Chapter 12

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Chapter 12

1999 EDITION

Limitations of Actions and Suits

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GENERAL PROVISIONS

12.010 Time of commencing actions. Actions shall only be commenced within the periods prescribed in this chapter, after the cause of action shall have accrued, except where a different limitation is prescribed by statute. [Amended by 1979 c.284 s.43]

12.020 When action deemed begun. (1) Except as provided in subsection (2) of this section, for the purpose of determining whether an action has been commenced within the time limited, an action shall be deemed commenced as to each defendant, when the complaint is filed, and the summons served on the defendant, or on a codefendant who is a joint contractor, or otherwise united in interest with the defendant.

(2) If the first publication of summons or other service of summons in an action occurs before the expiration of 60 days after the date on which the complaint in the action was filed, the action against each person of whom the court by such service has acquired jurisdiction shall be deemed to have been commenced upon the date on which the complaint in the action was filed. [Amended by 1973 c.731 s.1]

12.030 [Repealed by 1973 c.731 s.2]

12.040 Limitations of suits generally; land patent suits; defense of possession by equitable title; suit on new promise, fraud or mistake. (1) A suit shall only be commenced within the time limited to commence an action as provided in this chapter; and a suit for the determination of any right or claim to or interest in real property shall be deemed within the limitations provided for actions for the recovery of the possession of real property.

(2) No suit shall be maintained to set aside, cancel, annul or otherwise affect a patent to lands issued by the United States or this state, or to compel any person claiming or holding under such patent to convey the lands described therein, or any portion of them, to the plaintiff in such suit, or to hold the same in trust for, or to the use and benefit of such plaintiff, or on account of any matter, thing or transaction which was had, done, suffered or transpired prior to the date of such patent, unless such suit is commenced within 10 years from the date of such patent.

(3) This section shall not bar an equitable owner in possession of real property from defending possession by means of the equitable title; and in any action for the recovery of any real property, or the possession thereof, by any person or persons claiming or holding the legal title to the same under such patent against any person or persons in possession of such real property under any equitable title, or having in equity the right to the possession thereof as against the plaintiff in such action, such equitable right of possession may be pleaded by answer in such action, or set up by bill in equity to enjoin such action or execution upon any judgment rendered therein; and the right of such equitable owner to defend possession in such action, or by bill for injunction, shall not be barred by lapse of time while an action for the possession of such real property is not barred.

(4) In a suit upon a new promise, fraud or mistake, the limitation shall only be deemed to commence from the making of the new promise or the discovery of the fraud or mistake.

12.050 Action to recover real property. An action for the recovery of real property, or for the recovery of the possession thereof, shall be commenced within 10 years. No action shall be maintained for such recovery unless it appear that the plaintiff, an ancestor, predecessor, or grantor was seized or possessed of the premises in question within 10 years before the commencement of the action.

12.060 Suit or action on land contracts; time when they cease to affect the property. (1) Unless suit or action to enforce a contract for the sale of real property is instituted in the county in which the real property is situated within five years from the date of maturity of the final payment provided for in the contract, or from the date to which the final payment shall have been extended by agreement of record, the contract shall not thereafter be a lien, encumbrance, or cloud on the title of the property.

(2) When the purchase price fixed in the contract is payable in installments, the contract shall be deemed to mature on the date upon which the final payment would be payable if the minimum amount of the principal due on each installment had been paid as provided in the terms of the contract.

12.070 Action on judgment, decree or sealed instrument. (1) An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States; or

(2) An action upon a sealed instrument entered into before August 13, 1965,

shall be commenced within 10 years. [Amended by 1965 c.502 s.3]

12.080 Action on certain contracts or liabilities. (1) An action upon a contract or liability, express or implied, excepting those mentioned in ORS 12.070, 12.110 and 12.135 and except as otherwise provided in ORS 72.7250;

(2) An action upon a liability created by statute, other than a penalty or forfeiture, excepting those mentioned in ORS 12.110;

(3) An action for waste or trespass upon or for interference with or injury to any interest of another in real property, excepting those mentioned in ORS 12.050, 12.060, 12.135, 12.137 and 273.241; or

(4) An action for taking, detaining or injuring personal property, including an action for the specific recovery thereof, excepting an action mentioned in ORS 12.137;

shall be commenced within six years. [Amended by 1957 c.374 s.3; 1961 c.726 s.396; 1973 c.363 s.1; 1983 c.437 s.2; 1987 c.705 s.3; 1991 c.968 s.2]

12.085 Action on certain garnishment proceedings. Garnishment proceedings pursuant to ORS 29.282 to 29.345 shall be commenced within one year from the delivery of the writ of garnishment under ORS 29.155. [1977 c.786 s.3; 1981 c.883 s.29]

12.090 Accounts; accrual of cause of action. In an action to recover a balance due upon an account, the cause of action shall be deemed to have accrued from the time of the last charge or payment proved in the account. Interest, financing and carrying charges shall not be deemed such a charge. [Amended by 1973 c.204 s.1]

12.100 Action on official action or penalty. (1) An action against a sheriff or constable upon a liability incurred by the doing of an act in an official capacity and in virtue of the office of the sheriff or constable; or by the omission of an official duty, including the nonpayment of money collected upon an execution, but not including an action for an escape, shall be commenced within three years.

(2) An action upon a statute for penalty or forfeiture, where the action is given to the party aggrieved, or to such party and the state, excepting those actions mentioned in ORS 12.110, shall be commenced within three years. [Amended by 1957 c.374 s.4; 1965 c.221 s.10]

12.110 Actions for certain injuries to person not arising on contract; action for overtime or premium pay; action for professional malpractice; effect of fraud or deceit; action for injuries to person arising from nuclear incident. (1) An action for assault, battery, false imprisonment, or for any injury to the person or rights of another, not arising on contract, and not especially enumerated in this chapter, shall be commenced within two years; provided, that in an action at law based upon fraud or deceit, the limitation shall be deemed to commence only from the discovery of the fraud or deceit.

(2) An action upon a statute for a forfeiture or penalty to the state or county shall be commenced within two years.

(3) An action for overtime or premium pay or for penalties or liquidated damages for failure to pay overtime or premium pay shall be commenced within two years.

(4) An action to recover damages for injuries to the person arising from any medical, surgical or dental treatment, omission or operation shall be commenced within two years from the date when the injury is first discovered or in the exercise of reasonable care should have been discovered. However, notwithstanding the provisions of ORS 12.160, every such action shall be commenced within five years from the date of the treatment, omission or operation upon which the action is based or, if there has been no action commenced within five years because of fraud, deceit or misleading representation, then within two years from the date such fraud, deceit or misleading representation is discovered or in the exercise of reasonable care should have been discovered.

(5) An action, arising from a nuclear incident, as defined in 42 U.S.C. 2014(q), that involves the release of radioactive material, excluding releases from acts of war, that causes bodily injury, sickness or death, shall be commenced:

(a) Within two years from the time an injured person discovers or reasonably could have discovered the injury and the causal connection between the injury and the nuclear incident; or

(b) Within two years from any substantial change in the degree of injury to the person arising out of a nuclear incident. [Amended by 1957 c.374 s.1; 1967 c.406 s.1; 1969 c.642 s.1; 1971 c.473 s.1; 1975 c.796 s.10a; 1981 c.149 s.1; 1987 c.705 s.4]

12.115 Action for negligent injury to person or property. (1) In no event shall any action for negligent injury to person or property of another be commenced more than 10 years from the date of the act or omission complained of.

