

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Business & Professional
 2 Regulation Subcommittee
 3 Representative Passidomo offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
 7 Section 1. Subsection (7) of section 558.002, Florida
 8 Statutes, is amended to read:

9 558.002 Definitions.—As used in this chapter, the term:

10 (7) "Design professional" means a person, as defined in s.
 11 1.01, licensed in this state as an architect, interior designer,
 12 landscape architect, engineer, ~~or~~ surveyor, or geologist.

13 Section 2. Section 558.0035, Florida Statutes, is created
 14 to read:

15 558.0035 Design professionals; contractual limitation on
 16 liability.—

17 (1) A design professional employed by a business entity or
 18 an agent of the business entity is not individually liable for
 19 damages resulting from negligence occurring within the course
 20 and scope of a professional services contract if:

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21 (a) The contract is made between the business entity and a
22 claimant or with another entity for the provision of
23 professional services to the claimant;

24 (b) The contract does not name as a party to the contract
25 the individual employee or agent who will perform the
26 professional services;

27 (c) The contract includes a prominent statement, in
28 uppercase font that is at least 5 point sizes larger than the
29 rest of the text, that, pursuant to this section, an individual
30 employee or agent may not be held individually liable for
31 negligence;

32 (d) The business entity maintains any professional
33 liability insurance required under the contract; and

34 (e) Any damages are solely economic in nature and the
35 damages do not extend to personal injuries or property not
36 subject to the contract.

37 (2) As used in this section, the term "business entity"
38 means any corporation, limited liability company, partnership,
39 limited partnership, proprietorship, firm, enterprise,
40 franchise, association, self-employed individual, or trust,
41 whether fictitiously named or not, doing business in this state.

42 Section 3. Subsection (3) of section 471.023, Florida
43 Statutes, is amended to read:

44 471.023 Certification of business organizations.—

45 (3) Except as provided in s. 558.0035, the fact that a
46 licensed engineer practices through a business organization does
47 not relieve the licensee from personal liability for negligence,
48 misconduct, or wrongful acts committed by him or her.

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49 Partnerships and all partners shall be jointly and severally
50 liable for the negligence, misconduct, or wrongful acts
51 committed by their agents, employees, or partners while acting
52 in a professional capacity. Any officer, agent, or employee of a
53 business organization other than a partnership shall be
54 personally liable and accountable only for negligent acts,
55 wrongful acts, or misconduct committed by him or her or
56 committed by any person under his or her direct supervision and
57 control, while rendering professional services on behalf of the
58 business organization. The personal liability of a shareholder
59 or owner of a business organization, in his or her capacity as
60 shareholder or owner, shall be no greater than that of a
61 shareholder-employee of a corporation incorporated under chapter
62 607. The business organization shall be liable up to the full
63 value of its property for any negligent acts, wrongful acts, or
64 misconduct committed by any of its officers, agents, or
65 employees while they are engaged on its behalf in the rendering
66 of professional services.

67 Section 4. Subsection (3) of section 472.021, Florida
68 Statutes, is amended to read:

69 472.021 Certification of partnerships and corporations.—

70 (3) Except as provided in s. 558.0035, the fact that any
71 registered surveyor and mapper practices through a corporation
72 or partnership does ~~shall~~ not relieve the registrant from
73 personal liability for negligence, misconduct, or wrongful acts
74 committed by him or her. Partnerships and all partners shall be
75 jointly and severally liable for the negligence, misconduct, or
76 wrongful acts committed by their agents, employees, or partners

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77 while acting in a professional capacity. ~~An~~ ~~Any~~ officer, agent,
78 or employee of a business organization other than a partnership
79 shall be personally liable and accountable only for negligent
80 acts, wrongful acts, or misconduct committed by him or her or
81 committed by ~~a~~ ~~any~~ person under his or her direct supervision
82 and control while rendering professional services on behalf of
83 the business organization. The personal liability of a
84 shareholder or owner of a business organization, in his or her
85 capacity as shareholder or owner, shall be no greater than that
86 of a shareholder-employee of a corporation incorporated under
87 chapter 607. The business organization shall be liable up to the
88 full value of its property for any negligent acts, wrongful
89 acts, or misconduct committed by any of its officers, agents, or
90 employees while they are engaged on its behalf in the rendering
91 of professional services.

