

A-Engrossed
House Bill 2434

Ordered by the House April 29
Including House Amendments dated April 29

Sponsored by COMMITTEE ON JUDICIARY

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires that certain causes of action related to improvement to **certain** large commercial structures be commenced within six years after substantial completion or abandonment of construction, alteration or repair **unless plaintiff is public body**.

Requires that action commence, if plaintiff is public body, within 10 years after substantial completion or abandonment of construction, alteration or repair.

A BILL FOR AN ACT

1
2 Relating to actions involving improvements to real property; creating new provisions; and amending
3 ORS 12.135 and 12.280.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 12.135 is amended to read:

6 12.135. (1) An action against a person **by a plaintiff who is not a public body**, whether in
7 contract, tort or otherwise, arising from [*such*] **the** person having performed the construction, al-
8 teration or repair of any improvement to real property or the supervision or inspection thereof, or
9 from [*such*] **the** person having furnished [*the*] design, planning, surveying, architectural or engi-
10 neering services for [*such*] **the** improvement, [*shall*] **must** be commenced [*within*] **before the earli-**
11 **est of:**

12 (a) The applicable period of limitation otherwise established by law;

13 (b) [*but in any event such action shall be commenced within 10*] **Ten** years [*from*] **after** substan-
14 tial completion or abandonment of [*such*] **the** construction, alteration or repair of [*the improvement*
15 *to real property*] **a small commercial structure, as defined in ORS 701.005, a residential struc-**
16 **ture, as defined in ORS 701.005, or a large commercial structure, as defined in ORS 701.005,**
17 **that is owned or maintained by a homeowners association, as defined in ORS 94.550, or that**
18 **is owned or maintained by an association of unit owners, as defined in ORS 100.005; or**

19 (c) **Six years after substantial completion or abandonment of the construction, alteration**
20 **or repair of a large commercial structure, as defined in ORS 701.005, other than a large**
21 **commercial structure described in paragraph (b) of this subsection.**

22 (2) **An action against a person by a public body, whether in contract, tort or otherwise,**
23 **arising from the person having performed the construction, alteration or repair of any im-**
24 **provement to real property or the supervision or inspection thereof, or from the person**
25 **having furnished design, planning, surveying, architectural or engineering services for the**
26 **improvement, must be commenced not more than 10 years after substantial completion or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **abandonment of such construction, alteration or repair of the improvement to real property.**

2 [(2)] (3) Notwithstanding [subsection] subsections (1) and (2) of this section, an action against
3 a person for the practice of architecture, as defined in ORS 671.010, the practice of landscape ar-
4 chitecture, as defined in ORS 671.310, or the practice of engineering, as defined in ORS 672.005, to
5 recover damages for injury to a person, property or to any interest in property, including damages
6 for delay or economic loss, regardless of legal theory, arising [from] **out of** the construction, alter-
7 ation or repair of any improvement to real property shall be commenced within two years [from]
8 **after** the date the injury or damage is first discovered or in the exercise of reasonable care should
9 have been discovered; but in any event the action shall be commenced within 10 years [from] **after**
10 substantial completion or abandonment of the construction, alteration or repair. **This subsection**
11 **applies to actions brought by any person or public body.**

12 [(3)] (4) For purposes of this section[.]:

13 (a) **“Public body” has the meaning given that term in ORS 174.109; and**

14 (b) **“Substantial completion”** means the date when the contractee accepts in writing the con-
15 struction, alteration or repair of the improvement to real property or any designated portion thereof
16 as having reached that state of completion when it may be used or occupied for its intended purpose
17 or, if there is no such written acceptance, the date of acceptance of the completed construction,
18 alteration or repair of such improvement by the contractee.

19 [(4)] (5) For [the] purposes of this section, an improvement to real property shall be considered
20 abandoned on the same date that the improvement is considered abandoned under ORS 87.045.

21 [(5)] (6) This section[:]

22 [(a) Applies, in addition to other actions, to actions brought in the name of the state or any county
23 or other public corporation therein, or for its benefit; and]

24 [(b) does not apply to actions against any person in actual possession and control of the im-
25 provement, as owner, tenant or otherwise, at the time such cause of action accrues.

26 **SECTION 2.** ORS 12.280 is amended to read:

27 12.280. Notwithstanding ORS 12.135 [(1)] or any other statute of limitation, an action against a
28 person for the practice of land surveying, as defined in ORS 672.005, to recover damages for injury
29 to a person, property or to any interest in property, including damages for delay or economic loss,
30 regardless of legal theory, arising out of the survey of real property must be commenced within two
31 years after the date the injury or damage is first discovered or in the exercise of reasonable care
32 should have been discovered. In no event may an action arising out of a survey be commenced more
33 than 10 years after the date on which any map prepared by the land surveyor is filed under the
34 provisions of ORS 209.250, or, if no map is filed, more than 10 years after the completion of work
35 on the survey.

36 **SECTION 3.** **The amendments to ORS 12.135 and 12.280 by sections 1 and 2 of this 2009**
37 **Act apply only to causes of action arising on or after the effective date of this 2009 Act.**

38