

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3258

By: McBride

6 AS INTRODUCED

7 An Act relating to torts; amending 76 O.S. 2011,
8 Section 5.8, as amended by Section 1, Chapter 276,
9 O.S.L. 2013 (76 O.S. Supp. 2017, Section 5.8), which
10 relates to immunity for voluntary architectural or
11 engineering services; granting immunity from
12 liability when providing voluntary services to the
13 Oklahoma Department of Emergency Management;
14 providing an exception; and providing an effective
15 date.

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

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

20 Section 5.8 A. A licensed architect or professional engineer
21 who voluntarily, without compensation other than expense
22 reimbursement, provides architectural, structural, electrical,
23 mechanical or other design professional services related to a
24 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

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

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

1 mobile support team or unit of the licensing state, may inspect and
2 placard structures for safety and habitability in this state upon
3 request by the Governor of this state and order of the Governor of
4 the person's home state without being licensed or registered in this
5 state. Out-of-state licensed architects or professional engineers
6 who inspect and placard structures for safety and habitability under
7 these conditions shall not be liable for any personal injury,
8 wrongful death, property damage or other loss related to the
9 licensed architect's or professional engineer's acts or omissions in
10 the performance of such emergency 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 of inspecting and placarding
18 structures for safety and habitability that occurs during the
19 emergency or within ninety (90) days following the end of the period
20 for an emergency, disaster or catastrophic event, unless extended by
21 an executive order issued by the Governor of this state under the
22 Governor's emergency executive powers.

23 C. A licensed professional engineer or architect practicing
24 within his or her area of expertise who agrees to voluntarily

1 produce a risk-assessment report that is provided to the Oklahoma
2 Department of Emergency Management that includes:

3 1. Options for hardening a school;

4 2. Options for installation of storm shelters or safe rooms in
5 a school; or

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

8 shall not be liable for any personal injury, property damage or

9 other loss of any nature related to the individual's acts or

10 omissions in the performance of such professional voluntary services

11 for any school, but shall be liable for wrongful death as required

12 by Section 7 of Article XXIII of the Oklahoma Constitution. Nothing

13 in this section shall provide immunity for injury or damage

14 resulting from gross negligence or willful or wanton misconduct in

15 rendering the voluntary professional services.

16 D. For the purposes of this section:

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

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

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

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

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

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

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

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