

1 SB69
2 215368-1
3 By Senator Allen
4 RFD: Governmental Affairs
5 First Read: 11-JAN-22

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8 SYNOPSIS: Under existing law, an applicant for
9 licensure as a home inspector is required to submit
10 to the Construction Management Division within the
11 Department of Finance a certification that the
12 applicant has procured public liability and
13 property damage insurance covering the applicant's
14 home inspection operations.

15 This bill would provide that the statutory
16 requirement that home inspectors maintain liability
17 insurance does not prohibit contractual limitations
18 of liability between home inspectors and their
19 customers, provided the limitations are in
20 compliance with the minimum liability insurance
21 requirements.

22 This bill would also make nonsubstantive,
23 technical revisions to update the existing code
24 language to current style, and would substitute
25 references to the Building Commission for the
26 Construction Management Division within the
27 Department of Finance, to reflect the earlier

1 abolishment of the Building Commission and the
2 transfer of its duties and authorities to the
3 Division of Construction Management.

4
5 A BILL
6 TO BE ENTITLED
7 AN ACT

8
9 Relating to home inspectors; to amend Sections
10 34-14B-2, 34-14B-3, 34-14B-4, 34-14B-4.1, 34-14B-5, 34-14B-6,
11 34-14B-8, 34-14B-9, and 34-14B-10, Code of Alabama 1975, to
12 provide further for limitations of liability of home
13 inspectors; and to make nonsubstantive, technical revisions to
14 update the existing code language to current style and
15 terminology.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 34-14B-2, 34-14B-3, 34-14B-4,
18 34-14B-4.1, 34-14B-5, 34-14B-6, 34-14B-8, 34-14B-9, and
19 34-14B-10, Code of Alabama 1975, are amended to read as
20 follows:

21 "§34-14B-2.

22 "The following words shall have the following
23 meanings:

24 "~~(1) BUILDING COMMISSION. The Building Commission~~
25 ~~established pursuant to Article 6, commencing with Section~~
26 ~~41-9-140, Division 1, Chapter 9, Title 41.~~

1 "(1) CONSTRUCTION MANAGEMENT DIVISION. The
2 Construction Management Division within the Department of
3 Finance, as provided in Section 41-4-400.

4 "(2) EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS)
5 INSPECTOR. A person who engages in the business of performing
6 inspections of exterior insulation and finish systems for
7 compensation and who, in the pursuit of that independent
8 business, undertakes or offers to undertake, or submits a bid
9 to, or contracts or undertakes to inspect, or assumes charge
10 of, in a supervisory capacity or otherwise, or inspects the
11 condition of or the installation of EIFS on a private,
12 commercial, or other building on behalf of another person.

13 "(3) HOME INSPECTOR. A person who engages in the
14 business of performing home inspections for compensation and,
15 who, in the pursuit of that independent business, undertakes
16 or offers to undertake, or submits a bid to, or contracts or
17 undertakes to inspect, or assumes charge, in a supervisory
18 capacity or otherwise, or inspects the condition of, the
19 construction of or erection of a private residence on behalf
20 of another person.

21 "(4) PERSON. Any natural person, limited or general
22 partnership, association, corporation, or other legal entity,
23 or any combination thereof.

24 "(5) RESIDENCE. Any dwelling, from one to four units
25 in design, intended principally for residential purposes by
26 one or more individuals.

27 "§34-14B-3.

1 "(a) An applicant for licensure as a home inspector
2 shall submit an application, under oath, upon a form to be
3 prescribed by the ~~Building Commission~~ Construction Management
4 Division, which shall include, as a minimum, the following
5 information pertaining to the applicant:

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

8 "(2) The name and address under which the applicant
9 conducts business, if an individual proprietorship; the name
10 and address of each partner or venturer, if the applicant is a
11 partnership or joint venture; or the name and address of the
12 corporate officers and statutory agent for service, if the
13 applicant is a corporation.

14 "(3)a. A certificate issued by an insurance company
15 licensed to do business in the State of Alabama that the
16 applicant has procured public liability and property damage
17 insurance covering the applicant's home inspection operations
18 in the sum of not less than twenty thousand dollars (\$20,000)
19 for injury or damage to property; and fifty thousand dollars
20 (\$50,000) for injury or damage, including death, to any one
21 person; and one hundred thousand dollars (\$100,000) for injury
22 or damage, including death, to more than one person; or at any
23 greater limits of liability prescribed by the ~~Building~~
24 ~~Commission~~ Construction Management Division; and, in addition,
25 evidence of insurance against the errors and omissions of the
26 home inspector in an amount and form to be prescribed by the
27 ~~Building Commission~~ Construction Management Division.

