

House Bill 2434

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 **as introduced**.

Requires that certain causes of action related to improvement to large commercial structures be commenced within six 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.

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, whether in contract, tort or otherwise, arising from such
7 person having performed the construction, alteration or repair of any improvement to real property
8 or the supervision or inspection thereof, or from such person having furnished the design, planning,
9 surveying, architectural or engineering services for such improvement, [*shall*] **must** be commenced
10 [*within*] **before the earliest 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** substan-
13 tial completion or abandonment of [*such*] construction, alteration or repair of [*the improvement to*
14 *real property*] **a small commercial structure as defined in ORS 701.005, or a residential struc-**
15 **ture as defined in ORS 701.005; or**

16 (c) **Six years after substantial completion or abandonment of construction, alteration or**
17 **repair of a large commercial structure as defined in ORS 701.005.**

18 (2) Notwithstanding subsection (1) of this section, an action against a person for the practice
19 of architecture, as defined in ORS 671.010, the practice of landscape architecture, as defined in ORS
20 671.310, or the practice of engineering, as defined in ORS 672.005, to recover damages for injury to
21 a person, property or to any interest in property, including damages for delay or economic loss, re-
22 gardless of legal theory, arising from the construction, alteration or repair of any improvement to
23 real property shall be commenced within two years from the date the injury or damage is first dis-
24 covered or in the exercise of reasonable care should have been discovered; but in any event the
25 action shall be commenced within 10 years from substantial completion or abandonment of the con-
26 struction, alteration or repair.

27 (3) For purposes of this section, "substantial completion" means the date when the contractee
28 accepts in writing the construction, alteration or repair of the improvement to real property or any
29 designated portion thereof as having reached that state of completion when it may be used or oc-
30 cupied for its intended purpose or, if there is no such written acceptance, the date of acceptance
31 of the completed construction, alteration or repair of such improvement by the contractee.

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 (4) For the purposes of this section, an improvement to real property shall be considered aban-
2 doned on the same date that the improvement is considered abandoned under ORS 87.045.

3 (5) This section:

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

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

8 **SECTION 2. The amendments to ORS 12.135 by section 1 of this 2009 Act apply only to**
9 **causes of action arising on or after the effective date of this 2009 Act.**

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