

P.L. 2019, CHAPTER 7, *approved January 31, 2019*  
Senate, No. 2518 (*Second Reprint*)

1 AN ACT excluding certain out-of-State businesses and employees  
2 <sup>1</sup>restoring critical infrastructure<sup>1</sup> from certain taxes, fees, and  
3 business registration requirements when temporarily performing  
4 work or services in this State during a declared disaster or  
5 emergency **[ , ]** and<sup>1</sup> supplementing chapter 50 of Title 54 of the  
6 Revised Statutes.

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8 **BE IT ENACTED** by the Senate and General Assembly of the State  
9 of New Jersey:

10  
11 1. As used in P.L. , c. (C. ) (pending before the  
12 Legislature as this bill):

13 <sup>1</sup>“Critical infrastructure” means property and equipment owned  
14 or used by communication networks, electric generation,  
15 transmission, and distribution systems, gas distribution systems,  
16 water pipelines and related support facilities that service multiple  
17 customers and residents including, but not limited to, real and  
18 personal property such as buildings, offices, lines, poles, pipes,  
19 structures, and equipment;<sup>1</sup>

20 “Declared disaster or emergency” means a disaster or emergency  
21 event for which a Governor’s State of Emergency Proclamation is  
22 issued or for which a Presidential Declaration of a Major Disaster  
23 or Emergency is issued;

24 “Director” means the Director of the Division of Taxation in the  
25 Department of the Treasury;

26 “Disaster or emergency related work” means repairing,  
27 renovating, installing, building, rendering services, or other  
28 business activities that relate to <sup>1</sup>critical<sup>1</sup> infrastructure damaged,  
29 impaired, or destroyed by the declared disaster or emergency;

30 “Disaster period” means a period beginning 10 days before the  
31 first day of the Governor’s proclamation or the President’s  
32 declaration, whichever occurs first, and ending 60 days after the end  
33 of the declared disaster or emergency period;

34 <sup>2</sup>“Home state” means the state, or other jurisdiction, in which an  
35 out-of-State business maintains its principal place of business or, in  
36 the case of an out-of-State employee, the principal location where  
37 the employee engages in his or her professional practice;<sup>2</sup>

**EXPLANATION** – Matter enclosed in bold-faced brackets **[ thus ]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SBA committee amendments adopted October 22, 2018.

<sup>2</sup>Assembly ABU committee amendments adopted December 6, 2018.

1 <sup>1</sup>["Infrastructure" means property and equipment owned or used  
2 by communication networks, electric generation, transmission, and  
3 distribution systems, gas distribution systems, water pipelines, and  
4 public roads and bridges and related support facilities that service  
5 multiple customers and residents including, but not limited to, real  
6 and personal property such as buildings, offices, lines, poles, pipes,  
7 structures, and equipment;]<sup>1</sup>

8 "Out-of-State business" means a business entity that does not  
9 have a physical presence in this State and does not otherwise  
10 engage in business activity or do business in this State, but whose  
11 services are requested by a business that is registered to do business  
12 in this State or by a State or local government for purposes of  
13 performing disaster or emergency related in this State, provided that  
14 an out-of-State business also includes a business entity that is  
15 affiliated with the business that is registered to do business in this  
16 State solely through common ownership and provided further that  
17 the out-of-State business does not have a physical presence in this  
18 State, does not engage in activities in this State, is not doing  
19 business in this State, and does not have registration or tax filing  
20 obligations <sup>1</sup>, other than being included in a combined return as a  
21 non-taxable member pursuant to section 18 of P.L.2018, c.48  
22 (C.54:10A-4.6),<sup>1</sup> in this State prior to the declared disaster or  
23 emergency; and

24 "Out-of-State employee" means an employee who does not work  
25 in this State, except for disaster or emergency related work <sup>1</sup>on  
26 critical infrastructure<sup>1</sup> during the disaster period.

27  
28 2. a. An out-of-State business that conducts operations within  
29 this State for purposes of performing <sup>1</sup>["work or rendering services  
30 related to a declared disaster or emergency"] disaster or emergency  
31 related work<sup>1</sup> during the disaster period shall not be considered to  
32 have established a level of physical presence or engaged in business  
33 activities at a level that is sufficient to require that out-of-State  
34 business to <sup>2</sup>:

35 (1)<sup>2</sup> register, file, and report and pay State or local taxes or fees  
36 <sup>2</sup>that require the filing of a New Jersey tax return, including but not  
37 limited to employer withholding and unemployment insurance;<sup>2</sup> or  
38 <sup>2</sup>["to"]

39 (2)<sup>2</sup> require that out-of-State business, or its out-of-State  
40 employees, to be subject to any State or local licensing or  
41 registration requirements <sup>2</sup>[" . This includes"] , including but not  
42 limited to<sup>2</sup> all State and local business licensing and registration  
43 requirements <sup>2</sup>["and all State and local taxes and fees including, but  
44 not limited to, unemployment insurance sales and use tax, and any  
45 ad valorem tax on equipment used or consumed during the disaster  
46 period <sup>1</sup>and not remaining in the State<sup>1</sup>"] ; provided, however, that

1 the out-of-State business, or its out-of-State employees, shall be  
2 duly licensed, or otherwise legally authorized to engage in the  
3 activity, in the applicable home state<sup>2</sup>.