1 "b. Nothing in this subdivision prohibits
2 contractual limitations of liability between home inspectors
3 and their customers, provided the limitations are in
4 compliance with the minimum requirements of paragraph a.

5 "(4) Evidence of one of the following professional
6 qualifications:

7 "a. Membership in and adherence to the ethical
8 standards of the American Society of Home Inspectors, Inc.
9 (ASHI) or an equivalent professional body as determined by the
10 ~~Building Commission~~ Construction Management Division.

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

13 "1. The United States Veterans Administration.

14 "2. The United States Department of Housing and
15 Urban Development.

16 "3. The Southern Building Code Congress
17 International.

18 "4. The Council of American Building Officials.

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

22 "d. Licensure on or after January 1, 1998, in
23 Alabama as a general contractor, registered professional
24 architect, registered professional engineer, or residential
25 home builder. Renewals of licensure previously supported by
26 evidence of an acceptable license shall not require the
27 applicant to repeat proof of such licensing.

1 "(5) Any and all other information prescribed and
2 required by the ~~Building Commission~~ Construction Management
3 Division.

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

7 "§34-14B-4.

8 "(a) The certificate of licensure shall be initially
9 issued only to properly qualified home inspectors for a period
10 commencing on the date of issue and expiring on December 31.
11 Certificates of licensure shall be renewed for a term of one
12 year, beginning on January 1 of the year in which renewed and
13 expiring on December 31 of that year. Certificates of
14 licensure shall be renewed on or before 60 days prior to the
15 expiration date. The ~~Building Commission~~ Construction
16 Management Division shall issue certificates of licensure to
17 applicants upon applicants' compliance with the licensure
18 requirements of this chapter, and records of certificates and
19 any renewals thereof shall be filed in the office of the
20 ~~Building Commission~~ Construction Management Division and be
21 available to the public.

22 "(b) The ~~Building Commission~~ Construction Management
23 Division may adopt administrative rules and procedures for the
24 purpose of revoking or suspending a certificate of licensure
25 upon a finding by the ~~Building Commission~~ Construction
26 Management Division that the licensed home inspector has
27 either provided false information in an application or has

1 violated the Standards of Practice or Code of Ethics
2 ~~promulgated~~ adopted by the ~~Building Commission~~ Construction
3 Management Division. The ~~Building Commission~~ Construction
4 Management Division may also impose fines for violations of
5 this chapter. Administrative hearings held for the purpose of
6 revoking a certificate of licensure may proceed where
7 initiated by an aggrieved party to a transaction involving a
8 licensed home inspector or by the Attorney General or at the
9 initiation of the ~~Building Commission~~ Construction Management
10 Division. All proceedings for the revocation or suspension of
11 the license of a home inspector shall otherwise proceed in
12 accordance with the Alabama Administrative Procedure Act.

13 "§34-14B-4.1.

14 "(a) Effective November 1, 2002, a certificate of
15 licensure or renewal of licensure shall not be issued by the
16 ~~Building Commission~~ Construction Management Division to any
17 applicant for licensure as a home inspector who has not
18 demonstrated through a written examination process that he or
19 she possesses an appropriate understanding of the Standards of
20 Practice and the Code of Ethics ~~promulgated~~ adopted by the
21 ~~Building Commission~~ Construction Management Division pursuant
22 to this chapter as well as an adequate knowledge of performing
23 home inspections.

24 "(b) The ~~Building Commission~~ Construction Management
25 Division may enter into ~~contacts~~ contracts and prescribe
26 specifications for the conduct of testing required by this
27 chapter. The ~~Building Commission~~ Construction Management

1 Division may also ~~promulgate~~ adopt rules and procedures
2 pursuant to the Alabama Administrative Procedure Act for the
3 purpose of implementing this chapter.

4 "§34-14B-5.

