

1 HB392
2 175122-1
3 By Representative Fridy
4 RFD: State Government
5 First Read: 15-MAR-16

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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.

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

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

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

9 "§6-2-38.

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

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

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

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

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

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

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

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

23 "(i) All actions for seduction must be brought
24 within two years.

25 "(j) All actions qui tam or for a penalty given by
26 statute to the party aggrieved, unless the statute imposing it

1 prescribes a different limitation, must be brought within two
2 years.

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

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

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

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

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

21 "(p) All actions commenced for inverse condemnation
22 must be commenced within two years from the date that the
23 property that is the subject of the action was appropriated
24 for public use.

25 "~~(p)~~ (q) If any action is commenced before the time
26 limited has expired, judgment is entered for the plaintiff and
27 such judgment is arrested or reversed on appeal, the plaintiff

1 or his legal representative may commence an action again
2 within one year from the reversal or arrest of such judgment
3 though the period limited may in the meantime have expired;
4 and in like manner, if more than one judgment is arrested or
5 reversed, an action may be recommenced within one year."

6 Section 2. This amendatory act shall not apply to
7 any civil action commenced prior to the effective date of this
8 act.

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