

1 **SENATE FLOOR VERSION**

2 April 1, 2014

3 **AS AMENDED**

4 ENGROSSED HOUSE
5 BILL NO. 2312

6 By: Morrissette, Echols and
7 McBride of the House

8 and

9 Holt of the Senate

10 **[torts - voluntary architectural or engineering
11 services - immunity - codification - effective date]**

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

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

16 Section 5.8 A. A licensed architect or professional engineer
17 who voluntarily, without compensation other than expense
18 reimbursement and reimbursement for cost of producing a report,
19 excluding compensation for time or effort involved in producing the
20 report, provides architectural, structural, electrical, mechanical
21 or other design professional services related to a declared
22 national, state or local emergency caused by a natural disaster or
23 catastrophic event, at the request of or with the approval of a
24 national, state or local public official, law enforcement official,

1 public safety official or building inspection official believed by
2 the licensed architect or professional engineer to be acting in an
3 official capacity, shall not be liable for any personal injury,
4 wrongful death, property damage or other loss of any nature related
5 to the licensed architect's or professional engineer's acts or
6 omissions in the performance of such professional services for any
7 publicly or privately owned structure, building, facility, project
8 utility, equipment, machine, process, piping or other system.

9 Nothing in this section shall provide immunity for injury or damage
10 resulting from gross negligence or willful or wanton misconduct in
11 rendering the emergency professional services. The immunity
12 provided in this section shall apply only to a voluntary
13 architectural or engineering service that occurs during the
14 emergency or within ninety (90) days following the end of the period
15 for an emergency, disaster or catastrophic event, unless extended by
16 an executive order issued by the Governor under the Governor's
17 emergency executive powers.

18 B. In the event a natural disaster or catastrophic event
19 described pursuant to subsection A of this section occurs, and the
20 services of licensed architects or professional engineers who
21 provide architectural, structural, electrical, mechanical or other
22 design professional services are required, but the number of
23 professional persons licensed or registered in this state is
24 insufficient for such purpose, any person licensed or registered in

1 another state to practice such profession and who is a member of a
2 mobile support team or unit of the licensing state, may inspect and
3 placard structures for safety and habitability in this state upon
4 request by the Governor of this state and order of the Governor of
5 the person's home state without being licensed or registered in this
6 state. Out-of-state licensed architects or professional engineers
7 who inspect and placard structures for safety and habitability under
8 these conditions shall not be liable for any personal injury,
9 wrongful death, property damage or other loss related to the
10 licensed architect's or professional engineer's acts or omissions in
11 the performance of such emergency professional services for any
12 publicly or privately owned structure, building, facility, project
13 utility, equipment, machine, process, piping or other system.
14 Nothing in this section shall provide immunity for injury or damage
15 resulting from gross negligence or willful or wanton misconduct in
16 rendering the emergency professional services. The immunity
17 provided in this section shall apply only to a voluntary
18 architectural or engineering service of inspecting and placarding
19 structures for safety and habitability that occurs during the
20 emergency or within ninety (90) days following the end of the period
21 for an emergency, disaster or catastrophic event, unless extended by
22 an executive order issued by the Governor of this state under the
23 Governor's emergency executive powers.

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

3 1. Attends a training program intended to make schools safer in
4 the event of severe weather or natural disasters offered by the
5 Department of Emergency Management or the Federal Emergency
6 Management Agency; and

7 2. Agrees to voluntarily produce a risk-assessment report that
8 is provided to the Department of Emergency Management that includes:

9 a. options for hardening or installation of safe rooms in
10 a school, or

11 b. recommendations for safe refuge areas already existing
12 in the school,

13 shall not be liable for any personal injury, wrongful death,

14 property damage or other loss of any nature related to the

15 individual's acts or omissions in the performance of such

16 professional voluntary services for any school. Nothing in this

17 section shall provide immunity for injury or damage resulting from

18 gross negligence or willful or wanton misconduct in rendering the

19 voluntary professional services.

20 D. For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
6 April 1, 2014 - DO PASS AS AMENDED
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