

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2369*

Short Title: Liability Protection/Private Orgs/Emergen. (Public)

Sponsors: Representatives England, Alexander (Primary Sponsors); Current, Hurley, Neumann, and Rapp.

Referred to: Health, if favorable, Judiciary II.

May 21, 2008

A BILL TO BE ENTITLED

AN ACT TO PROVIDE LIABILITY PROTECTION FOR PRIVATE ASSOCIATIONS, PRIVATE CORPORATIONS, AND PRIVATE NONPROFIT ENTITIES AND ORGANIZATIONS WHEN RESPONDING TO IN-STATE EMERGENCIES, AS RECOMMENDED BY THE PUBLIC HEALTH STUDY COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 166A-14 reads as rewritten:

"§ 166A-14. Immunity and exemption.

(a) All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. Neither the State nor any political subdivision thereof, nor, except in cases of willful misconduct, gross negligence or bad faith, any emergency management ~~worker~~worker, individual, firm, partnership, association, or corporation complying with or reasonably attempting to comply with this Article or any order, rule or regulation promulgated pursuant to the provisions of this Article or pursuant to any ordinance relating to any emergency management measures enacted by any political subdivision of the State, shall be liable for the death of or injury to persons, or for damage to property as a result of any such activity. The immunity provided in this subsection applies only to:

- (1) Individuals, firms, partnerships, associations, or corporations performing emergency management services at any place in this State, subject to the order or control of or pursuant to a request of the State government or any political subdivision thereof; and
- (2) Firms, partnerships, associations or corporations, performing emergency management services without compensation or with compensation limited to no more than actual expenses.

The immunity provided in this subsection shall not apply to any private individual, firm, partnership, association, or corporation or to any employee or agent of such individual,

1 firm, partnership, association, or corporation whose act or omission caused in whole or
2 in part the actual or imminent disaster, emergency or whose act or omission necessitated
3 emergency management measures. G.S. 1-539.10(b) does not apply to the immunity
4 provided in this subsection.

5 (b) The rights of any person to receive benefits to which the person would
6 otherwise be entitled under this Article or under the Workers' Compensation Law or
7 under any pension law, and the right of any such person to receive any benefits or
8 compensation under any act of Congress shall not be affected by performance of
9 emergency management functions.

10 (c) Any requirement for a license to practice any professional, mechanical or
11 other skill shall not apply to any authorized emergency management worker who shall,
12 in the course of performing the worker's duties as such, practice such professional,
13 mechanical or other skill during a state of disaster.

14 (d) As used in this section, the term "emergency management worker" shall
15 include any full or part-time paid, volunteer or auxiliary employee of this State or other
16 states, territories, possessions or the District of Columbia, of the federal government or
17 any neighboring country or of any political subdivision thereof or of any agency or
18 organization performing emergency management services at any place in this State,
19 subject to the order or control of or pursuant to a request of the State government or any
20 political subdivision thereof. The term "emergency management worker" under this
21 section shall also include any health care worker performing health care services as a
22 member of a hospital-based or county-based State Medical Assistance Team designated
23 by the North Carolina Office of Emergency Medical Services and any person
24 performing emergency health care services under G.S. 90-12.2.

25 (e) Any emergency management worker, as defined in this section, performing
26 emergency management services at any place in this State pursuant to agreements,
27 compacts or arrangements for mutual aid and assistance to which the State or a political
28 subdivision thereof is a party, shall possess the same powers, duties, immunities and
29 privileges the person would ordinarily possess if performing duties in the State, or
30 political subdivision thereof in which normally employed or rendering services."

31 **SECTION 2.** This act is effective when it becomes law.