

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1328

6 By: Morrissette

7 COMMITTEE SUBSTITUTE

8 An Act relating to national, state and local
9 emergency procedures and requirements; amending 76
10 O.S. 2011, Section 5.8, as amended by Section 1,
11 Chapter 276, O.S.L. 2013 (76 O.S. Supp. 2014, Section
12 5.8), which relates to voluntary architectural or
13 engineering services; modifying scope of immunity;
14 modifying requirements for services by individual
15 licensed or registered in another state; providing
16 immunity from liability when providing certain
17 services if certain requirements are met; providing
18 an exception; directing municipalities to comply with
19 certain requirements in the event of certain damage
20 or collapse of certain buildings; specifying
21 requirements for safe rooms; providing for other
22 designations; providing for codification; and
23 providing an effective date.
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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. 2014,
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

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

3 B. In the event a natural disaster or catastrophic event
4 described pursuant to subsection A of this section occurs, and the
5 services of licensed architects or professional engineers who
6 provide architectural, structural, electrical, mechanical or other
7 design professional services are required, ~~but the number of~~
8 ~~professional persons licensed or registered in this state is~~
9 ~~insufficient for such purpose,~~ any person licensed or registered in
10 another state to practice such profession and who is a member of a
11 mobile support team or unit of the licensing state, may inspect and
12 placard structures for safety and habitability in this state upon
13 request by the Governor of this state ~~and order of the Governor of~~
14 ~~the person's home state without being licensed or registered~~ when
15 issued a temporary license by the appropriate licensing and
16 regulatory authority in this state. Out-of-state licensed
17 architects or professional engineers who inspect and placard
18 structures for safety and habitability under these conditions shall
19 not be liable for any personal injury, wrongful death, property
20 damage or other loss related to the licensed architect's or
21 professional engineer's acts or omissions in the performance of such
22 emergency professional services for any publicly or privately owned
23 structure, building, facility, project utility, equipment, machine,
24 process, piping or other system. Nothing in this section shall

1 provide immunity for injury or damage resulting from gross
2 negligence or willful or wanton misconduct in rendering the
3 emergency professional services. The immunity provided in this
4 section shall apply only to a voluntary architectural or engineering
5 service of inspecting and placarding structures for safety and
6 habitability that occurs during the emergency or within ninety (90)
7 days following the end of the period for an emergency, disaster or
8 catastrophic event, unless extended by an executive order issued by
9 the Governor of this state under the Governor's emergency executive
10 powers.

11 C. A licensed professional engineer or architect practicing
12 within their area of expertise who agrees to voluntarily produce a
13 risk-assessment report that is provided to the Oklahoma Department
14 of Emergency Management that includes:

15 1. Options for hardening a school;

16 2. Options for installation of storm shelters or safe rooms in
17 a school; or

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

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

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

22 omissions in the performance of such professional voluntary services

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

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

1 in this section shall provide immunity for injury or damage
2 resulting from gross negligence or willful or wanton misconduct in
3 rendering the voluntary professional services.

4 D. For the purposes of this section:

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

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

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

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

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

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

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 683.11a of Title 63, unless
3 there is created a duplication in numbering, reads as follows:

4 In the event of damage to or collapse of a publicly or privately
5 owned structure due to a declared national, state or local emergency
6 caused by a natural disaster or catastrophic event in which a human
7 fatality occurs, the municipality having jurisdiction shall comply
8 with the following requirements:

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

12 2. The municipality having jurisdiction shall allow an
13 independent investigation by a team of licensed professional
14 engineers, a team of licensed architects or a team consisting of
15 both licensed professional engineers and licensed architects having
16 applicable expertise;

17 3. The public or private owner of the structure shall be
18 compelled to supply upon request the final drawings by the design
19 professional or professionals of record for use in the investigation
20 and for comparison with the findings of the investigation. Such
21 drawings may be either the final design drawings or the record
22 drawings with approved change orders but must represent the final
23 design decisions made by the design professional or professionals of
24 record and accepted by the municipality having jurisdiction; and

1 4. The demolition and removal of the structure shall not
2 proceed until the independent investigation team has completed their
3 field work.

4 SECTION 3. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 683.11b of Title 63, unless
6 there is created a duplication in numbering, reads as follows:

7 For the purpose of public facilities, including but not limited
8 to schools, the term "safe room" shall only apply to shelters that
9 meet or exceed Federal Emergency Management Agency (FEMA)
10 Publication 361 guidelines and the terms "storm shelter" and
11 "tornado shelter" shall only apply to shelters that meet or exceed
12 ICC-500.

13 For the purpose of public facilities, including but not limited
14 to schools, areas of refuge or areas of increased resilience that do
15 not meet FEMA Publication 361 or ICC-500 criteria shall instead be
16 called "refuge areas", or other similar term, but shall not be
17 designated "safe rooms", "storm shelters" or "tornado shelters".

18 SECTION 4. This act shall become effective November 1, 2015.

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