5 "(a) The applicant shall pay to the ~~Building~~
6 ~~Commission~~ Construction Management Division a registration or
7 renewal fee of three hundred dollars (\$300) per calendar year;
8 provided, however, that the registration or renewal fee may be
9 adjusted by the ~~Building Commission~~ Construction Management
10 Division as may be necessary to cover the costs and expenses
11 of performing the duties of the ~~Building Commission~~
12 Construction Management Division as required by this chapter,
13 it being intended that the registration and renewal fees shall
14 not produce a profit to the State of Alabama.

15 "(b) Prior to any adjustment to the registration or
16 renewal fee under subsection (a), the ~~Building Commission~~
17 Construction Management Division shall certify to the
18 Legislative Council of the Legislature that the adjustment is
19 necessary in order to comply with ~~the provisions of this~~
20 chapter.

21 "(c) All ~~moneys~~ monies received by the ~~Building~~
22 ~~Commission~~ Construction Management Division pursuant to this
23 chapter shall be used to administer this chapter.

24 "§34-14B-6.

25 "There is hereby created in the State Treasury a
26 fund to be known as the Alabama Home Inspectors Registration
27 Fund. All funds, fees, charges, costs, and collections

1 accruing to or collected by the ~~Building Commission~~
2 Construction Management Division under ~~the provisions of this~~
3 chapter shall be deposited into the State Treasury to the
4 credit of this fund, and no funds shall be expended for any
5 purpose whatsoever unless the same shall have been allotted
6 and budgeted in accordance with the provisions of Article 4 of
7 Chapter 4 of Title 41, and only in the amounts and for the
8 purposes provided by the Legislature in the general
9 appropriation bill or this chapter.

10 "§34-14B-8.

11 "In the event that the insurance coverage required
12 pursuant to this chapter shall cease to be effective, the home
13 inspector shall notify the ~~Building Commission~~ Construction
14 Management Division, and the registration of the affected home
15 inspector shall be suspended until the insurance is reinstated
16 or replaced. The insurance company ceasing to provide coverage
17 for the home inspector shall be requested to notify the
18 ~~Building Commission~~ Construction Management Division of the
19 policy cancellation when the original certificate of insurance
20 is issued.

21 "§34-14B-9.

22 "(a) Any person who undertakes or attempts to
23 undertake the business of home inspection without first having
24 been licensed as required by this chapter, or who knowingly
25 presents or files false information with the ~~Building~~
26 ~~Commission~~ Construction Management Division for the purpose of
27 licensure as a home inspector or knowingly violates the

1 Alabama Home Inspectors Code of Ethics or Alabama Home
2 Inspectors Standards of Practice as ~~promulgated~~ adopted by the
3 ~~Building Commission~~ Construction Management Division shall be
4 ~~deemed~~ guilty of a Class A misdemeanor.

5 "(b) A person who has failed to be licensed pursuant
6 to this chapter shall not bring an action to enforce the
7 provisions of any contract to provide home inspections which
8 he or she entered into in violation of this chapter.

9 "§34-14B-10.

10 "Where the Alabama Home Inspectors Registration Act
11 contains a provision relating specifically to home inspectors,
12 ~~such~~ the provision shall be made applicable to inspectors of
13 Exterior Insulation and Finish Systems (EIFS) except as to the
14 following:

15 "(1) Applicants for licensure as an EIFS inspector
16 shall complete a separate application prescribed by the
17 ~~Building Commission~~ Construction Management Division
18 demonstrating evidence of the same requirements of Section
19 34-14B-3, except as to the provisions of subdivisions ~~(3)~~ and
20 ~~(4)~~ of subsection ~~(a)~~ (a) (3) and (a) (4) of that section, and
21 shall demonstrate evidence of licensure as an EIFS inspector
22 by the Exterior Design Institute or an equivalent professional
23 body as determined by the ~~Building Commission~~ Construction
24 Management Division in lieu of the successful completion of an
25 examination required of home inspectors pursuant to Section
26 34-14B-4.1.

1 "(2) A separate certificate of licensure for EIFS
2 inspectors shall be issued by the ~~Building Commission~~
3 Construction Management Division upon the applicant's having
4 met the requirements of this section.

5 "(3) An EIFS inspector shall only be required to
6 comply with the Standards of Practice and Code of Ethics
7 specifically made applicable to EIFS inspectors in the rules
8 ~~promulgated~~ adopted by the ~~Building Commission~~ Construction
9 Management Division."

10 Section 2. This act shall become effective on the
11 first day of the third month following its passage and
12 approval by the Governor, or its otherwise becoming law.