

CONSTRUCTION LAW

PLEADING REQUIREMENTS AGAINST DESIGN PROFESSIONALS

ORS 31.300

2015 OREGON LAWS CH. 610 (SB 383)

Under ORS 31.300, any claim brought against a “design professional” must include a certification that the attorney bringing the claim has consulted a design professional who possesses credentials similar to those of the defendant, and who is willing to testify to admissible facts and opinions sufficient to create a question of fact as to liability – essentially, that the defendant design professional’s conduct fell below the standard of care.

A “design professional” is clarified by Senate Bill 383 to include any professional licensed under ORS 671 (e.g., architects, landscape architects) or ORS 672 (e.g., engineers, land surveyors), or any similar design professional licensed in another state. The requirement that the certification be filed with or made part of the original pleading against the defendant design professional is omitted, although best practice would continue to be to plead compliance with the statute.

Effective date: January 1, 2016. The amendments apply to claims filed on or after the effective date.

EVIDENTIARY EXCLUSION FOR NATURAL DISASTER PREPAREDNESS

ORS 40.010 TO 40.585

2015 OREGON LAWS CH. 541 (SB 775)

Senate Bill 775 encourages private-sector investments in disaster preparedness by making pre-disaster measures taken to improve resilience inadmissible as evidence of negligence. Under the bill, evidence of measures taken or of vulnerability assessments conducted before a natural disaster occurs that were intended to minimize the impact of the natural disaster, or that were conducted in order to plan for the natural disaster, are not admissible in order to prove negligence or culpable conduct in connection with claims stemming from the disaster.

Effective date: June 23, 2015. The bill applies only to claims arising on or after the effective date.

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