

05/21/2014 11:42:55 AM

HOUSE OF REPRESENTATIVES  
CONFERENCE COMMITTEE REPORT

Mr. President:  
Mr. Speaker:

The Conference Committee, to which was referred

**HB2312**

By: Morrissette of the House and Holt of the Senate

Title: Torts; modifying scope of immunity for voluntary architectural or engineering services;  
effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the Senate recede from its amendment; and
2. That the attached Conference Committee Substitute be adopted.

Respectfully submitted,

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

HB2312 CCR (B)  
**HOUSE CONFEREES**

Biggs, Scott R.

Echols, Jon

Grau, Randy

Inman, Scott



Johnson, Dennis



Jordan, Fred

Martin, Steve



McCall, Charles A.



McCullough, Mark

Morrisette, Richard



Newell, Tom

O'Donnell, Terry



Russ, Todd

Sherrer, Ben



Stiles, Aaron

Virgin, Emily



Williams, Cory T.



HB2312 CCR B

**SENATE CONFEREES**

Holt

David Holt

Sykes

\_\_\_\_\_

Standridge

\_\_\_\_\_

Loveless

[Signature]

McAffrey

[Signature]

Johnson

(Constance)

Constance N. Johnson

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_

House Action \_\_\_\_\_ Date \_\_\_\_\_ Senate Action \_\_\_\_\_ Date \_\_\_\_\_



1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 CONFERENCE COMMITTEE  
4 SUBSTITUTE  
5 FOR ENGROSSED  
6 HOUSE BILL NO. 2312

By: Morrisette, Echols and  
McBride of the House

7 and

Holt of the Senate

8  
9  
10 CONFERENCE COMMITTEE SUBSTITUTE

11 An Act relating to national, state and local  
12 emergency procedures and requirements; amending 76  
13 O.S. 2011, Section 5.8, as amended by Section 1,  
14 Chapter 276, O.S.L. 2013 (76 O.S. Supp. 2013, Section  
15 5.8), which relates to voluntary architectural or  
16 engineering services; modifying scope of immunity;  
17 modifying requirements for services by individual  
18 licensed or registered in another state; providing  
19 immunity from liability when providing certain  
20 services if certain requirements are met; providing  
21 an exception; directing municipalities to comply with  
22 certain requirements in the event of certain damage  
23 or collapse of certain buildings; specifying  
24 requirements for safe rooms; providing for other  
designations; providing for codification; and  
providing an effective date.

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

SECTION 1. AMENDATORY 76 O.S. 2011, Section 5.8, as  
amended by Section 1, Chapter 276, O.S.L. 2013 (76 O.S. Supp. 2013,  
Section 5.8), is amended to read as follows:

1 Section 5.8 A. A licensed architect or professional engineer  
2 who voluntarily, without compensation other than expense  
3 reimbursement and reimbursement for cost of producing a report,  
4 excluding compensation for time or effort involved in producing the  
5 report, provides architectural, structural, electrical, mechanical  
6 or other design professional services related to a declared  
7 national, state or local emergency caused by a natural disaster or  
8 catastrophic event, at the request of or with the approval of a  
9 national, state or local public official, law enforcement official,  
10 public safety official or building inspection official believed by  
11 the licensed architect or professional engineer to be acting in an  
12 official capacity, shall not be liable for any personal injury,  
13 wrongful death, property damage or other loss of any nature related  
14 to the licensed architect's or professional engineer's acts or  
15 omissions in the performance of such professional services for any  
16 publicly or privately owned structure, building, facility, project  
17 utility, equipment, machine, process, piping or other system.  
18 Nothing in this section shall provide immunity for injury or damage  
19 resulting from gross negligence or willful or wanton misconduct in  
20 rendering the emergency professional services. The immunity  
21 provided in this section shall apply only to a voluntary  
22 architectural or engineering service that occurs during the  
23 emergency or within ninety (90) days following the end of the period  
24 for an emergency, disaster or catastrophic event, unless extended by

1 an executive order issued by the Governor under the Governor's  
2 emergency executive powers. An exception to the time limit shall be  
3 granted to those architects or engineers participating in the Safe  
4 Schools 101 Program administered by the Oklahoma Department of  
5 Emergency Management.

6 B. In the event a natural disaster or catastrophic event  
7 described pursuant to subsection A of this section occurs, and the  
8 services of licensed architects or professional engineers who  
9 provide architectural, structural, electrical, mechanical or other  
10 design professional services are required, but the number of  
11 professional persons licensed or registered in this state is  
12 insufficient for such purpose, any person licensed or registered in  
13 another state to practice such profession and who is a member of a  
14 mobile support team or unit of the licensing state, may inspect and  
15 placard structures for safety and habitability in this state upon  
16 request by the Governor of this state ~~and order of the Governor of~~  
17 ~~the person's home state without being licensed or registered~~ when  
18 issued a temporary license by the appropriate licensing and  
19 regulatory authority in this state. Out-of-state licensed  
20 architects or professional engineers who inspect and placard  
21 structures for safety and habitability under these conditions shall  
22 not be liable for any personal injury, wrongful death, property  
23 damage or other loss related to the licensed architect's or  
24 professional engineer's acts or omissions in the performance of such

