

By: Madden

H.B. No. 854

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to an action for damages alleging professional negligence  
3 by a registered professional land surveyor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 150.001, Civil Practice and Remedies  
6 Code, is amended to read as follows:

7 Sec. 150.001. DEFINITION. In this chapter, "licensed or  
8 registered [~~design~~] professional" means a registered architect,  
9 registered professional land surveyor, or licensed professional  
10 engineer.

11 SECTION 2. Sections 150.002(a) and (b), Civil Practice and  
12 Remedies Code, are amended to read as follows:

13 (a) In any action for damages alleging professional  
14 negligence by a licensed or registered [~~design~~] professional, the  
15 plaintiff shall be required to file with the complaint an affidavit  
16 of a third-party registered architect, registered professional  
17 land surveyor, or licensed professional engineer competent to  
18 testify and practicing in the same area of practice as the  
19 defendant, which affidavit shall set forth specifically at least  
20 one negligent act, error, or omission claimed to exist and the  
21 factual basis for each such claim. The third-party professional  
22 engineer, registered professional land surveyor, or registered  
23 architect shall be licensed in this state and actively engaged in  
24 the practice of architecture, surveying, or engineering.

1 (b) The contemporaneous filing requirement of Subsection  
2 (a) shall not apply to any case in which the period of limitation  
3 will expire within 10 days of the date of filing and, because of  
4 such time constraints, the plaintiff has alleged that an affidavit  
5 of a third-party registered architect, registered professional  
6 land surveyor, or professional engineer could not be prepared. In  
7 such cases, the plaintiff shall have 30 days after the filing of the  
8 complaint to supplement the pleadings with the affidavit. The  
9 trial court may, on motion, after hearing and for good cause, extend  
10 such time as it shall determine justice requires.

11 SECTION 3. The heading to Chapter 150, Civil Practice and  
12 Remedies Code, is amended to read as follows:

13 CHAPTER 150. LICENSED OR REGISTERED [~~DESIGN~~] PROFESSIONALS

14 SECTION 4. This Act applies only to an action filed on or  
15 after the effective date of this Act. An action filed before the  
16 effective date of this Act, including an action filed before that  
17 date in which a party is joined or designated after that date, is  
18 governed by the law in effect immediately before the change in law  
19 made by this Act, and that law is continued in effect for that  
20 purpose.

21 SECTION 5. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2005.