

**PROPOSED AMENDMENTS TO  
SENATE BILL 383**

1 On page 1 of the printed bill, delete lines 5 through 31.

2 On page 2, delete lines 1 through 26 and insert:

3 **“SECTION 1.** ORS 31.300 is amended to read:

4 “31.300. (1) As used in this section, ‘*construction*’ design professional’  
5 means an architect, *registered* landscape architect, professional engineer or  
6 professional land surveyor **registered under ORS chapter 671 or 672.**

7 “(2) A complaint, cross-claim, counterclaim or third-party complaint as-  
8serting a claim against a *construction* design professional that arises out  
9 of the provision of services within the course and scope of the activities for  
10 which the person is *licensed* **registered** may not be filed unless **the fol-**  
11 **lowing items are filed with or made part of the complaint, cross-claim,**  
12 **counterclaim or third-party complaint:**

13 **“(a) A summary of the alleged conduct of the design professional**  
14 **that failed to meet the standard of professional skill and care ordi-**  
15 **narily provided by other design professionals with similar credentials,**  
16 **experience and expertise and practicing under the same or similar**  
17 **circumstances; and**

18 **“(b) The certification of the claimant’s attorney** *certifies* **that the at-**  
19 **torney has consulted a** *licensed construction* **design professional with sim-**  
20 **ilar credentials** who is qualified, available and willing to testify to  
21 admissible facts and opinions sufficient to create a question of fact as to the  
22 liability of the *construction* design professional. *[The certification required*

1 *by this section must be filed with or be made part of the original complaint,*  
2 *cross-claim, counterclaim or third-party complaint.]* The certification must  
3 contain a statement that a [*licensed construction*] design professional **with**  
4 **similar credentials** who is qualified to testify as to the standard of **pro-**  
5 **fessional skill and** care applicable to the alleged facts, is available and  
6 willing to testify that:

7 “[*(a)*] **(A)** The alleged conduct of the [*construction*] design professional  
8 failed to meet the standard of professional [*care applicable to the construction*  
9 *design professional in the circumstances alleged*] **skill and care ordinarily**  
10 **provided by other design professionals with similar credentials, expe-**  
11 **rience and expertise and practicing under the same or similar cir-**  
12 **cumstances; and**

13 “[*(b)*] **(B)** The alleged conduct was a cause of the claimed damages, losses  
14 or other harm.

15 “(3) In lieu of providing the certification described in subsection (2)(**b**)  
16 of this section, the claimant’s attorney may file with the court at the time  
17 of filing a complaint, cross-claim, counterclaim or third-party complaint an  
18 affidavit that states:

19 “(a) The applicable statute of limitations is about to expire;

20 “(b) The certification required under subsection (2)(**b**) of this section will  
21 be filed within 30 days after filing the complaint, cross-claim, counterclaim  
22 or third-party complaint or such longer time as the court may allow for good  
23 cause shown; and

24 “(c) The attorney has made such inquiry as is reasonable under the cir-  
25 cumstances and has made a good faith attempt to consult with at least one  
26 [*licensed construction*] **registered** design professional who is qualified to  
27 testify as to the standard of **professional skill and** care applicable to the  
28 alleged facts, as required by subsection (2)(**b**) of this section.

29 “(4) Upon motion of the [*construction*] design professional, the court shall  
30 enter judgment dismissing any complaint, cross-claim, counterclaim or

1 third-party complaint against any [*construction*] design professional that fails  
2 to comply with the requirements of this section.

3 “(5) This section applies only to a complaint, cross-claim, counterclaim  
4 or third-party complaint against a [*construction*] design professional by any  
5 plaintiff who:

6 “(a) **Is not a public body; and**

7 “[*a*] (b)(A) Is a [*construction*] design professional, contractor, subcon-  
8 tractor or other person providing labor, materials or services for the real  
9 property improvement that is the subject of the claim;

10 “[*b*] (B) Is the owner, lessor, lessee, renter or occupier of the real  
11 property improvement that is the subject of the claim;

12 “[*c*] (C) Is involved in the operation or management of the real property  
13 improvement that is the subject of the claim;

14 “[*d*] (D) Has contracted with or otherwise employed the [*construction*]  
15 design professional; or

16 “[*e*] (E) Is a person for whose benefit the [*construction*] design profes-  
17 sional performed services.”.

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