

By: Carona

S.B. No. 1201

A BILL TO BE ENTITLED

AN ACT

relating to an affidavit required to be filed in a cause of action against certain licensed or registered professionals.

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

SECTION 1. The heading to Chapter 150, Civil Practice and Remedies Code, as amended by Chapters 189 (H.B. 854) and 208 (H.B. 1573), Acts of the 79th Legislature, Regular Session, 2005, is reenacted to read as follows:

CHAPTER 150. LICENSED OR REGISTERED PROFESSIONALS

SECTION 2. Section 150.002, Civil Practice and Remedies Code, as amended by Chapters 189 (H.B. 854) and 208 (H.B. 1573), Acts of the 79th Legislature, Regular Session, 2005, is amended by reenacting and amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) In any action or arbitration proceeding for damages alleging professional negligence by a licensed or registered professional, the plaintiff shall be required to file with the complaint an affidavit of a third-party licensed architect, registered professional land surveyor, or licensed professional engineer qualified as provided by Subsection (a-1) [~~competent to testify, holding the same professional license as, and practicing in the same area of practice as the defendant~~], which affidavit shall set forth specifically at least one negligent act, error, or omission claimed to exist and the factual basis for each such

1 claim. The third-party professional engineer, registered  
2 professional land surveyor, or licensed architect shall be licensed  
3 in this state and actively engaged in the practice of architecture,  
4 surveying, or engineering.

5 (a-1) An affidavit required by Subsection (a) may be  
6 completed by a licensed architect, registered professional land  
7 surveyor, or licensed professional engineer who is:

8 (1) competent to testify; and

9 (2) knowledgeable in the area of practice for which  
10 the person offers testimony based on the person's:

11 (A) knowledge;

12 (B) skill;

13 (C) experience;

14 (D) education;

15 (E) training; and

16 (F) practice.

17 SECTION 3. The change in law made by this Act applies only  
18 to an action or arbitration filed or commenced on or after the  
19 effective date of this Act. An action or arbitration filed or  
20 commenced before the effective date of this Act is governed by the  
21 law in effect immediately before the effective date of this Act, and  
22 that law is continued in effect for that purpose.

23 SECTION 4. This Act takes effect September 1, 2009.