

Date of Hearing: April 28, 2026

ASSEMBLY COMMITTEE ON JUDICIARY
Ash Kalra, Chair
AB 2106 (Patel) – As Introduced February 18, 2026

As Proposed to be Amended

SUBJECT: MALPRACTICE ACTIONS: ARCHITECTS, ENGINEERS, OR SURVEYORS

KEY ISSUE: SHOULD DESIGN PROFESSIONALS BE REQUIRED TO BE LICENSED IN CALIFORNIA FOR THE PURPOSES OF CERTIFICATE OF MERIT CONSULTATION?

SYNOPSIS

In order to prevent frivolous lawsuits and save courts time and money, lawsuits filed against design professionals—specifically architects, engineers, and land surveyors—must be filed with a certificate of merit. This certificate requires the attorney bringing the action to consult with another design professional, not a party to the action, to confirm there is a potential negligence claim, and the case is warranted. However, existing law does not require that design professional to be licensed in California. Therefore, the consulted professional may not understand the requirements and intricacies that are unique to this state or be subject to the disciplinary authorities of this state. This bill would require these professionals to be licensed in California and would include landscape architects in the group of professionals that require the certificate of merit.

This bill is sponsored by the American Council of Engineering Companies of California and supported by other building industry groups. The bill has no registered opposition. The author has agreed to take amendments in this Committee. The amendments are reflected in the summary and discussed in the analysis.

SUMMARY: Requires design professionals that are consulted for a certificate of merit to be licensed in California. Specifically, **this bill:**

- 1) Adds “landscape architect” to the list of licensed professionals that require consultation and a certificate of merit to be filed by a plaintiff or cross-complainant in a professional negligence action.
- 2) Requires architects, landscape architects, professional engineers, and land surveyors who are consulted for a certificate of merit in a professional negligence action, to be licensed in the state of California.

EXISTING LAW:

- 1) Provides the requirements to be licensed as an architect. (Business and Professions Code Section 5500 *et seq.*)
- 2) Provides the requirements to be licensed as a landscape architect. (Business and Professions Code Section 5615 *et seq.*)

- 3) Provides the requirements to be licensed as a professional engineer. (Business and Professions Code Section 6700 *et seq.*)
- 4) Provides the requirements to be licensed as a land surveyor. (Business and Professions Code Section 8700 *et seq.*)
- 5) Requires an attorney for a plaintiff or cross-complainant in an action that arises from the professional negligence of an architect, professional engineer, or land surveyor to file and serve a certificate of merit on a defendant or cross-defendant, on or before the date of service of the complaint or cross-complaint.
- 6) Requires the certificate in 5) to declare one of the following:
 - a) The attorney has reviewed the facts of the case, and:
 - i) The attorney has consulted with and received an opinion from at least one architect, professional engineer, or land surveyor who is licensed and practices in any state, or who teaches at an accredited college or university and is licensed to practice in any state, in the same discipline as the defendant or cross-defendant and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action;
 - ii) The attorney has concluded on the basis of this review and consultation that there is reasonable and meritorious cause for the filing of this action;
 - iii) The person consulted is not a party to the litigation;
 - iv) The person consulted will provide their opinion that the named defendant or cross-defendant was negligent or was not negligent in the performance of the applicable professional services.
 - b) The attorney was unable to obtain the consultation because a statute of limitations would impair the action and that the certificate could not be obtained before the impairment of the action. The attorney must file the certificate from a) within 60 days after filing the complaint.
 - c) The attorney was unable to obtain the consultation because the attorney had made three separate good faith attempts with three separate architects, professional engineers, or land surveyors to obtain this consultation and none of those contacted would agree to the consultation.
- 7) Requires only one certificate to be filed, even if multiple defendants have been named in the complaint or may be named at a later time.
- 8) Allows an attorney who submits a certificate to refuse to disclose the identity of the architect, professional engineer, or land surveyor consulted and the contents of the consultation. This privilege is also held by the architect, professional engineer, or land surveyor consulted. If, however, the attorney makes a claim that they were unable to obtain the required consultation with the architect, professional engineer, or land surveyor, the court may require the attorney

to divulge the names of architects, professional engineers, or land surveyors refusing the consultation.