(2) Nothing in this section shall be construed to extend any period of limitation otherwise established by law, including but not limited to the limitations established by ORS 12.110. [1967 c.406 s.2]

12.117 Actions based on child abuse. (1) Notwithstanding ORS 12.110, 12.115 or 12.160, an action based on conduct that constitutes child abuse or conduct knowingly allowing, permitting or encouraging child abuse accruing while the person who is entitled to bring the action is under 18 years of age shall be commenced not more than six years after that person attains 18 years of age, or if the injured person has not discovered the injury or the causal connection between the injury and the child abuse, nor in the exercise of reasonable care should have discovered the

injury or the causal connection between the injury and the child abuse, not more than three years from the date the injured person discovers or in the exercise of reasonable care should have discovered the injury or the causal connection between the child abuse and the injury, whichever period is longer.

(2) As used in subsection (1) of this section, “child abuse” means any of the following:

(a) Intentional conduct by an adult that results in:

(A) Any physical injury to a child; or

(B) Any mental injury to a child which results in observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child;

(b) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are defined in ORS chapter 163;

(c) Sexual abuse, as defined in ORS chapter 163, when the victim is a child; or

(d) Sexual exploitation of a child, including but not limited to:

(A) Conduct constituting violation of ORS 163.435 and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact; and

(B) Allowing, permitting, encouraging or hiring a child to engage in prostitution, as defined in ORS chapter 167.

(3) Nothing in this section creates a new cause of action or enlarges any existing cause of action. [1989 c.643 ss.2,3; 1991 c.386 s.4; 1991 c.932 s.1; 1993 c.18 s.5; 1993 c.296 s.1; 1993 c.622 s.2]

Note: Section 2, chapter 932, Oregon Laws 1991, provides:

Sec. 2. Notwithstanding any other provisions of law, ORS 12.117, as amended by section 1 of this Act, applies to all actions commenced on or after October 3, 1989, including any action that would have been barred by application of any period of limitations prior to October 3, 1989. [1991 c.932 s.2]

Note: Section 2, chapter 296, Oregon Laws 1993, provides:

Sec. 2. The amendments to ORS 12.117 by section 1 of this Act apply to all causes of action whether arising before, on or after the effective date of this Act [July 8, 1993], and shall act to revive any cause of action barred by the operation of ORS 12.117 (1991 Edition). Notwithstanding any other provision of law, any cause of action that was dismissed or adjudicated before the effective date of this Act based upon that provision of ORS 12.117 (1991 Edition) requiring that an action be commenced on or before the plaintiff attains 40 years of age may be brought within one year after the effective date of this Act as though the original proceeding had never been commenced. [1993 c.296 s.2]

12.120 Action on escape; action for defamation. (1) An action against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process; or

(2) An action for libel or slander

shall be commenced within one year. [Amended by 1957 c.374 s.2]

12.125 Action arising under rental agreement. An action arising under a rental agreement or ORS chapter 90 shall be commenced within one year. [1973 c.559 s.39]

12.130 Action for penalty. An action upon a statute for a penalty given in whole or in part to the person who will prosecute for the same, shall be commenced within one year after the commission of the offense; and if the action is not commenced within one year by a private party, it may be commenced within two years thereafter, in behalf of the state, by the district attorney of the county where the offense was committed or is triable.

12.133 [1983 c.589 s.2; repealed by 1999 c.130 s.1]

12.135 Action for damages from construction, alteration or repair of improvement to real property; “substantial completion” defined; application. (1) An action against a person, whether in contract, tort or otherwise, arising from such person having performed the construction, alteration or repair of any improvement to real property or the supervision or inspection thereof, or from such person having furnished the design, planning, surveying, architectural or engineering services for such improvement, shall be commenced within the applicable period of

limitation otherwise established by law; but in any event such action shall be commenced within 10 years from substantial completion or abandonment of such construction, alteration or repair of the improvement to real property.

(2) Notwithstanding subsection (1) 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, 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 from the construction, alteration or repair of any improvement to real property shall be commenced within two years from 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 from substantial completion or abandonment of the construction, alteration or repair.

(3) For purposes of this section, “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.

