

Legal Alerts

Oregon Presses Pause on Statutes of Limitation During the Pandemic

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In response to ever-shifting court operations resulting from the COVID-19 pandemic, the Oregon legislature recently passed new legislation indefinitely extending the statute of limitations deadlines for most civil lawsuits involving contract and tort claims. For potential litigants in Oregon, this means you have additional time to file a lawsuit asserting claims that might otherwise expire during the COVID-19 state of emergency; for potential defendants, this means you're not off the hook quite yet. Just how long the extension will last is-like many things these days-uncertain.

Effective June 30, 2020, House Bill 42121 extends the statute of limitations for claims that have expired or will expire during the state of emergency declared by Oregon's Governor Kate Brown in response to the COVID-19 pandemic. The period of the state of emergency began on March 8, 2020 ([Executive Order No. 20-03](#)) and is presently scheduled to remain in effect until September 4, 2020 under Governor Brown's most recent [Executive Order No. 20-30](#).

The extension granted under HB 4212 applies to most civil claims under Oregon law, including those claims subject to the statutes of limitation established in ORS Chapter 12-which encompasses the most common civil causes of action like negligence and contract claims-as well as any other civil cause of action subject to a limitations period based in statute. The extension does not apply to criminal actions or appeals brought in Oregon state courts.

The new law extends the life of claims to a date 90 days after the state of emergency and any extension of the state of emergency is no longer in effect. So the exact date of expiration of claims subject to the new law will remain uncertain until the Governor lifts the state of emergency. Once the state of emergency is no longer in effect, the running of the statute of limitations will resume for those claims that would have otherwise expired during the state of emergency.

The effect of the new law will vary significantly in real-world application. For example, the limitations period on a claim that otherwise would have expired on the 89th day after the state of emergency ends is only extended by one day. By contrast, the limitations period on a claim that otherwise would have expired on March 8, 2020 (the first day of the state of emergency), could be extended by six months or more. This is because the new law extends the limitations period until a date exactly "90 days after the declaration and any extension is no longer in effect." Of course, this variation in length makes sense if the legislature's intent was to lighten court dockets by eliminating filings during the pandemic that would have otherwise been necessary to preserve claims before they expire. The 90-day window also provides courts with a

cushion of time to return to "normal" and to discourage a rush of filings as soon as the state of emergency is over.

If you are unsure whether you may have claims that are due to expire, you should consult with an attorney as soon as possible. Even though the new law provides litigants more time to file claims, it has not been tested or applied by courts yet. Given the uncertainty as to how courts will interpret the law, you may be better off filing your claim sooner than later. In some instances, it may be feasible to enter into an agreement (known as a "tolling agreement") with the other party to voluntarily extend the life of your claim without having to file a lawsuit in court. Again, you should consult an attorney to help you or your company navigate the decision-making process whether you are contemplating filing a lawsuit or a threat of claim has been made against you.

1. The relevant portion of the new law is found in Section 7 of HB 4212 found at:

<https://olis.oregonlegislature.gov/liz/2020S1/Downloads/MeasureDocument/HB4212/Enrolled>

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