

By: Representatives Busby, Felsher

To: Judiciary A

HOUSE BILL NO. 669

1 AN ACT TO CREATE THE "MISSISSIPPI ARCHITECTS AND ENGINEERS
2 GOOD SAMARITAN ACT"; TO PROVIDE IMMUNITY FROM LIABILITY FOR ANY
3 CIVIL ACTIONS ARISING FROM WORK PERFORMED BY ARCHITECTS OR
4 ENGINEERS AT THE REQUEST OF AN ELECTED OFFICIAL DURING A STATE OF
5 EMERGENCY; TO PROVIDE THAT THE IMMUNITY PROVIDED BY THIS ACT SHALL
6 ONLY APPLY TO SAFETY ASSESSMENT SERVICES; TO BRING FORWARD SECTION
7 11-46-9, WHICH EXEMPTS GOVERNMENTAL ENTITIES FROM LIABILITY UNDER
8 CERTAIN CIRCUMSTANCES FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR
9 RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** (1) This act shall be known and may be cited as
12 the "Mississippi Architects and Engineers Good Samaritan Act."

13 (2) As used in this act, the following words shall have the
14 meanings described in this section:

15 (a) "Building inspection official" means any appointed
16 or elected federal, state, or local official with executive
17 responsibility to coordinate building inspection in the
18 jurisdiction in which the emergency or event has occurred;

19 (b) "Emergency" means an earthquake, eruption, flood,
20 storm, hurricane, fire or other catastrophe that has been
21 designated as a major disaster or emergency by the President of



22 the United States, the Governor, or other public official, and
23 shall include the terms "State of Emergency" and "Local emergency"
24 as defined in Section 33-15-5;

25 (c) "Good Samaritan" means a professional engineer or a
26 registered architect who performs safety assessment services only,
27 and who provides such services uncompensated (other than
28 reimbursement of expenses) at the scene of an emergency;

29 (d) "Law enforcement official" means any appointed or
30 elected federal, state, or local official with executive
31 responsibility to coordinate law enforcement in the jurisdiction
32 in which the emergency or event has occurred;

33 (e) "Professional engineer" means a person duly
34 licensed under the engineering licensure laws of a United States
35 or Canadian jurisdiction as a professional engineer;

36 (f) "Public official" means any federal, state, or
37 local official with executive responsibility in the jurisdiction
38 in which the emergency or event has occurred;

39 (g) "Public safety official" means any appointed or
40 elected federal, state, or local official with executive
41 responsibility to coordinate public safety in the jurisdiction in
42 which the emergency or event has occurred;

43 (h) "Registered architect" means a person duly licensed
44 under the architectural licensure laws of a United States or
45 Canadian jurisdiction as a registered architect; and



(i) "Safety assessment services" means inspection and evaluation of any structure, building, facility, project utility, equipment, machine, process, piping, or other system at the scene of an emergency related to structural integrity or nonstructural elements affecting life, safety and habitability.

(3) (a) Any registered architect or professional engineer who provides safety assessment services as a Good Samaritan at the request of or with the approval of a public official, law enforcement official, public safety official, or building inspection official acting in his or her official capacity as such shall be immune from liability from any civil action arising only from an act, service or omission performed in the course of providing safety assessment services as a Good Samaritan. The immunity provided in this act shall apply only to safety assessment services if, such services: (i) occurred during the emergency or within ninety (90) days following the end of the period for the emergency, unless extended by an executive order; and (ii) if the architect or engineer was acting as a reasonably prudent person would have acted under the same or similar circumstances during a period of declared emergency, to include any other loss of any other nature related to the registered architect's or professional engineer's acts, errors or omissions in the performance of any architectural or engineering services for any structure, building or facility during the declared period of emergency.



(b) Architectural or engineering services beyond safety assessment services including, but not limited to, design of repairs, demolition plans, construction documents, or construction administration shall only be undertaken by an architect or professional engineer licensed in Mississippi.

(c) Nothing in this act shall be construed to provide immunity for wanton, willful, or intentional misconduct.

(4) Any architect or professional engineer not licensed in this state acting within the confines of this act as a Good Samaritan in order to perform safety assessment services shall be exempted from being required to be licensed as an architect or professional engineer in the State of Mississippi, but only to the extent of the services rendered for the period of time as provided for in subsection (4) of this act.

SECTION 2. Section 11-46-9, Mississippi Code of 1972, is brought forward as follows:

11-46-9. (1) A governmental entity and its employees acting within the course and scope of their employment or duties shall not be liable for any claim:

(a) Arising out of a legislative or judicial action or inaction, or administrative action or inaction of a legislative or judicial nature;

(b) Arising out of any act or omission of an employee of a governmental entity exercising ordinary care in reliance upon, or in the execution or performance of, or in the failure to



96 execute or perform, a statute, ordinance or regulation, whether or
97 not the statute, ordinance or regulation be valid;

98 (c) Arising out of any act or omission of an employee
99 of a governmental entity engaged in the performance or execution
100 of duties or activities relating to police or fire protection
101 unless the employee acted in reckless disregard of the safety and
102 well-being of any person not engaged in criminal activity at the
103 time of injury;

104 (d) Based upon the exercise or performance or the
105 failure to exercise or perform a discretionary function or duty on
106 the part of a governmental entity or employee thereof, whether or
107 not the discretion be abused;

