

1 STATE OF OKLAHOMA

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

3 COMMITTEE SUBSTITUTE
4 FOR
5 HOUSE BILL NO. 2312

By: Morrisette

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to torts; amending 76 O.S. 2011,
9 Section 5.8, as amended by Section 1, Chapter 276,
10 O.S.L. 2013 (76 O.S. Supp. 2013, Section 5.8), which
11 relates to voluntary architectural or engineering
12 services; modifying scope of immunity; providing
13 immunity from liability when providing certain risk-
14 assessments; providing an exception; directing
15 municipalities to comply with certain requirements in
16 the event of certain damage or collapse of certain
17 buildings; providing for codification; and providing
18 an effective date.

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1 or other design professional services related to a declared
2 national, state or local emergency caused by a natural disaster or
3 catastrophic event, at the request of or with the approval of a
4 national, state or local public official, law enforcement official,
5 public safety official or building inspection official believed by
6 the licensed architect or professional engineer to be acting in an
7 official capacity, shall not be liable for any personal injury,
8 wrongful death, property damage or other loss of any nature related
9 to the licensed architect's or professional engineer's acts or
10 omissions in the performance of such professional services for any
11 publicly or privately owned structure, building, facility, project
12 utility, equipment, machine, process, piping or other system.
13 Nothing in this section shall provide immunity for injury or damage
14 resulting from gross negligence or willful or wanton misconduct in
15 rendering the emergency professional services. The immunity
16 provided in this section shall apply only to a voluntary
17 architectural or engineering service that occurs during the
18 emergency or within ninety (90) days following the end of the period
19 for an emergency, disaster or catastrophic event, unless extended by
20 an executive order issued by the Governor under the Governor's
21 emergency executive powers.

22 B. In the event a natural disaster or catastrophic event
23 described pursuant to subsection A of this section occurs, and the
24 services of licensed architects or professional engineers who

1 provide architectural, structural, electrical, mechanical or other
2 design professional services are required, but the number of
3 professional persons licensed or registered in this state is
4 insufficient for such purpose, any person licensed or registered in
5 another state to practice such profession and who is a member of a
6 mobile support team or unit of the licensing state, may inspect and
7 placard structures for safety and habitability in this state upon
8 request by the Governor of this state and order of the Governor of
9 the person's home state without being licensed or registered in this
10 state. Out-of-state licensed architects or professional engineers
11 who inspect and placard structures for safety and habitability under
12 these conditions shall not be liable for any personal injury,
13 wrongful death, property damage or other loss related to the
14 licensed architect's or professional engineer's acts or omissions in
15 the performance of such emergency 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 of inspecting and placarding
23 structures for safety and habitability that occurs during the
24 emergency or within ninety (90) days following the end of the period

1 for an emergency, disaster or catastrophic event, unless extended by
2 an executive order issued by the Governor of this state under the
3 Governor's emergency executive powers.

4 C. A licensed professional engineer with expertise in civil or
5 structural engineering who agrees to voluntarily provide risk-
6 assessment that includes:

7 a. options for hardening or installation of safe rooms in
8 a school, or

9 b. recommendations for safe refuge areas already existing
10 in the school,

11 shall not be liable for any personal injury, wrongful death,
12 property damage or other loss of any nature related to the
13 individual's acts or omissions in the performance of such
14 professional voluntary services for any school. Nothing in this
15 section shall provide immunity for injury or damage resulting from
16 gross negligence or willful or wanton misconduct in rendering the
17 voluntary professional services.

18 D. For the purposes of this section:

19 1. "Building inspection official" means any appointed or
20 elected federal, state or local official with executive
21 responsibility to coordinate building inspection in the jurisdiction
22 in which the emergency or event has occurred;

23 2. "Law enforcement official" means any appointed or elected
24 federal, state or local official with executive responsibility to

1 coordinate law enforcement in the jurisdiction in which the
2 emergency or event has occurred;

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

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

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

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

15 SECTION 2. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 22-112.4 of Title 11, unless
17 there is created a duplication in numbering, reads as follows:

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

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

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

6 3. If the failure results in at least one human fatality, the
7 municipality having jurisdiction shall allow an independent
8 investigation, whether voluntary or compensated, by a team of
9 licensed professional engineers having applicable expertise
10 consisting of independent consulting engineers and at least one
11 professor of civil engineering from an Oklahoma university;

12 4. The municipality having jurisdiction shall be compelled to
13 supply upon request the final drawings as approved by the design
14 engineer of record for comparison with the findings of the failure
15 investigation. Such drawings may be either the final design
16 drawings or the as-built drawings with approved change orders, but
17 must represent the final design decisions made by the design
18 engineer of record and accepted by the municipality having
19 jurisdiction; and

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

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