

S T A T E O F N E W Y O R K

1269--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. ENGLEBRIGHT, J. RIVERA, SCHIMMINGER, PERRY, SCHIMMEL, LUPARDO -- Multi-Sponsored by -- M. of A. BARCLAY, CHRISTENSEN, COLTON, GALEF, LAVINE, McENENY, REILLY, TOBACCO -- read once and referred to the Committee on Higher Education -- recommitted to the Committee on Higher Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 TO COORDINATE PUBLIC SAFETY IN THE JURISDICTION IN WHICH THE EMERGENCY
2 OR EVENT HAS OCCURRED.

3 (G) "LAW ENFORCEMENT OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
4 FEDERAL, STATE OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY
5 TO COORDINATE LAW ENFORCEMENT IN THE JURISDICTION IN WHICH THE EMERGENCY
6 OR EVENT HAS OCCURRED.

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

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

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

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

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

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