

1 SB229
2 189286-1
3 By Senator Livingston
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 25-JAN-18

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8 SYNOPSIS: Under existing law, home inspectors and
9 exterior insulation and finish systems (EIFS)
10 inspectors are licensed by the Division of
11 Construction Management within the Department of
12 Finance.

13 This bill would establish the Alabama Home
14 Inspectors Licensure Board to license and regulate
15 the practice of home inspections and EIFS
16 inspections.

17 This bill would provide for the composition
18 of the board members and functions of the board.

19 This bill would specify requirements for the
20 licensing of home inspectors and EIFS inspectors.

21 This bill would provide for licensing fees
22 and penalties for violations.

23 Amendment 621 of the Constitution of Alabama
24 of 1901, now appearing as Section 111.05 of the
25 Official Recompilation of the Constitution of
26 Alabama of 1901, as amended, prohibits a general
27 law whose purpose or effect would be to require a

1 new or increased expenditure of local funds from
2 becoming effective with regard to a local
3 governmental entity without enactment by a 2/3 vote
4 unless: it comes within one of a number of
5 specified exceptions; it is approved by the
6 affected entity; or the Legislature appropriates
7 funds, or provides a local source of revenue, to
8 the entity for the purpose.

9 The purpose or effect of this bill would be
10 to require a new or increased expenditure of local
11 funds within the meaning of the amendment. However,
12 the bill does not require approval of a local
13 governmental entity or enactment by a 2/3 vote to
14 become effective because it comes within one of the
15 specified exceptions contained in the amendment.

16
17 A BILL
18 TO BE ENTITLED
19 AN ACT
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21 Relating to home inspectors; to add a new Chapter
22 14D, commencing with Section 34-14D-1 to Title 34, Code of
23 Alabama 1975; to establish the Alabama Home Inspectors
24 Licensure Board to license and regulate the practice of home
25 inspections and exterior insulation and finish systems
26 inspections; to provide for the composition of the board
27 members and functions of the board; to specify requirements

1 for the licensing of home inspectors and exterior insulation
2 and finish systems inspectors; to provide for licensing fees
3 and penalties for violations; to repeal Chapter 14B of Title
4 34, Code of Alabama 1975, which provides for the licensure of
5 home inspectors by the Division of Construction Management
6 within the Department of Finance; and in connection therewith
7 would have as its purpose or effect the requirement of a new
8 or increased expenditure of local funds within the meaning of
9 Amendment 621 of the Constitution of Alabama of 1901, now
10 appearing as Section 111.05 of the Official Recompilation of
11 the Constitution of Alabama of 1901, as amended.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Chapter 14D, commencing with Section
14 34-14D-1, is added to Title 34, Code of Alabama 1975, to read
15 as follows:

16 CHAPTER 34D. INSPECTORS.

17 §34-14D-1.

18 As used in this chapter, the following terms have
19 the following meanings:

20 (1) BOARD. The Alabama Home Inspectors Licensure
21 Board.

22 (2) EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS)
23 INSPECTION. The physical review of exterior insulation and
24 finish systems (EIFS) or the inspection of the condition of or
25 the installation of EIFS of a private, commercial, or other
26 building.

1 (3) EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS)
2 INSPECTOR. A person who does any of the following:

3 a. Performs an EIFS inspection for compensation for
4 another person.

5 b. Undertakes or offers to undertake the performance
6 of, submits a bid to perform, or who contracts to perform, an
7 EIFS inspection.

8 c. Assumes charge of, in a supervisory capacity or
9 otherwise, an EIFS inspection.

10 (4) HOME INSPECTION. The physical review of
11 mechanical and structural components of a residence.

12 (5) HOME INSPECTOR. A person who does any of the
13 following:

14 a. Performs a home inspection for compensation for
15 another person.

16 b. Undertakes or offers to undertake the performance
17 of, submits a bid to perform, or who contracts to perform, a
18 home inspection.

19 c. Assumes charge of, in a supervisory capacity or
20 otherwise, a home inspection.

21 (6) LICENSEE. A licensed home inspector or EIFS
22 inspector.

23 (7) RESIDENCE. A structure, including a site-built
24 home, a condominium, a duplex or multi-unit residential
25 building consisting of not more than four residential units,
26 providing complete independent residential living facilities

1 for one or more individuals that includes permanent provisions
2 for living, sleeping, eating, cooking, and sanitation.

3 §34-14D-2.

4 (a) There is established a Home Inspectors Licensure
5 Board to implement and administer this chapter.

6 (b) The board shall consist of nine members. The
7 composition of the board shall be as follows:

8 (1) Two licensed real estate brokers, one appointed
9 by the Governor with an initial term of one year and one
10 appointed by the President Pro Tempore of the Senate with an
11 initial term of two years, each chosen from a list of three
12 nominees furnished by the Alabama Association of Realtors.

