

By: Schofield

H.B. No. 2422

A BILL TO BE ENTITLED

AN ACT

1
2 Relating to the requirements for a certificate of merit in certain
3 actions or arbitration proceedings.

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

5 SECTION 1. Section 150.002, Civil Practice & Remedies Code,
6 is amended to read as follows:

7 (a) In any action or arbitration proceeding for damages
8 arising out of the provision of professional services by a licensed
9 or registered professional, the plaintiff shall be required to file
10 with the complaint an affidavit of a third-party licensed
11 architect, licensed professional engineer, registered landscape
12 architect, or registered land surveyor who:

13 (1) Is competent to testify;

14 (2) Holds the same professional license or
15 registration as the defendant; and

16 (3) Is knowledgeable in the area of practice of the
17 defendant and offers testimony based on the person's:

18 (A) Knowledge;

19 (B) Skill;

20 (C) Experience

21 (D) Education

22 (E) Training; and

23 (F) Practice.

24 (b) The affidavit shall set forth specifically for each

1 theory of recovery for which damages are sought, the negligence, if
2 any, or other action, error, or omission of the licensed or
3 registered professional in providing the professional service,
4 including any error, or omission in providing advice, judgment,
5 opinion, or a similar professional skill claimed to exist and the
6 factual basis for each such claim. The third-party licensed
7 architect, licensed professional engineer, registered landscape
8 architect, or registered professional land surveyor shall be
9 licensed or registered in this state and actively engaged in the
10 practice of architecture, engineering, or surveying.

11 (b-1) The affidavit shall set forth specifically facts
12 sufficient to establish the affiant's familiarity or experience
13 with the practice area at issue such that they establish the
14 affiant's qualifications to render an opinion on the matters in the
15 affidavit pertaining to subsection (b). The affiant shall attach to
16 the affidavit as an exhibit the affiant's curriculum vitae or
17 similar document sufficient to establish that the affiant meets the
18 requirements of subsection (a).

19 SECTION 2. The change in law made by this Act applies only
20 to an action commenced on or after the effective date of this Act.
21 An action commenced before the effective date of this Act is
22 governed by the law in effect immediately before the effective date
23 of this Act, and that law is continued in effect for that purpose.

24 SECTION 3. This Act takes effect immediately if it receives
25 a vote of two-thirds of all the members elected to each house, as
26 provided by Section 39, Article III, Texas Constitution. If this
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2017.