- 9) Allows for discipline against the attorney for a violation of this section, except for the failure to file a certificate within 60 days pursuant to b) of 6).
- 10) Allows for the failure to file a certificate in accordance with this section to be grounds for a demurrer or a motion to strike.
- 11) Allows the trial court, upon the motion of a party or upon the court's own motion, to verify compliance with this section, by requiring the attorney for the plaintiff or cross-complainant to reveal the name, address, and telephone number of the person or persons consulted with that were relied upon by the attorney in preparation of the certificate of merit. If the trial judge finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees, incurred by another party as a result of the failure to comply with this section.
- 12) Defines "action" as a complaint or cross-complaint for equitable indemnity arising out of the rendition of professional services whether or not the complaint or cross-complaint specifically asserts or utilizes the terms "professional negligence" or "negligence." (Civil Procedure Code Section 411.35.)

FISCAL EFFECT: As currently in print this bill is keyed non-fiscal.

COMMENTS: In order to prevent frivolous lawsuits and save courts time and money, lawsuits filed against design professionals—specifically architects, engineers, and land surveyors—must be filed with a certificate of merit. This certificate requires the attorney bringing the action to consult with another design professional, not a party to the action, to confirm there is a potential negligence claim, and the case is warranted. However, existing law does not require that design professional to be licensed in California. Therefore, the consulted professional may not understand the requirements and intricacies that are unique to this state.

In support of the bill, the author writes:

Current law allows out of state licensees to serve a Certificate of Merit. AB 2106 ensures that California licensees - professionals that understand California's laws and regulations - are the ones determining if there has been a breach in standard of care.

The Certificate of Merit. A party alleging professional malpractice—an action arising out of the negligence of a design professional—must also file with the court and serve the alleged violator with a "certificate of merit." The certificate of merit is a document that states that the plaintiff (or cross-complainant) has consulted with one or more licensed professionals with relevant and appropriate experience or expertise, and who have reviewed the facts of the case and support the finding that the defendant was negligent. (Civil Procedure Code Section 411.35.) Existing law requires this certificate of merit when an action involves an architect, professional engineer, or land surveyor. The certificate of merit is designed to limit frivolous lawsuits against these professionals. However, the law currently allows for the consulted professional to be licensed in *any* state, not just in California. Therefore, the consulting professional may not know the specifics or nuances of California's design laws, regulations, and procedures. Similarly, should

the consulted professional themselves engage in malfeasance, they would be outside the reach of California regulators.

The bill in print and proposed amendments. As now in print, this bill adds landscape architects, geologists and geophysicists to the group of design professionals where a certificate of merit would be required. The bill also would require the consulted professional to have over 15 years of experience and would not allow exceptions to the certificate of merit requirement that are currently in existing law. However, advocates have raised concerns about the limitations this may place on bringing professional negligence actions forward. Thus, the author proposes to amend the bill to only change two aspects of existing law, the identified design professionals and the licensing requirement.

As amended, the bill will add landscape architects to the group of design professionals that require a certificate of merit to be filed. The bill's sponsor argues that landscape architects are now increasingly involved in this type of litigation, and often, their duties now overlap with those of architects and engineers. This bill, as amended, will also require any consulted design professional, including landscape architects, to be licensed in California, and not just any state in the United States, as is currently the requirement.

To accomplish this, the author proposes to amend the bill so as to return most of the original language from existing law back into the bill. Civil Procedure Code Section 411.35 will be amended to read:

- (a) In every action, including a cross-complaint for damages or indemnity, arising out of the professional negligence of a person holding a valid architect's certificate issued pursuant to Chapter 3 (commencing with Section 5500) of Division 3 of the Business and Professions Code, ***or of a person holding a valid landscape architect's license issued pursuant to Chapter 3.5 (commencing with Section 5615) of Division 3 of the Business and Professions Code***, or of a person holding a valid registration as a professional engineer issued pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, or a person holding a valid land surveyor's license issued pursuant to Chapter 15 (commencing with Section 8700) of Division 3 of the Business and Professions Code on or before the date of service of the complaint or cross-complaint on any defendant or cross-defendant, the attorney for the plaintiff or cross-complainant shall file and serve the certificate specified by subdivision (b).
- (b) A certificate shall be executed by the attorney for the plaintiff or cross-complainant declaring one of the following:
 - (1) That the attorney has reviewed the facts of the case, that the attorney has consulted with and received an opinion from at least one architect, ***landscape architect***, professional engineer, or land surveyor who is licensed to practice and practices in this state ~~or any other state~~, or who teaches at an accredited college or university and is licensed to practice in this state ~~or any other state~~, in the same discipline as the defendant or cross-defendant and who the attorney reasonably believes is knowledgeable in the relevant issues involved in the particular action, and that the attorney has concluded on the basis of this review and consultation that there is reasonable and meritorious cause for the filing of this action. The person consulted may not be a party to the litigation. The person consulted shall render his or her

