



STATE OF OREGON STATUTE OF LIMITATIONS (during COVID-19 pandemic)

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EXTENDED STATUTES OF LIMITATIONS DURING THIS TIME OF COVID-19

As of December 2, 2020, the tolling period implemented due to COVID-19 in Oregon has not expired. The following information explains Oregon's tolling period.

During the first special session of 2020, the Oregon legislature passed House Bill 4212 ("HB 4212"). Governor Kate Brown (the "Governor") signed HB 4212 into law on June 30, 2020. In part, HB 4212 (1) authorizes the Chief Justice of the Oregon Supreme Court to extend or suspend time periods that apply to court proceedings, including most civil matters, (2) authorizes extension or postponement of certain criminal law proceedings; and (3) implements a tolling period for civil actions. HB 4212, §§ 6-7.

Under ordinary circumstances, Oregon law provides a two-year statute of limitations for negligence actions, ORS 12.110(1), and a three-year limit period for wrongful death actions, ORS 30.020(1). However, if the deadline for instituting either action occurs during a COVID-19 emergency as declared by the Governor, or occurs within 90 days after the expiration of such declaration, "the time to commence the action or give notice of the claim is extended to a date 90 days after the declaration and any extension is no longer in effect." HB 4212 § 7(1).

In other words, any civil claim with a timing requirement to either bring a claim or provide notice that is set to expire during the Governor's COVID-19 state of emergency will be tolled for an additional 90 days, and the clock on those 90 days will not start until the state of emergency (or any extension thereof) ends. *Id.*

The current COVID-19 state of emergency has been extended "through January 2, 2021, unless extended or terminated earlier by the Governor." EO No. 20-59 (signed October 27, 2020).

Given the language of EO No. 20-59, the final day of the state of emergency is January 2, 2021. This means that the first day of the 90-day extension period would be January 3, 2021. Assuming the state of emergency is not extended further, if a two-year statute of limitations expired on December 31, 2020, then the extended statute of limitations would expire on Wednesday, April 1, 2021— 90 days after January 2, 2020.

HB 4212 is also retroactive to the June 30, 2020 effective date. As HB 4212 provides that it applies to any civil claim where the expiration of the time to commence or give notice of a claim “falls within the time in which **any** declaration of a state of emergency issued by the Governor related to COVID-19,” HB 4212 § 7(1),(2) (emphasis added), the tolling period thus applies to any civil or notice expiration date during the entire emergency period. Given that Governor Brown first implemented a state of emergency due to COVID 19 on March 8, 2020, this means that even if a civil claim was originally set to expire on March 31, 2020, the claimant will still benefit from the tolling period, and will have until at least April 1 of next year to commence such claim.

TEMPORARY RULES EXTENDING TIME LIMITS TO SERVE COMPLAINTS AND/OR SPECIAL RULES RELATING TO METHODS OF SERVICE

Service of a summons and filing of the complaint must be completed within the applicable statute of limitations. If a claimant serves the summons within 60 days after filing complaint, service date relates back to date of filing of complaint. ORS 12.020(2). During the COVID-19 pandemic, if service of summons deadline was set to expire between March 9, 2020, and December 31, 2020, it would have been tolled under the Governor’s October 27th executive order, EO 20-59.

As far as special rules for methods of service, there have not been changes made relating to methods of service.

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