

7715

2013-2014 Regular Sessions

I N A S S E M B L Y

May 31, 2013

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to enacting the New York emergency responder act

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York
2 emergency responder act".

3 S 2. The executive law is amended by adding a new section 29-f to read
4 as follows:

5 S 29-F. THE NEW YORK EMERGENCY RESPONDER ACT. 1. AS USED IN THIS
6 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

7 (A) "PUBLIC OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED FEDERAL,
8 STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY IN THE JURISDIC-
9 TION IN WHICH THE EMERGENCY OR EVENT HAS OCCURRED.

10 (B) "PUBLIC SAFETY OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
11 FEDERAL, STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY TO COOR-
12 DINATE PUBLIC SAFETY IN THE JURISDICTION IN WHICH THE EMERGENCY OR EVENT
13 HAS OCCURRED.

14 (C) "LAW ENFORCEMENT OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
15 FEDERAL, STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY TO COOR-
16 DINATE LAW ENFORCEMENT IN THE JURISDICTION IN WHICH THE EMERGENCY OR
17 EVENT HAS OCCURRED.

18 (D) "CODE ENFORCEMENT OFFICIAL" SHALL MEAN ANY APPOINTED OR ELECTED
19 FEDERAL, STATE OR LOCAL OFFICIAL WITH EXECUTIVE RESPONSIBILITY TO COOR-
20 DINATE BUILDING INSPECTION IN THE JURISDICTION IN WHICH THE EMERGENCY OR
21 EVENT HAS OCCURRED.

22 (E) "DISASTER" SHALL MEAN THE OCCURRENCE OR IMMINENT THREAT OF WIDE-
23 SPREAD OR SEVERE DAMAGE, INJURY, OR LOSS OF LIFE OR PROPERTY RESULTING
24 FROM ANY NATURAL OR MAN-MADE CAUSES, INCLUDING, BUT NOT LIMITED TO,
25 FIRE, FLOOD, EARTHQUAKE, HURRICANE, TORNADO, HIGH WATER, LANDSLIDE,

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

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1 MUDSLIDE, WIND, STORM, WAVE ACTION, VOLCANIC ACTIVITY, EPIDEMIC, AIR
2 CONTAMINATION, TERRORISM, CYBER EVENT, BLIGHT, DROUGHT, INFESTATION,
3 EXPLOSION, RADIOLOGICAL ACCIDENT, NUCLEAR, CHEMICAL, BIOLOGICAL, OR
4 BACTERIOLOGICAL RELEASE, WATER CONTAMINATION, BRIDGE FAILURE OR BRIDGE
5 COLLAPSE.

6 (F) "DECLARED EMERGENCY" SHALL MEAN ANY STATE DISASTER EMERGENCY
7 DECLARATION, OR LOCAL EMERGENCY ORDER PROCLAMATION, BY A PUBLIC OFFI-
8 CIAL, OF THE OCCURRENCE OR IMMINENT THREAT OF A DISASTER OR RIOTING,
9 CATASTROPHE, OR SIMILAR PUBLIC EMERGENCY, OR IN THE EVENT OF REASONABLE
10 APPREHENSION OF IMMEDIATE DANGER THEREOF, AND UPON A FINDING BY THE
11 PUBLIC OFFICIAL THAT THE PUBLIC SAFETY IS IMPERILED THEREBY.

12 (G) "MUNICIPAL CORPORATION" SHALL MEAN A COUNTY, TOWN, CITY OR
13 VILLAGE.

14 (H) "STATE DEPARTMENT" SHALL MEAN THOSE STATE GOVERNMENT DEPARTMENTS,
15 DIVISIONS OR COMMISSIONS EMPOWERED BY THE STATE TO ENTER INTO CONTRACTU-
16 AL AGREEMENTS ON BEHALF OF THE STATE.

