

1-1 By: Fallon S.B. No. 1928
1-2 (In the Senate - Filed March 7, 2019; March 19, 2019, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 15, 2019, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 15, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	Huffman	X		
1-9	Hughes	X		
1-10	Birdwell	X		
1-11	Creighton	X		
1-12	Fallon	X		
1-13	Hall	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Zaffirini	X		

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to a certificate of merit in certain actions against
1-20 certain licensed or registered professionals.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 150.001, Civil Practice and Remedies
1-23 Code, is amended by amending Subdivisions (1-a) and (1-b) and
1-24 adding Subdivision (1-c) to read as follows:

1-25 (1-a) "Claimant" means a party, including a plaintiff
1-26 or third-party plaintiff, seeking recovery for damages,
1-27 contribution, or indemnification.

1-28 (1-b) "Licensed or registered professional" means a
1-29 licensed architect, licensed professional engineer, registered
1-30 professional land surveyor, registered landscape architect, or any
1-31 firm in which such licensed or registered professional practices,
1-32 including but not limited to a corporation, professional
1-33 corporation, limited liability corporation, partnership, limited
1-34 liability partnership, sole proprietorship, joint venture, or any
1-35 other business entity.

1-36 (1-c) ~~[(1-b)]~~ "National model code group" means an
1-37 organization consisting of industry and government fire and
1-38 building safety officials that develops and promulgates a national
1-39 model code, as defined by Section 214.217, Local Government Code.

1-40 SECTION 2. Sections 150.002(a), (c), and (e), Civil
1-41 Practice and Remedies Code, are amended to read as follows:

1-42 (a) In any action or arbitration proceeding for damages
1-43 arising out of the provision of professional services by a licensed
1-44 or registered professional, a claimant ~~[the plaintiff]~~ shall be
1-45 required to file with the complaint an affidavit of a third-party
1-46 licensed architect, licensed professional engineer, registered
1-47 landscape architect, or registered professional land surveyor who:

1-48 (1) is competent to testify;
1-49 (2) holds the same professional license or
1-50 registration as the defendant; and
1-51 (3) practices ~~[is knowledgeable]~~ in the area of
1-52 practice of the defendant and offers testimony based on the
1-53 person's:

- 1-54 (A) knowledge;
- 1-55 (B) skill;
- 1-56 (C) experience;
- 1-57 (D) education;
- 1-58 (E) training; and
- 1-59 (F) practice.

1-60 (c) The contemporaneous filing requirement of Subsection
1-61 (a) shall not apply to any case in which the period of limitation

will expire within 10 days of the date of filing and, because of such time constraints, a claimant [~~the plaintiff~~] has alleged that an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor could not be prepared. In such cases, the claimant [~~plaintiff~~] shall have 30 days after the filing of the complaint to supplement the pleadings with the affidavit. The trial court may, on motion, after hearing and for good cause, extend such time as it shall determine justice requires.

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

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

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

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