

3884

2011-2012 Regular Sessions

I N A S S E M B L Y

January 28, 2011

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the
Committee on Higher Education

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
22 TO COORDINATE LAW ENFORCEMENT IN THE JURISDICTION IN WHICH THE EMERGENCY
23 OR EVENT HAS OCCURRED.

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

LBD00251-01-1

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

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

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

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

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

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