

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 SENATE BILL 1979

By: Anderson

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5  
6 AS INTRODUCED

7 An Act relating to workers' compensation; amending 85  
8 O.S. 2001, Section 12, as amended by Section 14,  
9 Chapter 1, 1st Extraordinary Session, O.S.L. 2005 (85  
10 O.S. Supp. 2009, Section 12), which relates to  
11 liability; clarifying language; and providing an  
12 effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 85 O.S. 2001, Section 12, as  
15 amended by Section 14, Chapter 1, 1st Extraordinary Session, O.S.L.  
16 2005 (85 O.S. Supp. 2009, Section 12), is amended to read as  
17 follows:

18 Section 12. The liability prescribed in Section 11 of this  
19 title shall be exclusive and in place of all other liability of the  
20 employer and any of his employees, any architect, professional  
21 engineer, or land surveyor retained to perform professional services  
22 on a construction project, at common law or otherwise, for such  
23 injury, loss of services, or death, to the employee, or the spouse,  
24 personal representative, parents, or dependents of the employee, or  
any other person. If an employer has failed to secure the payment

1 of compensation for his injured employee, as provided for in this  
2 title, an injured employee, or his legal representatives if death  
3 results from the injury, may maintain an action in the courts for  
4 damages on account of such injury, and in such action the defendant  
5 may not plead or prove as a defense that the injury was caused by  
6 the negligence of a fellow servant, or that the employee assumed the  
7 risk of his employment, or that the injury was due to the  
8 contributory negligence of the employee; provided:

9       ~~(i)~~ 1. The immunity created by the provisions of this section  
10 shall not extend to action by an employee, or the spouse, personal  
11 representative, parents, or dependents of the employee, or any other  
12 person against another employer, or its employees, on the same job  
13 as the injured or deceased worker where such other employer does not  
14 stand in the position of an intermediate or principal employer to  
15 the immediate employer of the injured or deceased worker;

16       ~~(ii)~~ 2. The immunity created by the provisions of this section  
17 shall not extend to action against another employer, or its  
18 employees, on the same job as the injured or deceased worker even  
19 though such other employer may be considered as standing in the  
20 position of a special master of a loaned servant where such special  
21 master neither is the immediate employer of the injured or deceased  
22 worker nor stands in the position of an intermediate or principal  
23 employer to the immediate employer of the injured or deceased  
24 worker; ~~and~~

1       ~~(iii)~~ 3. This provision shall not be construed to abrogate the  
2 loaned servant doctrine in any respect other than that described in  
3 paragraph ~~(ii)~~ 2 of this section. This section shall not be  
4 construed to relieve the employer from any other penalty provided  
5 for in this title for failure to secure the payment of compensation  
6 provided for in this title-;

7       ~~(iv)~~ 4. For the purpose of extending the immunity of this  
8 section, any architect, professional engineer, or land surveyor  
9 shall be deemed an intermediate or principal employer for services  
10 performed at or on the site of a construction project, but this  
11 immunity shall not extend to the negligent preparation of design  
12 plans and specifications-; and

13       ~~(v)~~ 5. Nothing contained herein shall abrogate any rights  
14 arising under the Oklahoma Constitution.

15       SECTION 2. This act shall become effective November 1, 2010.

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