



Oppose A.2258 (Englebright)/S.2160 (Hannon)

The American Council of Engineering Companies of New York (ACEC New York) - a proactive coalition of more than 270 firms representing every discipline of engineering related to the built environment – **OPPOSES A.2258 (Englebright)/S.2160 (Hannon)**, also known as “The Good Samaritan Act” as this legislation would not protect design firms from frivolous lawsuits in the wake of natural and man-made disasters.

Instead of protecting the many firms that provide services in the wake of disasters, The Good Samaritan bill aims to protect individual design professionals who volunteer in disaster areas during recovery efforts. In the days and weeks after disasters strike, volunteers are vital to the recovery of the affected area. In many cases, however, local governmental entities contract with design companies to manage the recovery efforts. This bill would not protect design firms from being sued for issues arising outside their scope of work as well as for matters that relate to the practical standard of care. A.6214 (Cusick)/S.4238 (Savino) – known as “The Emergency Responder Act” – would protect these design firms from costly and frivolous lawsuits. More importantly, it will allow or encourage firm to respond to future disasters as without this legislation, firms will be reluctant to do so.

After the attacks on the World Trade Center in 2001, the immediate response by the engineering community in providing structural consulting services at Ground Zero contributed to perhaps the largest recovery and site cleanup in modern history. Structural engineers were hired to assess the structural stability of the surrounding buildings and the massive debris pile that in areas reached the height of a ten-story building. They performed this task successfully as no serious injury or fatality resulted from structural instability. Unfortunately, there were numerous lawsuits against these firms not pertaining to their work as professional engineers, but rather due to claims over exposure to toxic air. Design professional should only be held liable for those issues that arise within their scope of practice.

The Emergency Responder Act would prevent future misguided lawsuits against professional design firms for on-site conditions that are entirely outside their assigned responsibility. Unlike Good Samaritan Laws, which protect only unpaid volunteers from liability for work performed during state or national disasters, emergency responder legislation would provide design professionals immunity from lawsuits that attempt to make design professionals responsible for work outside their scope.

The engineering profession is committed to public safety and integrity, but their responsibility to the public can only extend to the areas in which they are knowledgeable. Not only are the lawsuits themselves enormously expensive, but they also call into question whether firms can afford to offer their services in the event of future catastrophes. As weather related disasters become more severe and widespread it is in the interest of the state to pass legislation that will protect all design professionals who respond to disasters and allow them to provide necessary expertise without putting their businesses or personal property at risk. Unfortunately, A.2258/S.2610 does not address these concerns and as such, ACECNY opposes this legislation.