CIVIL PRACTICE AND REMEDIES CODE

TITLE 6. MISCELLANEOUS PROVISIONS

CHAPTER 150. LICENSED OR REGISTERED PROFESSIONALS

Sec. 150.001. DEFINITIONS. In this chapter:

(1) "Certified municipal inspector" means an individual who is employed full-time by a political subdivision and is currently:

(A) certified by a national model code group; or

(B) licensed as a plumbing inspector, as defined by Section 1301.002, Occupations Code.

(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) "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.

(2) "Practice of architecture" has the meaning assigned by Section 1051.001, Occupations Code.

(3) "Practice of engineering" has the meaning assigned by Section 1001.003, Occupations Code.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 20.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 189 (H.B. 854), Sec. 1, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 208 (H.B. 1573), Sec. 2, eff. September 1, 2005.

Reenacted and amended by Acts 2009, 81st Leg., R.S., Ch. 789 (S.B. 1201), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 244 (H.B. 403), Sec. 1, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 661 (S.B. 1928), Sec. 1, eff. June 10, 2019.

Sec. 150.002. CERTIFICATE OF MERIT. (a) Except as provided by Subsection (i), in any action or arbitration proceeding for damages arising out of the provision of professional services by a licensed or registered professional, a claimant shall be required to file with the complaint an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor who:

(1) is competent to testify;

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

(3) practices in the area of practice of the defendant and offers testimony based on the person's:

(A) knowledge;

(B) skill;

(C) experience;

(D) education;

(E) training; and

(F) practice.

(b) The affidavit shall set forth specifically for each theory of recovery for which damages are sought, the negligence, if any, or other action, error, or omission of the licensed or registered professional in providing the professional service, including any error or omission in providing advice, judgment, opinion, or a similar professional skill claimed to exist and the factual basis for each such claim. The third-party licensed

architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor shall be licensed or registered in this state and actively engaged in the practice of architecture, engineering, or surveying.

(c) The contemporaneous filing requirement of Subsection (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 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 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.

(d) The defendant shall not be required to file an answer to the complaint and affidavit until 30 days after the filing of such affidavit.

(e) A claimant'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.

(f) An order granting or denying a motion for dismissal is immediately appealable as an interlocutory order.

(g) This statute shall not be construed to extend any applicable period of limitation or repose.

(h) This statute does not apply to any suit or action for the payment of fees arising out of the provision of professional services.

(i) A third-party plaintiff that is a design-build firm or a design-build team, or an architect, engineer, or other member of a design-build firm or design-build team, is not required to file an affidavit described by Subsection (a) in connection with filing a third-party claim or cross-claim against a licensed or registered professional if the action or arbitration proceeding arises out of a design-build project in which a governmental entity contracts with a single entity to provide both design and construction services for the construction, expansion, extension,

rehabilitation, alteration, or repair of a facility, a building or associated structure, a civil works project, or a highway project.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 20.01, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 189 (H.B. 854), Sec. 2, eff. May 27, 2005.

Acts 2005, 79th Leg., Ch. 208 (H.B. 1573), Sec. 2, eff. September 1, 2005.

Reenacted and amended by Acts 2009, 81st Leg., R.S., Ch. 789 (S.B. 1201), Sec. 2, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 661 (S.B. 1928), Sec. 2, eff. June 10, 2019.

Acts 2023, 88th Leg., R.S., Ch. 438 (H.B. 2007), Sec. 1, eff. September 1, 2023.

Sec. 150.003. LIABILITY FOR SERVICES RENDERED DURING DISASTER. (a) This section applies only to a licensed or registered professional who provides architectural or engineering services if the services:

(1) are authorized, as appropriate for the professional, in:

(A) Chapter 1001, Occupations Code;

(B) Chapter 1051, Occupations Code;

(C) 22 T.A.C. Part 6 (Texas Board of Professional Engineers and Land Surveyors), Chapter 137 (Compliance and Professionalism); and

(D) 22 T.A.C. Part 1 (Texas Board of Architectural Examiners), Chapter 1 (Architects), Subchapter H (Professional Conduct);

(2) subject to Subsection (d), are provided voluntarily and without compensation or the expectation of compensation;

(3) are in response to and provided during the duration of a proclaimed state of emergency under Section 433.001, Government Code, or a declared state of disaster under Section

418.014, Government Code;

(4) are provided at the request or with the approval of a federal, state, or local public official acting in an official capacity in response to the proclaimed state of emergency or declared disaster, including a law enforcement official, public safety official, or building inspection official; and

(5) are related to a structure, building, roadway, piping, or other system, either publicly or privately owned.

(b) A licensed or registered professional who provides the services to which this section applies is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to the professional's act, error, or omission in the performance of the services, unless the act, error, or omission constitutes:

(1) gross negligence; or

(2) wanton, wilful, or intentional misconduct.

(c) This section does not apply to a licensed or registered professional who is at the scene of the emergency to solicit business or perform a service for compensation on behalf of the professional or a person for whom the professional is an agent.

(d) The entitlement of a licensed or registered professional to receive compensation for services to which this section applies does not determine whether the services provided by the professional were provided voluntarily and without compensation or the expectation of compensation.

Added by Acts 2007, 80th Leg., R.S., Ch. 132 (H.B. 823), Sec. 1, eff. May 18, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1232 (H.B. 1523), Sec. 2.01, eff. September 1, 2019.

Sec. 150.004. LIABILITY FOR SERVICES RENDERED BY CERTIFIED MUNICIPAL INSPECTOR DURING EMERGENCY OR DISASTER. (a) This section applies only to a certified municipal inspector who provides inspection services if the services:

(1) are authorized by the scope of the inspector's:

(A) national model code group certification; or

(B) plumbing inspector's license under Chapter 1301, Occupations Code;

(2) are provided voluntarily and without compensation or the expectation of compensation from any source;

(3) are in response to and provided during the duration of a proclaimed state of emergency under Section 433.001, Government Code, or a declared state of disaster under Section 418.014, Government Code;

(4) are provided at the request or with the approval of a federal, state, or local public official acting in an official capacity in response to the proclaimed state of emergency or declared disaster, including a law enforcement official, public safety official, or building inspection official; and

(5) are related to a structure, building, premises, piping, or other system, either publicly or privately owned.

(b) A certified municipal inspector who provides the services to which this section applies is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to the inspector's act, error, or omission in the performance of the services, unless the act, error, or omission constitutes:

(1) gross negligence; or

(2) wanton, wilful, or intentional misconduct.

Added by Acts 2013, 83rd Leg., R.S., Ch. 244 (H.B. 403), Sec. 2, eff. June 14, 2013.