

FIRST REGULAR SESSION

SENATE BILL NO. 326

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASSON.

Read 1st time February 23, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1120S.03I

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 and terms shall have the meanings indicated:

(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 their 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

21 design professionals of a partnership, or of a corporation authorized
22 under section 327.401;

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

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

37 4. Except as otherwise provided in this section, the interviews,
38 memoranda, proceedings, findings, deliberations, reports, and minutes
39 of the peer review process, or the existence of the same, concerning the
40 professional services provided to a client or member of the public are
41 privileged and shall not be subject to discovery, subpoena, or other
42 means of legal compulsion for their release to any person or entity or
43 be admissible into evidence in any judicial or administrative action for
44 failure to provide appropriate architectural, landscape architectural,
45 land surveying, or engineering services. Except as otherwise provided
46 in this section, no person who was in attendance at, or participated in,
47 any peer review process or proceedings shall be permitted or required
48 to disclose any information acquired in connection with or in the
49 course of such proceeding, or to disclose any opinion, recommendation,
50 or evaluation of the peer reviewer, or any member of a peer review
51 committee; provided, however, that information otherwise discoverable
52 or admissible from original sources is not to be construed as immune
53 from discovery or use in any proceeding merely because it was
54 presented during proceedings before a peer reviewer nor is a member,
55 employee, or agent involved in any such process, or other person
56 appearing before a peer reviewer, to be prevented from testifying as to
57 matters within his or her personal knowledge and in accordance with

58 the other provisions of this section, but such witness cannot be
59 questioned about testimony or other proceedings before any peer
60 review process or peer reviewer or about opinions formed as a result
61 of such process. The disclosure of any interview, memoranda,
62 proceedings, findings, deliberations, reports, or minutes to any person
63 or entity, including but not limited to governmental agencies,
64 professional accrediting agencies, or other design professionals,
65 whether proper or improper, shall not waive or have any effect upon
66 its confidentiality, nondiscoverability, or nonadmissibility.

67 5. Nothing in this section shall limit authority otherwise
68 provided by law of the Missouri board for architects, professional
69 engineers, professional land surveyors, and landscape architects to
70 obtain information by subpoena or other authorized process from a
71 peer reviewer or to require disclosure of otherwise confidential
72 information relating to matters and investigations within the
73 jurisdiction of such licensing board.

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