

3720

2009-2010 Regular Sessions

I N S E N A T E

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Introduced by Sens. STACHOWSKI, BRESLIN, DIAZ, ONORATO, OPPENHEIMER, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the executive law, in relation to enacting the "engineers', architects', landscape architects' and land surveyors' good samaritan act"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The executive law is amended by adding a new section 29-f
2 to read as follows:
3 S 29-F. ENGINEERS', ARCHITECTS', LANDSCAPE ARCHITECTS' AND LAND
4 SURVEYORS' GOOD SAMARITAN ACT. 1. AS USED IN THIS SECTION:
5 (A) "PROFESSIONAL ENGINEER" SHALL MEAN A PERSON DULY LICENSED UNDER
6 THE EDUCATION LAW AS A PROFESSIONAL ENGINEER.
7 (B) "ARCHITECT" SHALL MEAN A PERSON DULY LICENSED UNDER THE EDUCATION
8 LAW AS AN ARCHITECT.
9 (C) "LANDSCAPE ARCHITECT" SHALL MEAN A PERSON DULY LICENSED UNDER THE
10 EDUCATION LAW AS A LANDSCAPE ARCHITECT.
11 (D) "LAND SURVEYOR" SHALL MEAN A PERSON DULY LICENSED UNDER THE EDUCA-
12 TION LAW AS A PROFESSIONAL LAND SURVEYOR.
13 (E) "PUBLIC OFFICIAL" SHALL MEAN ANY FEDERAL, STATE OR LOCALLY ELECTED
14 OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY IN THE JURISDICTION IN
15 WHICH THE EMERGENCY OR EVENT HAS OCCURRED.
16 (F) "PUBLIC SAFETY OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
17 FEDERAL, STATE OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY
18 TO COORDINATE PUBLIC SAFETY IN THE JURISDICTION IN WHICH THE EMERGENCY
19 OR EVENT HAS OCCURRED.
20 (G) "LAW ENFORCEMENT OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
21 FEDERAL, STATE OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 TO COORDINATE LAW ENFORCEMENT IN THE JURISDICTION IN WHICH THE EMERGENCY
2 OR EVENT HAS OCCURRED.

3 (H) "BUILDING INSPECTION OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
4 FEDERAL, STATE OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY
5 TO COORDINATE BUILDING INSPECTION IN THE JURISDICTION IN WHICH THE EMER-
6 GENCY OR EVENT HAS OCCURRED.

7 2. A PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR LAND
8 SURVEYOR WHO VOLUNTARILY, WITHOUT COMPENSATION, PROVIDES STRUCTURAL,
9 ELECTRICAL, MECHANICAL, OR OTHER ENGINEERING, ARCHITECTURAL, LANDSCAPE
10 ARCHITECTURAL OR LAND SURVEYING SERVICES AT THE SCENE OF A DECLARED
11 NATIONAL, STATE OR LOCAL EMERGENCY CAUSED BY A MAJOR EARTHQUAKE, HURRI-
12 CANE, TORNADO, FIRE, EXPLOSION, COLLAPSE, OR OTHER SIMILAR DISASTER OR
13 CATASTROPHIC EVENT AT THE REQUEST OF A NATIONAL, STATE OR LOCAL PUBLIC
14 OFFICIAL, LAW ENFORCEMENT OFFICIAL, PUBLIC SAFETY OFFICIAL OR BUILDING
15 INSPECTION OFFICIAL ACTING IN AN OFFICIAL CAPACITY, SHALL NOT BE LIABLE
16 FOR ANY PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE OR OTHER LOSS
17 CAUSED BY THE PROFESSIONAL ENGINEER'S, ARCHITECT'S, LANDSCAPE ARCHI-
18 TECT'S OR LAND SURVEYOR'S ACTS, ERRORS OR OMISSIONS IN THE PERFORMANCE
19 OF ANY ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND
20 SURVEYING SERVICES FOR ANY STRUCTURE, BUILDING, PIPING OR OTHER ENGI-
21 NEERED SYSTEM, EITHER PUBLICLY OR PRIVATELY OWNED EXCEPT IN THOSE
22 INSTANCES WHERE THE PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE OR
23 OTHER LOSS RESULTS FROM THE ACT, ERROR OR OMISSION OF THE PROFESSIONAL
24 ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR LAND SURVEYOR WHO HAS FOUND
25 THAT THE STRUCTURE, BUILDING, PIPING OR OTHER ENGINEERED SYSTEM IS FIT
26 FOR THE PURPOSES OF OCCUPANCY OR USAGES FOR WHICH IT WAS INTENDED.

27 (A) THE IMMUNITY PROVIDED IN THIS SECTION SHALL APPLY ONLY TO A VOLUN-
28 TARY ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEY-
29 ING SERVICE THAT OCCURS WITHIN NINETY DAYS OF THE EMERGENCY, DISASTER OR
30 CATASTROPHIC EVENT, UNLESS EXTENDED BY AN EXECUTIVE ORDER ISSUED BY THE
31 GOVERNOR UNDER THE GOVERNOR'S EMERGENCY EXECUTIVE POWERS.

32 (B) NOTHING IN THIS SECTION SHALL PROVIDE IMMUNITY FOR WANTON, WILLFUL
33 OR INTENTIONAL MISCONDUCT, OR GROSS NEGLIGENCE.

34 (C) WHERE A PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR
35 LAND SURVEYOR VOLUNTARILY RENDERS SERVICES AT THE REQUEST OF A STATE OR
36 LOCAL EMPLOYEE OR OFFICIAL AND WHERE SUCH SERVICES FALL WITHIN THE AMBIT
37 OF THE IMMUNITY PROVIDED IN THIS SECTION, THE LIABILITY OF THE STATE OR
38 LOCALITY, IF ANY, WHICH REQUESTED THE SERVICES SHALL NOT BE AFFECTED BY
39 THE PROVISIONS OF THIS SECTION.

40 S 2. This act shall take effect on the first of January next succeed-
41 ing the date on which it shall have become a law.