

HOUSE BILL 394

Unofficial Copy
D3

1998 Regular Session
8r1416
CF 8r1549

By: **Delegates Bissett and Harkins**
Introduced and read first time: February 2, 1998
Assigned to: Judiciary

Committee Report: Favorable
House action: Adopted
Read second time: March 17, 1998

CHAPTER _____

1 AN ACT concerning

2 **Architects - Emergencies - Voluntary Practice of Architecture - Immunity**

3 FOR the purpose of providing that a licensed architect is not liable for any loss caused
4 by an act, error, or omission of the licensed architect while practicing
5 architecture if the act, error, or omission was not wanton, willful, or intentional
6 and the practice of architecture was performed voluntarily and without
7 compensation, at the scene of an emergency, disaster, or catastrophic event, and
8 at the request of a certain official acting in an official capacity under certain
9 circumstances; limiting the immunity provided by this Act; providing for the
10 application of this Act; defining certain terms; and generally relating to certain
11 immunity for licensed architects who voluntarily and without compensation
12 practice architecture at the scene of an emergency, disaster, or catastrophic
13 event.

14 BY adding to
15 Article - Courts and Judicial Proceedings
16 Section 5-426
17 Annotated Code of Maryland
18 (1995 Replacement Volume and 1997 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 5-426.

3 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
4 INDICATED.5 (2) "BUILDING INSPECTION OFFICIAL" MEANS ANY APPOINTED OR
6 ELECTED FEDERAL, STATE, OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE
7 RESPONSIBILITY TO COORDINATE BUILDING INSPECTION IN THE JURISDICTION IN
8 WHICH AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.9 (3) "FIRE OFFICIAL" MEANS ANY APPOINTED OR ELECTED LOCAL
10 OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY TO COORDINATE FIRE,
11 RESCUE, OR EMERGENCY MEDICAL SERVICES IN THE JURISDICTION IN WHICH A
12 FIRE, EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.13 (4) "LAW ENFORCEMENT OFFICIAL" MEANS ANY APPOINTED OR
14 ELECTED FEDERAL, STATE, OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE
15 RESPONSIBILITY TO COORDINATE LAW ENFORCEMENT IN THE JURISDICTION IN
16 WHICH AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.17 (5) "PUBLIC OFFICIAL" MEANS ANY FEDERAL, STATE, OR LOCALLY
18 ELECTED OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY IN THE
19 JURISDICTION IN WHICH AN EMERGENCY, DISASTER, OR CATASTROPHIC EVENT HAS
20 OCCURRED.21 (6) "PUBLIC SAFETY OFFICIAL" MEANS ANY APPOINTED OR ELECTED
22 FEDERAL, STATE, OR LOCAL OFFICIAL WITH OVERALL EXECUTIVE RESPONSIBILITY
23 TO COORDINATE PUBLIC SAFETY IN THE JURISDICTION IN WHICH AN EMERGENCY,
24 DISASTER, OR CATASTROPHIC EVENT HAS OCCURRED.25 (B) A LICENSED ARCHITECT IS NOT PERSONALLY LIABLE IN DAMAGES
26 BEYOND THE LIMITS OF ANY APPLICABLE INSURANCE OR SELF-INSURANCE FOR
27 ANY PERSONAL INJURY, WRONGFUL DEATH, PROPERTY DAMAGE, OR OTHER LOSS
28 CAUSED BY AN ACT, ERROR, OR OMISSION OF THE LICENSED ARCHITECT WHILE
29 PRACTICING ARCHITECTURE WITH REGARD TO ANY STRUCTURE OR OTHER
30 ARCHITECTURAL DESIGN, EITHER PUBLICLY OR PRIVATELY OWNED, IF:31 (1) THE ACT, ERROR, OR OMISSION WAS NOT WANTON, WILLFUL,
32 INTENTIONALLY TORTIOUS, OR GROSSLY NEGLIGENT; AND

33 (2) THE PRACTICE OF ARCHITECTURE WAS PERFORMED:

34 (I) VOLUNTARILY AND WITHOUT COMPENSATION;

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

1 (III) AT THE REQUEST OF A PUBLIC OFFICIAL, LAW ENFORCEMENT
2 OFFICIAL, PUBLIC SAFETY OFFICIAL, 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 ARCHITECTURE PERFORMED WHILE A DECLARED STATE
6 OF EMERGENCY IS IN EFFECT.

7 (D) (1) THIS SECTION DOES NOT CREATE, AND MAY NOT BE CONSTRUED AS
8 CREATING, A NEW CAUSE OF ACTION OR SUBSTANTIVE LEGAL RIGHT AGAINST A
9 LICENSED ARCHITECT.

10 (2) THIS SECTION DOES NOT AFFECT, AND MAY NOT BE CONSTRUED AS
11 AFFECTING, ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED
12 BY ANY OTHER PROVISIONS OF THE CODE OR AVAILABLE AT COMMON LAW, TO
13 WHICH A LICENSED ARCHITECT MAY BE ENTITLED.

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

18 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
19 October 1, 1998.