

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 3258

By: McBride

7
8 COMMITTEE SUBSTITUTE

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

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

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

24 Section 5.8 A. A licensed architect or professional engineer
 possessing a current license and firm certificate of authority, if
 applicable, and in good standing with the board having licensing
 authority who voluntarily performs work as an individual or firm,

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

23 B. In the event a natural disaster or catastrophic event
24 described pursuant to subsection A of this section occurs, and the

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

1 voluntary architectural or engineering service of inspecting and
2 placarding structures for safety and habitability that occurs during
3 the emergency or within ninety (90) days following the end of the
4 period for an emergency, disaster or catastrophic event, unless
5 extended by an executive order issued by the Governor of this state
6 under the Governor's emergency executive powers.

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

13 1. Options for hardening a school;

14 2. Options for installation of storm shelters or safe rooms in
15 a school; or

16 3. Recommendations pertaining to the best locations for refuge
17 areas already existing in the school,

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

24 D. For the purposes of this section:

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

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

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

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

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

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

21 SECTION 2. This act shall become effective November 1, 2018.

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23 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY, dated 03/01/2018 -
24 DO PASS, As Amended.