

Enrolled House Bill 2751

Sponsored by COMMITTEE ON CONSUMER PROTECTION

CHAPTER

AN ACT

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

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

SECTION 1. ORS 737.600 is amended to read:

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

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

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

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

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

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

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

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

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

(A) If the policies are offered to members of an association, including a labor union, which has had an active existence for at least one year, has a constitution and bylaws and is maintained in good faith for purposes other than that of obtaining insurance;

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

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

(e) *[To]* Liability and property insurance required under ORS 825.160 for persons who apply for or who have received authority issued by the Department of Transportation under ORS chapter 825 to transport logs, poles, pilings, peeler cores, lumber, shingles, veneer, plywood, particle board,

wallboard, siding, cordwood in long or short lengths, sawdust, hog fuel, wood chips, wood pellets, bark dust or cut trees that are or will be sold for use as Christmas trees;

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

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

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

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

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

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

(4) Under ORS 731.244, the director shall make rules necessary for implementation of this section.

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

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

Passed by House March 28, 2007

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Chief Clerk of House

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Speaker of House

Passed by Senate May 8, 2007

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President of Senate

Received by Governor:

.....M.,....., 2007

Approved:

.....M.,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M.,....., 2007

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Secretary of State