1-1   By: Ritter, et al. (Senate Sponsor - Williams)   H.B. No. 823
1-2   (In the Senate - Received from the House March 26, 2007;
1-3   March 29, 2007, read first time and referred to Committee on State
1-4   Affairs; April 24, 2007, reported adversely, with favorable
1-5   Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6   April 24, 2007, sent to printer.)

1-7   COMMITTEE SUBSTITUTE FOR H.B. No. 823   By: Williams

1-8   A BILL TO BE ENTITLED
1-9   AN ACT
1-10 relating to the liability of certain licensed or registered
1-11 professionals for damages arising from certain services provided
1-12 during an emergency.
1-13   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
1-14   SECTION 1.   Chapter 150, Civil Practice and Remedies Code,
1-15 is amended by adding Section 150.003 to read as follows:
1-16   Sec. 150.003.   LIABILITY   FOR   SERVICES   RENDERED   DURING
1-17 DISASTER.   (a)   This section applies only to a licensed or
1-18 registered professional who provides architectural or engineering
1-19 services if the services:
1-20   (1)   are   authorized,   as   appropriate   for   the
1-21 professional, in:
1-22   (A)   Chapter 1001, Occupations Code;
1-23   (B)   Chapter 1051, Occupations Code;
1-24   (C)   22   T.A.C.,   Part   6   (Texas   Board   of
1-25 Professional   Engineers),   Chapter   137   (Compliance   and
1-26 Professionalism); and
1-27   (D)   22   T.A.C.,   Part   1   (Texas   Board   of
1-28 Architectural Examiners), Chapter 1 (Architects), Subchapter H
1-29 (Professional Conduct);
1-30   (2)   subject   to   Subsection   (d),   are   provided
1-31 voluntarily and without compensation or the expectation of
1-32 compensation;
1-33   (3)   are   in   response   to   and   provided   during   the
1-34 duration of a proclaimed state of emergency under Section 433.001,
1-35 Government Code, or a declared state of disaster under Section
1-36 418.014, Government Code;
1-37   (4)   are provided at the request or with the approval of
1-38 a federal, state, or local public official acting in an official
1-39 capacity in response to the proclaimed state of emergency or
1-40 declared disaster, including a law enforcement official, public
1-41 safety official, or building inspection official; and
1-42   (5)   are   related   to   a   structure,   building,   roadway,
1-43 piping, or other system, either publicly or privately owned.
1-44   (b)   A licensed or registered professional who provides the
1-45 services to which this section applies is not liable for civil
1-46 damages,   including   personal   injury,   wrongful   death,   property
1-47 damage, or other loss related to the professional's act, error, or
1-48 omission in the performance of the services, unless the act, error,
1-49 or omission constitutes:
1-50   (1)   gross negligence; or
1-51   (2)   wanton, wilful, or intentional misconduct.
1-52   (c)   This section does not apply to a licensed or registered
1-53 professional who is at the scene of the emergency to solicit
1-54 business or perform a service for compensation on behalf of the
1-55 professional or a person for whom the professional is an agent.
1-56   (d)   The   entitlement   of   a   licensed   or   registered
1-57 professional to receive compensation for services to which this
1-58 section applies does not determine whether the services provided by
1-59 the   professional   were   provided   voluntarily   and   without
1-60 compensation or the expectation of compensation.
1-61   SECTION 2.   This Act applies only to a cause of action that
1-62 occurred on or after the effective date of this Act. An action that
1-63 occurred before the effective date of this Act is governed by the

2-1   law applicable to the action immediately before the effective date
2-2   of this Act, and that law is continued in effect for that purpose.
2-3   SECTION 3. This Act takes effect immediately if it receives
2-4   a vote of two-thirds of all the members elected to each house, as
2-5   provided by Section 39, Article III, Texas Constitution. If this
2-6   Act does not receive the vote necessary for immediate effect, this
2-7   Act takes effect September 1, 2007.

2-8   * * * * *