

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 506

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H.P. 363

House of Representatives, January 31, 2019

**An Act To Provide Architects, Engineers and Certain Other  
Professionals Immunity from Civil Liability When Volunteering for  
Evaluating Damage from Disasters**

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative RYKERSON of Kittery.  
Cosponsored by Representatives: BABBIDGE of Kennebunk, CAIAZZO of Scarborough,  
DOORE of Augusta, HARNETT of Gardiner, HUBBELL of Bar Harbor, JORGENSEN of  
Portland, KESSLER of South Portland, Senator: CARPENTER of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 14 MRSA §172** is enacted to read:

3 **§172. Liability related to professional services for natural disaster or catastrophe**

4 **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5 following terms have the following meanings.

6 A. "Architect" means a person licensed as an architect under Title 32, chapter 3-A.

7 B. "Building inspection official" means a public official with executive responsibility  
8 to coordinate building inspection in the jurisdiction in which a natural disaster or  
9 catastrophe has occurred.

10 C. "Contractor" means a person engaged in the business of designing, developing,  
11 constructing, altering, adding to or repairing new or existing structures, buildings,  
12 facilities, project utilities, equipment, machines, processes, piping or other engineered  
13 systems or infrastructure or their appurtenances.

14 D. "Engineer" means a person licensed as a professional engineer under Title 32,  
15 chapter 19.

16 E. "Environmental official" means a public official with executive responsibility for  
17 coordinating an environmental response in the jurisdiction in which a natural disaster  
18 or catastrophe has occurred.

19 F. "Environmental professional" means a person engaged in the business of  
20 providing hazardous waste site clean-up services. "Environmental professional"  
21 includes a hazardous waste transporter licensed according to Title 38, section  
22 1319-O.

23 G. "Land surveyor" means a person licensed as a professional land surveyor  
24 according to Title 32, chapter 141.

25 H. "Landscape architect" means a person licensed as a landscape architect under  
26 Title 32, chapter 3-A.

27 I. "Law enforcement official" means a public official with executive responsibility to  
28 coordinate law enforcement in the jurisdiction in which a natural disaster or  
29 catastrophe has occurred.

30 J. "Natural disaster or catastrophe" means an event, whether natural or human-made,  
31 that is declared an emergency by the President of the United States or by the  
32 Governor or that results in the deployment of emergency response personnel or the  
33 displacement of persons from the area of the event.

34 K. "Planner" means a person certified by the American Institute of Certified  
35 Planners, or successor organization, as a certified planner.

36 L. "Public official" means a federal, state or local appointed or elected official with  
37 executive responsibility in the jurisdiction in which a natural disaster or catastrophe  
38 has occurred.

1 M. "Public safety official" means a public official with executive responsibility to  
2 coordinate public safety in the jurisdiction in which a natural disaster or catastrophe  
3 has occurred.

4 **2. Immunity.** An architect, contractor, environmental professional, land surveyor,  
5 landscape architect, planner or engineer who voluntarily, without compensation other  
6 than expense reimbursement, and acting in good faith provides, under the applicable  
7 license or certification, architectural, structural, electrical, mechanical or other  
8 engineering, planning, land surveying, hazardous waste site clean-up, contracting or other  
9 professional design services related to a natural disaster or catastrophe at the request of or  
10 with the approval of a public official, law enforcement official, public safety official,  
11 building inspection official or environmental official believed by the architect, contractor,  
12 environmental professional, land surveyor, landscape architect, planner or engineer to be  
13 acting in an official capacity is not liable for any personal injury, wrongful death,  
14 property damage or other loss of any nature related to the architect's, contractor's,  
15 environmental professional's, land surveyor's, landscape architect's, planner's or  
16 engineer's acts, errors or omissions in the performance of engineering, architectural,  
17 planning, land surveying, hazardous waste site clean-up or contracting services for a site,  
18 a structure, a building, a facility, a project utility, equipment, a machine, a process, piping  
19 or some other engineered system, either publicly or privately owned.

20 **3. Voluntary services.** The immunity provided in this section applies to only  
21 voluntary architectural, structural, electrical, mechanical or other engineering, planning,  
22 land surveying, hazardous waste site clean-up, contracting or other professional design  
23 services related to a natural disaster or catastrophe that are provided during the natural  
24 disaster or catastrophe or within 90 days following the end of the natural disaster or  
25 catastrophe, unless the period of emergency is extended by an executive order issued by  
26 the President of the United States or the Governor under the President's or Governor's  
27 emergency executive powers.

28 **4. Reckless or intentional misconduct.** Nothing in this section provides immunity  
29 for reckless or intentional misconduct.

30 **5. State and local liability not affected.** When an architect, contractor,  
31 environmental professional, land surveyor, landscape architect, planner or engineer  
32 voluntarily renders services at the request of or with the approval of a state or local  
33 official and when such services fall within the immunity of this section, the liability of the  
34 state or locality, if any, that requested the services is not affected by this section. The  
35 immunity provided in this section is in addition to immunity provided in Title 37-B,  
36 section 784-A.

37 **SUMMARY**

38 This bill provides civil immunity for architects, contractors, environmental  
39 professionals, land surveyors, landscape architects, planners and professional engineers  
40 who provide voluntary professional services during or within 90 days of a natural disaster  
41 or catastrophe when the services are provided under the applicable license or  
42 certification, are related to the natural disaster or catastrophe and are provided at the

1 request of a federal, state or local public official, law enforcement official, public safety  
2 official or building inspection official. No immunity is provided for reckless or  
3 intentional misconduct.

4 The bill is based on a similar Massachusetts law.