

BILL ANALYSIS

Senate Research Center
88R19289 AJA-D

H.B. 2007
By: Martinez et al. (Parker)
State Affairs
5/3/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2019 the Texas Legislature took the "certificate of merit" requirement of plaintiffs who sue design professionals and expanded it to all claimants against design professionals (e.g, third-party claimants, counterclaimants, etc.), no longer restricting it merely to plaintiffs. An unintended consequence of this legislation is that on design-build projects, the design professionals are often on the same team as the contractors—which creates a dilemma by forcing some parties to admit liability (by getting a "certificate of merit" against their own team member) in their efforts to deny liability—which creates insurance coverage issues.

H.B. 2007 would resolve this unintended dilemma by excluding the new, expanded "certificate of merit" requirements for some third-party claims on design-build projects and retain the "certificate of merit" requirements where the dilemma does not exist.

H.B. 2007 amends current law relating to a certificate of merit in certain actions against certain licensed or registered professionals.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 150.002, Civil Practice and Remedies Code, by amending Subsection (a) and adding Subsection (i), as follows:

(a) Creates an exception under Subsection (i).

(i) Provides that a third-party plaintiff that is a design-build firm or a design-build team, or an architect, engineer, or other member of a design-build firm or design-build team, is not required to file an affidavit described by Subsection (a) (relating to requiring a claimant to be required to file with a complaint for damages an affidavit of a third-party licensed architect, licensed professional engineer, registered landscape architect, or registered professional land surveyor who meets certain criteria) in connection with filing a third-party claim or cross-claim against a licensed or registered professional if the action or arbitration proceeding arises out of a design-build project in which a governmental entity contracts with a single entity to provide both design and construction services for the construction, expansion, extension, rehabilitation, alteration, or repair of a facility, a building or associated structure, a civil works project, or a highway project.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.