

STATE OF NEW YORK

4135--A

2017-2018 Regular Sessions

IN SENATE

February 3, 2017

Introduced by Sens. SAVINO, AKSHAR, AVELLA, BONACIC, BOYLE, CARLUCCI, FUNKE, GALLIVAN, ORTT, PERALTA, SEWARD, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

5 § 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, and acting in his or
10 her official capacity.

11 (b) "Public safety official" shall mean any appointed or elected
12 federal, state or local official with executive responsibility to coor-
13 ordinate public safety in the jurisdiction in which the emergency or event
14 has occurred, and acting in his or her official capacity.

15 (c) "Law enforcement official" shall mean any appointed or elected
16 federal, state or local official with executive responsibility to coor-
17 ordinate law enforcement in the jurisdiction in which the emergency or
18 event has occurred, and acting in his or her official capacity.

19 (d) "Code enforcement official" shall mean any appointed or elected
20 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.

LBD03673-03-7

1 dinate building inspection in the jurisdiction in which the emergency or
2 event has occurred, and acting in his or her official capacity.

3 (e) "Declared emergency" shall mean any state disaster emergency
4 declaration or local emergency order proclamation, by a public official,
5 of the occurrence or imminent threat of a disaster or rioting, catastro-
6 phe or similar public emergency, or in the event of reasonable apprehen-
7 sion of immediate danger thereof, and upon a finding by the public offi-
8 cial that the public safety is imperiled thereby.

9 (f) "Municipal corporation" shall mean a county, town, city or
10 village.

11 (g) "State department" shall mean those state government departments,
12 divisions or commissions empowered by the state to enter into contractu-
13 al agreements on behalf of the state.

14 (h) "State authority" shall mean a public authority or public benefit
15 corporation created by or existing under this chapter or any other law
16 of the state, with one or more of its members appointed by the governor
17 or who serve as members by virtue of holding a civil office of the
18 state, other than an interstate or international authority or public
19 benefit corporation, including subsidiaries of such public authority or
20 public benefit corporation.

21 (i) "Local authority" shall mean: (1) a public authority or public
22 benefit corporation created by or existing under this chapter or any
23 other law of the state whose members do not hold a civil office of the
24 state, are not appointed by the governor or are appointed by the gover-
25 nor specifically upon the recommendation of the local government or
26 governments; (2) a not-for-profit corporation affiliated with, sponsored
27 by or created by a county, city, town or village government; (3) a local
28 industrial development agency or authority of another local public bene-
29 fit corporation; (4) an affiliate of such local authority; or (5) a land
30 bank corporation created pursuant to article sixteen of the not-for-pro-
31 fit corporation law.

32 (j) "School district" shall mean any common school district, union
33 free school district, central school district, city school district, or
34 central high school district.

35 (k) "Special district" shall mean a town or county improvement
36 district, district corporation or other district established for the
37 purpose of carrying on, performing or financing one or more improvements
38 or services intended to benefit the health, welfare, safety or conven-
39 ience of the inhabitants of such district or to benefit the real proper-
40 ty within such district, and in which real property is subject to
41 special ad valorem levies or special assessments for the purposes for
42 which such district was established.

43 (l) "Emergency assistance" shall mean (1) any assistance or advice,
44 furnishing of construction, supplies, materials, equipment or labor; (2)
45 provision of structural, electrical, mechanical or other engineering
46 services rendered pursuant to article one hundred forty-five of the
47 education law; (3) architectural services rendered pursuant to article
48 one hundred forty-seven of the education law; (4) landscape architec-
49 tural services rendered pursuant to article one hundred forty-eight of
50 the education law; (5) land surveying services rendered pursuant to
51 article one hundred forty-five of the education law; or (6) geological
52 services rendered pursuant to article one hundred forty-five of the
53 education law arising from or in connection with an actual or impending
54 declared emergency, or national, state or local disaster, as defined in
55 paragraph a of subdivision two of section twenty of this article.

