

# THE JACK CLINE ACT

**SYNOPSIS:** This bill proposes (1) an amendment to Article IV, Section 95 of the CONSTITUTION OF ALABAMA OF 1901, to permit the revival of certain actions barred by a statute of limitations, being those actions that have become barred before the holders thereof were entitled to bring the actions, and (2) an amendment to Section 6-2-30 of the CODE OF ALABAMA, 1975, to make causes of action arising out of exposure to any toxic substance accrue upon discovery of an injury, to provide for the separate accrual and litigation of multiple causes of action arising out of exposure to a toxic substance, and to revive any cause of action time-barred under former law before it could have reasonably been discovered.

## A BILL TO BE ENTITLED AN ACT

To propose (1) an amendment to Article IV, Section 95 of the CONSTITUTION OF ALABAMA OF 1901, to permit the revival of actions barred by a statute of limitations and (2) an amendment to Section 6-2-30 of the CODE OF ALABAMA, 1975 to make causes of action arising out of exposure to any toxic substance accrue upon discovery of an injury, to provide for the separate accrual and litigation of multiple causes of action arising out of exposure to a toxic substance, and to revive any cause of action time-barred under former law before it could have reasonably been discovered.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used herein, the term “toxic substance” shall refer to any physical substance or material exposure to which is toxic or hazardous to human life or well being or which causes any disease process. The term “toxic substance” in this section shall include, but shall not be limited by, all “hazardous substances,” “hazardous wastes,” hazardous materials,” and “toxic substances” defined by federal law.

Section 2. The following amendment to Article IV, Section 95 of the CONSTITUTION OF ALABAMA OF 1901, as amended, is proposed and shall become valid as a part thereof when approved by a majority of the electors voting thereon and in accordance with Article XVIII, Sections 284 and 285 of the CONSTITUTION OF ALABAMA OF 1901, as amended.

Section 3. Article IV, Section 95 of the CONSTITUTION OF ALABAMA OF 1901, as amended, is amended to read as follows:

**“Sec. 95. Impairing obligation of contracts; revival of barred rights or remedies; removal of vested cause of action or defense to suit ~~after commencement of suit.~~”**

“There can be no law of this state impairing the obligation of contracts by destroying or impairing the remedy for their enforcement; ~~and the.~~ The legislature shall have no power to revive any right or remedy which may have become barred by lapse of time, or by any statute of this state; provided, however, that this prohibition shall not apply to any right or remedy for disease or property damage resulting from exposure to any toxic substance where the right or remedy may have become barred before the holder thereof was entitled to bring an action asserting the right or remedy. For the purposes of this section, the term “toxic substance” shall refer to any physical substance or material exposure to which is toxic or hazardous to human life or well being or which causes any disease process. The term “toxic substance” in this section shall also include, but shall not be limited by, all “hazardous substances,” “hazardous wastes,” hazardous materials,” and “toxic substances” defined by federal law. After suit has been commenced on any cause of action has become vested, the legislature shall have no power to take away such cause of action, or destroy any existing defense to such suit, except that the

legislature may remove purely procedural defenses, including, without limitation, defenses based upon a statute of limitations.”

Section 4. An election upon the proposed amendment shall be held in accordance with Article XVIII, Sections 284 and 285 of the CONSTITUTION OF ALABAMA OF 1901, as amended, and the general election laws of this state no later than the last day of November, 2008.

Section 5. The appropriate election official shall assign a ballot number for the proposed amendment on the election ballot and shall set forth the following description of the substance or subject matter of the proposed amendment:

“Proposing an amendment to Article IV, Section 95 of the CONSTITUTION OF ALABAMA OF 1901, to permit the revival of certain actions barred by a statute of limitations, being those actions for disease or property damage resulting from exposure to a toxic substance where the action became barred before the holder thereof was entitled to bring the action.”

This description shall be followed by the following language:

“Yes [ ]”

“No [ ]”

Section 6. Section 6-2-30 of the CODE OF ALABAMA, 1975, as amended, is amended to read as follows:

**Sec. 6-2-30 Commencement of actions – Generally; actions for injuries resulting from exposure to asbestos toxic substances; multiple actions arising out of the same or different exposures.**

(a) All civil actions must be commenced after the cause of action has accrued within the period prescribed in this article and not afterwards, unless otherwise specifically provided for in this code.

(b) A civil action for any injury to the person, property, or rights of another, including, without limitation, those resulting from exposure to asbestos, including asbestos-containing products, any toxic substance shall be deemed to accrue on the first date the injured party, through reasonable diligence, should have reason to discover the injury giving rise to such civil action. This subsection shall not apply to or affect in any way, actions referred to in Section 6-5-482.

(c) A person may have more than one cause of action arising out of a single course of conduct that exposes the person or property to a toxic substance, and each such cause of action shall be deemed to accrue separately. The prosecution of any cause of action arising out of exposure to a toxic substance shall not be deemed to bar any subsequent cause of action arising out of exposure to the same or another toxic substance which accrues thereafter. This subsection shall not apply to or affect in any way, actions referred to in Section 6-5-482.

(d) Subsections (b) and (c) of this section shall have retroactive effect, and shall revive any cause of action which arose out of exposure to any toxic substance, which cause of action could not have been, through reasonable diligence, discovered by the injured person until some time after such cause of action was already time-barred under former law. Any cause of action revived by this subsection may be brought within two years after the effective date of this subsection. This

subsection shall not apply to or affect in any way actions referred to in Section 6-5-482.

Section 7. All laws and parts of laws that are in conflict with any of the provisions of this Act shall be and hereby are, to the extent of such conflict, repealed.

Section 8. The provisions of this Act are severable. If any section, subsection, clause, provision, or other portion of this Act should be held invalid or unenforceable (whether on grounds of unconstitutionality or otherwise) by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining portions of this Act, which shall continue effective. Furthermore, in the event that any portion of this Act should be held invalid or unenforceable, or otherwise denied full force and effect, by any court of competent jurisdiction on the ground that said portion is violative of Section 11 of the CONSTITUTION OF ALABAMA OF 1901 (as then amended and in effect), such portion of this Act shall nevertheless not be deemed to have been repealed, rescinded, or annulled by the legislature.

Section 9. This Act shall be known as “The Jack Cline Act.”

Section 10. This Act shall become effective immediately upon its passage and approval by the Governor or upon its otherwise becoming a law.