

OREGON STATUTES OF LIMITATIONS - GENERALLY

ORS Chapter 12 contains most of the statutes of limitations, or refers you to other chapters where particular statutes of limitations are set forth. Not every statute of limitation is in Chapter 12, however, so check the statutes at issue in your case to make sure they do not include their own limitation period. There are additional “notice of claim” periods that apply for some actions, such as claims against government entities and dram shop actions, described below.

Many, but not all, statutes of limitations contain a “discovery rule,” meaning the claim accrues when its elements are discovered, even if the statute mentions no discovery rule. Check case law to determine if your claim accrues upon discovery. Generally, negligence claims accrue upon discovery, with a 10-year statute of ultimate repose, but be sure to check the statutes and case law regarding the specific claim at issue.

When calculating a statute of limitation:

- Exclude the first day or day of the occurrence.
- Include the last day.
- If the last day falls on a holiday, weekend, or furlough day when courts are closed, include the next judicial day.
- Civil procedural statutes providing that something must be done within one or more years are to be computed by “calendar years.” ORS 174.120.

For example, if the claim accrues on January 1, 2010 and the statute of limitation is 2 years, you start counting on January 2, 2010. Absent application of a discovery rule or some other tolling rule, the 2-year time limit would expire on January 1, 2012, unless that day is a Saturday, Sunday or legal holiday, in which case the statute would expire on the next day that is a judicial working day.

An action is deemed commenced on the date of filing a complaint if service is completed in the proper manner within 60 days from the filing date. Otherwise, an action is deemed commenced on the date of proper service of the complaint. However, ORS 12.220 provides that, notwithstanding ORS 12.020, if an action was timely filed (but not served within 60 days) and dismissed on a ground not adjudicating the merits (including lack of service), a plaintiff can bring a new action based on the same claim which will not be time-barred if: (1) the defendant had actual notice of the filing of the original action within 60 days after the action was filed; (2) the new action is filed within 180 days after the judgment dismissing the original action is entered.

The following are the most commonly used statutes of limitations, **but be sure to check Chapter 12 to make sure the limitation period has not changed:**

1 year Garnishments (1 year from delivery of writ). Libel or slander. Rental agreements.

2 years Negligence for injury to person or rights of another.

Unless a policy provides a longer period, the statute of limitation for bringing a UM/UIM claim requires either that, within two years of the date of the accident, the insured sues the insurer or, if the insured sues the uninsured or underinsured tortfeasor, then within two years of the date of settlement or final judgment, the insured must formally institute arbitration or sue the insurer.

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2 years	Wrongful death claim against a public body under ORS 30.275(9) (but see special notice requirements for tort claims described below).
3 years	Wrongful death claim against a private person or entity, measured from date of death (but see special notice requirements for tort claims against dram shops, as described below).
5 years	Contracts on real property (5 years from date of maturity of final payment). Claims of harassment or discrimination based on race, color, religion, sex, sexual orientation, sexual assault, national origin, marital status, age, expunged juvenile records, military service or disability. Claims based on sexual assault.
6 years	Most contract claims. Claims for taking, detaining or injuring personal property. Note: a claim to recover a deficiency on the balance of a consumer auto loan may be subject to the 4-year statute of limitations provided under ORS 72.7250. <i>Kaiser v. Cascade Capital, LLC</i> , 989 F3d 1127 (9th Cir 2021).
10 years	Action to recover real property or for possession of real property (adverse possession). Action upon a judgment.
180 day notice	<p>Tort Claims - All public bodies, including state, local, and intergovernmental agencies, school districts, some hospitals, individuals and entities listed in ORS 30.260-30.300, must be given proper notice of a claim, in writing, within 180 days of the date of the occurrence. You may exclude the first 90 days if the injured party cannot give notice because of the injury or because of minority or other incapacity. In a wrongful death claim, the personal representative has one year to give proper notice. ORS 30.275.</p> <p>Dram Shop - The person asserting the claim to give a claim notice to a licensee, permittee or social host before a personal injury claim or wrongful death claim can be commenced. For a personal injury claim, notice must be given within 180 days after injury occurs, or within 180 days after the discovery of a claim, whichever is later. For a wrongful death claim, notice must be given within one year after death, or within one year after discovery of the claim by the person asserting the claim, whichever is later. The claim period for personal injury and wrongful death claims is tolled when the claimant is: (1) under 18 years of age; (2) unable to give notice from injury, financial incapability or incapacity; or (3) unable to determine the tortfeasor is liable because that person asserts a right against self-incrimination and cannot be compelled to reveal the identity of the tortfeasor or the facts establishing liability. ORS 471.565.</p>

Product Liability Civil Actions: ORS 30.905 (dealing with product liability civil actions) has a “discovery rule” and requires commencement of an action 2 years after injury to person or property. If death occurs, such actions must be commenced before the earlier of (1) 3 years after the date of death; (2) 10 years after the product was first purchased for use or consumption; or (3) the expiration of any statute of repose for an equivalent civil action in the state where the

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product was manufactured, or, if manufactured in a foreign country, an equivalent civil action in the state where the product was imported.

Construction Defect Claims: ORS 12.135 describes the limitations and repose periods for actions arising from the person having performed the construction, alteration or repair of any improvement to real property, the supervision or inspection thereof, or having furnished design, planning, surveying, architectural or engineering services.

Tolling of the Statute of Limitations: An applicable statute of limitations may be tolled or extended for a period of time. It is best to file without considering the time that might be tolled, if at all possible. Here are some key tolling events and relevant laws.

- **Commencement stayed by injunction or statutory prohibition.** ORS 12.210. Example – a bankruptcy filing may toll a limitation period. *See e.g., 11 U.S.C. § 108.*
- **Claims of minors and those with disabling mental conditions.** ORS 12.160.
- **COVID-19 and state of emergency laws.** HB 4212, which became law on June 30, 2020, and SB 813, which became effective July 14, 2021, extend certain time periods due to the COVID-19 pandemic, including time periods for commencing an action under ORS Chapter 12. However, Section 8 of HB 4212 provides that the extension provisions are automatically repealed on December 31, 2021. It is currently unclear whether the extension of time periods under these laws will have any applicability or will be renewed after December 31, 2021. Therefore, practitioners are cautioned *not* to rely on the extensions of time provided by these laws for filings after December 31, 2021.

Other Commonly Missed Statutes of Limitations:

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| 2 years | California personal injury and wrongful death actions. CCP Section 335.1 effective 1/1/2003. Consult counsel in California and review applicable statutes for more information. |
| 3 years | Washington personal injury actions. RCW 4.16.080 effective 7/1/2011. Consult counsel in Washington and review applicable code provisions for more information. |

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