- opinion that the named defendant or cross-defendant was negligent or was not negligent in the performance of the applicable professional services.
- (2) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificate required by paragraph (1) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificate required by paragraph (1) shall be filed within 60 days after filing the complaint.
- (3) That the attorney was unable to obtain the consultation required by paragraph (1) because the attorney had made three separate good faith attempts with three separate architects, *landscape architects*, professional engineers, or land surveyors to obtain this consultation and none of those contacted would agree to the consultation.
- (c) Where a certificate is required pursuant to this section, only one certificate shall be filed, notwithstanding that multiple defendants have been named in the complaint or may be named at a later time.
- (d) Where the attorney intends to rely solely on the doctrine of “res ipsa loquitur,” as defined in Section 646 of the Evidence Code, or exclusively on a failure to inform of the consequences of a procedure, or both, this section shall be inapplicable. The attorney shall certify upon filing of the complaint that the attorney is solely relying on the doctrines of “res ipsa loquitur” or failure to inform of the consequences of a procedure or both, and for that reason is not filing a certificate required by this section.
- (e) For purposes of this section, and subject to Section 912 of the Evidence Code, an attorney who submits a certificate as required by paragraph (1) or (2) of subdivision (b) has a privilege to refuse to disclose the identity of the architect, *landscape architect*, professional engineer, or land surveyor consulted and the contents of the consultation. The privilege shall also be held by the architect, *landscape architect*, professional engineer, or land surveyor so consulted. If, however, the attorney makes a claim under paragraph (3) of subdivision (b) that he or she was unable to obtain the required consultation with the architect, *landscape architect*, professional engineer, or land surveyor, the court may require the attorney to divulge the names of architects, *landscape architects*, professional engineers, or land surveyors refusing the consultation.

ARGUMENTS IN SUPPORT: This bill is sponsored by the American Council of Engineering Companies (ACEC) of California and supported by industry advocacy organizations. In a joint statement, ACEC, the American Institute of Architects (AIA) California, the California Building Industry Association (CBIA), and the California & Nevada Civil Engineers and Land Surveyors Association write in support:

AB 2106 provides a reasonable and targeted solution by requiring that the subject matter expert be licensed in California and that their identity be disclosed upon request. The bill also addresses an oversight in which the current statute’s protections do not extend to other design professionals, namely landscape architects, professional geologists, and professional geophysicists. These reforms promote accountability, ensure that claims are evaluated by individuals who understand California-specific standards, and restore confidence in the integrity of the Certificate of Merit process.

The bill does not limit the ability of any party to seek claims, nor does it reduce accountability for design professionals. Rather, it ensures that claims are grounded in California's professional standards, protects the consumers of design professional services and all parties to a potential lawsuit from the high costs, uncertainty, and duration associated with pursuing a case that lacks proper review.

Civil Justice Association of California (CJAC) writes in support:

AB 2106 provides a reasonable and targeted solution by requiring that the consulting professional be licensed in California and that their identity be disclosed upon request. The bill also extends the protections to landscape architects, professional geologists, and professional geophysicists. These reforms promote accountability, ensure that claims are evaluated by individuals who understand California-specific standards, and restore confidence in the integrity of the Certificate of Merit process.

The bill does not limit valid claims or reduce accountability. Rather, it ensures that only claims grounded in California's professional standards move forward – protecting both consumers design professionals who serve them.

REGISTERED SUPPORT / OPPOSITION:

Support

American Council of Engineering Companies of California (sponsor)
American Institute of Architects California
American Property Casualty Insurance Association
California & Nevada Civil Engineers and Land Surveyors Association
California Building Industry Association
Civil Justice Association of California (CJAC)
Parikh Consultants, INC.
Structural Engineers Association of California
Verdantas
WMH Corporation

Opposition

None on file

Analysis Prepared by: Griff Ryan-Roberts / JUD. / (916) 319-2334