

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 Subdivisions (1-c) and (1-d) 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) "Complaint" means any petition or other pleading which, for the first time, raises a claim against a licensed or registered professional for damages arising out of the provision of professional services by the licensed or registered professional.

(1-c) "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-d) [~~(1-b)~~] "National model code group" means an organization consisting of industry and government fire and

1 building safety officials that develops and promulgates a national
2 model code, as defined by Section 214.217, Local Government Code.

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

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

11 (1) is competent to testify;

12 (2) holds the same professional license or
13 registration as the defendant; and

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

17 (A) knowledge;

18 (B) skill;

19 (C) experience;

20 (D) education;

21 (E) training; and

22 (F) practice.

23 (c) The contemporaneous filing requirement of Subsection
24 (a) shall not apply to any case in which the period of limitation
25 will expire within 10 days of the date of filing and, because of
26 such time constraints, a claimant [~~the plaintiff~~] has alleged that
27 an affidavit of a third-party licensed architect, licensed

1 professional engineer, registered landscape architect, or
2 registered professional land surveyor could not be prepared. In
3 such cases, the claimant [~~plaintiff~~] shall have 30 days after the
4 filing of the complaint to supplement the pleadings with the
5 affidavit. The trial court may, on motion, after hearing and for
6 good cause, extend such time as it shall determine justice
7 requires.

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

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

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1928 passed the Senate on April 26, 2019, by the following vote: Yeas 30, Nays 0; and that the Senate concurred in House amendment on May 23, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1928 passed the House, with amendment, on May 15, 2019, by the following vote: Yeas 147, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor