

HB118 INTRODUCED



1 D781TH-1
2 By Representative Garrett
3 RFD: Judiciary
4 First Read: 21-Mar-23
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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:

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

§34-14B-11

(a) All of the following civil actions in tort, contract, or otherwise against a home inspector licensed under



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29 this chapter for the recovery of damages shall be commenced
30 within two years after a cause of action accrues or arises:

31 (1) Any defect or deficiency in a home inspection or
32 home inspection report.

33 (2) Damage to real or personal property caused by a
34 defect or deficiency in a home inspection or home inspection
35 report.

36 (3) Injury to or wrongful death of a person caused by
37 any defect or deficiency in a home inspection or home
38 inspection report.

39 (b) (1) Notwithstanding subsection (a), except as
40 provided in subdivision (2), no relief may be granted on any
41 cause of action that accrues or would have accrued more than
42 seven years after the delivery of a home inspection report,
43 and any right of action that accrues or would have accrued
44 more than seven years thereafter is barred.

45 (2) Subdivision (1) does not apply when, prior to the
46 expiration of the seven-year period, the home inspector had
47 actual knowledge that the defect or deficiency existed and
48 failed to disclose the defect or deficiency to the person with
49 whom the home inspector contracted to perform the home
50 inspection service.

51 (c) (1) As used in this section, a cause of action
52 accrues or arises at the time the damage or injury is, or in
53 the exercise of reasonable diligence should have been, first
54 discovered, whichever is earlier, when a person is injured,
55 including injury which results in death, or when property is
56 damaged as a proximate result of a deficiency in a home



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57 inspection.

58 (2) When the damage or injury either is latent or by
59 its nature is not discoverable in the exercise of reasonable
60 diligence at the time of its occurrence, the cause of action
61 shall arise or accrue at the time the damage or injury is, or
62 in the exercise of reasonable diligence should have been,
63 first discovered, whichever is earlier.

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

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

70 (d) This section applies to every action or demand,
71 whether commenced by direct action, action for contribution or
72 indemnity, or by counterclaim, cross-claim, or third party
73 practice and whether commenced by an owner of the improvement
74 or any other person.

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

77 (f) This article may not be construed to create any
78 cause of action against, or impose any liability on, or revive
79 any cause of action barred under existing law against any home
80 inspector.

81 (g) This section applies to any home inspection
82 performed on or after the effective date of the act adding
83 this section.

84 Section 2. Section 34-14B-3, Code of Alabama 1975, is



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85 amended to read as follows:

86 "§34-14B-3

87 (a) An applicant for licensure as a home inspector
88 shall submit an application, under oath, upon a form to be
89 prescribed by the Building Commission which shall include, as
90 a minimum, the following information pertaining to the
91 applicant:

92 (1) Social Security number for natural persons or
93 employer identification number for other entities.

94 (2) The name and address under which the applicant
95 conducts business, if an individual proprietorship; the name
96 and address of each partner or venturer, if the applicant is a
97 partnership or joint venture; or the name and address of the
98 corporate officers and statutory agent for service, if the
99 applicant is a corporation.

100 (3) A certificate issued by an insurance company
101 licensed to do business in the State of Alabama that the
102 applicant has procured public liability and property damage
103 insurance covering the applicant's home inspection operations
104 in the sum of not less than twenty thousand dollars (\$20,000)
105 for injury or damage to property; and fifty thousand dollars
106 (\$50,000) for injury or damage, including death, to any one
107 person; and one hundred thousand dollars (\$100,000) for injury
108 or damage, including death, to more than one person; or at any
109 greater limits of liability prescribed by the Building
110 Commission; and, in addition, evidence of insurance against
111 the errors and omissions of the home inspector in an amount
112 and form to be prescribed by the Building Commission. The



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113 Legislature does not intend by the inclusion of the foregoing
114 requirement to express public policy disfavoring contractual
115 limitations of liability between home inspectors and their
116 customers.

117 (4) Evidence of one of the following professional
118 qualifications:

119 a. Membership in and adherence to the ethical standards
120 of the American Society of Home Inspectors, Inc. (ASHI) or an
121 equivalent professional body as determined by the Building
122 Commission.

123 b. Approval or certification by one of the following
124 agencies to inspect residential construction:

125 1. The United States Veterans Administration.

126 2. The United States Department of Housing and Urban
127 Development.

128 3. The Southern Building Code Congress International.

129 4. The Council of American Building Officials.

130 c. A high school diploma or its equivalent, work
131 experience for at least one year as a home inspector, and
132 completion of at least 100 home inspections for compensation.

133 d. Licensure on or after January 1, 1998, in Alabama as
134 a general contractor, registered professional architect,
135 registered professional engineer, or residential home builder.
136 Renewals of licensure previously supported by evidence of an
137 acceptable license shall not require the applicant to repeat
138 proof of such licensing.

139 (5) Any and all other information prescribed and
140 required by the Building Commission.



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

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