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

(5) This section:

(a) Applies, in addition to other actions, to actions brought in the name of the state or any county or other public corporation therein, or for its benefit; 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. [1971 c.664 ss.2,3,4; 1983 c.437 s.1; 1991 c.968 s.1]

12.137 Action for loss of or damage to property arising from nuclear incident. (1) An action, arising from a nuclear incident that involves the release of radioactive material, excluding releases from acts of war, that causes loss of or damage to property, or loss of use of property shall be commenced:

(a) Within two years from the time an injured person discovers or reasonably could have discovered the injury to property and the causal connection between the injury and the nuclear incident; or

(b) Within two years from any substantial change in the degree of injury to the property arising out of a nuclear incident.

(2) As used in this section, “nuclear incident” has the meaning given that term in 42 U.S.C. 2014(q).

(3) In no event shall any action under subsection (1) of this section or ORS 12.110 (5) be commenced more than 30 years from the date of the nuclear incident. [1987 c.705 ss.1,2]

Note: 12.137 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 12 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

12.140 Actions not otherwise provided for. An action for any cause not otherwise provided for shall be commenced within 10 years.

12.150 Suspension of running of statute by absence or concealment. If, when a cause of action accrues against any person, the person is out of the state and service cannot be made within the state or the person is concealed therein, such action may be commenced within the applicable period of limitation in this chapter after the return of the person into the state, or after the termination of the concealment of the person; and if, after a cause of action has accrued against a person, the person shall depart from and reside out of this state, or if the person is concealed therein, the time of the absence or concealment of the person shall not be deemed or taken as any part of the time limited for the commencement of such action. [Amended by 1973 c.206 s.1; 1987 c.158 s.4]

12.155 Effect of notice of advance payment on running of period of limitation. (1) If the person who makes an advance payment referred to in ORS 18.520 or 18.530 gives to each person entitled to recover damages for the death, injury or destruction, not later than 30 days after the date the first of such advance payments was made, written notice of the date of expiration of the period of limitation for the commencement of an action for damages set by the applicable statute of limitations, then the making of any such advance payment does not suspend the running of such period of limitation. The notice required by this subsection shall be in such form as the Director of the Department of

Consumer and Business Services prescribes.

(2) If the notice required by subsection (1) of this section is not given, the time between the date the first advance payment was made and the date a notice is actually given of the date of expiration of the period of limitation for the commencement of an action for damages set by the applicable statute of limitations is not part of the period limited for commencement of the action by the statute of limitations. [1971 c.331 s.5; 1981 c.892 s.85b]

12.160 Suspension as to persons under disability. If, at the time the cause of action accrues, any person entitled to bring an action mentioned in ORS 12.010 to 12.050, 12.070 to 12.250 and 12.276 is within the age of 18 years or insane, the time of such disability shall not be a part of the time limited for the commencement of the action; but the period within which the action shall be brought shall not be extended more than five years by any such disability, nor shall it be extended in any case longer than one year after such disability ceases. [Amended by 1973 c.827 s.4; 1979 c.246 s.1; 1983 c.762 s.9; 1997 c.339 s.1]

Note: Section 2, chapter 339, Oregon Laws 1997, provides:

Sec. 2. (1) Except as provided in subsection (2) of this section, the amendments to ORS 12.160 by section 1 of this Act apply to all causes of action, whether arising before, on or after the effective date of this Act [October 4, 1997].

(2) Notwithstanding the amendments to ORS 12.160 by section 1 of this Act, any person who could have brought an action under the terms of ORS 12.160 (1995 Edition) on the day before the effective date of this Act may bring an action within one year after the effective date of this Act, or within the time provided by ORS 12.160 (1995 Edition), whichever expires first. [1997 c.339 s.2]

12.170 Disability must exist when right of action accrues. No person shall make use of a disability unless it existed when the right of action of the person accrued.

12.180 Coexisting disabilities must all be removed. When two or more disabilities coexist at the time the right of action accrues, the limitation shall not attach until all are removed.

12.190 Effect of death on limitations. (1) If a person entitled to bring an action dies before the expiration of the time limited for its commencement, an action may be commenced by the personal representative of the person after the expiration of that time, and within one year after the death of the person.

