

By: Ritter, Smith of Harris, Davis of Harris,
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H.B. No. 823

A BILL TO BE ENTITLED

AN ACT

relating to the liability of certain licensed or registered
professionals for damages arising from certain services provided
during an emergency.

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

SECTION 1. Chapter 150, Civil Practice and Remedies Code,
is amended by adding Section 150.003 to read as follows:

Sec. 150.003. LIABILITY FOR SERVICES RENDERED DURING
DISASTER. (a) This section applies only to a licensed or
registered professional who provides architectural or engineering
services if the services:

(1) are authorized, as appropriate for the
professional, in:

(A) Chapter 1001, Occupations Code;

(B) Chapter 1051, Occupations Code;

(C) 22 T.A.C. Part 6 (Texas Board of Professional
Engineers), Chapter 137 (Compliance and Professionalism); and

(D) 22 T.A.C. Part 1 (Texas Board of
Architectural Examiners), Chapter 1 (Architects), Subchapter H
(Professional Conduct);

(2) subject to Subsection (d), are provided
voluntarily and without compensation or the expectation of
compensation;

(3) are in response to and provided during the

1 duration of a proclaimed state of emergency under Section 433.001,
2 Government Code, or a declared state of disaster under Section
3 418.014, Government Code;

4 (4) are provided at the request or with the approval of
5 a federal, state, or local public official acting in an official
6 capacity in response to the proclaimed state of emergency or
7 declared disaster, including a law enforcement official, public
8 safety official, or building inspection official; and

9 (5) are related to a structure, building, roadway,
10 piping, or other system, either publicly or privately owned, other
11 than a single-family residence.

12 (b) A licensed or registered professional who provides the
13 services to which this section applies is not liable for civil
14 damages, including personal injury, wrongful death, property
15 damage, or other loss related to the professional's act, error, or
16 omission in the performance of the services, unless the act, error,
17 or omission constitutes:

18 (1) gross negligence; or

19 (2) wanton, wilful, or intentional misconduct.

20 (c) This section does not apply to a licensed or registered
21 professional who is at the scene of the emergency to solicit
22 business or perform a service for compensation on behalf of the
23 professional or a person for whom the professional is an agent.

24 (d) The entitlement of a licensed or registered
25 professional to receive compensation for services to which this
26 section applies does not determine whether the services provided by
27 the professional were provided voluntarily and without

1 compensation or the expectation of compensation.

2 SECTION 2. This Act applies only to a cause of action that
3 occurred on or after the effective date of this Act. An action that
4 occurred before the effective date of this Act is governed by the
5 law applicable to the action immediately before the effective date
6 of this Act, and that law is continued in effect for that purpose.

7 SECTION 3. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2007.