4 For purposes of <sup>2</sup>**[a]** this section: for any exempted<sup>2</sup> State or  
5 local tax imposed on or measured by net or gross income or  
6 receipts, all activity of the out-of-State business conducted in this  
7 State <sup>1</sup>related to the declared disaster or emergency<sup>1</sup>, in accordance  
8 with P.L. , c. (C. ) (pending before the Legislature as this  
9 bill), shall be disregarded for any filing requirements for that tax,  
10 including the filing required for a unitary or combined group of  
11 which the out-of-State business may be a part.

12 b. An out-of-State employee shall not be considered to have  
13 established residency or a physical presence or engaged in business  
14 activities in this State that are sufficient to require that out-of-State  
15 employee or that out-of-State employee's employer to report and  
16 pay State or local income taxes <sup>2</sup>**[**, to be subjected to State or local  
17 tax withholdings **]** that require the filing of a New Jersey tax return<sup>2</sup>,  
18 or to report and pay any other State or local tax or fee <sup>2</sup>that requires  
19 the filing of a New Jersey tax return,<sup>2</sup> during the disaster period.  
20 This includes any related employer withholding and reporting and  
21 payment obligations imposed by the State or a local government.  
22

23 3. An out-of-State business or out-of-State employee shall be  
24 required to pay State and local transaction taxes and fees including,  
25 but not limited to, fuel taxes, sales and use taxes on receipts from  
26 sales of goods and services subject to sales and use taxes, hotel and  
27 motel occupancy taxes and fees, and motor vehicle rental taxes and  
28 fees that the out-of-State business or the out-of-State employee  
29 purchases for use or consumption in this State during the disaster  
30 period, unless those transactions are <sup>1</sup>otherwise<sup>1</sup> exempt, excluded,  
31 or not subject to <sup>1</sup>a<sup>1</sup> State or local tax or fee during the disaster  
32 period.  
33

34 4. An out-of-State business or out-of-State employee remaining  
35 in this State after the disaster period shall be subject to the State's  
36 normal standards for establishing physical presence or residency,  
37 engaging in business activity, and doing business in this State, and  
38 shall be responsible for any ensuing State or local tax liabilities or  
39 requirements of the business or an employee of the business.  
40

41 5. a. An out-of-State business that enters this State shall, not  
42 later than <sup>1</sup>**[30]** <sup>1</sup>45<sup>1</sup> days after the date the out-of-State business  
43 enters this State, provide a written statement to the director  
44 indicating that the out-of-State business is doing business in this  
45 State for purposes of <sup>1</sup>**[**responding to the declared disaster or  
46 emergency **]** performing disaster or emergency related work<sup>1</sup>, which  
47 written statement shall include the name of the business, the state of

1 the business's domicile, the principal address of the business, the  
2 business's federal tax identification number, the date of the  
3 business's entry into this State, and the business's contact  
4 information.

5 b. A business that is registered to do business in this State shall  
6 provide a written statement that includes the information required to  
7 be provided to the director in accordance with subsection a. of this  
8 section for each out-of-State business affiliate that enters this State  
9 for purposes of <sup>1</sup>**【responding to the declared disaster or emergency】**  
10 performing disaster or emergency related work<sup>1</sup>. The written  
11 notification provided to the director also shall include contact  
12 information for the business that is registered to do business in this  
13 State, and shall be provided to the director by the business that is  
14 registered to do business in this State not later than 30 days after the  
15 date the out-of-State business enters this State.

16 c. The written statement and any information required to be  
17 provided to the director by an out-of-State business or by a business  
18 that is registered to do business in this State, on behalf of an  
19 affiliate, shall be a public or government record for purposes of  
20 P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-  
21 5 et al.), and shall be open to the public for inspection. The written  
22 statement and any information required to be provided to the  
23 director shall not be a confidential or privileged record or file of the  
24 director subject to the provisions of R.S.54:50-8 and R.S.54:50-9.

25  
26 6. An out-of-State business or an out-of-State employee that  
27 maintains a physical presence in this State or engages in business  
28 activity in this State after the disaster period shall comply with all  
29 State and local business registration requirements and all licensing  
30 and filing requirements ensuing as a result of establishing the  
31 required business presence or residency in this State.

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33 7. Notwithstanding the provisions of the "Administrative  
34 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the  
35 contrary, the director may adopt immediately upon filing with the  
36 Office of Administrative Law such rules and regulations as the  
37 director determines to be necessary and appropriate to effectuate the  
38 purposes of P.L. , c. (C. ) (pending before the Legislature as  
39 this bill), which rules and regulations shall be effective for a period  
40 not to exceed 360 days following the effective date of  
41 P.L. , c. (C. ) (pending before the Legislature as this bill) and  
42 may thereafter be amended, adopted, or readopted by the director in  
43 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1  
44 et seq.).

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46 8. This act shall take effect immediately.

**S2518 [2R]**

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Excludes certain out-of-State businesses and employees from certain taxes, fees, and business registration requirements when temporarily performing in-State work or services during declared disaster or emergency.