

4380--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 4, 2013

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Introduced by M. of A. ENGLEBRIGHT, RIVERA, SCHIMMINGER, PERRY, SCHIMEL, LUPARDO, BROOK-KRASNY, RUSSELL, STIRPE, WEISENBERG, GALEF, SANTABARBARA -- Multi-Sponsored by -- M. of A. BARCLAY, COLTON, CUSICK, LAVINE, MALLIOTAKIS, MILLMAN, TENNEY -- read once and referred to the Committee on Higher Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, 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 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-

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

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

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

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

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

30 (A) THE IMMUNITY PROVIDED IN THIS SECTION SHALL APPLY ONLY TO A VOLUN-  
31 TARY ENGINEERING, ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEY-  
32 ING SERVICE THAT OCCURS DURING OR WITHIN NINETY DAYS AFTER THE TERMI-  
33 NATION OF THE DECLARED EMERGENCY, DISASTER OR CATASTROPHIC EVENT, UNLESS  
34 EXTENDED BY AN EXECUTIVE ORDER ISSUED BY THE GOVERNOR UNDER THE GOVER-  
35 NOR'S EMERGENCY EXECUTIVE POWERS.

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

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

49 S 2. This act shall take effect immediately.