

HOUSE AMENDMENTS TO HOUSE BILL 2434

By COMMITTEE ON JUDICIARY

April 29

1 On page 1 of the printed bill, line 3, before the period insert “and 12.280”.

2 Delete lines 5 through 31.

3 On page 2, delete lines 1 through 7 and insert:

4 “**SECTION 1.** ORS 12.135 is amended to read:

5 “12.135. (1) An action against a person **by a plaintiff who is not a public body**, whether in
6 contract, tort or otherwise, arising from [*such*] **the** person having performed the construction, al-
7 teration or repair of any improvement to real property or the supervision or inspection thereof, or
8 from [*such*] **the** person having furnished [*the*] design, planning, surveying, architectural or engi-
9 neering services for [*such*] **the** improvement, [*shall*] **must** be commenced [*within*] **before the earli-**
10 **est of:**

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

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

19 “(c) **Six years after substantial completion or abandonment of the construction, alter-**
20 **ation 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**
27 **abandonment of such construction, alteration or repair of the improvement to real property.**

28 “[2)] (3) Notwithstanding [*subsection*] **subsections (1) and (2)** of this section, an action against
29 a person for the practice of architecture, as defined in ORS 671.010, the practice of landscape ar-
30 chitecture, as defined in ORS 671.310, or the practice of engineering, as defined in ORS 672.005, to
31 recover damages for injury to a person, property or to any interest in property, including damages
32 for delay or economic loss, regardless of legal theory, arising [*from*] **out of** the construction, alter-
33 ation or repair of any improvement to real property shall be commenced within two years [*from*]
34 **after** the date the injury or damage is first discovered or in the exercise of reasonable care should
35 have been discovered; but in any event the action shall be commenced within 10 years [*from*] **after**

1 substantial completion or abandonment of the construction, alteration or repair. **This subsection**
2 **applies to actions brought by any person or public body.**

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

4 **“(a) ‘Public body’ has the meaning given that term in ORS 174.109; and**

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

10 “[4] (5) For [the] purposes of this section, an improvement to real property shall be considered
11 abandoned on the same date that the improvement is considered abandoned under ORS 87.045.

12 “[5] (6) This section[:]

13 *“(a) Applies, in addition to other actions, to actions brought in the name of the state or any county*
14 *or other public corporation therein, or for its benefit; and]*

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

17 **“SECTION 2.** ORS 12.280 is amended to read:

18 **“12.280. Notwithstanding ORS 12.135 [(1)] or any other statute of limitation, an action against**
19 **a person for the practice of land surveying, as defined in ORS 672.005, to recover damages for injury**
20 **to a person, property or to any interest in property, including damages for delay or economic loss,**
21 **regardless of legal theory, arising out of the survey of real property must be commenced within two**
22 **years after the date the injury or damage is first discovered or in the exercise of reasonable care**
23 **should have been discovered. In no event may an action arising out of a survey be commenced more**
24 **than 10 years after the date on which any map prepared by the land surveyor is filed under the**
25 **provisions of ORS 209.250, or, if no map is filed, more than 10 years after the completion of work**
26 **on the survey.”.**

27 In line 8, delete “2” and insert “3” and delete “by section 1” and insert “and 12.280 by sections
28 1 and 2”.