

BILL ANALYSIS

Senate Research Center

H.B. 1573
By: Geren (Harris)
Business & Commerce
5/4/2005
Engrossed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The current definition of the "practice of architecture" fails to accurately describe the services architects routinely provide for their clients beyond design development and the production of construction documents.

H.B. 1573 provides a more accurate description of today's architecture practice, including services such as code consulting, facilities programming and analysis, and teaching. H.B. 1573 also eliminates ambiguities in Chapter 150, Civil Practice and Remedies Code, regarding certificates of merit for design professionals. The major areas of clarification are to ensure that the need to file a certificate of merit exists when a suit is being filed against an architecture or engineering business, not simply in suits against individual design professionals; the design professional signing the certificate has the same professional license as the defendant; the suit is for damages arising out of the providing of any professional services, except a suit or action for the payment of fees for professional services, rather than only suits alleging professional negligence; and that failure to file an affidavit under this section shall result in dismissal of the case against the defendant.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1051.001(7), Occupations Code, to redefine "practice of architecture."

SECTION 2. Amends Chapter 150, Civil Practice and Remedies Code, as follows:

CHAPTER 150. DESIGN PROFESSIONALS

Sec. 150.001. DEFINITION. Redefines "design professional."

Sec. 150.002. CERTIFICATE OF MERIT. (a) Requires the plaintiff, in any action or arbitration proceeding for damages arising out of the provision of professional services, rather than alleging professional negligence, by a design professional, to be required to file with the complaint a specific affidavit of a third-party licensed, rather than registered, architect or licensed professional engineer competent to testify, holding the same professional license as, and practicing in the same area of practice as the defendant. Makes a conforming change.

(b) Makes a conforming change.

(c) Makes no changes to this subsection.

(d) Requires, rather than authorizes, the plaintiff's failure to file the affidavit in accordance with Subsection (a) to result in dismissal, rather than dismissal with prejudice, of the complaint against the defendant. Authorizes the dismissal to be with prejudice.

(e) Provides that an order granting or denying a motion for dismissal is immediately appealable as an interlocutory order.

(f) Redesignated from existing Subsection (e).

(g) Provides that this statute does not apply to any suit or action for the payment of fees arising out of the provision of professional services.

SECTION 3. Amends Section 1051.701(a), Occupations Code, to prohibit a person from engaging in the practice of architecture, or offering or attempting to engage in the practice of architecture, as defined in Section 1051.001(7)(A), (B), or (C), unless the person is registered as an architect under this chapter.

SECTION 4. Makes application of Section 2 of this Act prospective.

SECTION 5. Effective date: September 1, 2005.