17 (I) "STATE AUTHORITY" SHALL MEAN A PUBLIC AUTHORITY OR PUBLIC BENEFIT
18 CORPORATION CREATED BY OR EXISTING UNDER THIS CHAPTER OR ANY OTHER LAW
19 OF THE STATE, WITH ONE OR MORE OF ITS MEMBERS APPOINTED BY THE GOVERNOR
20 OR WHO SERVE AS MEMBERS BY VIRTUE OF HOLDING A CIVIL OFFICE OF THE
21 STATE, OTHER THAN AN INTERSTATE OR INTERNATIONAL AUTHORITY OR PUBLIC
22 BENEFIT CORPORATION, INCLUDING SUBSIDIARIES OF SUCH PUBLIC AUTHORITY OR
23 PUBLIC BENEFIT CORPORATION.

24 (J) "LOCAL AUTHORITY" SHALL MEAN: (1) A PUBLIC AUTHORITY OR PUBLIC
25 BENEFIT CORPORATION CREATED BY OR EXISTING UNDER THIS CHAPTER OR ANY
26 OTHER LAW OF THE STATE WHOSE MEMBERS DO NOT HOLD A CIVIL OFFICE OF THE
27 STATE, ARE NOT APPOINTED BY THE GOVERNOR OR ARE APPOINTED BY THE GOVER-
28 NOR SPECIFICALLY UPON THE RECOMMENDATION OF THE LOCAL GOVERNMENT OR
29 GOVERNMENTS; (2) A NOT-FOR-PROFIT CORPORATION AFFILIATED WITH, SPONSORED
30 BY, OR CREATED BY A COUNTY, CITY, TOWN OR VILLAGE GOVERNMENT; (3) A
31 LOCAL INDUSTRIAL DEVELOPMENT AGENCY OR AUTHORITY OF OTHER LOCAL PUBLIC
32 BENEFIT CORPORATION; (4) AN AFFILIATE OF SUCH LOCAL AUTHORITY; OR (5) A
33 LAND BANK CORPORATION CREATED PURSUANT TO ARTICLE SIXTEEN OF THE
34 NOT-FOR-PROFIT CORPORATION LAW.

35 (K) "SCHOOL DISTRICT" SHALL MEAN ANY COMMON SCHOOL DISTRICT, UNION
36 FREE SCHOOL DISTRICT, CENTRAL SCHOOL DISTRICT, CITY SCHOOL DISTRICT, OR
37 CENTRAL HIGH SCHOOL DISTRICT.

38 (L) "SPECIAL DISTRICT" SHALL MEAN A TOWN OR COUNTY IMPROVEMENT
39 DISTRICT, DISTRICT CORPORATION OR OTHER DISTRICT ESTABLISHED FOR THE
40 PURPOSE OF CARRYING ON, PERFORMING OR FINANCING ONE OR MORE IMPROVEMENTS
41 OR SERVICES INTENDED TO BENEFIT THE HEALTH, WELFARE, SAFETY OR CONVEN-
42 IENCE OF THE INHABITANTS OF SUCH DISTRICT OR TO BENEFIT THE REAL PROPER-
43 TY WITHIN SUCH DISTRICT, AND IN WHICH REAL PROPERTY IS SUBJECT TO
44 SPECIAL AD VALOREM LEVIES OR SPECIAL ASSESSMENTS FOR THE PURPOSES FOR
45 WHICH SUCH DISTRICT WAS ESTABLISHED.

46 (M) "EMERGENCY ASSISTANCE" SHALL MEAN ANY ASSISTANCE OR ADVICE,
47 FURNISHING OF CONSTRUCTION, SUPPLIES, MATERIALS, EQUIPMENT OR LABOR, OR
48 PROVISION OF STRUCTURAL, ELECTRICAL, MECHANICAL, OR OTHER ENGINEERING,
49 ARCHITECTURAL, LANDSCAPE ARCHITECTURAL OR LAND SURVEYING SERVICES, ARIS-
50 ING FROM OR IN CONNECTION WITH AN ACTUAL OR IMPENDING NATIONAL, STATE OR
51 LOCAL DISASTER OR DECLARED EMERGENCY.