92 Section 5. Subsection (11) of section 481.219, Florida
93 Statutes, is amended to read:

94 481.219 Certification of partnerships, limited liability
95 companies, and corporations.—

96 (11) No corporation, limited liability company, or
97 partnership shall be relieved of responsibility for the conduct
98 or acts of its agents, employees, or officers by reason of its
99 compliance with this section. However, except as provided in s.
100 558.0035, the architect who signs and seals the construction
101 documents and instruments of service shall be liable for the
102 professional services performed, and the interior designer who
103 signs and seals the interior design drawings, plans, or

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104 specifications shall be liable for the professional services
105 performed.

106 Section 6. Subsection (6) of section 481.319, Florida
107 Statutes, is amended to read:

108 481.319 Corporate and partnership practice of landscape
109 architecture; certificate of authorization.—

110 (6) Except as provided in s. 558.0035, the fact that a
111 registered landscape architect practices ~~architects practice~~
112 landscape architecture through a corporation or partnership as
113 provided in this section does ~~shall~~ not relieve the ~~any~~
114 landscape architect from personal liability for his or her
115 professional acts.

116 Section 7. Subsection (4) of section 492.111, Florida
117 Statutes, is amended to read:

118 492.111 Practice of professional geology by a firm,
119 corporation, or partnership; certificate of authorization.—The
120 practice of, or offer to practice, professional geology by
121 individual professional geologists licensed under the provisions
122 of this chapter through a firm, corporation, or partnership
123 offering geological services to the public through individually
124 licensed professional geologists as agents, employees, officers,
125 or partners thereof is permitted subject to the provisions of
126 this chapter, provided that:

127 (4) Except as provided in s. 558.0035, the fact that a
128 licensed professional geologist practices through a corporation
129 or partnership does ~~shall~~ not relieve the registrant from
130 personal liability for negligence, misconduct, or wrongful acts
131 committed by her or him. The partnership and all partners are

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132 ~~shall be~~ jointly and severally liable for the negligence,
 133 misconduct, or wrongful acts committed by their agents,
 134 employees, or partners while acting in a professional capacity.
 135 Any officer, agent, or employee of a corporation is ~~shall be~~
 136 personally liable and accountable only for negligent acts,
 137 wrongful acts, or misconduct committed by her or him or
 138 committed by any person under her or his direct supervision and
 139 control, while rendering professional services on behalf of the
 140 corporation. The personal liability of a shareholder of a
 141 corporation, in her or his capacity as shareholder, may ~~shall~~ be
 142 no greater than that of a shareholder-employee of a corporation
 143 incorporated under chapter 607. The corporation is ~~shall be~~
 144 liable up to the full value of its property for any negligent
 145 acts, wrongful acts, or misconduct committed by any of its
 146 officers, agents, or employees while they are engaged on behalf
 147 of the corporation in the rendering of professional services.

148 Section 8. This act shall take effect July 1, 2013.

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 152 **T I T L E A M E N D M E N T**

153 Remove everything before the enacting clause and insert:
 154 An act relating to design professionals; amending s. 558.002,
 155 F.S.; redefining the term "design professional" to include
 156 geologists; creating s. 558.0035, F.S.; specifying conditions
 157 under which a design professional employed by a business entity
 158 or an agent of the business entity may not be held individually
 159 liable for damages resulting from negligence occurring within

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160 the course and scope of a professional services contract;
161 defining the term "business entity"; amending ss. 471.023,
162 472.021, 481.219, 481.319, and 492.111, F.S.; conforming
163 provisions to changes made by the act; providing an effective
164 date.