

A-Engrossed
House Bill 2751

Ordered by the House March 23
Including House Amendments dated March 23

Sponsored by COMMITTEE ON CONSUMER PROTECTION

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.

Permits insurer to issue liability insurance at preferred rate or premium to construction contractors without violating prohibition against fictitious groupings.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to liability insurance for construction contractors; creating new provisions; amending ORS
3 737.600; and declaring an emergency.

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

5 **SECTION 1.** ORS 737.600 is amended to read:

6 737.600. (1) As used in this section, "fictitious grouping" means a grouping by way of member-
7 ship, license, franchise, contract, agreement or any method other than common ownership, or use
8 and control.

9 (2) [*No insurer shall*] **An insurer may not:**

10 (a) Make available, through any rating plan or form, property, inland marine, casualty or surety
11 insurance, or any combination thereof, at a preferred rate or premium to any person based upon a
12 fictitious grouping of that person.

13 (b) Write or deliver a form, plan or policy of insurance covering a grouping or combination of
14 persons or risks, any of which are within this state, at a preferred rate or form other than that of-
15 fered to the public generally and persons not in the group, unless the form, plan or policy and the
16 rates or premiums to be charged therefor have been approved by the Director of the Department
17 of Consumer and Business Services. The director shall not approve any form, plan or policy, or the
18 rates therefor, that would constitute a violation of paragraph (a) of this subsection.

19 (3) [*Nothing in this section applies*] **This section does not apply to:**

20 (a) [*To*] Policies of life or health insurance;

21 (b) [*To*] Insurance for public bodies as defined in ORS 30.260;

22 (c) [*To*] Insurance for employers subject to ORS chapter 656 who are primarily engaged in
23 farming. Any contract negotiated by an exempt farming group, including the rate, shall be restricted
24 to members of the group;

25 (d) [*To*] Property and casualty insurance policies for personal, family or household purposes, and
26 not for commercial or business purposes, under the following conditions:

27 (A) If the policies are offered to members of an association, including a labor union, which has
28 had an active existence for at least one year, has a constitution and bylaws and is maintained in

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 good faith for purposes other than that of obtaining insurance;

2 (B) If the policies are based on premiums that are adequate to support coverage of the group
3 without subsidy by other rate payers; and

4 (C) If the insurer does not unfairly discriminate against holders of other insurance policies;

5 (e) [To] Liability and property insurance required under ORS 825.160 for persons who apply for
6 or who have received authority issued by the Department of Transportation under ORS chapter 825
7 to transport logs, poles, pilings, peeler cores, lumber, shingles, veneer, plywood, particle board,
8 wallboard, siding, cordwood in long or short lengths, sawdust, hog fuel, wood chips, wood pellets,
9 bark dust or cut trees that are or will be sold for use as Christmas trees;

10 (f) [To] Liability or casualty insurance issued in this state on commercial risks, if:

11 (A) The policy requires active participation in a plan of risk management which has established
12 measures and procedures to minimize both the frequency and severity of losses;

13 (B) The policy passes on the benefits of reduced losses to plan participants; and

14 (C) Rates are actuarially measurable and credible and sufficiently related to actual and expected
15 loss and expense experience of the group so as to assure that nonmembers of the group are not
16 unfairly discriminated against; [or]

17 (g) [To] Insurance for child care facilities that are certified in accordance with ORS chapter
18 657A[.]; or

19 **(h) Liability insurance for contractors licensed under ORS chapter 701.**

20 (4) Under ORS 731.244, the director shall make rules necessary for implementation of this sec-
21 tion.

22 **SECTION 2. The amendments to ORS 737.600 by section 1 of this 2007 Act apply to all**
23 **insurers in operation on or after the effective date of this 2007 Act and to all insurance**
24 **written, made available or delivered on or after the effective date of this 2007 Act.**

25 **SECTION 3. This 2007 Act being necessary for the immediate preservation of the public**
26 **peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect**
27 **on its passage.**

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