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HB 1300/93 - ECM

1997 Regular Session  
7r2633

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**By: Delegates Bissett and Harkins**

Introduced and read first time: February 6, 1997

Assigned to: Judiciary

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Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 20, 1997

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CHAPTER \_\_\_\_

1 AN ACT concerning

2 **Professional Engineers - Voluntary Practice of Engineering at Scene of Emergency,**  
3 **Disaster, or Catastrophic Event - Immunity**

4 FOR the purpose of providing that a professional engineer is not liable for any loss  
5 caused by an act, error, or omission of the professional engineer while practicing  
6 engineering if the act, error, or omission was not wanton, willful, or intentional and  
7 the practice of engineering was performed voluntarily and without compensation, at  
8 the scene of an emergency, disaster, or catastrophic event, and at the request of a  
9 certain official acting in an official capacity under certain circumstances; providing  
10 that the immunity provided by this Act applies only to the voluntary practice,  
11 without compensation, of engineering ~~within a certain period after the emergency,~~  
12 ~~disaster, or catastrophic event, unless extended by an executive order issued by the~~  
13 ~~Governor~~ while a declared state of emergency is in effect; providing for the  
14 application of this Act; defining certain terms; and generally relating to certain  
15 immunity for professional engineers who voluntarily and without compensation  
16 practice engineering at the scene of an emergency, disaster, or catastrophic event.

17 BY adding to

18 ~~Article - Business Occupations and Professions~~

19 ~~Section 14-404~~

20 Article - Courts and Judicial Proceedings

21 Section 5-399.8

22 Annotated Code of Maryland

23 (1995 Replacement Volume and 1996 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

25 MARYLAND, That the Laws of Maryland read as follows:

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1 ~~Article - Business Occupations and Professions~~

2 ~~14-404.~~

3 Article - Courts and Judicial Proceedings

4 5-399.8.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
6 INDICATED.

7 (2) "BUILDING INSPECTION OFFICIAL" MEANS ANY APPOINTED OR  
8 ELECTED FEDERAL, STATE, OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE  
9 RESPONSIBILITY TO COORDINATE BUILDING INSPECTION IN THE JURISDICTION IN  
10 WHICH AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.

11 (3) "FIRE OFFICIAL" MEANS ANY APPOINTED OR ELECTED LOCAL  
12 OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY TO COORDINATE FIRE,  
13 RESCUE, OR EMERGENCY MEDICAL SERVICES IN THE JURISDICTION IN WHICH A  
14 FIRE, EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.

15 ~~(3)~~ (4) "LAW ENFORCEMENT OFFICIAL" MEANS ANY APPOINTED OR  
16 ELECTED FEDERAL, STATE, OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE  
17 RESPONSIBILITY TO COORDINATE LAW ENFORCEMENT IN THE JURISDICTION IN  
18 WHICH AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.

19 ~~(4)~~ (5) "PUBLIC OFFICIAL" MEANS ANY FEDERAL, STATE, OR LOCALLY  
20 ELECTED OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY IN THE  
21 JURISDICTION IN WHICH AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS  
22 OCCURRED.

23 ~~(5)~~ (6) "PUBLIC SAFETY OFFICIAL" MEANS ANY APPOINTED OR  
24 ELECTED FEDERAL, STATE, OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE  
25 RESPONSIBILITY TO COORDINATE PUBLIC SAFETY IN THE JURISDICTION IN WHICH  
26 AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.

27 (B) A PROFESSIONAL ENGINEER IS NOT ~~LIABLE~~ PERSONALLY LIABLE IN  
28 DAMAGES BEYOND THE LIMITS OF ANY APPLICABLE INSURANCE OR  
29 SELF-INSURANCE FOR ANY PERSONAL INJURY, WRONGFUL DEATH, PROPERTY  
30 DAMAGE, OR OTHER LOSS CAUSED BY AN ACT, ERROR, OR OMISSION OF THE  
31 PROFESSIONAL ENGINEER WHILE PRACTICING ENGINEERING WITH REGARD TO  
32 ANY STRUCTURE, BUILDING, PIPING, OR OTHER ENGINEERED SYSTEM, EITHER  
33 PUBLICLY OR PRIVATELY OWNED, IF:

34 (1) THE ACT, ERROR, OR OMISSION WAS NOT WANTON, WILLFUL, ~~OR~~  
35 ~~INTENTIONAL~~ INTENTIONALLY TORTIOUS, OR GROSSLY NEGLIGENT; AND

36 (2) THE PRACTICE OF ENGINEERING WAS PERFORMED:

37 (I) VOLUNTARILY AND WITHOUT COMPENSATION;

38 (II) AT THE SCENE OF A DECLARED NATIONAL, STATE, OR LOCAL  
39 EMERGENCY CAUSED BY A MAJOR EARTHQUAKE, HURRICANE, TORNADO, FIRE,  
40 EXPLOSION, COLLAPSE, OR SIMILAR DISASTER OR CATASTROPHIC EVENT; AND

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1 (III) AT THE REQUEST OF A PUBLIC OFFICIAL, LAW ENFORCEMENT  
2 OFFICIAL, PUBLIC SAFETY OFFICIAL, ~~OR FIRE OFFICIAL, OR~~ BUILDING INSPECTION  
3 OFFICIAL, ACTING IN AN OFFICIAL CAPACITY.

4 (C) THE IMMUNITY PROVIDED BY THIS SECTION APPLIES ONLY TO THE  
5 VOLUNTARY PRACTICE OF ENGINEERING PERFORMED ~~WITHIN 90 DAYS AFTER THE~~  
6 ~~EMERGENCY, DISASTER, OR CATASTROPHIC EVENT, UNLESS EXTENDED BY AN~~  
7 ~~EXECUTIVE ORDER ISSUED BY THE GOVERNOR UNDER THE GOVERNOR'S~~  
8 ~~EMERGENCY EXECUTIVE POWERS~~ WHILE A DECLARED STATE OF EMERGENCY IS IN  
9 EFFECT.

10 (D) (1) THIS SECTION DOES NOT CREATE, AND MAY NOT BE CONSTRUED AS  
11 CREATING, A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST A  
12 PROFESSIONAL ENGINEER.

13 (2) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS  
14 AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED  
15 BY ANY OTHER PROVISIONS OF THE CODE OR AVAILABLE AT COMMON LAW, TO  
16 WHICH A PROFESSIONAL ENGINEER MAY BE ENTITLED.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed  
18 to apply only prospectively and may not be applied or interpreted to have any effect on or  
19 application to any cause of action arising before the effective date of this Act.

20 SECTION 2- ~~3~~, AND BE IT FURTHER ENACTED, That this Act shall take effect  
21 October 1, 1997.