

STATE OF NEW YORK

8159

IN SENATE

April 13, 2020

Introduced by Sens. SAVINO, SANDERS -- read twice and ordered printed,
and when printed to be committed to the Committee on Veterans, Home-
land Security and Military Affairs

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 Assem-
bly, 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-
21 ordinate building inspection in the jurisdiction in which the emergency or
22 event has occurred, and acting in his or her official capacity.

23 (e) "Declared emergency" shall mean any state disaster emergency
24 declaration or local emergency order proclamation, by a public official,
25 of the occurrence or imminent threat of a disaster or rioting, catastro-
26 phe or similar public emergency, or in the event of reasonable apprehen-

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

LBD05909-01-9

1 sion of immediate danger thereof, and upon a finding by the public offi-
2 cial that the public safety is imperiled thereby.

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

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

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

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

26 (j) "School district" shall mean any common school district, union
27 free school district, central school district, city school district, or
28 central high school district.

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

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

50 2. Subject to paragraphs (a) through (g) of this subdivision, any
51 person, corporation or other entity, and the employees and agents of
52 such person, corporation or other entity, which provides emergency
53 assistance either on a voluntary basis at the request of a public offi-
54 cial, law enforcement official, public safety official or code enforce-
55 ment official, municipal corporation, state department, state authority,
56 local authority, school district or special district; or pursuant to a

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

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

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

36 (c) Where a person, corporation or other entity, or the employees or
37 agents of any person, corporation or other entity renders advice or
38 services at the request of a state or local employee or official and
39 where such advice or services fall within the ambit of the rights and
40 benefits provided in this section, the liability of the state or locali-
41 ty, if any, which requested the services shall not be affected by the
42 provisions of this section.

43 (d) The rights and benefits provided in this section shall not apply
44 to persons, corporations or other entities (1) whose primary business or
45 occupation, at the time of the occurrence of the disaster or circum-
46 stances that gave rise to the declared emergency for which emergency
47 assistance was provided, is one of providing emergency first responder
48 services in response to declared emergencies, and national, state or
49 local disasters, as defined in paragraph a of subdivision two of section
50 twenty of this article; or (2) is regularly engaged in the business of
51 manufacturing equipment that is intended for general use in emergency
52 response operations.

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

1 (f) Nothing in this section shall affect the rights and benefits of
2 individuals expressly authorized to participate in volunteer emergency
3 response activities under the direction of or in connection with a
4 community emergency response team, county emergency management agency,
5 state emergency management agency, state-sponsored volunteer program or
6 federal emergency management agency.

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

10 § 3. This act shall take effect immediately.