

1 HB401
2 209931-1
3 By Representative Garrett
4 RFD: State Government
5 First Read: 11-FEB-21

SYNOPSIS: This bill would provide a limitation period on civil actions that arise against a home inspector licensed in this state.

This bill would also clarify that it is not the intent of the Legislature, in requiring home inspectors to obtain certificates of liability and property insurance, to disfavor contracts limiting the liability of home inspectors.

A BILL
TO BE ENTITLED
AN ACT

Relating to home inspectors; to add Section 34-14B-11 to the Code of Alabama 1975, to provide a limitation period on actions against licensed home inspectors; and to amend Section 34-14B-3, Code of Alabama 1975, to provide Legislative intent.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 34-14B-11 is added to the Code of
2 Alabama 1975, to read as follows:

3 §34-14B-11.

4 (a) All of the following civil actions in tort,
5 contract, or otherwise against a home inspector licensed under
6 this chapter for the recovery of damages shall be commenced
7 within two years after a cause of action accrues or arises:

8 (1) Any defect or deficiency in a home inspection or
9 home inspection report.

10 (2) Damage to real or personal property caused by a
11 defect or deficiency in a home inspection or home inspection
12 report.

13 (3) Injury to or wrongful death of a person caused
14 by any defect or deficiency in a home inspection or home
15 inspection report.

16 (b) (1) Notwithstanding subsection (a), except as
17 provided in subdivision (2), no relief may be granted on any
18 cause of action that accrues or would have accrued more than
19 seven years after the delivery of a home inspection report,
20 and any right of action that accrues or would have accrued
21 more than seven years thereafter is barred.

22 (2) Subdivision (1) does not apply when, prior to
23 the expiration of the seven-year period, the home inspector
24 had actual knowledge that the defect or deficiency existed and
25 failed to disclose the defect or deficiency to the person with
26 whom the home inspector contracted to perform the home
27 inspection service.

1 (c) (1) As used in this section, a cause of action
2 accrues or arises at the time the damage or injury is, or in
3 the exercise of reasonable diligence should have been, first
4 discovered, whichever is earlier, when a person is injured,
5 including injury which results in death, or when property is
6 damaged as a proximate result of a deficiency in a home
7 inspection.

8 (2) When the damage or injury either is latent or by
9 its nature is not discoverable in the exercise of reasonable
10 diligence at the time of its occurrence, the cause of action
11 shall arise or accrue at the time the damage or injury is, or
12 in the exercise of reasonable diligence should have been,
13 first discovered, whichever is earlier.

14 (3) The cause of action accrues or arises whether or
15 not the full amount of damages is apparent at the time of the
16 first injury or damage, and cannot be extended as a continuous
17 wrong.

18 (4) Property damage shall include both physical
19 damages to, and defective condition of, the property.

20 (d) This section applies to every action or demand,
21 whether commenced by direct action, action for contribution or
22 indemnity, or by counterclaim, cross-claim, or third party
23 practice and whether commenced by an owner of the improvement
24 or any other person.

25 (e) This section is subject to the statute of
26 limitations computation period under Section 6-5-222.

1 (f) This article may not be construed to create any
2 cause of action against, or impose any liability on, or revive
3 any cause of action barred under existing law against, any
4 home inspector.

5 (g) This section applies to any home inspection
6 performed on or after the effective date of the act adding
7 this section.

8 Section 2. Section 34-14B-3, Code of Alabama 1975,
9 is amended to read as follows:

10 "§34-14B-3.

11 "(a) An applicant for licensure as a home inspector
12 shall submit an application, under oath, upon a form to be
13 prescribed by the Building Commission which shall include, as
14 a minimum, the following information pertaining to the
15 applicant:

16 "(1) Social Security number for natural persons or
17 employer identification number for other entities.

18 "(2) The name and address under which the applicant
19 conducts business, if an individual proprietorship; the name
20 and address of each partner or venturer, if the applicant is a
21 partnership or joint venture; or the name and address of the
22 corporate officers and statutory agent for service, if the
23 applicant is a corporation.

24 "(3) A certificate issued by an insurance company
25 licensed to do business in the State of Alabama that the
26 applicant has procured public liability and property damage
27 insurance covering the applicant's home inspection operations

1 in the sum of not less than twenty thousand dollars (\$20,000)
2 for injury or damage to property; and fifty thousand dollars
3 (\$50,000) for injury or damage, including death, to any one
4 person; and one hundred thousand dollars (\$100,000) for injury
5 or damage, including death, to more than one person; or at any
6 greater limits of liability prescribed by the Building
7 Commission; and, in addition, evidence of insurance against
8 the errors and omissions of the home inspector in an amount
9 and form to be prescribed by the Building Commission. The
10 Legislature does not intend by the inclusion of the foregoing
11 requirement to express public policy disfavoring contractual
12 limitations of liability between home inspectors and their
13 customers.

14 "(4) Evidence of one of the following professional
15 qualifications:

16 "a. Membership in and adherence to the ethical
17 standards of the American Society of Home Inspectors, Inc.
18 (ASHI) or an equivalent professional body as determined by the
19 Building Commission.

20 "b. Approval or certification by one of the
21 following agencies to inspect residential construction:

22 "1. The United States Veterans Administration.

23 "2. The United States Department of Housing and
24 Urban Development.

25 "3. The Southern Building Code Congress
26 International.

27 "4. The Council of American Building Officials.

1 "c. A high school diploma or its equivalent, work
2 experience for at least one year as a home inspector, and
3 completion of at least 100 home inspections for compensation.

4 "d. Licensure on or after January 1, 1998, in
5 Alabama as a general contractor, registered professional
6 architect, registered professional engineer, or residential
7 home builder. Renewals of licensure previously supported by
8 evidence of an acceptable license shall not require the
9 applicant to repeat proof of such licensing.

10 " (5) Any and all other information prescribed and
11 required by the Building Commission.

12 "(b) The information contained in an application
13 shall be a matter of public record and open to public
14 inspection."

15 Section 3. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.