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SENATE BILL 5833

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Hargrove and Carrell

Read first time 02/02/2007. Referred to Committee on Judiciary.

1            AN ACT Relating to a claim filed against a design professional; and  
2 adding a new section to chapter 4.24 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 4.24 RCW  
5 to read as follows:

6            (1) As used in this section, "design professional" means: (a) An  
7 architect, professional engineer, land surveyor, landscape architect,  
8 or geologist who is licensed or authorized by law to practice such  
9 profession; (b) any corporation organized under chapter 18.100 RCW or  
10 authorized under RCW 18.08.420 or 18.43.130 to render design services;  
11 (c) an employee or subconsultant of a person described in (a) or (b) of  
12 this subsection, acting in the course and scope of his or her  
13 employment; or (d) an entity, whether or not incorporated, employing  
14 one or more persons described in (a) or (b) of this subsection.

15            (2) If a claim is filed in any forum against a design professional  
16 in which loss is alleged to have been caused by an act or omission that  
17 violates the standard of care, a claimant must file a certificate of  
18 merit at the time of filing the claim. If the claim is filed within

1 forty-five days prior to the expiration of the applicable statute of  
2 limitations, the claimant must file the certificate of merit no later  
3 than forty-five days after filing the claim.

4 (3) The certificate of merit must be executed by a design  
5 professional who holds a license, certificate, or registration issued  
6 by this state or another state and who currently practices in the same  
7 specialty or subspecialty as that of the design professional against  
8 whom the claim is filed. If there is more than one design professional  
9 named in the action, the claimant must file a certificate of merit for  
10 each named design professional.

11 (4) The certificate of merit must contain a statement that the  
12 person executing the certificate of merit believes, based on the  
13 information known at the time of executing the certificate of merit,  
14 that there is a reasonable probability that the design professional's  
15 conduct did not follow the accepted standard of care required to be  
16 exercised by that design professional and that the conduct was a cause  
17 of the claimed loss.

18 (5) Upon motion of the claimant, the court may grant an additional  
19 period of time to file the certificate of merit, not to exceed ninety  
20 days, if the court finds there is good cause for the extension.  
21 Notwithstanding any requirement of any civil procedural or arbitration  
22 rule to the contrary, the design professional against whom a claim is  
23 asserted is not required to file an answer to any claim until twenty  
24 days after the claimant has filed the certificate of merit.

25 (6)(a) Failure to file a certificate of merit that complies with  
26 the requirements of this section is grounds for dismissal of the claim.

27 (b) If a claim is dismissed for failure to file a certificate of  
28 merit that complies with the requirements of this section, the filing  
29 of the claim against the design professional shall not be used against  
30 the design professional in professional liability insurance rate  
31 setting, personal credit history, or professional licensing or  
32 credentialing.

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