

OREGON STATUTES OF LIMITATIONS - GENERALLY

ORS Chapter 12 contains most of the statutes of limitation, 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 limitation 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.

In addition, claims of minors and those with a disabling mental condition are tolled for up to five years, or one year past the age of 18 for minors or after the person no longer has the disabling mental condition, whichever occurs first. ORS 12.160.

When calculating a statute of limitations:

- 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 limitations 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:

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| 1 year | Garnishments (1 year from delivery of writ) |
| 2 years | Negligence for injury to person or damage to property. |

Unless a policy provides a longer period, the statute of limitations 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.

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)
6 years	Most contract claims.
10 years	Action to recover real property or for possession of real property (adverse possession). Action upon a judgment.
180 day notice	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.

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.

Product Liability Civil Actions: ORS 30.905 (dealing with product liability civil actions) has a “discovery rule” and provides that, 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 product was manufactured, or, if manufactured in a foreign country, an

equivalent civil action in the state where the product was imported. These amendments apply to causes of action that arise on or after January 1, 2010. Review the current text for applicability and revival provisions for specific causes of action.

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.

Note: *ORS 12.160 eliminates the tolling of the statute of limitations by reason of imprisonment. Any person affected may bring an action within the time otherwise allowed under former ORS 12.160, whichever expires earlier.*

Other Commonly Missed Statutes of Limitation:

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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