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BILL



ANALYSIS

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Senate Bill 309 (as introduced 4-11-13)
Sponsor: Senator Jack Brandenburg
Committee: Judiciary

Date Completed: 7-19-13

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- **Require a plaintiff in an action alleging malpractice or negligence against an architect or engineer to file an affidavit of merit.**
- **Require an affidavit of merit to contain certain statements.**
- **Require a person to have certain professional credentials in order to sign an affidavit of merit.**

Specifically, a plaintiff in an action alleging malpractice or negligence against an architect or engineer would have to file with the complaint an affidavit of merit signed by an individual whom the plaintiff or his or her attorney reasonably believed met requirements outlined in the bill. The affiant (the person signing the affidavit) would have to state all of the following in the affidavit of merit:

- That he or she had reviewed all records supplied by the plaintiff or the plaintiff's attorney concerning the conduct that was the subject of the affidavit.
- That he or she had reviewed the applicable standard of practice or care.
- That it was his or her opinion that the architect or engineer breached the applicable standard of practice or care.
- A detailed description of the actions that the architect or engineer should have taken or omitted to have complied with the applicable standard of practice or care.
- The manner in which the breach of the standard of practice or care was the proximate cause of the alleged injury to the plaintiff.

On motion of a party for good cause shown, the court in which the complaint was filed could grant the plaintiff an additional 28 days to file the affidavit of merit.

To qualify to sign an affidavit of merit, an individual would have to be licensed in Michigan or another state as an architect or engineer, as applicable. Also, during the year immediately before the date of the conduct that was the subject of the affidavit, the individual signing it would have to have devoted a majority of his or her professional time to one or more of the following:

- The active practice of architecture or engineering, as applicable.

- The instruction of students in an accredited architecture or engineering school, as applicable, or accredited program that provided students with practical experience in architecture or engineering, as applicable.
- The conduct of research in architecture or engineering, as applicable.

"Architect" would mean an individual licensed as an architect, and "engineer" would mean an individual licensed as a professional engineer, under Article 20 of the Occupational Code.

Proposed MCL 600.2912i

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The requirement to file an affidavit of merit could result in a minor, perhaps negligible, reduction in civil caseload. In the long run, reductions in caseload may result in reductions in judicial resources, but the caseload reduction that could be associated with this bill would be unlikely to warrant judicial resource reductions on its own.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.