

1 SB181
2 148036-1
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 12-FEB-13

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8 SYNOPSIS: This bill would require a plaintiff in an
9 action against a licensed professional engineer,
10 licensed professional land surveyor, registered
11 architect, licensed professional geologist, or a
12 registered landscape architect to file a
13 certificate of merit affidavit of a third-party
14 engineer, land surveyor, architect, licensed
15 professional geologist, or landscape architect
16 providing an opinion of at least one negligent act,
17 error, or omission of the defendant.

18
19 A BILL
20 TO BE ENTITLED
21 AN ACT

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23 Relating to a civil action alleging negligence
24 against a licensed professional engineer, licensed
25 professional land surveyor, registered architect, licensed
26 professional geologist, or a registered landscape architect;
27 to require a plaintiff in such an action to provide a

1 certificate of merit affidavit of a third-party licensed
2 professional engineer, licensed professional land surveyor,
3 registered architect, licensed professional geologist, or a
4 registered landscape architect providing an opinion of at
5 least one negligent act, error, or omission by the defendant.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. (a) In any civil action for damages
8 alleging professional negligence by a registered architect,
9 registered landscape architect, licensed professional
10 engineer, licensed professional geologist, or licensed
11 professional land surveyor of this state, the plaintiff shall
12 be required to file within 75 days of serving its complaint a
13 certificate of merit affidavit of a third-party architect,
14 landscape architect, professional engineer, professional
15 geologist, or professional land surveyor registered or
16 licensed in any state of the United States who is competent to
17 testify and practicing in the same area of practice as the
18 defendant. The affidavit shall set forth specifically a
19 professional opinion as to at least one negligent act, error,
20 or omission by the defendant that caused the plaintiff's
21 alleged damages and the factual basis for each such opinion.
22 In addition to being registered or licensed in a state, a
23 third-party architect, landscape architect, professional
24 engineer, professional geologist, or professional land
25 surveyor must be actively engaged in the practice of
26 architecture, landscape architecture, engineering, geology, or
27 land surveying.

1 (b) Should any defendant fail to timely and
2 adequately respond to discovery requests propounded by the
3 plaintiff within the 75-day period for filing the affidavit,
4 the trial court, on motion and after hearing, and for good
5 cause shown, may extend the time for filing the affidavit by
6 the amount of delay in discovery caused by that defendant.

7 (c) The plaintiff's failure to file the affidavit in
8 accordance with subsection (a) or (b) shall result in
9 dismissal with prejudice of any claim based upon professional
10 negligence against the particular defendant for which such
11 affidavit is required. A plaintiff who fails to file the
12 affidavit in accordance with subsection (a) shall be liable to
13 that defendant for reasonable attorney's fees and expenses
14 incurred by it, its insurer, or any other person or entity on
15 behalf of that defendant in responding to the complaint and
16 any discovery propounded by the plaintiff.

17 (e) This section shall not be construed to extend
18 any applicable period of limitation or repose.

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