

March 26, 2007

**S 1490. CERT.OF MERIT/CIVIL ACT./ENGINEER/ARCHITECT.** Filed 3/26/07. *REQUIRING A CERTIFICATE OF MERIT ON CIVIL ACTIONS FILED AGAINST A PERSON OR FIRM PROVIDING ARCHITECTURE OR ENGINEERING SERVICES IN THIS STATE.* Adds new Article 12A, "Certificate of Merit for Civil Actions Against Design Professionals," to GS Chapter 1, Civil Procedure. Specifies that in any civil action or arbitration proceeding for damages arising out of the provision of professional services performed by an NC-licensed architect or professional engineer, the plaintiff must file with the complaint an affidavit of a third-party licensed professional engineer or licensed architect (third party). The third party must be competent to testify and hold the same license and practice in the same area as the defendant. The third party must be licensed in NC and actively engaged in practice.

The affidavit must state at least one negligent act, error, or omission claimed to exist and the factual basis for that claim. Extensions of time for filing the affidavit may be allowed in specified circumstances. Defendant is not required to file an answer to the complaint and affidavit until 30 days after the affidavit is filed.

Failure to file the affidavit results in a dismissal of the complaint, which may be with prejudice in the court's discretion. An order granting or denying a motion for dismissal is immediately appealable as an interlocutory order.

New provision is not to be construed to extend any applicable period of limitation or repose. It does not apply to any suit or action for the payment of fees arising out of the provision of professional services by an architect or registered engineer. The bill makes conforming change to GS 1A-1, Rule 9, of the Rules of Civil Procedure.

Amends GS 83A-6(a) and GS 89C-10 to authorize licensing boards for architects and professional engineers, respectively, to discipline licensed architects and engineers who certify a civil action that is without merit (term not defined).

Amends GS 89C-14(c) (corporations) and GS 89C-17 (individuals) to authorize the engineering licensing board to increase the fee for renewal of a certificate of licensure for engineers and land surveyors from \$75 per year to up to \$95 per year.

Certificate of merit and related provisions apply with respect to complaints or affidavits filed on or after October 1, 2007. Remainder of bill is effective when it becomes law.

**Intro. by Hartsell.**

GS 1, 1A, 83A, 89C