

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 55th Legislature (2015)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1328

By: Morrissette of the House

and

Floyd of the Senate

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10 COMMITTEE SUBSTITUTE

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

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

1 SECTION 1. AMENDATORY 76 O.S. 2011, Section 5.8, as
2 amended by Section 1, Chapter 276, O.S.L. 2013 (76 O.S. Supp. 2014,
3 Section 5.8), is amended to read as follows:

4 Section 5.8 A. A licensed architect or professional engineer
5 who voluntarily, without compensation other than expense
6 reimbursement or reimbursement for the cost of printing a report,
7 provides architectural, structural, electrical, mechanical or other
8 design professional services related to a declared national, state
9 or local emergency caused by a natural disaster or catastrophic
10 event, at the request of or with the approval of a national, state,
11 county or local public official, law enforcement official, public
12 safety official or building inspection official believed by the
13 licensed architect or professional engineer to be acting in an
14 official capacity, shall not be liable for any personal injury,
15 ~~wrongful death,~~ property damage or other loss of any nature related
16 to the licensed architect's or professional engineer's acts or
17 omissions in the performance of such professional services for any
18 publicly or privately owned structure, building, facility, project
19 utility, equipment, machine, process, piping or other system.
20 Nothing in this section shall provide immunity for injury or damage
21 resulting from gross negligence or willful or wanton misconduct in
22 rendering the emergency professional services, but shall be liable
23 for wrongful death as required by Section 7 of Article XXIII of the
24 Oklahoma Constitution. The immunity provided in this section shall

1 apply only to a voluntary architectural or engineering ~~service~~
2 services that ~~occurs~~ occur during the emergency or within ninety
3 (90) days following the ~~end of the period for an~~ termination of the
4 declared state of emergency, disaster or catastrophic event, unless
5 extended by an executive order issued by the Governor under the
6 Governor's emergency executive powers.

7 B. In the event a natural disaster or catastrophic event
8 described pursuant to subsection A of this section occurs, and the
9 services of licensed architects or professional engineers who
10 provide architectural, structural, electrical, mechanical or other
11 design professional services are required, ~~but the number of~~
12 ~~professional persons licensed or registered in this state is~~
13 ~~insufficient for such purpose,~~ any person licensed or registered in
14 another state to practice such profession and who is a member of a
15 mobile support team or unit of the licensing state, may inspect and
16 placard structures for safety and habitability in this state upon
17 request by the Governor of this state ~~and order of the Governor of~~
18 ~~the person's home state without being licensed or registered~~ when
19 issued a temporary license by the appropriate licensing and
20 regulatory authority in this state. Out-of-state licensed
21 architects or professional engineers who inspect and placard
22 structures for safety and habitability under these conditions shall
23 not be liable for any personal injury, wrongful death, property
24 damage or other loss related to the licensed architect's or

1 professional engineer's acts or omissions in the performance of such
2 emergency professional services for any publicly or privately owned
3 structure, building, facility, project utility, equipment, machine,
4 process, piping or other system. Nothing in this section shall
5 provide immunity for injury or damage resulting from gross
6 negligence or willful or wanton misconduct in rendering the
7 emergency professional services. The immunity provided in this
8 section shall apply only to a voluntary architectural or engineering
9 service of inspecting and placarding structures for safety and
10 habitability that occurs during the emergency or within ninety (90)
11 days following the end of the period for an emergency, disaster or
12 catastrophic event, unless extended by an executive order issued by
13 the Governor of this state under the Governor's emergency executive
14 powers.

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

19 1. Options for hardening a school;

20 2. Options for installation of storm shelters or safe rooms in
21 a school; or

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

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1 shall not be liable for any personal injury, property damage or
2 other loss of any nature related to the individual's acts or
3 omissions in the performance of such professional voluntary services
4 for any school, but shall be liable for wrongful death as required
5 by Section 7 of Article XXIII of the Oklahoma Constitution. Nothing
6 in this section shall provide immunity for injury or damage
7 resulting from gross negligence or willful or wanton misconduct in
8 rendering the voluntary professional services.

9 D. For the purposes of this section:

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

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

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

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

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

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

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

11 In the event of damage to or collapse of a publicly or privately
12 owned structure due to a declared national, state or local emergency
13 caused by a natural disaster or catastrophic event in which a human
14 fatality occurs, the municipality having jurisdiction shall comply
15 with the following requirements:

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

19 2. The municipality having jurisdiction shall allow an
20 independent investigation by a team of licensed professional
21 engineers, a team of licensed architects or a team consisting of
22 both licensed professional engineers and licensed architects having
23 applicable expertise;

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1 3. The public or private owner of the structure shall be
2 compelled to supply upon request the final drawings by the design
3 professional or professionals of record for use in the investigation
4 and for comparison with the findings of the investigation. Such
5 drawings may be either the final design drawings or the record
6 drawings with approved change orders but must represent the final
7 design decisions made by the design professional or professionals of
8 record and accepted by the municipality having jurisdiction; and

9 4. The demolition and removal of the structure shall not
10 proceed until the independent investigation team has completed their
11 field work.

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

15 For the purpose of public facilities, including but not limited
16 to schools, the term "safe room" shall only apply to shelters that
17 meet or exceed Federal Emergency Management Agency (FEMA)
18 Publication 361 guidelines and the terms "storm shelter" and
19 "tornado shelter" shall only apply to shelters that meet or exceed
20 ICC-500.

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

3 SECTION 4. This act shall become effective November 1, 2015.
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY AND CIVIL PROCEDURE,
6 dated 02/18/2015 - DO PASS, As Amended and Coauthored.
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