

1-1 By: Martinez (Senate Sponsor - Lucio) H.B. No. 3162  
 1-2 (In the Senate - Received from the House May 14, 2021;  
 1-3 May 18, 2021, read first time and referred to Committee on State  
 1-4 Affairs; May 21, 2021, reported favorably by the following vote:  
 1-5 Yeas 9, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	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 150.002, Civil Practice and Remedies  
 1-23 Code, is amended by amending Subsection (a) and adding Subsection  
 1-24 (i) to read as follows:

1-25 (a) Except as provided by Subsection (i), in [In] any action  
 1-26 or arbitration proceeding for damages arising out of the provision  
 1-27 of professional services by a licensed or registered professional,  
 1-28 a claimant shall be required to file with the complaint an affidavit  
 1-29 of a third-party licensed architect, licensed professional  
 1-30 engineer, registered landscape architect, or registered  
 1-31 professional land surveyor who:

- 1-32 (1) is competent to testify;
- 1-33 (2) holds the same professional license or
- 1-34 registration as the defendant; and
- 1-35 (3) practices in the area of practice of the defendant
- 1-36 and offers testimony based on the person's:
  - 1-37 (A) knowledge;
  - 1-38 (B) skill;
  - 1-39 (C) experience;
  - 1-40 (D) education;
  - 1-41 (E) training; and
  - 1-42 (F) practice.

1-43 (i) A third-party plaintiff that is a design-builder or  
 1-44 design-build firm is not required to file an affidavit described by  
 1-45 Subsection (a) in connection with filing a third-party claim or  
 1-46 cross-claim against a licensed or registered professional if the  
 1-47 action or arbitration proceeding arises out of a design-build  
 1-48 project in which a governmental entity contracts with a single  
 1-49 entity to provide both design and construction services for the  
 1-50 construction, expansion, extension, rehabilitation, alteration, or  
 1-51 repair of a facility, a building or associated structure, a civil  
 1-52 works project, or a highway project.

1-53 SECTION 2. The change in law made by this Act applies only  
 1-54 to an action commenced on or after the effective date of this Act.  
 1-55 An action commenced before the effective date of this Act is  
 1-56 governed by the law as it existed immediately before the effective  
 1-57 date of this Act, and that law is continued in effect for that  
 1-58 purpose.

1-59 SECTION 3. This Act takes effect September 1, 2021.

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