52 2. ANY PRIVATE PERSON, CORPORATION OR OTHER ENTITY, AND THE EMPLOYEES
53 AND AGENTS OF SUCH PERSON, CORPORATION OR OTHER ENTITY, WHO PROVIDES
54 EMERGENCY ASSISTANCE AT THE REQUEST OR WITH THE CONSENT OR APPROVAL OF
55 OR PURSUANT TO A CONTRACT WITH A NATIONAL, STATE OR LOCAL PUBLIC OFFI-
56 CIAL, LAW ENFORCEMENT OFFICIAL, PUBLIC SAFETY OFFICIAL, CODE ENFORCEMENT

1 OFFICIAL ACTING IN AN OFFICIAL CAPACITY, MUNICIPAL CORPORATION, STATE
2 DEPARTMENT, STATE AUTHORITY, LOCAL AUTHORITY, SCHOOL DISTRICT OR SPECIAL
3 DISTRICT, SHALL NOT BE SUBJECT TO SUIT OR CLAIM NOR LIABLE FOR ANY
4 PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, ECONOMIC LOSS OR ANY
5 OTHER DAMAGE, LOSS OR CLAIM CAUSED BY OR ARISING FROM, DIRECTLY OR INDI-
6 RECTLY, THE PERSON, CORPORATION OR ENTITY, OR THE EMPLOYEES OR AGENTS OF
7 SUCH PERSON, CORPORATION OR ENTITY, RELATING TO THE RENDERING OR
8 FURNISHING OF THE EMERGENCY ASSISTANCE IN CONNECTION WITH THE DISASTER
9 OR EMERGENCY, EXCEPT AS SET FORTH IN PARAGRAPH (B) OF THIS SUBDIVISION.

10 (A) THE IMMUNITY PROVIDED IN THIS SUBDIVISION SHALL APPLY WITH RESPECT
11 TO ALL EMERGENCY ASSISTANCE FURNISHED WITHIN THE PERIOD ENDING ON THE
12 LATER OF (1) SIXTY DAYS AFTER THE EMERGENCY IS DECLARED TERMINATED BY
13 THE AUTHORIZED PUBLIC OFFICIAL, OR (2) THIRTY DAYS AFTER THE COMPLETION
14 OF THE EMERGENCY ASSISTANCE PROVIDED PURSUANT TO A CONTRACT OR A REQUEST
15 BY THE APPLICABLE OFFICIAL, MUNICIPAL CORPORATION, DEPARTMENT, AUTHORITY
16 OR DISTRICT.

17 (B) THE IMMUNITY PROVIDED IN THIS SECTION SHALL APPLY IN ALL CASES
18 EXCEPT UPON A SHOWING THAT ASSISTANCE OR ADVICE RENDERED OR A SERVICE
19 FURNISHED FOR OR IN CONNECTION WITH AN IMPENDING OR ACTUAL DECLARED
20 NATIONAL, STATE OR LOCAL DISASTER OR EMERGENCY WAS PERFORMED IN A MANNER
21 THAT CONSTITUTES WANTON, WILLFUL OR INTENTIONAL MISCONDUCT, OR GROSS
22 NEGLIGENCE.

23 (C) WHERE A PERSON, CORPORATION OR OTHER ENTITY OR THE EMPLOYEES OR
24 AGENTS OF ANY PERSON, CORPORATION OR OTHER ENTITY RENDERS ADVICE OR
25 SERVICES AT THE REQUEST OF A STATE OR LOCAL EMPLOYEE OR OFFICIAL AND
26 WHERE SUCH ADVICE OR SERVICES FALL WITHIN THE AMBIT OF THE IMMUNITY
27 PROVIDED IN THIS SECTION, THE LIABILITY OF THE STATE OR LOCALITY, IF
28 ANY, WHICH REQUESTED THE SERVICES SHALL NOT BE AFFECTED BY THE
29 PROVISIONS OF THIS SECTION.

30 S 3. This act shall take effect immediately.