

FIRST REGULAR SESSION

HOUSE BILL NO. 568

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES ELMER (Sponsor) AND KORMAN (Co-sponsor).

1548L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to a peer review process for licensed architects, landscape architects, land surveyors, and engineers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 537, RSMo, is amended by adding thereto one new section, to be known as section 537.033, to read as follows:

537.033. 1. As used in this section, unless the context clearly indicates otherwise, the following words shall mean:

(1) "Design professional", an architect, landscape architect, professional land surveyor or professional engineer, licensed under the provisions of chapter 327 or any corporation authorized to practice architecture, landscape architecture, land surveying, or engineering under section 327.401 while acting within his or her scope of practice;

(2) "Peer review process", a process through which design professionals evaluate, maintain, or monitor the quality and utilization of architectural, landscape architectural, land surveying or engineering services, prepare internal lessons-learned, or exercise any combination of such responsibilities.

2. A peer review process may be performed by the following, each of whom shall be deemed a peer reviewer:

(1) An individual design professional or committee of design professionals appointed by a state, county or local society of design professionals;

(2) An individual design professional or committee of design professionals appointed by the partners, shareholders, or employed design professionals of a partnership or of a corporation authorized under section 327.401;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in bold-face type in the above bill is proposed language.

18 (3) Any individual design professional or committee of design professionals
19 appointed by the partners, board of directors, chief executive officer, or the quality control
20 director of a partnership or a corporation authorized under section 327.401 to practice
21 architecture, landscape architecture, land surveying, or engineering, or by the owner of a
22 sole proprietorship engaged in one or more of such professions.

23 3. Each peer reviewer, member of a peer review committee, and each person,
24 corporate director, partner, quality control director, or other design professional who
25 testifies before, or provides information to, acts upon the recommendation of, or otherwise
26 participates in the operation of, such a process shall be immune from civil liability for such
27 acts so long as the acts are performed in good faith, without malice, and are reasonably
28 related to the scope of inquiry of the peer review process.

29 4. Except as otherwise provided in this section, the interviews, memoranda,
30 proceedings, findings, deliberations, reports, and minutes of the peer review process, or the
31 existence of the same, concerning the professional services provided to a client or member
32 of the public are privileged and shall not be subject to discovery, subpoena, or other means
33 of legal compulsion for their release to any person or entity or be admissible into evidence
34 in any judicial or administrative action for failure to provide appropriate architectural,
35 landscape architectural, land surveying, or engineering services. Except as otherwise
36 provided in this section, no person who was in attendance at or participated in any peer
37 review process or proceedings shall be permitted or required to disclose any information
38 acquired in connection with or in the course of such proceeding, or to disclose any opinion,
39 recommendation, or evaluation of the peer reviewer or any member of a peer review
40 committee; provided, however, that information otherwise discoverable or admissible from
41 original sources shall not be construed as immune from discovery or use in any proceeding
42 merely because it was presented during proceedings before a peer reviewer, nor shall a
43 member, employee, or agent involved in any such process, or other person appearing
44 before a peer reviewer be prevented from testifying as to matters within his or her personal
45 knowledge and in accordance with the other provisions of this section; except that, such
46 witness shall not be questioned about testimony or other proceedings before any peer
47 review process or peer reviewer or about opinions formed as a result of such process. The
48 disclosure of any interview, memoranda, proceedings, findings, deliberations, reports, or
49 minutes to any person or entity, including but not limited to governmental agencies,
50 professional accrediting agencies, or other design professionals, whether proper or
51 improper, shall not waive or have any effect upon its confidentiality, nondiscoverability,
52 or nonadmissibility.

53 **5. Nothing in this section shall limit authority otherwise provided by law of the**
54 **Missouri board for architects, professional engineers, professional land surveyors and**
55 **landscape architects to obtain information by subpoena or other authorized process from**
56 **a peer reviewer or to require disclosure of otherwise confidential information developed**
57 **outside of the peer review process which relate to matters and investigations within the**
58 **jurisdiction of such licensing board.**

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