

3942

2013-2014 Regular Sessions

I N   S E N A T E

February 27, 2013

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Introduced by Sen. HANNON -- 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 EXECUTIVE RESPONSIBILITY IN THE JURISDICTION IN WHICH THE  
15    EMERGENCY OR EVENT HAS OCCURRED.  
16    (F) "PUBLIC SAFETY OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED  
17    FEDERAL, STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY TO COOR-  
18    DINATE PUBLIC SAFETY IN THE JURISDICTION IN WHICH THE EMERGENCY OR EVENT  
19    HAS OCCURRED.  
20    (G) "LAW ENFORCEMENT OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED  
21    FEDERAL, STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY TO COOR-  
22    DINATE LAW ENFORCEMENT IN THE JURISDICTION IN WHICH THE EMERGENCY OR  
23    EVENT HAS OCCURRED.

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

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(H) "BUILDING INSPECTION OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED FEDERAL, STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY TO COORDINATE BUILDING INSPECTION IN THE JURISDICTION IN WHICH THE EMERGENCY OR EVENT HAS OCCURRED.

2. A PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR LAND SURVEYOR WHO VOLUNTARILY, WITHOUT COMPENSATION, OTHER THAN REIMBURSEMENT OF EXPENSES, PROVIDES STRUCTURAL, ELECTRICAL, MECHANICAL, OR OTHER ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEYING SERVICES ARISING FROM OR IN CONNECTION WITH A RESPONSE TO OR RECOVERY OR RELIEF FROM A DECLARED NATIONAL, STATE OR LOCAL DISASTER OR EMERGENCY, WHETHER NATURAL OR MAN-CAUSED, SUCH AS, WITHOUT LIMITATION, AN EARTHQUAKE, HURRICANE, TORNADO, FIRE, EXPLOSION, FLOOD, TROPICAL STORM, COLLAPSE, OR OTHER SIMILAR DISASTER OR CATASTROPHIC EVENT, AT THE REQUEST OR WITH THE CONSENT OR APPROVAL OF A NATIONAL, STATE OR LOCAL PUBLIC OFFICIAL, LAW ENFORCEMENT OFFICIAL, PUBLIC SAFETY OFFICIAL OR BUILDING INSPECTION OFFICIAL ACTING IN AN OFFICIAL CAPACITY, SHALL NOT BE SUBJECT TO OR LIABLE FOR ANY CLAIM FOR PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE OR OTHER LOSS CAUSED BY THE PROFESSIONAL ENGINEER'S, ARCHITECT'S, LANDSCAPE ARCHITECT'S OR LAND SURVEYOR'S ACTS, ERRORS OR OMISSIONS IN THE PERFORMANCE OF ANY ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEYING SERVICES ARISING FROM OR IN ANY WAY RELATED TO THE DECLARED DISASTER OR EMERGENCY, EXCEPT AS SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

(A) THE IMMUNITY PROVIDED IN THIS SECTION SHALL APPLY ONLY TO A VOLUNTARY ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEYING SERVICE THAT OCCURS DURING OR WITHIN NINETY DAYS AFTER THE TERMINATION OF THE DECLARED EMERGENCY, DISASTER OR CATASTROPHIC EVENT, UNLESS EXTENDED BY AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR UNDER THE GOVERNOR'S EMERGENCY EXECUTIVE POWERS.

(B) THE IMMUNITY PROVIDED IN THIS SUBDIVISION SHALL APPLY IN ALL CASES, EXCEPT UPON A SHOWING THAT A VOLUNTARY ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEYING SERVICE FURNISHED FOR OR IN CONNECTION WITH A RESPONSE TO OR RECOVERY OR RELIEF FROM A DECLARED NATIONAL, STATE OR LOCAL DISASTER OR EMERGENCY WAS PERFORMED IN A MANNER THAT CONSTITUTES WANTON, WILLFUL OR INTENTIONAL MISCONDUCT, OR GROSS NEGLIGENCE.

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

S 2. This act shall take effect immediately.