

**PROPOSED AMENDMENTS TO
SENATE BILL 46**

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
5 body, whether in contract, tort or otherwise, arising from the person having
6 performed the construction, alteration or repair of any improvement to real
7 property or the supervision or inspection thereof, or from the person having
8 furnished design, planning, surveying, architectural or engineering services
9 for the 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 con-
12 struction, alteration or repair of a small commercial structure, as defined in
13 ORS 701.005, a residential structure, as defined in ORS 701.005, or a large
14 commercial structure, as defined in ORS 701.005, that is owned or maintained
15 by a homeowners association, as defined in ORS 94.550, or that is owned or
16 maintained by an association of unit owners, as defined in ORS 100.005; or

17 “(c) Six years after substantial completion or abandonment of the con-
18 struction, alteration or repair of a large commercial structure, as defined in
19 ORS 701.005, other than a large commercial structure described in paragraph
20 (b) of this subsection.

21 “(2) An action against a person by a public body, whether in contract, tort
22 or otherwise, arising from the person having performed the construction, al-

1 teration or repair of any improvement to real property or the supervision or
2 inspection thereof, or from the person having furnished design, planning,
3 surveying, architectural or engineering services for the improvement, must
4 be commenced not more than 10 years after substantial completion or aban-
5 donment of such construction, alteration or repair of the improvement to real
6 property.

7 “(3)(a) Notwithstanding subsections (1) and (2) of this section, an action
8 against a person [*for the practice of architecture, as defined in ORS 671.010,*
9 *the practice of landscape architecture, as defined in ORS 671.310, or the*
10 *practice of engineering, as defined in ORS 672.005,*] **registered to practice**
11 **architecture under ORS 671.010 to 671.220, a person registered to prac-**
12 **tice landscape architecture under ORS 671.310 to 671.459 or a person**
13 **registered to practice engineering under ORS 672.002 to 672.325** to re-
14 cover damages for injury to a person, property or to any interest in property,
15 including damages for delay or economic loss, regardless of legal theory,
16 arising out of the construction, alteration or repair of any improvement to
17 real property [*shall*] **must** be commenced [*within*] **before the earliest of:**

18 “(A) Two years after the date the injury or damage is first discovered or
19 in the exercise of reasonable care should have been discovered[; *but in any*
20 *event the action shall be commenced within 10 years after substantial com-*
21 *pletion or abandonment of the construction, alteration or repair.*];

22 “(B) **Ten years after substantial completion or abandonment of the**
23 **construction, alteration or repair of a small commercial structure, as**
24 **defined in ORS 701.005, a residential structure, as defined in ORS**
25 **701.005, or a large commercial structure, as defined in ORS 701.005,**
26 **that is owned or maintained by a homeowners association, as defined**
27 **in ORS 94.550, or that is owned or maintained by an association of unit**
28 **owners, as defined in ORS 100.005; or**

29 “(C) **Six years after substantial completion or abandonment of the**
30 **construction, alteration or repair of a large commercial structure, as**

1 **defined in ORS 701.005, other than a large commercial structure de-**
2 **scribed in subparagraph (B) of this paragraph.**

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

5 “(4) For purposes of this section:

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

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

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

16 “(6) This section:

17 “(a) Applies to an action against a manufacturer, distributor, seller or
18 lessor of a manufactured dwelling, as defined in ORS 446.003, or of a pre-
19 fabricated structure, as defined in ORS 455.010; and

20 “(b) Does not apply to actions against any person in actual possession and
21 control of the improvement, as owner, tenant or otherwise, at the time such
22 cause of action accrues.”.

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