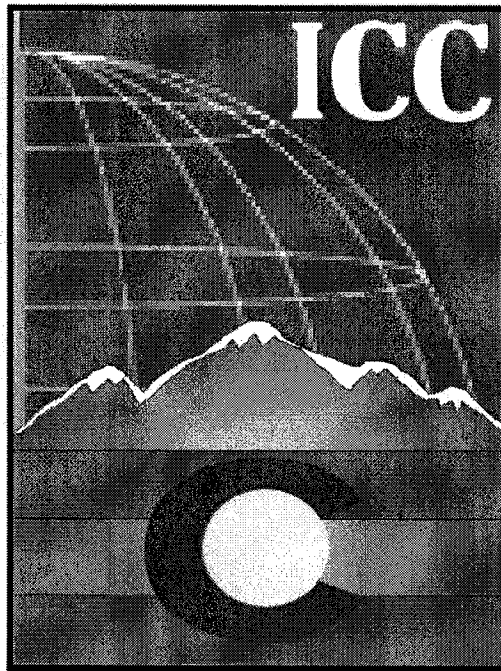


INTERNATIONAL
CODE COUNCIL



COLORADO CHAPTER

Chapter II
Qualified Immunity and
Mutual Aid

Chapter II

Qualified Immunity Under CRS 13-21-108.3 and Mutual Aid Agreement Option Colorado Chapter of ICC Damaged Building Assessment Team

Qualified Immunity

Amended CRS 13-21-108.3 was signed by the Governor of Colorado on March 20, 2009, which grants qualified immunity to building officials providing damage assessment services at the scene of a declared emergency or disaster within the state, under the auspices of CO Division of Emergency Management. This revised statute eliminates the need for the Chapter to require a signed mutual aid agreement between the jurisdiction requiring disaster assessment and the Chapter. The text of this amended state statute is included in this chapter, and in Appendix 4. The mutual aid agreement format is available in this chapter, if required.

Mutual Aid Agreement

WHEREAS, the parties have an interest in providing disaster response, and recovery capabilities to their jurisdictions in order to manage the effects of earthquakes, wind storms, floods, fires, explosions, and other hazards which confront the parties;

WHEREAS, each of the parties own and maintain equipment and employ personnel who are trained to respond to and evaluate the effects of these hazards on buildings;

WHEREAS, one or more parties to this agreement may find it necessary to utilize all of its own resources to cope with an emergency or disaster caused by natural and/or technological hazards, and may need the assistance of another party or parties to provide supplemental equipment or personnel;

WHEREAS, each of the parties may have the necessary equipment and personnel to enable it to provide such services to another to this agreement in the event of such an emergency or disaster.

WHEREAS, it is desirable that each of the parties should voluntarily aid and assist each other in the event that an emergency or disaster should occur;

WHEREAS, it is necessary and desirable that a cooperative agreement be executed for the interchange of such mutual aid on a local, county-wide, regional, statewide and interstate basis;

NOW, THEREFORE,

Under the provision of C.R.S. 24-32-2108 and 24-32-2113, it is hereby agreed by and between each and all of the parties hereto as follows:

1. Effective Date

This agreement becomes effective as to each party when approved by the party, and shall remain effective as between each and every party that has heretofore or hereafter approved this agreement, until participation in this agreement is terminated by the party.

2. Request for Assistance

The Authority Having Jurisdiction, or his or her pre-designated alternate, is authorized to request assistance from the Colorado Chapter of ICC Damaged Building Assessment Team, if confronted with an emergency or disaster situation, during which the requesting party has need for equipment and/or personnel in excess of that available at the requesting agency. Requests should specify what resources are needed, and the location(s) to report.

3. Response to Request

Upon receipt of such request, the President of the Colorado Chapter of ICC, or his designate, shall determine which equipment and/or personnel are available to satisfy the request, and dispatch such resources to the location(s) designated by the requesting agency.

The responding team should make every effort to bring whatever supplies are necessary to carry out the work ahead in the requesting jurisdiction.

No party shall be required to unreasonably deplete its own resources, especially in cases where the emergency or disaster has also impacted the jurisdiction of the party receiving the request.

4. Responsibility

Employees detailed by the Colorado Chapter of ICC Damaged Building Assessment Team shall be deemed loaned employees on temporary duty from their respective jurisdictions within the requesting jurisdiction. While so loaned they shall be subject to the direction and control of the requesting jurisdiction, except that the Colorado Chapter of ICC may require that its team members so loaned shall be under the immediate command and supervision of a superior designated by the Colorado Chapter, which shall in turn be under the direct supervision of the requesting jurisdiction. Members of the Colorado Chapter of ICC Damaged Building Assessment Team shall remain covered by the workman's compensation coverage of their respective jurisdictions. Likewise, each respective jurisdiction shall remain responsible for the pay, benefits, and other prerequisites of employment of loaned employees, and the Colorado Chapter of ICC shall make no claim for reimbursement of such expenses upon the requesting jurisdiction unless as authorized as part of a declared disaster. Any liability which accrues upon the provisions of Article 10 of Title 24, C.R.S., on account of the negligent or otherwise tortuous act of any such loaned employee while performing such duty shall be the responsibility of the requesting jurisdiction and not the Colorado Chapter of ICC, inspector or loaning jurisdiction.

