

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1328

By: Morrissette

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6 AS INTRODUCED

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

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

24 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  
reimbursement or reimbursement for the cost of printing a report,  
provides architectural, structural, electrical, mechanical or other

1 design professional services related to a declared national, state  
2 or local emergency caused by a natural disaster or catastrophic  
3 event, at the request of or with the approval of a national, state,  
4 county or local public official, law enforcement official, public  
5 safety official or building inspection official believed by the  
6 licensed architect or professional engineer to be acting in an  
7 official capacity, shall not be liable for any personal injury,  
8 ~~wrongful death~~, property damage or other loss of any nature related  
9 to the licensed architect's or professional engineer's acts or  
10 omissions in the performance of such 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, but shall be liable  
16 for wrongful death as required by Section 7 of Article XXII of the  
17 Oklahoma Constitution. The immunity provided in this section shall  
18 apply only to a voluntary architectural or engineering ~~service~~  
19 services that ~~occurs~~ occur during the emergency or within ninety  
20 (90) days following the ~~end of the period for an~~ termination of the  
21 declared state of emergency, disaster or catastrophic event, unless  
22 extended by an executive order issued by the Governor under the  
23 Governor's emergency executive powers.

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

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

9 C. A licensed professional engineer or architect practicing  
10 within their area of expertise who agrees to voluntarily produce a  
11 risk-assessment report that is provided to the Oklahoma Department  
12 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, but shall be liable for wrongful death as required

22 by Section 7 of Article XXII of the Oklahoma Constitution. Nothing

23 in this section shall provide immunity for injury or damage

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1 resulting from gross negligence or willful or wanton misconduct in  
2 rendering the voluntary professional services.

3 D. For the purposes of this section:

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

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

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

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

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

20 6. "Public safety official" means any appointed or elected  
21 federal, state or local official with executive responsibility to  
22 coordinate public safety in the jurisdiction in which the emergency  
23 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  
6 emergency caused by a natural disaster or catastrophic event in  
7 which a human fatality occurs, the municipality having jurisdiction  
8 shall comply 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 as-built  
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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20 55-1-5064 SD 01/19/15

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