



Comments submitted by Michael Herlihy of 5 Stearns Road, Marlborough, Massachusetts and an
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October 22, 2013

Support for Bill S795: An Act protecting 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.

Chairwoman Clark, Chairman O'Flaherty, members of the Committee. Thank you for giving me the opportunity to testify before you today.

My name is Michael Herlihy. I am a resident of Marlborough, Massachusetts. I am also the Chair for ACEC/MA's Risk Management Committee. I am here today to speak in support of Senate Bill S795.

I am a partner of Ames & Gough Insurance Agency located in Quincy, MA. My agency specializes in securing business insurance for architectural companies, engineering companies, land surveying companies, licensed site professionals and other construction professional companies.

Individuals and companies providing voluntary services in the event of a natural disaster or catastrophe should not be at risk for costs associated with claims or lawsuits that result from the performance of these services. Individual engineers, architects and other construction professionals working for companies are only protected by their employers' insurance coverage when they are performing their services as employees of the firm, on behalf of the firm. Thus an architect, engineer or construction professional responding immediately to an emergency would have no insurance protection, unless they first sought the approval of their employer to provide the services.

Also, not all insurance companies provide coverage for voluntary services. For example some professional liability insurers that insure engineering companies limit liability coverage to only those professional services performed for others for a fee. The reason for this is that the insurance rates and premiums are based upon the insured company's annual revenue. Companies who are asked to provide voluntary services at the request of a public agency to assist with an emergency need to check their insurance policies to see if the policies will provide coverage for claims that could arise from the performance of voluntary services.

Companies which have insurance that covers voluntary services rendered at the scene of a natural disaster or catastrophe still face significant financial risk for claims arising from these services. Most insurance policies are written subject to a deductible that the insured company must pay at the time of the claim. Also, similar to what was faced by the companies which provided assistance at the New York World Trade Center immediately following the terrorist event, companies providing such voluntary assistance might be faced with class action lawsuits from thousands of claimants which could easily exhaust any available insurance coverage. Further, the enormous expense incurred by insurers even if

only for defense costs to resolve such litigation might cause the insurers to consider the companies sued to be too risky to insure for the future.

For these reasons, I urge the committee to support Senate Bill 795. Thank you for your consideration.