

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.

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(H) "BUILDING INSPECTION OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED FEDERAL, STATE OR LOCAL OFFICIAL WITH OVERALL 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 ACTING REASONABLY AND IN GOOD FAITH, PROVIDES STRUCTURAL, ELECTRICAL, MECHANICAL, OR OTHER ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEYING SERVICES AT THE SCENE OF A DECLARED NATIONAL, STATE OR LOCAL EMERGENCY CAUSED BY A MAJOR EARTHQUAKE, HURRICANE, TORNADO, FIRE, EXPLOSION, COLLAPSE, OR OTHER SIMILAR DISASTER OR CATASTROPHIC EVENT AT THE REQUEST 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 LIABLE FOR ANY 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 FOR ANY STRUCTURE, BUILDING, PIPING OR OTHER ENGINEERED SYSTEM, EITHER PUBLICLY OR PRIVATELY OWNED EXCEPT IN THOSE INSTANCES WHERE THE PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE OR OTHER LOSS RESULTS FROM THE ACT, ERROR OR OMISSION OF THE PROFESSIONAL ENGINEER, ARCHITECT, LANDSCAPE ARCHITECT OR LAND SURVEYOR WHO HAS FOUND THAT THE STRUCTURE, BUILDING, PIPING OR OTHER ENGINEERED SYSTEM IS FIT FOR THE PURPOSES OF OCCUPANCY OR USAGES FOR WHICH IT WAS INTENDED.

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

(B) NOTHING IN THIS SECTION SHALL PROVIDE IMMUNITY FOR 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 on the first of January next succeeding the date on which it shall have become a law.