(2) If a person against whom an action may be brought dies before the expiration of the time limited for its commencement, an action may be commenced against the personal representative of the person after the expiration of that time, and within one year after the death of the person. [Amended by 1969 c.591 s.268]

12.200 Suspension by war as to alien. When a person is an alien subject or citizen of a country at war with the United States, the time of the continuance of the war shall not be a part of the period limited for the commencement of the action.

12.210 Suspension by injunction or prohibition of statute. When the commencement of an action is stayed by injunction or a statutory prohibition, the time of the continuance of the injunction or prohibition shall not be a part of the time limited for the commencement of the action.

12.220 Commencement of new action within one year after dismissal or reversal. Except as otherwise provided in ORS 72.7250, if an action is commenced within the time prescribed therefor and the action is dismissed upon the trial thereof, or upon appeal, after the time limited for bringing a new action, the plaintiff, or if the plaintiff dies and any cause of action in the favor of the plaintiff survives, the heirs or personal representatives of the plaintiff, may commence a new action upon such cause of action within one year after the dismissal or reversal on appeal; however, all defenses that would have been available against the action, if brought within the time limited for the bringing of the action, shall be available against the new action when brought under this section. [Amended by 1961 c.726 s.397]

12.230 Acknowledgment or promise taking contract case out of statute; effect of payment. No acknowledgment or promise shall be sufficient evidence of a new or continuing contract, whereby to take the case out

of the operation of this chapter, unless the same is contained in some writing, signed by the party to be charged thereby; but this section shall not alter the effect of any payment of principal or interest.

12.240 Effect of payment after obligation becomes due. Whenever any payment of principal or interest is made after it has become due, upon an existing contract, whether it is a bill of exchange, promissory note, bond, or other evidence of indebtedness, the limitation shall commence from the time the last payment was made.

12.250 Actions by state, county, or public corporations. Unless otherwise made applicable thereto, the limitations prescribed in this chapter shall not apply to actions brought in the name of the state, or any county, or other public corporation therein, or for its benefit.

12.260 [Repealed by 1987 c.536 s.9]

12.270 Conclusive presumption of validity of governmental subdivision boundary proceedings one year after effective date. On September 13, 1975, any proceeding which establishes or alters the boundaries of a governmental subdivision previously or hereafter initiated and purported to be effected in accordance with applicable legal requirements shall be conclusively presumed valid for all purposes one year after the purported effective date of the action. No direct or collateral attack on the action may thereafter be commenced. This statute of limitations includes but is not limited to the following proceedings:

(1) Formations and change of organizations under ORS 198.705 to 198.955.

(2) Boundary changes under ORS 199.410 to 199.519.

(3) Consolidations under ORS 199.705 to 199.795.

(4) Incorporations under ORS 221.010 to 221.090.

(5) Annexations under ORS 222.111 to 222.180, 222.750 and 222.840 to 222.915.

(6) Consolidations under ORS 222.210 to 222.310.

(7) Withdrawals and transfers of territory under ORS 222.510 to 222.580.

(8) Mergers under ORS 222.610 to 222.710.

(9) Formations and changes under ORS chapter 261.

(10) Alterations, changes, mergers and consolidations under ORS 330.080 to 330.123, 330.505 to 330.780 (1989 Edition), 335.490 to 335.505 and ORS chapter 333.

(11) Formations and boundary changes under ORS 341.025 to 341.125 and 341.565 to 341.575.

(12) Organizations and boundary changes under ORS 545.002 and 545.025 to 545.043, 545.051 to 545.105, 545.109, 545.123, 545.126 and 545.131.

(13) Formations and boundary alterations under ORS 547.005 to 547.060 and 547.250 to 547.260.

