

31 Support Good Samaritan Legislation

I. Summary

Issue:

Architects and engineers often hesitate to volunteer with emergency recovery efforts due to liability concerns.

Recommendations:

Enact New York State "Good Samaritan" legislation protecting architects and engineers from liability for emergency volunteer work.

II. Proposed Legislation, Rule or Study

Enact New York State Good Samaritan Legislation:

The New York State legislature should enact legislation that shields licensed engineers, architects, landscape architects and land surveyors from any claim of personal injury, wrongful death, property damage or other loss when they provide their professional services:

- on a voluntary basis;
 - in response to or recovery from a declared national, state or local disaster or emergency;
 - at the request of national, state or local governmental officials acting in an official capacity;
 - unless such services were provided in a wanton, willful or grossly negligent manner or with intentional misconduct.
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III. Supporting Information

Expanded Issues and Benefits:

During the 9/11 emergency recovery, architects and engineers rushed to Ground Zero to provide advice regarding structural, safety and other construction-related issues. Many of the design professionals who furnished services in the wake of and in connection with the cleanup and recovery efforts at and around the World Trade Center site have been named in lawsuits (many of which remain pending more than a decade later) alleging that they were somehow negligent and that such negligence caused workers and first responders at the site to incur injuries. Many

architectural and engineering firms have now concluded that the liability risks are too high to volunteer during similar disasters. A legal shield to protect design professionals against liability in very specific circumstances would ensure that the City is able to draw upon the resources of the private sector to improve life safety conditions and mitigate additional damage following disasters or emergencies.

Currently, approximately 25 states have Good Samaritan legislation protecting architects and/or engineers responding to catastrophic situations and there is no federal legislation in place.ⁱ New York has not yet adopted such legislation, although there are bills pending in the State Senate and Assembly.ⁱⁱ Numerous professional societies, including the National Society of Professional Engineers and the American Institute of Architects, have advocated in favor of such legislation.

All 50 states have Good Samaritan legislation in place for volunteer licensed and/or certified medical personnel and other first responders acting in emergency situations.

In the aftermath of Superstorm Sandy, architects and engineers ready and willing to help assess storm damage were deterred by the threat of lawsuits like those faced by their colleagues in the wake of 9/11.ⁱⁱⁱ Enactment of a Good Samaritan law will ensure that volunteer resources are available to the Department of Buildings and other city, state and federal agencies during future disasters by providing these volunteer professionals with appropriate legal protection.

Cost:

Passage of Good Samaritan legislation may reduce governmental costs for providing emergency design professional services by increasing the availability of volunteer resources. The legislation would put a supplemental voluntary workforce at the disposal of the Department of Buildings and any other agency requiring such services.

No cost estimation was performed for this proposal.

i. See <http://www.aia.org/aiaucmp/groups/aia/documents/pdf/aiab083366.pdf>.

ii. New York State Senate Bill No. S03492 and New York State Assembly Bill No. A04380A, both introduced February 4, 2013.

iii. http://www.crainsnewyork.com/article/20130222/REAL_ESTATE/130229950.