

**ACEC** *New York*

American Council of Engineering Companies of New York



**AIA** New York State

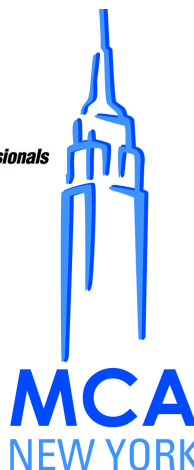
An Organization of The American Institute of Architects



BUILDING TRADES EMPLOYERS' ASSOCIATION  
INTEGRITY • VALUE • SAFETY



*The Voice of Long Island's Highway & Infrastructure Professionals*



NEW YORK  
BUILDING  
CONGRESS



**NYSSPE**



April 16, 2015

Hon. Carl Heastie  
Speaker  
New York State Assembly  
LOB Room 932  
Albany, NY 12248

Dear Speaker Heastie:

**An affiliation of New York's leading building industry associations urges your support for the New York Emergency Responder Act (A.6214/Englebright and S.4238/Savino).** The NYERA addresses a long-overlooked component of disaster response: protecting individuals, firms and their employees who volunteer or provide services in response to natural and man-made disasters from unforeseeable liability that can incur while working to protect the public.

During and after a catastrophic event, architectural, engineering and construction expertise and skills are essential to assess the integrity of buildings, infrastructure, and their engineered systems, and then to quickly stabilize, repair and rehabilitate damaged structures.

The public sector currently provides liability protections to its employees for response and recovery work. However, private individuals and firms within the construction industry face virtually unlimited liability exposure when working on behalf of government during and after a disaster. States prone to natural disasters recognize the importance of liability protection for emergency responders – today 30 states provide some form of immunity to design professionals and contractors offering their services during times of crisis – as it encourages an increase in response and recovery capacity.

Unfortunately, New York State has, to date, failed to address this issue, threatening the industry's ability to participate in response activities in the future. After the 9/11 attacks on New York City, the entire building industry responded immediately, working tirelessly on recovery efforts, helping the City stabilize the site in the ensuing weeks. The building industry's decisive response – taken at the City's request – was critical to helping the City, and the nation, recover from the attacks.

Asked to act without delay, firms could not perform a thorough survey of site conditions and potential risks. They could not plan, verify and implement safety procedures as they would for a typical construction project. Time did not allow for a full assessment of available insurance; the City did not offer indemnification to industry emergency responders; and, ultimately, the insurance industry could not offer sufficient liability insurance. Firms therefore found themselves underinsured and unprotected from liability.

Inevitably, personal injury lawsuits followed, alleging improper design and/or construction, when in reality, injuries emanated from the emergency nature of the efforts. All told, the City estimated total potential liability at nearly \$5 billion, even a fraction of which would devastate any firm. After a long struggle, this crisis was resolved with one-of-a-kind emergency federal legislation. No such protection exists for future disasters.

As a direct result of this experience, when the City procured firms for its Rapid Repairs Program, some the most capable firms concluded they could not participate because of this threat of open-ended, uninsurable risk. Liability coverage for participating firms exceeded New York's already-high costs, an expense that did not go directly to emergency repairs.

Similarly, hundreds of architects and engineers who stood ready to assist the City to assess damage following Superstorm Sandy were turned away by the City, which was unable to indemnify individuals offering their assistance.

Absent adequate protection, design and construction firms will have to make a business decision to not participate in critical emergency response, robbing government of their

capabilities. Moreover, government pays a steep premium for those who do participate, who must factor in cost and risk factors.

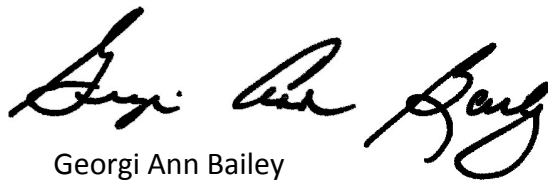
The organizations listed here count firms and workers that make up the front line of our State's emergency response efforts. As natural and man-made emergencies become an increasing fact of life throughout the State, we must be prepared to respond efficiently. The public welfare compels government to act to address this gap in emergency response.

We urge you to pass the Emergency Responder Protection Act as soon as possible.

Sincerely,



Richard T. Anderson  
President  
New York Building Congress



Georgi Ann Bailey  
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AIA New York State



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Building Trades Employers' Association



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cc: Governor Andrew Cuomo  
Senator Dean Skelos