5. Return of Resources

Upon completion of work, all equipment and personnel used under the terms of this agreement shall be returned to the Colorado Chapter of ICC Damaged Building Assessment Team upon being released by the

requesting party, or on demand being made by the Colorado Chapter of ICC Damaged Building Assessment Team for return of said equipment or personnel. Such assistance as necessary shall be rendered by the parties to locate and return any items of equipment to the party owning said equipment.

6. Agreement not Exclusive

This agreement is not intended to be exclusive between the parties hereto. Any of the parties hereto may, as they deem necessary or expedient, enter into separate mutual aid agreements with any other party or parties. Entry into such separate agreement shall not, unless specifically stated wherein, affect any relationship or covenant herein contained.

7. Termination

Termination of participation in this agreement may be effected by any party as follows:

Written notice shall be served by any party hereto upon all other parties of its intention to terminate the agreement as to the party or parties so notified. Such notice shall be served not less than one day prior to the termination date set forth therein, and a copy shall be forwarded to each party, signatory hereto. Said notice shall automatically terminate this agreement on the date set out unless rescinded prior thereto in writing.

Termination of the agreement between the parties affected by such notification shall not affect the continuation of the agreement as to any party hereto not indicating intention to withdraw as provided herein. Termination of the relationship affected by this agreement shall not preclude future agreements for mutual aid between the parties terminated.

APPROVED,

This _____ Day of _____, 20 _____

_____ Authority Having Jurisdiction or other
responsible representative of,

_____ (requesting jurisdiction),

_____ President, Colorado Chapter of ICC, or
Designee.

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 09-1080

BY REPRESENTATIVE(S) Marostica, Baumgardner, Frangas, Gardner B., Gardner C., Gerou, Kerr J., Labuda, Lambert, Liston, Middleton, Miklosi, Murray, Nikkel, Priola, Ryden, Stephens, Tipton, Todd;
also SENATOR(S) Williams, Heath.

CONCERNING A GRANT OF QUALIFIED IMMUNITY TO BUILDING CODE OFFICIALS RENDERING ASSISTANCE DURING A DISASTER EMERGENCY.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 13-21-108.3, Colorado Revised Statutes, is amended to read:

13-21-108.3. Architects, building code officials, professional engineers, and professional land surveyors rendering assistance during emergency or disaster - qualified immunity from civil liability. (1) An architect licensed pursuant to part 3 of article 25 of title 12, C.R.S., A BUILDING CODE OFFICIAL, a professional engineer licensed pursuant to part 1 of article 25 of title 12, C.R.S., or a professional land surveyor licensed pursuant to part 2 of article 25 of title 12, C.R.S., who voluntarily and without compensation provides architectural, DAMAGE ASSESSMENT, engineering, or surveying services, respectively, at the scene of an emergency shall not be liable for any personal injury, wrongful death,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

property damage, or other loss caused by an act or omission of ~~such~~ THE architect, BUILDING CODE OFFICIAL, engineer, or surveyor in performing such services.

(2) As used in this section, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "BUILDING CODE OFFICIAL" MEANS AN INDIVIDUAL MAINTAINING A BUILDING INSPECTOR, BUILDING CODE OFFICIAL, OR CERTIFIED BUILDING OFFICIAL CERTIFICATION IN GOOD STANDING BY THE INTERNATIONAL CODE COUNCIL OR SIMILAR ASSOCIATION OF BUILDING CODE OFFICIALS.

(b) "Emergency" means a disaster emergency declared by executive order or proclamation of the governor pursuant to section 24-32-2104 (4), C.R.S.

(3) The immunity provided in subsection (1) of this section applies only to an architectural, DAMAGE ASSESSMENT, or engineering service that:

(a) Concerns an identified building, structure, or other architectural or engineering system, whether publicly or privately owned;

(b) Relates to the structural integrity of the building, structure, or system or to a nonstructural element thereof affecting life safety; and

(c) Is rendered during the time in which a state of disaster emergency exists, as provided in section 24-32-2104 (4), C.R.S.

(4) Nothing in this section shall provide immunity for gross negligence or willful misconduct.

(5) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ABROGATE ANY PROVISION OF THE "COLORADO GOVERNMENTAL IMMUNITY ACT", PROVIDED IN ARTICLE 10 OF TITLE 24, C.R.S.

SECTION 2. Effective date - applicability. This act shall take effect upon passage and shall apply to claims arising on or after said date.

SECTION 3. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Terrance D. Carroll
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Peter C. Groff
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Ritter, Jr.
GOVERNOR OF THE STATE OF COLORADO

STATE OF COLORADO

OFFICE OF THE GOVERNOR

136 State Capitol Building
Denver, Colorado 80203
(303) 866 - 2471
(303) 866 - 2003 fax



Bill Ritter, Jr.
Governor

April 6, 2009

Mr. Greg Wheeler
International Code Council
P.O. Box 961
Arvada, CO 80001

Dear Mr. Wheeler,

Thank you for your letter of support regarding House Bill 09-1080. As you know, this bill grants qualified immunity from civil action to a building code official who, while acting in his or her official capacity, assists during a state of disaster emergency.

I signed the bill on March 20, 2009, and sincerely appreciate the work your chapter has done in responding to emergencies and disasters.

Once again, thank you for your letter of support.

Sincerely,

A handwritten signature in black ink that reads "Bill Ritter, Jr." in a cursive style.

Bill Ritter, Jr.
Governor