

Senate Bill 369

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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**.

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

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

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

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

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

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

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

9 (3)(a) Notwithstanding subsections (1) and (2) of this section, an action against a person registered to practice architecture under ORS 671.010 to 671.220, a person registered to practice landscape architecture under ORS 671.310 to 671.459 or a person registered to practice engineering under ORS 672.002 to 672.325 to recover damages for injury to a person, property or to any interest in property, including damages for delay or economic loss, regardless of legal theory, arising out of

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 the construction, alteration or repair of any improvement to real property must be commenced be-
 2 fore the earliest of:

3 *[(A) Two years after the date the injury or damage is first discovered or in the exercise of rea-
 4 sonable care should have been discovered;]*

5 **(A) Two years after the date on which the plaintiff knew or should have known about the
 6 injury to a person, property or property interest or the delay or economic loss arising out
 7 of the construction, alteration or repair;**

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

13 (C) Six years after substantial completion or abandonment of the construction, alteration or re-
 14 pair of a large commercial structure, as defined in ORS 701.005, other than a large commercial
 15 structure described in subparagraph (B) of this paragraph.

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

17 (4) For purposes of this section:

18 (a) “Public body” has the meaning given that term in ORS 174.109; and

19 (b) “Substantial completion” means the **earliest of:**

20 **(A) The date when the contractee accepts in writing the construction, alteration or repair of**
 21 **the improvement to real property or any designated portion thereof as having reached that state of**
 22 **completion when it may be used or occupied for its intended purpose or, if there is no such written**
 23 **acceptance, the date of acceptance of the completed construction, alteration or repair of such im-**
 24 **provement by the contractee[.];**

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

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

27 **or**

28 **(D) The date when the construction, alteration or repair has reached substantial com-**
 29 **pletion as defined in the contract for the construction, alteration or repair.**

30 (5) For purposes of this section, an improvement to real property is considered abandoned on
 31 the same date that the improvement is considered abandoned under ORS 87.045.

32 (6) This section:

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

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

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

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