

By: Fallon

S.B. No. 1928

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 by amending Subdivisions (1-a) and (1-b) and adding Subdivision (1-c) to read as follows:

(1-a) "Claimant" means a party, including a plaintiff or third-party plaintiff, seeking recovery for damages, contribution, or indemnification.

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

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

1 (a) In any action or arbitration proceeding for damages  
2 arising out of the provision of professional services by a licensed  
3 or registered professional, a claimant [~~the plaintiff~~] shall be  
4 required to file with the complaint an affidavit of a third-party  
5 licensed architect, licensed professional engineer, registered  
6 landscape architect, or registered professional land surveyor who:

7 (1) is competent to testify;

8 (2) holds the same professional license or  
9 registration as the defendant; and

10 (3) practices [~~is knowledgeable~~] in the area of  
11 practice of the defendant and offers testimony based on the  
12 person's:

13 (A) knowledge;

14 (B) skill;

15 (C) experience;

16 (D) education;

17 (E) training; and

18 (F) practice.

19 (c) The contemporaneous filing requirement of Subsection  
20 (a) shall not apply to any case in which the period of limitation  
21 will expire within 10 days of the date of filing and, because of  
22 such time constraints, a claimant [~~the plaintiff~~] has alleged that  
23 an affidavit of a third-party licensed architect, licensed  
24 professional engineer, registered landscape architect, or  
25 registered professional land surveyor could not be prepared. In  
26 such cases, the claimant [~~plaintiff~~] shall have 30 days after the  
27 filing of the complaint to supplement the pleadings with the

1 affidavit. The trial court may, on motion, after hearing and for  
2 good cause, extend such time as it shall determine justice  
3 requires.

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

8 SECTION 3. The change in law made by this Act applies only  
9 to an action or arbitration proceeding commenced on or after the  
10 effective date of this Act. An action or arbitration proceeding  
11 commenced before the effective date of this Act is governed by the  
12 law in effect immediately before the effective date of this Act, and  
13 that law is continued in effect for that purpose.

14 SECTION 4. This Act takes effect immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2019.