

# House Bill 2500

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Consumer Protection and Government Accountability)

## 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**.

Removes certain statutes of limitation for actions brought by public bodies arising out of construction, alteration or repair of improvement to real property.

## A BILL FOR AN ACT

1  
2 Relating to statutes of limitation; creating new provisions; and amending ORS 12.135.

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

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 con-  
6 tract, tort or otherwise, arising from the person having performed the construction, alteration or  
7 repair of any improvement to real property or the supervision or inspection thereof, or from the  
8 person having furnished design, planning, surveying, architectural or engineering services for the  
9 improvement, must be commenced before the earliest of:

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

11 (b) Ten years after substantial completion or abandonment of the construction, alteration or  
12 repair of a small commercial structure, as defined in ORS 701.005, a residential structure, as defined  
13 in ORS 701.005, or a large commercial structure, as defined in ORS 701.005, that is owned or main-  
14 tained by a homeowners association, as defined in ORS 94.550, or that is owned or maintained by  
15 an association of unit owners, as defined in ORS 100.005; or

16 (c) Six years after substantial completion or abandonment of the construction, alteration or re-  
17 pair of a large commercial structure, as defined in ORS 701.005, other than a large commercial  
18 structure described in paragraph (b) of this subsection.

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

25 [(3)] **(2)** Notwithstanding [*subsections*] **subsection** (1) [*and (2)*] of this section, an action against  
26 a person for the practice of architecture, as defined in ORS 671.010, the practice of landscape ar-  
27 chitecture, as defined in ORS 671.310, or the practice of engineering, as defined in ORS 672.005, to  
28 recover damages for injury to a person, property or to any interest in property, including damages  
29 for delay or economic loss, regardless of legal theory, arising out of the construction, alteration or  
30 repair of any improvement to real property shall be commenced within two years after the date the  
31 injury or damage is first discovered or in the exercise of reasonable care should have been discov-

**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 ered; but in any event the action shall be commenced within 10 years after substantial completion  
2 or abandonment of the construction, alteration or repair. *[This subsection applies to actions brought*  
3 *by any person or public body.]*

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

5 [(a) "Public body" has the meaning given that term in ORS 174.109; and]

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

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

13 [(6)] (5) This section:

14 (a) Applies to an action against a manufacturer, distributor, seller or lessor of a manufactured  
15 dwelling, as defined in ORS 446.003, or of a prefabricated structure, as defined in ORS 455.010; and

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

18 **SECTION 2. The amendments to ORS 12.135 by section 1 of this 2011 Act operate to re-**  
19 **vive any cause of action by a public body that was barred by ORS 12.135 as in effect imme-**  
20 **diately before the effective date of this 2011 Act.**

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