

Enrolled Senate Bill 46

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CHAPTER

AN ACT

Relating to actions against construction professionals; creating new provisions; and amending ORS 12.135.

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

SECTION 1. ORS 12.135 is amended to read:

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:

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

(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.

(3)(a) Notwithstanding subsections (1) and (2) of this section, an action against a person [*for the practice of architecture, as defined in ORS 671.010, the practice of landscape architecture, as defined in ORS 671.310, or the practice of engineering, as defined in ORS 672.005,*] **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 the

construction, alteration or repair of any improvement to real property [*shall*] **must** be commenced [*within*] **before the earliest of:**

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

(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**

(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 subparagraph (B) of this paragraph.**

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

(4) For purposes of this section:

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

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

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

(6) This section:

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

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

SECTION 2. The amendments to ORS 12.135 by section 1 of this 2013 Act apply only to causes of action arising on or after the effective date of this 2013 Act.

Passed by Senate April 15, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 12, 2013

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Tina Kotek, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State