

By: Geren

H.B. No. 1353

A BILL TO BE ENTITLED

AN ACT

relating to a certificate of merit in certain actions against certain licensed or registered professionals.

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

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

Sec. 150.001. DEFINITIONS. In this chapter:

(1) "Certified municipal inspector" means an individual who is employed full-time by a political subdivision and is currently:

(A) certified by a national model code group; or

(B) licensed as a plumbing inspector, as defined by Section 1301.002, Occupations Code.

(2) "Claimant" means a party, including a plaintiff, counterclaimant, cross-claimant, or third-party plaintiff, seeking recovery of damages.

(3) [~~(1-a)~~] "Licensed or registered professional" means a licensed architect, licensed professional engineer, registered professional land surveyor, registered landscape architect, or any firm in which such licensed or registered professional practices, including but not limited to a corporation, professional corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, joint venture, or any other business entity.

1 (4) [~~(1-b)~~] "National model code group" means an
2 organization consisting of industry and government fire and
3 building safety officials that develops and promulgates a national
4 model code, as defined by Section 214.217, Local Government Code.

5 (5) [~~(2)~~] "Practice of architecture" has the meaning
6 assigned by Section 1051.001, Occupations Code.

7 (6) [~~(3)~~] "Practice of engineering" has the meaning
8 assigned by Section 1001.003, Occupations Code.

9 SECTION 2. Sections 150.002(a), (c), and (e), Civil
10 Practice and Remedies Code, are amended to read as follows:

11 (a) In any action or arbitration proceeding for damages
12 arising out of the provision of professional services by a licensed
13 or registered professional, a claimant [~~the plaintiff~~] shall be
14 required to file with the complaint an affidavit of a third-party
15 licensed architect, licensed professional engineer, registered
16 landscape architect, or registered professional land surveyor who:

- 17 (1) is competent to testify;
- 18 (2) holds the same professional license or
19 registration as the defendant; and
- 20 (3) is knowledgeable in the area of practice of the
21 defendant and offers testimony based on the person's:

- 22 (A) knowledge;
- 23 (B) skill;
- 24 (C) experience;
- 25 (D) education;
- 26 (E) training; and
- 27 (F) practice.

1 (c) The contemporaneous filing requirement of Subsection
2 (a) shall not apply to any case in which the period of limitation
3 will expire within 10 days of the date of filing and, because of
4 such time constraints, a claimant [~~the plaintiff~~] has alleged that
5 an affidavit of a third-party licensed architect, licensed
6 professional engineer, registered landscape architect, or
7 registered professional land surveyor could not be prepared. In
8 such cases, the claimant [~~plaintiff~~] shall have 30 days after the
9 filing of the complaint to supplement the pleadings with the
10 affidavit. The trial court may, on motion, after hearing and for
11 good cause, extend such time as it shall determine justice
12 requires.

13 (e) A claimant's [~~The plaintiff's~~] failure to file the
14 affidavit in accordance with this section shall result in dismissal
15 of the complaint against the defendant. This dismissal may be with
16 prejudice.

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

23 SECTION 4. This Act takes effect September 1, 2015.