13 (2) Two licensed home builders, one appointed by the
14 Governor with an initial term of three years and one appointed
15 by the Speaker of the House of Representatives with an initial
16 term of one year, each chosen from a list of three nominees
17 furnished by the Home Builders Association of Alabama.

18 (3) Two licensed home inspectors, one appointed by
19 the President Pro Tempore of the Senate with an initial term
20 of three years and one appointed by the Speaker of the House
21 of Representatives with an initial term of two years, each
22 chosen from a list of three nominees furnished by the Home
23 Builders Association of Alabama.

24 (4) Two members of the public, one appointed by the
25 President Pro Tempore of the Senate from a list of three
26 nominees furnished by the Alabama Association of Realtors with
27 an initial term of one year, and one appointed by the Speaker

1 of the House of Representatives from a list of three nominees
2 furnished by the Home Builders Association of Alabama with an
3 initial term of three years.

4 (5) One building official or inspector currently
5 employed by a municipality, county, or other governmental unit
6 or subdivision having jurisdiction to inspect buildings or
7 regulate residential construction, appointed by the Governor
8 from a list of three nominees furnished by the Code Officials
9 Association of Alabama, with an initial term of two years.

10 (c) Terms expire December 31 of the year of
11 expiration, and all subsequent terms shall be for three years
12 and until a member's successor has been appointed and
13 qualified.

14 (d) The appointing authorities shall coordinate
15 their appointments to assure membership is inclusive and
16 reflects the racial, gender, geographic, urban, rural, and
17 economic diversity of the state.

18 (e) Vacancies in unexpired terms shall be filled in
19 the same manner as original appointments are made.

20 (f) The board shall elect from its members a chair,
21 vice chair, and secretary who shall serve terms as determined
22 by the board.

23 (g) The board shall meet at least quarterly, and at
24 such other times as the chair may designate. Five members of
25 the board shall constitute a quorum.

26 (h) Members of the board shall be compensated in the
27 amount of one hundred dollars (\$100) per day, not to exceed

1 eight days per year, for attending meetings of the board, and
2 shall be allowed travel and per diem expenses at the same rate
3 paid to state employees, to be paid from the funds collected
4 for the administration of this chapter, as funds are
5 available.

6 (i) The board may hire an executive director and a
7 deputy director. The board shall have the sole authority to
8 determine the salary of the executive director. The board may
9 employ employees as from time to time may be necessary to
10 implement this chapter.

11 §34-14D-3.

12 (a) The board shall do all of the following
13 consistent with this chapter:

14 (1) Issue, renew, suspend, or revoke licenses for
15 home inspectors and EIFS inspectors, which may include more
16 than one type of license or licenses that vary in scope of
17 work authorized or vary in requirements for licensure.

18 (2) Investigate and conduct hearings, in accordance
19 with the Administrative Procedure Act, upon complaints to
20 determine if disciplinary action is warranted

21 (3) Establish reasonable licensure fees, including,
22 but not limited to, initial application, renewal,
23 reinstatement, and late fees, provided a license fee may not
24 exceed five hundred dollars (\$500).

25 (4) Impose administrative fines, not to exceed one
26 thousand dollars (\$1,000), upon a finding that a licensee

1 violated this chapter, a board rule, or a condition of a
2 license.

3 (b) The board shall adopt rules in accordance with
4 the Administrative Procedure Act to implement this chapter.

5 §34-14D-4.

6 (a) There is created in the State Treasury a fund to
7 be known as the Alabama Home Inspectors Licensure Fund. All
8 fees, fines, charges, or other money collected by the board
9 under this chapter shall be deposited into the State Treasury
10 to the credit of the Alabama Home Inspectors Licensure Fund
11 and no funds may be expended for any purpose whatsoever unless
12 they have been allotted and budgeted in accordance with
13 Article 4 of Chapter 4 of Title 41, and only in the amounts
14 and for the purposes provided by the Legislature in the
15 general appropriation bill or this chapter.

16 (b) The board shall pay all its expenses from the
17 Alabama Home Inspectors Licensure Fund, and no expenses shall
18 be borne by the state from the state General Fund. The board
19 may retain sufficient funds to meet any emergency that may
20 affect its efficient operation. All money remaining unexpended
21 in the Alabama Home Inspectors Licensure Fund at the end of
22 each fiscal year shall be retained for the following fiscal
23 year.

24 §34-14D-5.

25 (a) A person desiring to be licensed as a home
26 inspector or EIFS inspector shall apply to the board on forms
27 provided by the board and pay the appropriate application fee.

1 An applicant shall submit evidence satisfactory to the board
2 that he or she is a citizen or resident of the United States.

