

SENATE AMENDMENTS TO SENATE BILL 46

By COMMITTEE ON JUDICIARY

April 10

1 On page 1 of the printed bill, delete lines 5 through 29.

2 On page 2, delete lines 1 through 25 and insert:

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

4 “12.135. (1) An action against a person by a plaintiff who is not a public body, whether in con-
5 tract, tort or otherwise, arising from the person having performed the construction, alteration or
6 repair of any improvement to real property or the supervision or inspection thereof, or from the
7 person having furnished design, planning, surveying, architectural or engineering services for the
8 improvement, must be commenced before the earliest of:

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

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

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

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

24 “(3)(a) Notwithstanding subsections (1) and (2) of this section, an action against a person [*for*
25 *the practice of architecture, as defined in ORS 671.010, the practice of landscape architecture, as de-*
26 *defined in ORS 671.310, or the practice of engineering, as defined in ORS 672.005,]* **registered to**
27 **practice architecture under ORS 671.010 to 671.220, a person registered to practice landscape**
28 **architecture under ORS 671.310 to 671.459 or a person registered to practice engineering un-**
29 **der ORS 672.002 to 672.325** to recover damages for injury to a person, property or to any interest
30 in property, including damages for delay or economic loss, regardless of legal theory, arising out of
31 the construction, alteration or repair of any improvement to real property [*shall*] **must** be com-
32 menced [*within*] **before the earliest of:**

33 “(A) Two years after the date the injury or damage is first discovered or in the exercise of
34 reasonable care should have been discovered[; *but in any event the action shall be commenced within*
35 *10 years after substantial completion or abandonment of the construction, alteration or repair.*];

1 **“(B) Ten years after substantial completion or abandonment of the construction, alter-**
2 **ation or repair of a small commercial structure, as defined in ORS 701.005, a residential**
3 **structure, as defined in ORS 701.005, or a large commercial structure, as defined in ORS**
4 **701.005, that is owned or maintained by a homeowners association, as defined in ORS 94.550,**
5 **or that is owned or maintained by an association of unit owners, as defined in ORS 100.005;**
6 **or**

7 **“(C) Six years after substantial completion or abandonment of the construction, alter-**
8 **ation or repair of a large commercial structure, as defined in ORS 701.005, other than a large**
9 **commercial structure described in subparagraph (B) of this paragraph.**

10 **“(b) This subsection applies to actions brought by any person or public body.**

11 **“(4) For purposes of this section:**

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

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

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

20 **“(6) This section:**

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

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