

A-Engrossed
Senate Bill 985

Ordered by the Senate April 21
Including Senate Amendments dated April 21

Sponsored by COMMITTEE ON BUSINESS AND TRANSPORTATION

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Exempts insurers that transact certain classes of commercial insurance from requirement to file rates or policy forms. Specifies circumstances in which exemption does not apply.

Permits Director of Department of Consumer and Business Services to publish sample disclosure notice that insurer may issue without needing to file disclosure with director if insurer issues disclosure together with claims-made insurance policy or liability insurance policy that includes defense costs within limits of liability.

A BILL FOR AN ACT

1
2 Relating to commercial insurance filing requirements.

3 The Legislative Assembly finds that:

4 (1) Businesses in this state benefit when competitive markets govern transactions among busi-
5 nesses;

6 (2) A reasonable degree of competition exists now in the commercial lines property and casualty
7 insurance market;

8 (3) Reducing barriers to a rapid introduction of new and innovative business insurance products
9 in this state would enhance competition in commercial lines insurance; and

10 (4) The Department of Consumer and Business Services must retain the power to intervene in
11 specific commercial lines of insurance if a reasonable degree of competition does not exist.

12 **Be It Enacted by the People of the State of Oregon:**

13 **SECTION 1. Section 2 of this 2017 Act is added to and made a part of the Insurance Code.**

14 **SECTION 2. (1) Notwithstanding provisions of the Insurance Code that require insurers**
15 **to file rates and policy forms with the Director of the Department of Consumer and Business**
16 **Services, and except as provided in subsections (3), (4) and (5) of this section, an insurer is**
17 **exempt from the requirement to file with the director rates or policy forms for the classes**
18 **of insurance specified in subsection (2) of this section.**

19 (2)(a) The following classes of insurance are subject to the exemption described in sub-
20 section (1) of this section:

21 (A) Aircraft liability and hull insurance;

22 (B) Surety insurance;

23 (C) Inland marine insurance coverages that the director specifies;

24 (D) Marine and transportation insurance;

25 (E) Wet marine and transportation insurance;

26 (F) Boiler and machinery insurance;

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (G) Environmental impairment and pollution insurance;
2 (H) Kidnap and ransom insurance;
3 (I) Political risk or expropriation insurance;
4 (J) Directors and officers liability insurance;
5 (K) Fiduciary liability insurance;
6 (L) Employment practices liability insurance;
7 (M) Errors and omissions and professional liability insurance;
8 (N) Media liability insurance;
9 (O) Product liability and product recall insurance;
10 (P) Insurance for property with these characteristics:
11 (i) The owner or property manager demonstrates a willingness and determination to re-
12 duce the probability of a loss.
13 (ii) The owner or property manager conducts periodic and thorough specialized in-
14 spections and engineering for the purpose of preventing or minimizing loss.
15 (iii) The property has an insurable value sufficient for an insurer to charge a premium
16 in an amount that warrants providing specialized inspection and engineering services.
17 (iv) The property has a structural design and degree of protection that, in combination
18 with specialized inspection and engineering services, has the effect of reducing the need for
19 or importance of publicly provided fire protection.
20 (v) The property's construction uses fire resistant or incombustible heavy timber or
21 similar materials that are well preserved and in good repair.
22 (vi) The property has fire protection or loss prevention equipment in all areas in which
23 fire prevention or loss protection is necessary.
24 (vii) The owner or property manager provides security and alarm service or equivalent
25 security services or equipment where necessary.
26 (viii) Sufficient numbers of hydrants, hoses and equipment, an adequate water supply and
27 other components of a private or publicly provided fire protection system exist to protect the
28 property's exterior.
29 (Q) Commercial property insurance;
30 (R) Commercial flood insurance;
31 (S) Umbrella or excess insurance;
32 (T) Commercial lines insurance that the director exempts, other than coverage specified
33 in subsection (3) of this section, for large commercial policyholders that pay an annual ag-
34 gregate premium threshold amount or that meet other requirements the director specifies;
35 and
36 (U) Any other commercial insurance the director specifies by rule for the purpose of
37 enhancing competition.
38 (b) An exemption for the classes of insurance described in paragraph (a) of this sub-
39 section applies whether the insurer provides the insurance as a stand-alone policy, as an
40 endorsement or as part of other insurance coverage.
41 (3) The following classes of insurance are not exempt under subsection (1) of this section:
42 (a) Workers' compensation insurance;
43 (b) Medical malpractice liability insurance;
44 (c) Commercial automobile liability insurance;
45 (d) Coverage that an insurer issues under an assigned risk plan or through a residual

1 **market pool or residual market facility;**

2 **(e) Insurance for a project, as defined in ORS 737.602; and**

3 **(f) A service contract, as defined in ORS 646A.154.**

4 **(4) This section does not apply to any class or line of insurance that an insurer transacts**
5 **with a consumer, as defined in ORS 746.600.**

6 **(5)(a) The director may publish a sample disclosure notice that an insurer may issue**
7 **without needing to file the disclosure with the director for review or approval if the insurer**
8 **issues the disclosure together with an insurance policy that is a claims-made insurance pol-**
9 **icy or a liability insurance policy that includes defense costs within the limits of liability.**

10 **(b) An insurer need not use the sample disclosure notice described in paragraph (a) of**
11 **this subsection. An insurer that does not use the sample disclosure notice shall file the**
12 **insurer's proposed notice with the director for review and approval. If the director approves**
13 **the insurer's proposed notice, the insurer may issue the notice with all of the insurer's**
14 **claims-made insurance policies or policies that include defense costs within the limits of li-**
15 **ability without submitting the notice to the director for further review or approval.**

16 **(6) A surplus lines broker that seeks to obtain or provide insurance coverage in a class**
17 **of insurance that is listed in subsection (2)(a) of this section may purchase insurance from**
18 **an eligible nonadmitted insurer without making a diligent search of admitted insurers, as**
19 **required under ORS 735.410 (1)(b).**

20 **(7) The director may adopt rules to implement this section.**

21 **SECTION 3. Section 2 of this 2017 Act applies to insurance that an insurer transacts and**
22 **to an insurance policy that an insurer issues or renews on or after the effective date of this**
23 **2017 Act.**

24