(14) Formations and organizations under ORS chapter 551. [1975 c.326 s.2; 1991 c.167 s.1; 1999 c.452 s.29]

Note: 12.270 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 12 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

12.272 Action based on pesticide application. (1) Notwithstanding any other provision of this chapter, no action against a landowner, person for whom the pesticide was applied or pesticide operator arising out of the use or application of any pesticide shall be commenced unless the person commencing the action, within the time specified by ORS 634.172, files the report required by ORS 634.172 and mails or personally delivers true copies of that report to:

(a) The landowner or pesticide operator who is allegedly responsible for the loss; and

(b) The person for whom the pesticide was applied if that person is not the person commencing the action.

(2) For the purposes of this section:

(a) “Landowner” includes any person, firm, corporation, the state, any county within the state, or municipality, shown by records of the county to be the owner of land or having such land under contract for purchase.

(b) “Pesticide operator” has the meaning given in ORS 634.006. [1991 c.351 s.3; 1995 c.96 s.1]

12.274 Action against trustee of an express trust. Notwithstanding any other provision of this chapter, an action against the trustee of an express trust, whether in contract, tort or otherwise, arising from any act or omission of the trustee constituting a breach of duty shall be commenced within six years from the date the act or omission is

discovered or in the exercise of reasonable diligence should have been discovered. However, no such action shall be commenced more than 10 years from the date of the act or omission complained of, or two years from the termination of any fiduciary account established under the trust, whichever date is later. [1991 c.968 s.4]

12.276 Action for death, injury or damage resulting from breast implants. (1) Notwithstanding ORS 12.110 (1) or 30.020, an action for death, injury or damage resulting from breast implants containing silicone, silica or silicon as a component must be commenced not later than two years after the date on which the plaintiff first discovered, or in the exercise of reasonable care should have discovered:

(a) The death or specific injury, disease or damage for which the plaintiff seeks recovery;

(b) The tortious nature of the act or omission of the defendant that gives rise to a claim for relief against the defendant; and

(c) All other elements required to establish plaintiff's claim for relief.

(2) Except as provided in subsections (3) and (4) of this section, an action for death, injury or damage resulting from breast implants containing silicone, silica or silicon as a component is not subject to ORS 12.110 (1), 12.115 or any other statute of repose in Oregon Revised Statutes.

(3) An action for death, injury or damage against a physician licensed pursuant to ORS chapter 677, or against a health care facility licensed under ORS chapter 442, resulting from breast implants containing silicone, silica or silicon as a component, remains subject to the limitations imposed by ORS 12.110 (4), 12.115, 30.020 and 30.075.

(4) An action for death, injury or damage against a person that supplied component parts or raw materials to manufacturers of breast implants containing silicone, silica or silicon as a component remains subject to the limitations imposed by ORS 12.110 (1), 12.115, 30.020 and 30.075 if:

(a) The person did not manufacture breast implants containing silicone, silica or silicon as a component at any time; and

(b) The person was not owned by and did not own a business that manufactured breast implants containing silicone, silica or silicon as a component at any time.

(5) For the purposes of subsection (1) of this section, an action for wrongful death must be commenced not later than two years after the earliest date that the discoveries required by subsection (1) of this section are made by any of the following persons:

(a) The decedent;

(b) The personal representative for the decedent; or

(c) Any person for whose benefit the action could be brought. [1993 c.259 s.2]

Note: Section 7, chapter 259, Oregon Laws 1993, provides:

Sec. 7. (1) Sections 2, 4 and 5 of this Act [12.276 and 30.908] and the amendments to ORS 30.905 by section 6 of this Act apply to all causes of action whether arising before, on or after the effective date of this Act [July 6, 1993], and except as provided in subsection (2) of this section shall act to revive any cause of action barred by the operation of ORS 12.110 (1), 12.115 or ORS 30.905 (1991 Edition).

