STATE OF OKLAHOMA

2nd Session of the 54th Legislature (2014)

HOUSE BILL 3188 By: McBride, Turner and Echols

AS INTRODUCED

An Act relating to torts; amending 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), which relates to voluntary architectural or engineering services; modifying scope of immunity; providing immunity for certain persons producing risk-assessment reports for schools; 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:

Section 5.8 A. A licensed architect or professional engineer who voluntarily, without compensation other than expense reimbursement, provides architectural, structural, electrical, mechanical or other design professional services related to a declared national, state or local emergency caused by a natural disaster or catastrophic event, at the request of or with the approval of a national, state or local public official, law enforcement official, public safety official or building inspection

official believed by the licensed architect or professional engineer to be acting in an official capacity, shall not be liable for any personal injury, wrongful death, property damage or other loss of any nature related to the licensed architect's or professional engineer's acts or omissions in the performance of such professional services for any publicly or privately owned structure, building, facility, project utility, equipment, machine, process, piping or other system. Nothing in this section shall provide immunity for injury or damage resulting from gross negligence or willful or wanton misconduct in rendering the emergency professional services. The immunity provided in this section shall apply only to a voluntary architectural or engineering service that occurs during the emergency or within ninety (90) days following the end of the period for an emergency, disaster or catastrophic event, unless extended by an executive order issued by the Governor under the Governor's emergency executive powers.

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

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

C. A licensed architect, professional engineer, building inspection official, law enforcement official, public official or public safety official who:

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

2. Agrees to voluntarily produce a risk-assessment report under direction and supervision of the Department of Emergency Management that includes:

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

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

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

D. For the purposes of this section:

1. "Building inspection official" means any appointed or elected federal, state or local official with executive

responsibility to coordinate building inspection in the jurisdiction in which the emergency or event has occurred;

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

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

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

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

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

SECTION 2. This act shall become effective November 1, 2014.

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