

1 ENGROSSED HOUSE
2 BILL NO. 3258

By: McBride of the House

3 and

4 Smalley of the Senate

5
6 An Act relating to torts; amending 76 O.S. 2011,
7 Section 5.8, as amended by Section 1, Chapter 276,
8 O.S.L. 2013 (76 O.S. Supp. 2017, Section 5.8), which
9 relates to immunity for voluntary architectural or
10 engineering services; specifying criteria for certain
11 architect or engineer; requiring temporary license
for out-of-state professional; granting immunity from
liability when providing voluntary services to the
Oklahoma Department of Emergency Management;
providing an exception; and providing an effective
date.

12
13
14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 76 O.S. 2011, Section 5.8, as
16 amended by Section 1, Chapter 276, O.S.L. 2013 (76 O.S. Supp. 2017,
17 Section 5.8), is amended to read as follows:

18 Section 5.8 A. A licensed architect or professional engineer
19 possessing a current license and firm certificate of authority, if
20 applicable, and in good standing with the board having licensing
21 authority who voluntarily performs work as an individual or firm,
22 without compensation other than expense reimbursement, provides
23 architectural, structural, electrical, mechanical or other design
24 professional services related to a declared national, state or local

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

20 B. In the event a natural disaster or catastrophic event
21 described pursuant to subsection A of this section occurs, and the
22 services of licensed architects or professional engineers who
23 provide architectural, structural, electrical, mechanical or other
24 design professional services are required, but the number of

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

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

4 C. A licensed professional engineer, architect or firm that has
5 been issued a license and current certificate of authority, if
6 applicable, from the licensing board having jurisdiction, that is
7 practicing within his or her area of expertise who agrees to
8 voluntarily produce a risk-assessment report that is provided to the
9 Oklahoma Department of Emergency Management that includes:

10 1. Options for hardening a school;

11 2. Options for installation of storm shelters or safe rooms in
12 a school; or

13 3. Recommendations pertaining to the best locations for refuge
14 areas already existing in the school,
15 shall not be liable for any personal injury, property damage or
16 other loss of any nature related to the individual's acts or
17 omissions in the performance of such professional voluntary services
18 for any school. Nothing in this section shall provide immunity for
19 injury or damage resulting from gross negligence or willful or
20 wanton misconduct in rendering the voluntary professional services.

21 D. For the purposes of this section:

22 1. "Building inspection official" means any appointed or
23 elected federal, state or local official with executive
24

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

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

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

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

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

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

19 SECTION 2. This act shall become effective November 1, 2018.
20
21
22
23
24

1 Passed the House of Representatives the 12th day of March, 2018.

2
3 _____
4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2018.

6
7
8 _____
9 Presiding Officer of the Senate