(2) Sections 2, 4 and 5 of this Act and the amendments to ORS 30.905 by section 6 of this Act shall not operate to revive any cause of action that has been settled, compromised or adjudicated except that any cause of action based on death, injury or damage resulting from a breast implant containing silicone, silica or silicon as a component that was dismissed or adjudged based on the operation of ORS 12.110 (1), 12.115 or ORS 30.905 (1991 Edition) within one year before the effective date of this Act shall be revived. Notwithstanding any other provision of law, a cause of action revived under the provisions of this subsection must be brought within one year after the effective date of this Act. [1993 c.259 s.7]

12.278 Action against manufacturer of certain pickup trucks. (1) A civil action against a manufacturer of pickup trucks for injury or damage resulting from a fire caused by rupture of a sidesaddle gas tank in a vehicle collision, including any product liability action under ORS 30.900 to 30.920 and any action based on negligence, must be commenced not later than two years after the injury or damage occurs. A civil action against a manufacturer of pickup trucks for death resulting from a fire caused by rupture of a sidesaddle gas tank in a vehicle collision, including any product liability action under ORS 30.900 to 30.920 and any action based on negligence, must be commenced not later than three years after the death.

(2) A civil action against a manufacturer of pickup trucks for death, injury or damage resulting from a fire caused

by rupture of a sidesaddle gas tank in a vehicle collision is not subject to ORS 12.115, 30.020, 30.905 (1) or any other statute of repose in Oregon Revised Statutes.

(3) For the purposes of this section, “sidesaddle gas tank” means a gas tank mounted outside of the side rails of the frame of a pickup truck. [1995 c.55 s.2]

Note: Section 3, chapter 55, Oregon Laws 1995, provides:

Sec. 3. (1) Section 2 of this Act [12.278] applies to all causes of action for death, injury or damage resulting from a fire caused by rupture of a sidesaddle gas tank in a vehicle collision, whether arising before, on or after the effective date of this Act [September 9, 1995].

(2) Section 2 of this Act acts to revive any cause of action that is subject to section 2 of this Act that was barred by the operation of ORS 12.115, 30.020 or 30.905 (1) if the action is brought within the time allowed by section 2 of this Act.

(3) If an action subject to section 2 of this Act was filed before the effective date of this Act, the court shall allow the parties to replead in conformity with the provisions of section 2 of this Act. If an action subject to section 2 of this Act was dismissed before the effective date of this Act by reason of the operation of ORS 12.115, 30.020 or 30.905 (1), a new action may be brought within one year after the effective date of this Act even though the action is commenced more than two years after the injury or damage complained of or more than three years after the death complained of. [1995 c.55 s.3]

12.280 Action based on practice of land surveying. Notwithstanding ORS 12.135 (1) or any other statute of limitation, an action against a person for the practice of land surveying, as defined in ORS 672.005, 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 survey of real property must be commenced within two years after the date the injury or damage is first discovered or in the exercise of reasonable care should have been discovered. In no event may an action arising out of a survey be commenced more than 10 years after the date on which any map prepared by the land surveyor is filed under the provisions of ORS 209.250, or, if no map is filed, more than 10 years after the completion of work on the survey. [1995 c.310 s.2]

Note: Section 3, chapter 310, Oregon Laws 1995, provides:

Sec. 3. Section 2 of this Act [12.280] applies to all causes of action, whether arising before, on or after the effective date of this Act [September 9, 1995]. Notwithstanding section 2 of this Act, an action that could be brought under ORS 12.135 or any other statute of limitation in Oregon Revised Statutes but that is barred by section 2 of this Act may be commenced within two years after the effective date of this Act, or within the time provided by ORS 12.135 or other statute of limitation applicable to the action, whichever comes first. [1995 c.310 s.3]

12.282 Action against manufacturer of extendable equipment. (1) A civil action against a manufacturer of extendable equipment for injury or other damage arising out of contact with power lines, including any product liability action under ORS 30.900 to 30.920 and any action based on negligence, must be commenced not later than two years after the injury or damage occurs. A civil action against a manufacturer of extendable equipment for death arising out of contact with power lines, including any product liability action under ORS 30.900 to 30.920 and any action based on negligence, must be commenced not later than three years after the death.

