

DRAFT

SUMMARY

Modifies statute of limitation for action against architect, landscape architect or engineer arising out of construction, alteration or repair of improvement to real property.

Modifies definition of “substantial completion” for purposes of statute of limitation for action 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
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 by a plaintiff who is not a public
7 body, whether in contract, tort or otherwise, arising from the person having
8 performed the construction, alteration or repair of any improvement to real
9 property or the supervision or inspection thereof, or from the person having
10 furnished design, planning, surveying, architectural or engineering services
11 for the improvement, must be commenced before the earliest of:

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

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

1 (c) Six years after substantial completion or abandonment of the con-
2 struction, alteration or repair of a large commercial structure, as defined in
3 ORS 701.005, other than a large commercial structure described in paragraph
4 (b) of this subsection.

5 (2) An action against a person by a public body, whether in contract, tort
6 or otherwise, arising from the person having performed the construction, al-
7 teration or repair of any improvement to real property or the supervision or
8 inspection thereof, or from the person having furnished design, planning,
9 surveying, architectural or engineering services for the improvement, must
10 be commenced not more than 10 years after substantial completion or aban-
11 donment of such construction, alteration or repair of the improvement to real
12 property.

13 (3)(a) Notwithstanding subsections (1) and (2) of this section, an action
14 against a person registered to practice architecture under ORS 671.010 to
15 671.220, a person registered to practice landscape architecture under ORS
16 671.310 to 671.459 or a person registered to practice engineering under ORS
17 672.002 to 672.325 to recover damages for injury to a person, property or to
18 any interest in property, including damages for delay or economic loss, re-
19 gardless of legal theory, arising out of the construction, alteration or repair
20 of any improvement to real property must be commenced before the earliest
21 of:

22 *[(A) Two years after the date the injury or damage is first discovered or*
23 *in the exercise of reasonable care should have been discovered;]*

24 **(A) Two years after the date on which the plaintiff knew or should**
25 **have known about the injury to a person, property or property interest**
26 **or the delay or economic loss arising out of the construction, alter-**
27 **ation or repair;**

28 (B) Ten years after substantial completion or abandonment of the con-
29 struction, alteration or repair of a small commercial structure, as defined in
30 ORS 701.005, a residential structure, as defined in ORS 701.005, or a large
31 commercial structure, as defined in ORS 701.005, that is owned or maintained

1 by a homeowners association, as defined in ORS 94.550, or that is owned or
2 maintained by an association of unit owners, as defined in ORS 100.005; or

3 (C) Six years after substantial completion or abandonment of the con-
4 struction, alteration or repair of a large commercial structure, as defined in
5 ORS 701.005, other than a large commercial structure described in subpara-
6 graph (B) of this paragraph.

7 (b) This subsection applies to actions brought by any person or public
8 body.

9 (4) For purposes of this section:

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

11 (b) "Substantial completion" means the **earliest of:**

12 **(A) The date when the contractee accepts in writing the construction,**
13 **alteration or repair of the improvement to real property or any designated**
14 **portion thereof as having reached that state of completion when it may be**
15 **used or occupied for its intended purpose or, if there is no such written ac-**
16 **ceptance, the date of acceptance of the completed construction, alteration**
17 **or repair of such improvement by the contractee[.];**

18 **(B) The date when a public body issues a certificate of occupancy**
19 **for the improvement;**

20 **(C) The date when the owner uses or occupies the improvement for**
21 **its intended purpose; or**

22 **(D) The date when the construction, alteration or repair has**
23 **reached substantial completion as defined in the contract for the**
24 **construction, alteration or repair.**

25 (5) For purposes of this section, an improvement to real property is con-
26 sidered abandoned on the same date that the improvement is considered
27 abandoned under ORS 87.045.

28 (6) This section:

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

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

4 **SECTION 2. The amendments to ORS 12.135 by section 1 of this 2019**
5 **Act apply to causes of action arising on or after the effective date of**
6 **this 2019 Act.**

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