

SENATE No. 795

The Commonwealth of Massachusetts

PRESENTED BY:

Karen E. Spilka

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting certain persons who render voluntary services at the scene of a disaster or catastrophe.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Karen E. Spilka</i>	<i>Second Middlesex and Norfolk</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>Donald Humason</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>John V. Fernandes</i>	<i>10th Worcester</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>
<i>Paul Brodeur</i>	<i>32nd Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>James T. Welch</i>	<i>Hampden</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Michael R. Knapik</i>	<i>Second Hampden and Hampshire</i>

Gale D. Candaras
Daniel A. Wolf

First Hampden and Hampshire
Cape and Islands

SENATE No. 795

By Ms. Spilka, a petition (accompanied by bill, Senate, No. 795) of Karen E. Spilka, William Smitty Pignatelli, Donald F. Humason, Jr., Angelo J. Puppolo, Jr. and other members of the General Court for legislation to protect engineers, architects, environmental professionals, landscape architects, planners, land surveyors, licensed site professionals, and contractors who render voluntary services at the scene of a disaster or catastrophe. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act protecting certain persons who render voluntary services at the scene of a disaster or catastrophe.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 The General Laws are hereby amended by inserting after section 60P of chapter 112 the
2 following new section:--

3 Section 60Q. Engineers’, architects’, environmental professionals’, landscape architects’,
4 planners’, land surveyors’, licensed site professionals’, and contractors’ Good Samaritan Act.

5 SECTION 1. As used in this section:

6 (a) “Professional Engineer” shall mean a person duly licensed under chapter one hundred
7 twelve, section eighty-one D, as a professional engineer. The term shall include any firm,
8 partnership, corporation, association, or other organization engaged in the business of providing
9 engineering services and employing such professional engineer, and any owner, officer, director,
10 shareholder, partner, or employee of such firm, partnership, corporation, association, or other
11 organization.

12 (b) “Architect” shall mean a person duly licensed under chapter one hundred twelve,
13 section sixty A, as an architect. The term shall include any firm, partnership, corporation,
14 association, or other organization engaged in the business of providing architecture services and
15 employing such architect, and any owner, officer, director, shareholder, partner, or employee of
16 such firm, partnership, corporation, association, or other organization.

17 (c) “Environmental Professional” shall mean a person duly licensed under chapter
18 twenty-one A, sections 19 through 19J, inclusive, as a hazardous waste site cleanup professional
19 (“licensed site professional”). The term shall include any firm, partnership, corporation,
20 association, or other organization engaged in the business of providing hazardous waste site
21 cleanup services and employing such licensed site professional, and any owner, officer, director,
22 shareholder, partner, or employee of such firm, partnership, corporation, association, or other
23 organization.

24 (d) “Landscape Architect” shall mean a person duly licensed under chapter one hundred
25 twelve, section ninety-eight, as a landscape architect. The term shall include any firm,
26 partnership, corporation, association, or other organization engaged in the business of providing
27 landscape architecture services and employing such landscape architect, and any owner, officer,
28 director, shareholder, partner, or employee of such firm, partnership, corporation, association, or
29 other organization.

30 (e) “Planner” shall mean a person duly certified by the American Institute of Certified
31 Planners as a certified planner. The term shall include any firm, partnership, corporation,
32 association, or other organization engaged in the business of providing planning services and
33 employing such planner, and any owner, officer, director, shareholder, partner, or employee of
34 such firm, partnership, corporation, association, or other organization.

35 (f) “Land Surveyor” shall mean a person duly licensed under chapter one hundred twelve,
36 section eighty-one D, as a professional land surveyor. The term shall include any firm,
37 partnership, corporation, association, or other organization engaged in the business of providing
38 land surveying services and employing such land surveyor, and any owner, officer, director,
39 shareholder, partner, or employee of such firm, partnership, corporation, association, or other
40 organization.

