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

4380--B

2013-2014 Regular Sessions

I N A S S E M B L Y

February 4, 2013

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

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

(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, ACTING REASONABLY AND IN GOOD FAITH, 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.