SENATE DOCKET, NO. 1417 FILED ON: 1/18/2013

SENATE . . . . . No. 1386

The Commonwealth of Massachusetts

PRESENTED BY:

Richard T. Moore

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to promote business continuity and recovery after a disaster.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard T. Moore	*Worcester and Norfolk*

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SENATE . . . . . No. 1386

By Mr. Richard T. Moore, a petition (accompanied by bill, Senate, No. 1386) of Richard T. Moore for legislation to promote business continuity and recovery after a disaster. Revenue.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *1495* OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to promote business continuity and recovery after a disaster.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding the provisions of any other general or special law to the contrary, for the purposes of the act, the following terms shall have the following meanings:

"Business Continuity Plan (BCP)", a document containing the recovery timeline methodology, test-validated documentation, procedures, and action instructions developed specifically for use in restoring organization operations in the event of a declared disaster. To be effective, most Business Continuity Plans also require testing, skilled personnel, access to vital records, and alternate recovery resources including facilities.

"Disaster" or "emergency", an occurrence such as a hurricane, tornado, flood, earthquake, explosion, hazardous materials accident, war, transportation accident, act of terrorism, mass shooting, fire, famine, or epidemic that causes human suffering or creates human need that the victim cannot alleviate without assistance.

SECTION 2. Chapter 63 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding at the end thereof the following new section:

Section 3SQ. (a) In determining the net income subject to tax under this chapter a domestic or foreign business corporation, at its election, may deduct an amount equal to one half of the expenditures paid or incurred during the taxable year for the purchase of business

17 continuity or business interruption insurance for business operations within the commonwealth,
18 but in no case shall the deduction exceed the minimum corporate tax payment due.

19 Such deduction shall be allowed only if the insurance remained in full force and effect
20 throughout the taxable year and the corporation maintained a current business continuity or
21 interruption plan on file with the municipal government where the business is located. For
22 purposes of this section, a business continuity or interruption plan is a practiced logistical plan
23 for how an organization will recover and restore partially or completely interrupted critical
24 functions within a specified time after a disaster or extended disruption.

25 SECTION 3. Chapter 43D of the General Laws, as appeasing in the 2010 Official
26 Edition, is hereby amended by adding at the end thereof, the following new section:

27 Section 17. Any municipality which accepts the provisions of this chapter may establish
28 emergency permit granting procedures for the permanent or temporary relocation or rebuilding
29 of property, including commercial entities, in any situation caused by unforeseen circumstances
30 which render currently used real property unusable or unavailable for the purposes intended and
31 which creates an immediate need for other real property to preserve the health or safety of
32 persons or property.

33 SECTION 4. Notwithstanding any general or special law to the contrary, the Small
34 Business Insurance Commission is established to examine the need for guidelines for small
35 business insurance, including, but not limited to, a requirement that the insured have and
36 maintain a continuity of business plan, and a requirement that the business be registered with the
37 local emergency management office.

38 The commission shall consist of the following: The commissioner of insurance, two
39 appointees of the senate president, 2 appointees of the speaker of the house, 1 appointee of the
40 senate minority leader, 1 appointee of the house minority leader, 1 appointee of Associated
41 Industries of Massachusetts, 1 appointee of the Massachusetts Chamber of Commerce, 1
42 appointee of the National Federation of Independent Business and 2 appointees of the governor,
43 1 of whom shall be from the insurance industry with expertise in small businesses. The
44 commissioner of insurance shall be the chair of the commission but shall have no vote except in
45 case of a tie.

46 The commission shall be responsible for studying the need for insurance guidelines for
47 small business and issue a report of its findings no later than December 31, 2014.

48 SECTION 5. Section 71 of Chapter 59 of the General Laws, as appearing in the 2010
49 Official Edition, is hereby amended by adding after the word “bankruptcy,” the following words
50 -: “natural disaster”

SECTION 6. Chapter 59 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding the following new section:

Section 59B. Municipalities may establish, relative to sites or portions of sites from or at which there has been a natural disaster, an agreement between the city or town and any eligible person, as defined in section 2 of chapter 21E, regarding the abatement of outstanding interest, penalties, and payment of real estate tax obligations on said sites or portions of sites; provided, however, that said sites or portions of sites are zoned for commercial or industrial uses by the municipality in which said sites or portion of sites exist. Such agreement, for the purpose of continuing cleanup on such sites and redevelopment in such communities, shall include, but shall not be limited to, the amount outstanding, the per cent of interest to accrue if determined applicable by the parties, the description of quantifiable monthly payments, the inception date of such payments, the date of the final payment, late penalties, and any other contractual obligations arranged between the parties. The terms of repayment shall be set at the discretion of the municipality and shall be included in the agreement between the parties. A city or town that accepts this section shall adopt an ordinance or by-law specifying the method for negotiating and approving agreements under this section. Copies of each such agreement shall be signed by the municipal officer required by the ordinance or by-law and by the owner of the property in question, notarized, attested to by the city or town clerk, and provided to the department of environmental protection, the federal Environmental Protection Agency, the commissioner, the city council or board of selectmen, and the owners of the property in question. This section shall take effect in any city or town only upon its acceptance by such city or town.

SECTION 7. Chapter 10 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by adding at the end, thereof, the following new section:

Section 70. There shall be established and set upon the books of the commonwealth a separate fund to be known as the Massachusetts Disaster Relief and Recovery Fund. There shall be credited to the fund such funds as may be transferred or appropriated by the General Court and any income derived from repayment of loans from the fund and income derived from investment of amounts credited to the fund. Amounts credited to the fund shall be received and held in trust for grants to political subdivisions of the commonwealth and loan guarantees to banks for low interest loans to small businesses for relief and recovery efforts following a disaster, provided, however that no loan guarantee shall exceed fifty percent of the loan, and provided further that no interest rate on such loan shall exceed four percent per annum, nor shall any repayment period exceed ten years. Said grants or loans shall be made by the director of the massachusetts emergency management agency with the approval of the secretary of the executive office of housing and economic development. Revenues and expenditures of the fund shall be reported on the Massachusetts management and accounting and reporting system and maintained by the state treasurer. The Fund shall not exceed a maximum of $5,000,000. For the purposes of this section a “disaster” shall mean an emergency, other than a level one emergency, as defined by the Massachusetts Comprehensive Emergency Management Plan.

90 A municipality may establish a program of emergency assistance grants of not more than
91 one thousand dollars per business entity to assist with relocation and start-up costs, provided that
92 businesses, to be eligible, must be adequately insured. Said grant shall be repaid when the
93 insurance settlement is finalized.

94 SECTION 8. Notwithstanding the provisions of any other general or special law to the
95 contrary, the secretary of the executive office of labor and workforce development is hereby
96 authorized and directed to develop an unemployment compensation program for self-employed
97 individuals and for small business owners who may be temporarily displaced as a result of a
98 disaster as defined in this act. Said program shall include recommendations for administration
99 and funding of the program. The secretary shall provide a report to the general court, together
100 with recommendations for legislation not later than December 1, 2014.