1 emergency professional services for any publicly or privately owned  
2 structure, building, facility, project utility, equipment, machine,  
3 process, piping or other system. Nothing in this section shall  
4 provide immunity for injury or damage resulting from gross  
5 negligence or willful or wanton misconduct in rendering the  
6 emergency professional services. The immunity provided in this  
7 section shall apply only to a voluntary architectural or engineering  
8 service of inspecting and placarding structures for safety and  
9 habitability that occurs during the emergency or within ninety (90)  
10 days following the end of the period for an emergency, disaster or  
11 catastrophic event, unless extended by an executive order issued by  
12 the Governor of this state under the Governor's emergency executive  
13 powers.

14 C. A licensed professional engineer or architect with expertise  
15 in civil or structural engineering or architecture who:

16 1. Attends a training program intended to make schools safer in  
17 the event of severe weather or natural disasters offered by the  
18 Oklahoma Department of Emergency Management or the Federal Emergency  
19 Management Agency; and

20 2. Agrees to voluntarily produce a risk-assessment report that  
21 is provided to the Oklahoma Department of Emergency Management that  
22 includes:

23 a. options for hardening or installation of safe rooms in  
24 a school, or

1           b. recommendations for safe refuge areas already existing  
2           in the school,  
3 shall not be liable for any personal injury, wrongful death,  
4 property damage or other loss of any nature related to the  
5 individual's acts or omissions in the performance of such  
6 professional voluntary services for any school. Nothing in this  
7 section shall provide immunity for injury or damage resulting from  
8 gross negligence or willful or wanton misconduct in rendering the  
9 voluntary professional services.

10         D. For the purposes of this section:

11           1. "Building inspection official" means any appointed or  
12 elected federal, state or local official with executive  
13 responsibility to coordinate building inspection in the jurisdiction  
14 in which the emergency or event has occurred;

15           2. "Law enforcement official" means any appointed or elected  
16 federal, state or local official with executive responsibility to  
17 coordinate law enforcement in the jurisdiction in which the  
18 emergency or event has occurred;

19           3. "Licensed architect" means a person duly licensed pursuant  
20 to Section 46.1 et seq. of Title 59 of the Oklahoma Statutes;

21           4. "Professional engineer" means a person duly licensed and  
22 registered pursuant to Section 475.1 et seq. of Title 59 of the  
23 Oklahoma Statutes;

1           5. "Public official" means any elected federal, state or local  
2 official with executive responsibility in the jurisdiction in which  
3 the emergency or event has occurred; and

4           6. "Public safety official" means any appointed or elected  
5 federal, state or local official with executive responsibility to  
6 coordinate public safety in the jurisdiction in which the emergency  
7 or event has occurred.

8           SECTION 2.       NEW LAW       A new section of law to be codified  
9 in the Oklahoma Statutes as Section 683.11a of Title 63, unless  
10 there is created a duplication in numbering, reads as follows:

11           In the event of accidental damage to or collapse of a city- or  
12 state-owned structure, whether induced by weather effects, seismic  
13 effects, or any other cause, the municipality having jurisdiction  
14 shall comply with the following requirements:

15           1. No immediate action shall be taken to alter, remove, or  
16 deconstruct the building except to the extent necessary for search  
17 and rescue efforts;

18           2. Any failure or accidental collapse of a city- or state-owned  
19 structure shall be considered just cause for a thorough  
20 investigation concerning not only the nature and causes of the  
21 failure but also the adequacy of the structural system to support  
22 design loads;

23           3. If the failure results in at least one human fatality, the  
24 municipality having jurisdiction shall allow an independent

1 investigation by a team of licensed professional engineers, a team  
2 of licensed architects, or a team consisting of both licensed  
3 professional engineers and licensed architects having applicable  
4 expertise;

5 4. The municipality having jurisdiction shall be compelled to  
6 supply upon request the final drawings as approved by the design  
7 engineer of record for comparison with the findings of the failure  
8 investigation. Such drawings may be either the final design  
9 drawings or the as-built drawings with approved change orders, but  
10 must represent the final design decisions made by the design  
11 engineer of record and accepted by the municipality having  
12 jurisdiction; and

13 5. If the failure results in at least one human fatality, the  
14 demolition and removal of the structure shall not proceed until the  
15 independent investigation team has completed their field work.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 683.11b of Title 63, unless  
18 there is created a duplication in numbering, reads as follows:

19 For the purpose of public facilities, including but not limited  
20 to schools, the term "safe room" shall only apply to shelters that  
21 meet or exceed FEMA Publication 361 guidelines.

22 For the purpose of public facilities, including but not limited  
23 to schools, any shelters, areas of refuge, or areas of increased  
24 resilience that do not meet FEMA Publication 361 criteria shall

1 instead be called "shelters", "refuge areas", or other similar term,  
2 but shall not be designated "safe rooms".

3 SECTION 4. This act shall become effective November 1, 2014.

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5 54-2-10988 SD 05/07/14

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