(2) A civil action against a manufacturer of extendable equipment for injury, death or other damage arising out of contact with power lines is not subject to ORS 12.115, 30.020 or 30.905 (1) or any other statute of repose in Oregon Revised Statutes.

(3) For purposes of this section, “extendable equipment” means cranes, truck-mounted cranes, truck-mounted booms, and any self-powered vehicle with booms or other extensions that can reach power lines from the ground. [1999 c.514 s.1]

Note: Section 2, chapter 514, Oregon Laws 1999, provides:

Sec. 2. (1) Section 1 of this 1999 Act [12.282] applies to all causes of action for death, injury or damage resulting from contact with a power line, whether arising before, on or after the effective date of this 1999 Act [October 23,

1999].

(2) Section 1 of this 1999 Act acts to revive any cause of action that is subject to section 1 of this 1999 Act that was barred by the operation of ORS 12.115, 30.020 or 30.905 (1) if the action is brought within the time allowed by section 1 of this 1999 Act.

(3) If an action subject to section 1 of this 1999 Act was filed before the effective date of this 1999 Act, the court shall allow the parties to replead in conformity with the provisions of section 1 of this 1999 Act. If an action subject to section 1 of this 1999 Act was dismissed before the effective date of this 1999 Act, by reason of the operation of ORS 12.115, 30.020 or 30.905 (1), a new action may be brought within one year after the effective date of this 1999 Act, even though the action is commenced more than two years after the injury or damage complained of or more than three years after the death complained of. [1999 c.514 s.2]

Note: 12.282 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 12 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

UNIFORM CONFLICT OF LAWS-LIMITATIONS ACT

12.410 Definitions for ORS 12.410 to 12.480. As used in ORS 12.410 to 12.480:

(1) “Claim” means a right of action that may be asserted in a civil action or proceeding and includes a right of action created by statute.

(2) “State” means a state, commonwealth, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a foreign country or a political subdivision of any of them. [1987 c.536 s.1]

Note: 12.410 to 12.480 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 12 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

12.420 Purpose. ORS 12.410 to 12.480 shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of ORS 12.410 to 12.480 among states enacting it. [1987 c.536 s.6]

Note: See note under 12.410.

12.430 Claims based on law of other states; limitations period. (1) Except as provided by ORS 12.450, if a claim is substantively based:

(a) Upon the law of one other state, the limitation period of that state applies; or

(b) Upon the law of more than one state, the limitation period of one of those states, chosen by the law of conflict of laws of this state, applies.

(2) The limitation period of this state applies to all other claims. [1987 c.536 s.2]

Note: See note under 12.410.

12.440 Application of statutes and rules governing conflict of laws. If the statute of limitations of another state applies to the assertion of a claim in this state, the other state's relevant statutes and other rules of law governing tolling and accrual apply in computing the limitation period, but its statutes and other rules of law governing conflict of laws do not apply. [1987 c.536 s.3]

Note: See note under 12.410.

12.450 When the limitation period of another state not applicable. If the court determines that the limitation period of another state applicable under ORS 12.430 and 12.440 is substantially different from the limitation period of this state and has not afforded a fair opportunity to sue upon, or imposes an unfair burden in defending against the claim, the limitation period of this state applies. [1987 c.536 s.4]

Note: See note under 12.410.

12.460 Claims to which statute applies. ORS 12.410 to 12.480 applies to claims:

(1) Accruing after January 1, 1988; or

(2) Asserted in a civil action or proceeding more than one year after January 1, 1988, but it does not revive a claim barred before January 1, 1988. [1987 c.536 s.5]

Note: See note under 12.410.

12.470 Severability. If any provision of ORS 12.410 to 12.480 or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of ORS 12.410 to 12.480 which can be given effect without the invalid provision or application, and to this end the provisions of ORS 12.410 to 12.480 are severable. [1987 c.536 s.8]

Note: See note under 12.410.

12.480 Short title. ORS 12.410 to 12.480 may be cited as the Uniform Conflict of Laws-Limitations Act. [1987 c.536 s.7]

Note: See note under 12.410.