

**60-4702. Filing of action; notice requirements.** (a) If a claimant files an action against a contractor without service of notice under this act, the action shall be dismissed without prejudice upon motion of the contractor filed within 60 days of service of process. An action against a contractor cannot be refiled until the parties have complied with the provisions of this act. A dismissal pursuant to this subsection shall not count as a dismissal for purposes of subsection (a)(1) of K.S.A. 60-241, and amendments thereto.

(b) If the statute of limitations would expire during the time period necessary to allow the parties to comply with the provisions of this act, the statute of limitations shall be tolled if the claimant gives notice of the claim to the contractor within 90 days of entry of the order of dismissal of the action without prejudice pursuant to subsection (a).

(c) If the statute of limitations would expire during the time period necessary to allow the parties to comply with the provisions of this act, the claimant's notice of claim shall serve to toll the statute of limitations for 180 days after the latest of the following three dates: (1) The date the claimant personally serves or mails the notice of claim; (2) the date agreed upon for the contractor to make payment under subsection (c)(3) or (g)(2) of K.S.A. 60-4704, and amendments thereto; or (3) the date agreed upon for the contractor to completely remedy the construction defect under subsection (c)(2) or (g)(1) of K.S.A. 60-4704, and amendments thereto.

(d) Nothing in this section shall be interpreted to shorten the statute of limitations under K.S.A. 60-501 *et seq.*, and amendments thereto, otherwise applicable to a claimant's action against a contractor.

**History:** L. 2003, ch. 74, § 2; July 1.