3 (b) An applicant who has provided all requisite
4 information and fees to the board shall be examined by the
5 board at its next meeting. In examining the applicant, the
6 board shall consider all of the following in determining
7 whether the applicant is qualified:

8 (1) The character of the applicant.

9 (2) The business-related financial condition of the
10 applicant.

11 (3) The applicant's professional qualifications,
12 determined in accordance with board rules.

13 (4) Proof of insurance by the applicant, determined
14 in accordance with board rules.

15 (5) The ability and willingness of the applicant to
16 serve the public and preserve and protect public health and
17 safety.

18 (6) Any other information the board determines, by
19 rule, that is reasonably related to the applicant's ability to
20 perform home inspections or EIFS inspections in a competent
21 manner.

22 (c) The board may require each applicant to
23 demonstrate, through a written examination process, that he or
24 she possesses an appropriate understanding of the standards of
25 practice and any code of ethics adopted by the board, as well
26 as an adequate knowledge of performing home inspections or
27 EIFS inspections.

1 (d) If the board finds the applicant is qualified in
2 accordance with subsection (b), has passed a written
3 examination required under subsection (c), and has otherwise
4 complied with this chapter and board rules, the board shall
5 issue the applicant a license along with a registration
6 number.

7 (e) Upon request in writing, the board shall refund
8 fees erroneously charged. However, the application fee paid by
9 an applicant who is denied a license or who fails to complete
10 the application process is nonrefundable, and any fees paid by
11 a licensee whose license has been revoked are nonrefundable.

12 (f) The board shall make and preserve a record of
13 each examination described in subsection (b) and the findings
14 of the board pertaining to the examination. An applicant may
15 request to the board and shall receive from the board, upon
16 payment of a reasonable fee, a copy of the applicant's record.

17 (g) An initial license shall be valid beginning on
18 the date of issue and expiring December 31 of the year in
19 which the license is initially issued. Licenses may be renewed
20 for a term of one year, beginning on January 1 and expiring on
21 December 31. The board shall renew licenses at least 90 days
22 before the expiration date.

23 (h) The board shall maintain in its office records
24 of licenses and renewals and make the records available to the
25 public.

26 §34-14D-6.

1 (a) A licensee who is registered under one name may
2 not engage in business as a home inspector or EIFS inspector
3 under any other name unless the other name is also registered
4 with the board.

5 (b) All advertisements, contracts for service,
6 correspondence, and other documents prepared by a licensee
7 shall indicate the licensee's registration number, name, and
8 address as registered pursuant to this chapter.

9 §34-14D-7.

10 (a) When an insurance policy is issued to a
11 licensee, the licensee shall request the insurance company to
12 notify the board when an insurance policy is terminated.

13 (b) In the event any insurance coverage required
14 under this chapter lapses or terminates, the licensee shall
15 notify the board, and the board shall suspend the license
16 until the insurance is reinstated or replaced.

17 §34-14D-8.

18 (a) A person may not engage or attempt to engage in
19 the practice of home inspections or EIFS inspections, hold
20 himself or herself out to be a licensed home inspector or
21 licensed EIFS inspector, or advertise as a home inspector or
22 EIFS inspector unless he or she is licensed by the board in
23 accordance with this chapter. Any person who violates this
24 section shall be guilty of a Class A misdemeanor, and any
25 contract the person entered into to provide home inspection
26 services or EIFS inspection services shall be null and void.

27 §34-14D-9.

1 Any person licensed by the Division of Construction
2 Management in the Department of Finance as a home inspector or
3 EIFS inspector on the effective date of this act shall remain
4 licensed and may continue to conduct inspections in accordance
5 with the license through the term of the license.

6 Notwithstanding Section 34-14D-5, when licensing applicants
7 who were previously licensed by the Division of Construction
8 Management, the board, by rule, may exempt the applicants from
9 certain qualification or examination requirements as the board
10 deems appropriate.

11 Section 2. Not more than seven days after the
12 effective date of this act, the Division of Construction
13 Management shall transfer to the board all records or copies
14 of the records relating to persons licensed by the division as
15 of the effective date of this act.

16 Section 3. The Home Inspectors Licensure Board shall
17 be subject to the Alabama Sunset Law, Chapter 20 of Title 41,
18 Code of Alabama 1975, as an enumerated agency as provided in
19 Section 41-20-3, Code of Alabama 1975, and shall have a
20 termination date of October 1, 2023, and every four years
21 thereafter, unless continued pursuant to the Alabama Sunset
22 Law.

23 Section 4. Chapter 14B of Title 34, Code of Alabama
24 1975, which provides for the licensure of home inspectors and
25 EIFS inspectors by the Division of Construction Management
26 within the Department of Finance, is repealed.

1 Section 5. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621 because the
5 bill defines a new crime or amends the definition of an
6 existing crime.

7 Section 6. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.