108 (e) Arising out of an injury caused by adopting or
109 failing to adopt a statute, ordinance or regulation;

110 (f) Which is limited or barred by the provisions of any
111 other law;

112 (g) Arising out of the exercise of discretion in
113 determining whether or not to seek or provide the resources
114 necessary for the purchase of equipment, the construction or
115 maintenance of facilities, the hiring of personnel and, in
116 general, the provision of adequate governmental services;

117 (h) Arising out of the issuance, denial, suspension or
118 revocation of, or the failure or refusal to issue, deny, suspend
119 or revoke any privilege, ticket, pass, permit, license,
120 certificate, approval, order or similar authorization where the



121 governmental entity or its employee is authorized by law to
122 determine whether or not such authorization should be issued,
123 denied, suspended or revoked unless such issuance, denial,
124 suspension or revocation, or failure or refusal thereof, is of a
125 malicious or arbitrary and capricious nature;

126 (i) Arising out of the assessment or collection of any
127 tax or fee;

128 (j) Arising out of the detention of any goods or
129 merchandise by any law enforcement officer, unless such detention
130 is of a malicious or arbitrary and capricious nature;

131 (k) Arising out of the imposition or establishment of a
132 quarantine, whether such quarantine relates to persons or
133 property;

134 (l) Of any claimant who is an employee of a
135 governmental entity and whose injury is covered by the Workers'
136 Compensation Law of this state by benefits furnished by the
137 governmental entity by which he is employed;

138 (m) Of any claimant who at the time the claim arises is
139 an inmate of any detention center, jail, workhouse, penal farm,
140 penitentiary or other such institution, regardless of whether such
141 claimant is or is not an inmate of any detention center, jail,
142 workhouse, penal farm, penitentiary or other such institution when
143 the claim is filed;

144 (n) Arising out of any work performed by a person
145 convicted of a crime when the work is performed pursuant to any



146 sentence or order of any court or pursuant to laws of the State of
147 Mississippi authorizing or requiring such work;

148 (o) Under circumstances where liability has been or is
149 hereafter assumed by the United States, to the extent of such
150 assumption of liability, including, but not limited to, any claim
151 based on activities of the Mississippi National Guard when such
152 claim is cognizable under the National Guard Tort Claims Act of
153 the United States, 32 USCS 715, or when such claim accrues as a
154 result of active federal service or state service at the call of
155 the Governor for quelling riots and civil disturbances;

156 (p) Arising out of a plan or design for construction or
157 improvements to public property, including, but not limited to,
158 public buildings, highways, roads, streets, bridges, levees,
159 dikes, dams, impoundments, drainage channels, diversion channels,
160 harbors, ports, wharfs or docks, where such plan or design has
161 been approved in advance of the construction or improvement by the
162 legislative body or governing authority of a governmental entity
163 or by some other body or administrative agency, exercising
164 discretion by authority to give such approval, and where such plan
165 or design is in conformity with engineering or design standards in
166 effect at the time of preparation of the plan or design;

167 (q) Arising out of an injury caused solely by the
168 effect of weather conditions on the use of streets and highways;

169 (r) Arising out of the lack of adequate personnel or
170 facilities at a state hospital or state corrections facility if



reasonable use of available appropriations has been made to
provide such personnel or facilities;

(s) Arising out of loss, damage or destruction of
property of a patient or inmate of a state institution;

(t) Arising out of any loss of benefits or compensation
due under a program of public assistance or public welfare;

(u) Arising out of or resulting from riots, unlawful
assemblies, unlawful public demonstrations, mob violence or civil
disturbances;

(v) Arising out of an injury caused by a dangerous
condition on property of the governmental entity that was not
caused by the negligent or other wrongful conduct of an employee
of the governmental entity or of which the governmental entity did
not have notice, either actual or constructive, and adequate
opportunity to protect or warn against; provided, however, that a
governmental entity shall not be liable for the failure to warn of
a dangerous condition which is obvious to one exercising due care;

(w) Arising out of the absence, condition, malfunction
or removal by third parties of any sign, signal, warning device,
illumination device, guardrail or median barrier, unless the
absence, condition, malfunction or removal is not corrected by the
governmental entity responsible for its maintenance within a
reasonable time after actual or constructive notice;

(x) Arising out of the administration of corporal
punishment or the taking of any action to maintain control and



discipline of students, as defined in Section 37-11-57, by a teacher, assistant teacher, principal or assistant principal of a public school district in the state unless the teacher, assistant teacher, principal or assistant principal acted in bad faith or with malicious purpose or in a manner exhibiting a wanton and willful disregard of human rights or safety; or

(y) Arising out of the construction, maintenance or operation of any highway, bridge or roadway project entered into by the Mississippi Transportation Commission or other governmental entity and a company under the provisions of Section 65-43-1 or 65-43-3, where the act or omission occurs during the term of any such contract.

(2) A governmental entity shall also not be liable for any claim where the governmental entity:

- (a) Is inactive and dormant;
- (b) Receives no revenue;
- (c) Has no employees; and
- (d) Owns no property.

(3) If a governmental entity exempt from liability by subsection (2) becomes active, receives income, hires employees or acquires any property, such governmental entity shall no longer be exempt from liability as provided in subsection (2) and shall be subject to the provisions of this chapter.

SECTION 3. This act shall take effect and be in force from and after July 1, 2023.

