

BILL ANALYSIS

C.S.H.B. 823
By: Ritter
Civil Practices
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently in the Civil Practice and Remedies Code, there is no provision that protects licensed or registered professionals (i.e. a licensed architect, registered professional land surveyor, licensed professional engineer, or any firm in which such licensed professional practices, etc.) for services rendered during an emergency or disaster (such as Hurricane Katrina and Hurricane Rita). The goal of this bill is to provide liability indemnification for volunteer professional service providers during such declared disasters.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

SECTION 1: Amends Chapter 150, Civil Practice and Remedies Code, by Adding Section 150.003

(a) The protection offered by the bill applies only to those licensed or registered professionals who provide architectural or engineering services as they are authorized by:

- Chapter 1001 & 1051 of the Occupations Code.
- 22 TAC Examining Boards Part 6
- Texas Board of Professional Engineering Chapter 137
- 22 TAC, Rules & Regulations of the Board and Statutes Regulation of the Practice of Architecture Subchapter H.

Services must be provided voluntarily with no promise or expectation of compensation, subject to Subsection (d). The volunteer services must be performed during the duration of a declared state of emergency or declared state of disaster as described and performed at the request or approval of a federal, state or local public official and are related to either publicly or privately owned structure, building, roadway, piping or other system.

(b) Unless the licensed or registered professional displays (1) "gross negligence" or (2) "wanton, willful, or intentional misconduct," they are not responsible for liability for civil damages (i.e. personal injury, wrongful death, property damage, etc.) because they are exempt from violating their normal standard of care due to the circumstances.

(c) This does not apply to any services rendered that stem from the solicitation of compensation-based business by a licensed or registered professional at the scene of an emergency.

(d) The fact that the licensed or registered professional is *entitled* to (has the right to) receive compensation for the rendered services does not determine whether the services were provided voluntarily.

SECTION 2. This Act applies only to a cause of action occurring on or after the effective date.

EFFECTIVE DATE

C.S.H.B. 823 80(R)

SECTION 3. Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2007.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute bill adds more defined professional services in SECTION 1 by adding qualifying requirements for the service. The original bill does not have this qualifying language. The substitute states the services performed must be during the "duration" of a proclaimed state of emergency or state of disaster as defined by code, whereas, the original bill did not make this specification. The original bill lists a variety of causes of declared emergencies.

In SECTION 2, the substitute bill uses the phrase, "that occurred on or after.." . The original bill used the term "accrued on or after."