

1 HB280
2 190178-1
3 By Representative Fridy
4 RFD: Judiciary
5 First Read: 23-JAN-18

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8 SYNOPSIS: Under existing law, property may be acquired
9 by the state or another governmental entity through
10 an eminent domain proceeding. However, if an owner
11 of property alleges that the property was taken or
12 injured without initiating an eminent domain
13 proceeding and the property owner discovers the
14 encroachment, the owner may file an inverse
15 condemnation action.

16 Under existing law, there is no specific
17 statute of limitations for the filing of an inverse
18 condemnation action against a state official or a
19 governmental official of another governmental
20 entity.

21 This bill would require an inverse
22 condemnation action to be commenced within two
23 years after the property was appropriated for
24 public use.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to the statute of limitations for inverse
4 condemnation actions; to amend Section 6-2-38, Code of Alabama
5 1975, to provide that actions for inverse condemnation must be
6 commenced within two years from the date the property was
7 appropriated for public use.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Section 6-2-38, Code of Alabama 1975, is
10 amended to read as follows:

11 "§6-2-38.

12 "(a) An action by a representative to recover
13 damages for wrongful act, omission, or negligence causing the
14 death of the decedent under Sections 6-5-391 and 6-5-410 must
15 be commenced within two years from the death.

16 "(b) All actions by common carriers of property
17 subject to Chapter 3 of Title 37 for recovery of their
18 charges, or any part thereof, shall be begun within two years
19 from the time the cause of action accrues and not after.

20 "(c) For recovery of charges, action shall be begun
21 against common carriers of property by motor vehicles subject
22 to this article within two years from the time the cause of
23 action accrues and not after, except as provided in subsection
24 (d) of this section; provided, that if claim for the
25 overcharge has been presented in writing to the carrier within
26 the two-year period of limitation, said period shall be
27 extended to include six months from the time notice in writing

1 is given by the carrier to the claimant of disallowance of the
2 claim, or any part or parts thereof, specified in the notice.

3 "(d) If on or before the expiration of the two-year
4 period of limitation in subsection (c) of this section, a
5 common carrier by motor vehicle subject to Chapter 3 of Title
6 37 begins action under subsection (c) of this section for
7 recovery of charges in respect of the same transportation
8 service or, without beginning action, collects charges in
9 respect of that service, said period of limitation shall be
10 extended to include 90 days from the time such action is begun
11 or such charges are collected by the carrier.

12 "(e) The cause of action in respect of a shipment of
13 property shall, for the purpose of subsections (b) through (f)
14 of this section, be deemed to accrue upon delivery or tender
15 of delivery thereof by the carrier and not after.

16 "(f) The term "overcharges" as used in subsections
17 (b) through (e) of this section shall mean charges for
18 transportation services in excess of those applicable thereto
19 under the tariffs lawfully on file with the Public Service
20 Commission.

21 "(g) Any action brought under Section 25-5-11(b)
22 must be brought within two years of such injury or death.

23 "(h) All actions for malicious prosecution must be
24 brought within two years.

25 "(i) All actions for seduction must be brought
26 within two years.

1 "(j) All actions qui tam or for a penalty given by
2 statute to the party aggrieved, unless the statute imposing it
3 prescribes a different limitation, must be brought within two
4 years.

5 "(k) All actions of libel or slander must be brought
6 within two years.

7 "(l) All actions for any injury to the person or
8 rights of another not arising from contract and not
9 specifically enumerated in this section must be brought within
10 two years.

11 "(m) All actions for the recovery of wages,
12 overtime, damages, fees, or penalties accruing under laws
13 respecting the payment of wages, overtime, damages, fees, and
14 penalties must be brought within two years.

15 "(n) All actions commenced to recover damages for
16 injury to the person or property of another wherein a
17 principal or master is sought to be held liable for the act or
18 conduct of his agent, servant, or employee under the doctrine
19 of respondent superior must be brought within two years.

20 "(o) All actions commenced under Section 6-5-411 to
21 recover damages for injury or damage to property of a decedent
22 must be brought within two years.

23 "(p) All actions commenced for inverse condemnation
24 must be commenced within two years from the date that the
25 property that is the subject of the action was taken or
26 appropriated for public use. Notwithstanding the foregoing, if
27 the cause of action is not discovered and could not reasonably

1 have been discovered within that period, the action may be
2 commenced within six months from the date of the discovery or
3 the date of the discovery of facts which would reasonably lead
4 to the discovery, whichever is earlier, except that in no
5 event may the action be commenced more than four years from
6 the date of the alleged taking or appropriation.

7 "~~(p)~~ (q) If any action is commenced before the time
8 limited has expired, judgment is entered for the plaintiff and
9 such judgment is arrested or reversed on appeal, the plaintiff
10 or his legal representative may commence an action again
11 within one year from the reversal or arrest of such judgment
12 though the period limited may in the meantime have expired;
13 and in like manner, if more than one judgment is arrested or
14 reversed, an action may be recommenced within one year."

15 Section 2. This act shall not apply to any civil
16 action commenced prior to the effective date of this act.

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