that remains in the State is fully subject to the state or local employment, licensing or registration requirements listed in subsection 1 or that were otherwise suspended under this chapter during the disaster period.

[PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW). PL 2011, c. 691, Pt. E, §1 (AMD). PL 2011, c. 691, Pt. E, §2 (AFF).

§9904. Notification

1. Notification by out-of-state businesses during disaster period. An out-of-state business shall provide notification to the Secretary of State as soon as practicable after entry to the State during a disaster period that the out-of-state business is in the State for purposes of responding to the declared state disaster or emergency. The out-of-state business shall provide to the Secretary of State information related to the out-of-state business including but not limited to the following:

- A. Name; [PL 2011, c. 622, §1 (NEW).]
- B. State of domicile; [PL 2011, c. 622, §1 (NEW).]
- C. Principal business address; [PL 2011, c. 622, §1 (NEW).]
- D. Federal employer identification number; [PL 2011, c. 622, §1 (NEW).]
- E. The date when the out-of-state business entered the State; and [PL 2011, c. 622, §1 (NEW).]
- F. Contact information while the out-of-state business is in this State. [PL 2011, c. 622, §1 (NEW).]

[PL 2011, c. 622, §1 (NEW).]

2. Registered businesses. A registered business shall provide the notification required in subsection 1 for an affiliate of the registered business that enters the State as an out-of-state business. The notification under this subsection also must include contact information for the registered business in the State.

[PL 2011, c. 622, §1 (NEW).]

3. Notification of intent to remain in the State. An out-of-state business that remains in the State after a disaster period shall notify the Secretary of State and shall meet all registration, licensing and filing requirements resulting from any business presence or activity in the State.

[PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

§9905. Rulemaking

The Secretary of State, in consultation with the Department of Professional and Financial Regulation, the Department of Economic and Community Development and the Department of Defense, Veterans and Emergency Management, Maine Emergency Management Agency, may adopt routine technical rules, as defined in Title 5, chapter 375, subchapter 2-A, to implement the provisions of this chapter. Notification and registration procedures adopted by rule must allow a person to obtain and complete any required forms using a publicly accessible website on the Internet. [PL 2011, c. 622, §1 (NEW).]

SECTION HISTORY

PL 2011, c. 622, §1 (NEW).

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