

1-1 By: Madden (Senate Sponsor - Estes) H.B. No. 854  
1-2 (In the Senate - Received from the House April 21, 2005;  
1-3 April 22, 2005, read first time and referred to Committee on State  
1-4 Affairs; May 3, 2005, reported favorably by the following vote:  
1-5 Yeas 7, Nays 0; May 3, 2005, sent to printer.)

1-6 A BILL TO BE ENTITLED  
1-7 AN ACT

1-8 relating to an action for damages alleging professional negligence  
1-9 by a registered professional land surveyor.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 150.001, Civil Practice and Remedies  
1-12 Code, is amended to read as follows:

1-13 Sec. 150.001. DEFINITION. In this chapter, "licensed or  
1-14 registered [design] professional" means a registered architect,  
1-15 registered professional land surveyor, or licensed professional  
1-16 engineer.

1-17 SECTION 2. Sections 150.002(a) and (b), Civil Practice and  
1-18 Remedies Code, are amended to read as follows:

1-19 (a) In any action for damages alleging professional  
1-20 negligence by a licensed or registered [design] professional, the  
1-21 plaintiff shall be required to file with the complaint an affidavit  
1-22 of a third-party registered architect, registered professional  
1-23 land surveyor, or licensed professional engineer competent to  
1-24 testify and practicing in the same area of practice as the  
1-25 defendant, which affidavit shall set forth specifically at least  
1-26 one negligent act, error, or omission claimed to exist and the  
1-27 factual basis for each such claim. The third-party professional  
1-28 engineer, registered professional land surveyor, or registered  
1-29 architect shall be licensed in this state and actively engaged in  
1-30 the practice of architecture, surveying, or engineering.

1-31 (b) The contemporaneous filing requirement of Subsection  
1-32 (a) shall not apply to any case in which the period of limitation  
1-33 will expire within 10 days of the date of filing and, because of  
1-34 such time constraints, the plaintiff has alleged that an affidavit  
1-35 of a third-party registered architect, registered professional  
1-36 land surveyor, or professional engineer could not be prepared. In  
1-37 such cases, the plaintiff shall have 30 days after the filing of the  
1-38 complaint to supplement the pleadings with the affidavit. The  
1-39 trial court may, on motion, after hearing and for good cause, extend  
1-40 such time as it shall determine justice requires.

1-41 SECTION 3. The heading to Chapter 150, Civil Practice and  
1-42 Remedies Code, is amended to read as follows:

1-43 CHAPTER 150. LICENSED OR REGISTERED [DESIGN] PROFESSIONALS

1-44 SECTION 4. This Act applies only to an action filed on or  
1-45 after the effective date of this Act. An action filed before the  
1-46 effective date of this Act, including an action filed before that  
1-47 date in which a party is joined or designated after that date, is  
1-48 governed by the law in effect immediately before the change in law  
1-49 made by this Act, and that law is continued in effect for that  
1-50 purpose.

1-51 SECTION 5. This Act takes effect immediately if it receives  
1-52 a vote of two-thirds of all the members elected to each house, as  
1-53 provided by Section 39, Article III, Texas Constitution. If this  
1-54 Act does not receive the vote necessary for immediate effect, this  
1-55 Act takes effect September 1, 2005.

1-56 \* \* \* \* \*