

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 5576

To provide construction, architectural, and engineering entities with qualified immunity from liability for negligence when providing services or equipment on a volunteer basis in response to a declared emergency or disaster.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 23, 2010

Mr. REICHERT (for himself, Mr. GARY G. MILLER of California, and Mr. MATHESON) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide construction, architectural, and engineering entities with qualified immunity from liability for negligence when providing services or equipment on a volunteer basis in response to a declared emergency or disaster.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Good Samaritan Pro-  
5       tection for Construction, Architectural, and Engineering  
6       Volunteers Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) The construction, architectural, and engi-  
4 neering industries provide a valuable service in times  
5 of disasters and emergencies.

6 (2) The construction, architectural, and engi-  
7 neering industries answered the call on September  
8 11, 2001, and the days afterwards to assist in the  
9 search, recovery, and clean-up efforts in New York  
10 City and Arlington, Virginia, as well as in the after-  
11 math of Hurricane Katrina.

12 (3) The expertise and equipment brought forth  
13 for the search, recovery, and other efforts greatly  
14 advanced and improved the efficiency of these ef-  
15 forts.

16 (4) Such efforts by the construction, architec-  
17 tural, and engineering industries make it safer for  
18 police, firefighters, and other rescue workers to work  
19 on search and recovery efforts.

20 (5) The services provided by the construction,  
21 architectural, and engineering industries improve the  
22 safety of the public by the assessment, containment,  
23 and mitigation of conditions that threaten life and  
24 property.

25 (6) Construction companies and architectural  
26 and engineering entities were faced with lawsuits as

1 a result of their voluntary efforts on behalf of their  
2 fellow citizens in New York City and the Gulf Coast.

3 (7) Providing construction contractors and ar-  
4 chitectural and engineering entities qualified immu-  
5 nity from liability when providing services in this  
6 type of volunteer activity helps to ensure that such  
7 services will be available in the future in times of  
8 need.

9 **SEC. 3. PROVISION OF QUALIFIED IMMUNITY FROM LIABIL-**  
10 **ITY FOR NEGLIGENCE TO CONSTRUCTION,**  
11 **ARCHITECTURAL, AND ENGINEERING ENTI-**  
12 **TIES WHEN PROVIDING SERVICES OR EQUIP-**  
13 **MENT ON A VOLUNTEER BASIS IN RESPONSE**  
14 **TO A DECLARED EMERGENCY OR DISASTER.**

15 (a) LIABILITY PROTECTION.—When a construction  
16 entity provides emergency construction assistance, or an  
17 architectural or engineering entity provides emergency ar-  
18 chitectural or engineering assistance, on a voluntary basis,  
19 in good faith, and without expectation of compensation,  
20 and the entity or an employee of such entity negligently  
21 causes harm, the entity and the employee, if applicable,  
22 are not jointly, severally, or individually liable in damages  
23 for that harm. Nothing in this section shall be construed  
24 as providing immunity for gross negligence or willful mis-  
25 conduct.

1 (b) DEFINITIONS.—In this section:

2 (1) The term “construction entity” means a  
3 person, sole proprietorship, partnership, limited li-  
4 ability company, or corporation in the regular busi-  
5 ness of providing construction assistance.

6 (2) The term “architectural or engineering enti-  
7 ty” means a person, sole proprietorship, partnership,  
8 limited liability company, or corporation in the reg-  
9 ular business of providing architectural or engineer-  
10 ing assistance.

11 (3) The term “construction assistance” means  
12 materials, labor, equipment, or services for construc-  
13 tion-related activities, including construction, demoli-  
14 tion, repair, clean-up, alteration, and remediation.

15 (4) The term “architectural or engineering as-  
16 sistance” means professional services of an architec-  
17 tural or engineering nature, as defined by State law,  
18 if applicable, that are required to be performed or  
19 approved by a licensed professional architect or engi-  
20 neer.

21 (5) The terms “emergency construction assist-  
22 ance” and “emergency architectural or engineering  
23 assistance” mean construction assistance and archi-  
24 tectural or engineering assistance, respectively, pro-  
25 vided—

1 (A) at the direction of a public official act-  
2 ing in an official capacity; and

3 (B) in response to or arising out of a de-  
4 clared Federal, State, or local emergency or dis-  
5 aster, whether the assistance is provided before  
6 or after the formal declaration of emergency or  
7 disaster.

8 (c) RELATIONSHIP TO STATE LAW.—

9 (1) PREEMPTION.—This section preempts the  
10 laws of any State to the extent that such laws are  
11 inconsistent with this section, except that it does not  
12 preclude a State from providing a higher amount of  
13 protection from liability, or from providing reim-  
14 bursement for costs or expenses as authorized by  
15 State or local law.

16 (2) WORKERS COMPENSATION.—This section  
17 does not apply to liability under workers compensa-  
18 tion laws.

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