1 2. Subject to paragraphs (a) through (g) of this subdivision, any
2 person, corporation or other entity, and the employees and agents of
3 such person, corporation or other entity, which provides emergency
4 assistance either on a voluntary basis at the request of a public offi-
5 cial, law enforcement official, public safety official or code enforce-
6 ment official, municipal corporation, state department, state authority,
7 local authority, school district or special district; or pursuant to a
8 contract with a public official, law enforcement official, public safety
9 official or code enforcement official, municipal corporation, state
10 department, state authority, local authority, school district or special
11 district; shall not be liable for any civil damages for injuries result-
12 ing from any act of commission or omission on his or her part in the
13 course of his or her rendering such assistance unless it is established
14 that such injuries were caused by gross negligence, or reckless, wanton
15 or intentional misconduct, on the part of such person arising from,
16 directly or indirectly, the person, corporation or entity, or the
17 employees or agents of such person, corporation or entity, relating to
18 the rendering or furnishing of the voluntary or contractual emergency
19 assistance in connection with the disaster or emergency, provided that
20 the emergency assistance consists of acts, advice, service, work, labor,
21 materials, supplies, equipment or other activities that are consistent
22 with the nature of and rendered pursuant to the request for, consent to,
23 approval of, or contract for such emergency assistance.

24 (a) The rights and benefits provided in this subdivision shall apply
25 with respect to all emergency assistance furnished within the period
26 ending on the later of (1) sixty days after the emergency is declared
27 terminated by the authorized public official, or (2) thirty days after
28 the applicable official, municipal corporation, department or authority
29 advises the private person, corporation or other entity that is provid-
30 ing the emergency assistance in writing that the emergency assistance is
31 completed.

32 (b) The rights and benefits provided in this section shall apply in
33 all cases except upon a showing that assistance or advice rendered, or a
34 service furnished for or in connection with an impending or actual
35 declared national, state or local disaster or emergency was performed
36 pursuant to a separate written agreement for work to be performed or
37 services to be rendered after the conclusion of the emergency assistance
38 where the primary purpose of such agreement is the design or
39 construction of a permanent repair, restoration, correction or other
40 remedy of the conditions that caused or were damaged by the declared
41 emergency, or national, state or local disaster, as defined in paragraph
42 a of subdivision two of section twenty of this article.

43 (c) Where a person, corporation or other entity, or the employees or
44 agents of any person, corporation or other entity renders advice or
45 services at the request of a state or local employee or official and
46 where such advice or services fall within the ambit of the rights and
47 benefits provided in this section, the liability of the state or locali-
48 ty, if any, which requested the services shall not be affected by the
49 provisions of this section.

50 (d) The rights and benefits provided in this section shall not apply
51 to persons, corporations or other entities (1) whose primary business or
52 occupation, at the time of the occurrence of the disaster or circum-
53 stances that gave rise to the declared emergency for which emergency
54 assistance was provided, is one of providing emergency first responder
55 services in response to declared emergencies, and national, state or
56 local disasters, as defined in paragraph a of subdivision two of section

1 twenty of this article; or (2) is regularly engaged in the business of
2 manufacturing equipment that is intended for general use in emergency
3 response operations.

4 (e) The rights and benefits provided in this section shall not apply
5 to persons, corporations or other entities whose negligence or willful
6 misconduct caused, in whole or in material part, the disaster or
7 declared emergency.

8 (f) Nothing in this section shall affect the rights and benefits of
9 individuals expressly authorized to participate in volunteer emergency
10 response activities under the direction of or in connection with a
11 community emergency response team, county emergency management agency,
12 state emergency management agency, state-sponsored volunteer program or
13 federal emergency management agency.

14 (g) The rights and benefits provided in this section shall not affect
15 the rights of individuals to seek workers' compensation insurance
16 compensation and other benefits thereunder.

17 § 3. This act shall take effect immediately.