41 (g) “Contractor” shall mean any person, firm, partnership, corporation, association, or
42 other organization that is engaged in the business of designing, developing, constructing,
43 altering, adding to, or repairing new or existing structures, buildings, facilities, project utilities,
44 equipment, machines, processes, piping, or other engineered systems or infrastructure, or their
45 appurtenances. The term shall include:

46 (i) an owner, officer, director, shareholder, partner, or employee of the contractor;

47 (ii) subcontractors and suppliers of labor and materials used by a contractor in a
48 building, structure, facility, project utility, equipment, machine, process, piping, or other
49 engineered system or infrastructure; and

50 (iii) a risk retention group registered under applicable law, if any, that insures all
51 or any part of a contractor’s liability for the cost to repair a construction defect.

52 (h) “Public Official” shall mean any federal, state, or locally appointed or elected official
53 with overall executive responsibility in the jurisdiction in which the emergency or event has
54 occurred.

55 (i) “Public Safety Official” shall mean any appointed or elected federal, state, or local
56 official with overall executive responsibility to coordinate public safety in the jurisdiction in
57 which the emergency or event has occurred.

58 (j) “Law Enforcement Official” shall mean any appointed or elected federal, state, or
59 local official with overall executive responsibility to coordinate law enforcement in the
60 jurisdiction in which the emergency or event has occurred.

61 (k) “Building Inspection Official” shall mean any appointed or elected federal, state, or
62 local official with overall executive responsibility to coordinate building inspection in the
63 jurisdiction in which the emergency or event has occurred.

64 (l) “Environmental Official” shall mean any federal, state, or local official with overall
65 responsibility for coordinating an environmental response in the jurisdiction in which the
66 emergency or event has occurred.

67 (k) “Natural Disaster or Catastrophe” shall mean any event, whether man-made or
68 natural, that is declared an emergency by the President of the United States or by the governor,
69 or which results in the deployment of emergency response personnel or the displacement of
70 persons from the area of the event.

71 SECTION 2. A Professional Engineer, Architect, Environmental Professional, Landscape
72 Architect, Planner, Land Surveyor, Licensed Site Professional, or Contractor who voluntarily,
73 without compensation and acting in good faith, provides structural, electrical, mechanical, or
74 other engineering, architectural, environmental, landscape architectural, planning, land
75 surveying, waste site cleanup, contracting, or other professional design services related to a
76 natural disaster or catastrophe at the request of or with the approval of a national, state, or local
77 Public Official, Law Enforcement Official, Public Safety Official, Building Inspection Official,
78 or Environmental Official believed by the Professional Engineer, Architect, Environmental
79 Professional, Landscape Architect, Land Surveyor, Licensed Site Professional, or Contractor to
80 be acting in an official capacity, shall not be liable for any personal injury, wrongful death,
81 property damage, or other loss caused by the Professional Engineer’s, Architect’s,
82 Environmental Professional’s, Landscape Architect’s, Planner’s, Land Surveyor’s, Licensed Site
83 Professional’s, or Contractor’s acts, errors, or omissions in the performance of any engineering,
84 architectural, environmental, landscape architectural, planning, land surveying, waste site
85 cleanup, or contracting services for any site, structure, building, facility, project utility,
86 equipment, machine, process, piping, or other engineered system or infrastructure, either publicly
87 or privately owned.

88 (a) The immunity provided in this section shall apply only to the provision of voluntary
89 engineering, architectural, environmental, landscape architectural, planning, land surveying,
90 waste site cleanup, contracting, or other professional design services during the natural disaster
91 or catastrophe or within ninety days of the end of the natural disaster or catastrophe, unless the
92 period of emergency is extended by an executive order issued by the governor under the
93 governor's emergency executive powers.

94 (b) Nothing in this section shall provide immunity for wanton, willful, or intentional
95 misconduct, or gross negligence.

96 (c) When a Professional Engineer, Architect, Environmental Professional, Landscape
97 Architect, Planner, Land Surveyor, Licensed Site Professional, or Contractor voluntarily renders
98 services at the request of or with the approval of a state or local employee or official, and where
99 such services fall within the ambit of the immunity provided in this section, the liability of the
100 state or locality, if any, which requested the services shall not be affected by the provisions of
101 this section.

102 SECTION 3: The effective date of this act shall be the first of January next succeeding
103 the date on which it shall have become a law.