

No. 2014-203

## AN ACT

HB 2377

Amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, further providing for definitions and for laws suspended during emergency assignments.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 7102 of Title 35 of the Pennsylvania Consolidated Statutes is amended by adding definitions to read:

§ 7102. Definitions.

The following words and phrases when used in this part shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

\* \* \*

***"Disaster emergency-related work."*** *The repair, renovation, installation, construction or rendering of services or other business activities that relate to infrastructure that has been damaged, impaired or destroyed by a disaster.*

\* \* \*

***"Infrastructure."*** *Real and personal property and equipment that is owned or used by any of the following that service multiple customers or citizens:*

- (1) A communications network.*
- (2) An electric generation, transmission and distribution system.*
- (3) A gas distribution system that provides the facilities and equipment for producing, generating, transmitting, distributing or the furnishing of gas directly to the end customer.*
- (4) A public or private water pipeline.*

\* \* \*

***"Out-of-State business."*** *A business entity whose services are requested by a registered business, the Commonwealth or a political subdivision of the Commonwealth for purposes of performing disaster emergency-related work in this Commonwealth. The term includes a business entity that is affiliated with a registered business in this Commonwealth solely through common ownership. The out-of-State business may not have any of the following:*

- (1) A presence in this Commonwealth, excluding prior disaster emergency-related work performed under section 7308(b)(1) (relating to laws suspended during emergency assignments).*
- (2) Any registration, tax filing or nexus in this Commonwealth within the past three calendar years.*

***"Out-of-State employee."*** *An employee who does not work in this Commonwealth, unless the employee is performing disaster emergency-related work during a period under section 7308(b)(1).*

\* \* \*

***"Registered business." Any business entity that is registered to do business in this Commonwealth prior to a declared disaster or emergency.***

\* \* \*

Section 2. Section 7308 of Title 35 is amended to read:

§ 7308. Laws suspended during emergency assignments.

(a) ***Commonwealth agencies.***—In the case of a declaration of a state of emergency by the Governor, Commonwealth agencies may implement their emergency assignments without regard to procedures required by other laws (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials and expenditures of public funds.

(b) ***Out-of-State business or employee.***—*Notwithstanding any other law to the contrary, if the Governor has declared a disaster emergency to exist under this part or the President has declared a major disaster or emergency to exist in this Commonwealth, the following shall apply:*

(1) ***An out-of-State business that conducts operations within this Commonwealth for purposes of performing disaster emergency-related work for a period of not more than ten days before or not more than 60 calendar days after the end of the declared disaster emergency period may not be considered to have established a level of presence that would require that business to register, file and remit State or local taxes or that would require the out-of-State business or an out-of-State employee to be subject to any licensing or registration requirements of the Commonwealth, provided that the out-of-State business is in substantial compliance with all applicable regulatory and licensing requirements in its state of domicile, including any of the following:***

(i) ***State or local business licensing or registration requirements.***

(ii) ***Pennsylvania Public Utility Commission or regulatory requirements.***

(iii) ***State and local taxes and fees, such as unemployment insurance, sales and use tax or property tax on equipment brought into this Commonwealth on a temporary basis used during the disaster emergency and subsequently removed from this Commonwealth, State or local occupational licensing fees or local services taxes.***

(iv) ***A State or local tax on or measured by, in whole or in part, net or gross income or receipts. The activity of the out-of-State business that is conducted in this Commonwealth under this title shall be disregarded with respect to a filing requirement for the tax, including the filing required, if any, for a unitary or combined group of which the out-of-State business may be a part. For the purpose of apportioning income, revenue or receipts, the performance of work in accordance with this section by an out-of-State business may not be sourced to or otherwise impact or increase the amount of income, revenue or receipts apportioned to the Commonwealth.***

**(2) The period under paragraph (1) may be extended by the Governor for a period of not more than 30 days for each declared disaster emergency.**

**(3) An out-of-State employee shall not be considered to have established residency or presence in this Commonwealth that would require the individual or the individual's employer to file and pay income taxes, to be subjected to income tax withholding or to file and pay any other State or local tax or fee for disaster emergency-related work performed during the disaster period designated under paragraphs (1) and (2), including any related State or local employer withholding or remittance obligations.**

**(c) Liability exemption.—Nothing in this section shall be construed to relieve an entity or individual from a liability not explicitly exempted under this section, including, but not limited to, damages associated with an act of negligence.**

**(d) Transaction taxes and fees.—An out-of-State business and out-of-State employee shall be required to pay transaction taxes and fees, including but not limited to, fuel taxes or sales and use tax on materials or services consumed or used in this Commonwealth subject to sales and use tax, hotel taxes or car rental taxes or fees that the out-of-State business or out-of-State employee purchases for use or consumption in this Commonwealth during the period not more than ten days before or not more than 60 calendar days after the end of the declared disaster emergency unless the taxes or fees are otherwise exempted.**

Section 3. The following provisions shall apply to a disaster or emergency that is declared on or after the effective date of this section:

(1) The addition of the definitions of "disaster emergency-related work," "infrastructure," "out-of-State business," "out-of-State employee" and "registered business" in 35 Pa.C.S. § 7102.

(2) The amendment of 35 Pa.C.S. § 7308.

Section 4. This act shall take effect in 60 days.

APPROVED—The 31st day of October, A.D. 2014

TOM CORBETT