



Environment, Land Use & Natural Resources ADVISORY ■

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Emergency Rule 9 Amendment Provides Deadlines for Statutes of Limitations

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On April 6, 2020, the Judicial Council of California (JCC) adopted a set of [11 emergency rules](#) related to the COVID-19 pandemic, including Emergency Rule 9 that tolled the statutes of limitations for all civil actions in California from April 6 until 90 days after the governor declares the state of emergency related to the pandemic is lifted—essentially an indefinite tolling period because there is no end in sight to the emergency declaration. Emergency Rule 9 was amended today to provide definitive and significantly shortened deadlines for filing civil actions.

Statutes of limitations for challenging land use development projects are very short—30, 35, 90, or 180 days under the California Environmental Quality Act and Planning and Zoning Law. Emergency Rule 9, as originally adopted, adversely affected development projects by significantly extending these limitation periods far into the future (and for an indefinite time period) and acted as a de facto injunction on new construction because most lenders deem it too risky to start construction until the statute of limitations has run or any litigation has been resolved. This indefinite extension led to an outcry from a broad coalition of business groups, trade associations, and nonprofits.

In response, the JCC amended Rule 9 today to create a new and shortened limitations period for statutes of limitations of 180 days or less. Under the newly amended Emergency Rule 9, any statute of limitations of 180 days or less, such as legal challenges under CEQA or the Planning and Zoning Law, are tolled from April 6, 2020, until August 3, 2020. Statutes of limitations over 180 days are tolled from April 6, 2020, until October 1, 2020.

The full text of the new rule is:

Emergency rule 9. Tolling statutes of limitations for civil causes of action

(a) Tolling statutes of limitations over 180 days

Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020, until October 1, 2020.

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(b) Tolling statutes of limitations of 180 days or less

Notwithstanding any other law, the statutes of limitations and repose for civil causes of action that are 180 days or less are tolled from April 6, 2020, until August 3, 2020.

Advisory Committee Comment

Emergency rule 9 is intended to apply broadly to toll any statute of limitations on the filing of a pleading in court asserting a civil cause of action. The term “civil causes of action” includes special proceedings. (See Code Civ. Proc., §§ 312, 363 [“action,” as used in title 2 of the code (Of the Time of Commencing Civil Actions), is construed “as including a special proceeding of a civil nature”]; special proceedings of a civil nature include all proceedings in title 3 of the code, including mandamus actions under §§ 1085, 1088.5, and 1094.5—all the types of petitions for writ made for California Environmental Quality Act (CEQA) and land use challenges]; see also 25 Pub. Resources Code, § 21167(a)–(e) [setting limitations periods for civil “action[s]” under 26 CEQA].)

The rule also applies to statutes of limitations on filing of causes of action in court found in codes other than the Code of Civil Procedure, including the limitations on causes of action found in, for example, the Family Code and Probate Code.

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