

Enrolled
House Bill 2783

Sponsored by Representative SHIELDS; Representatives BONAMICI, BRUUN, BUCKLEY, CAMERON, CLEM, C EDWARDS, D EDWARDS, ESQUIVEL, GALIZIO, GARRARD, HOLVEY, KOMP, READ, RILEY, ROBLAN, SCHAUFLEER

CHAPTER

AN ACT

Relating to termination of workers' compensation coverage; creating new provisions; and amending ORS 656.427.

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

SECTION 1. ORS 656.427 is amended to read:

656.427. (1) An insurer that issues a guaranty contract or a surety bond to an employer under this chapter may terminate liability on its contract or bond, as the case may be, by giving the employer and the Director of the Department of Consumer and Business Services notice of termination in accordance with rules adopted by the director. A notice of termination shall state the effective date of termination.

(2) An insurer may terminate liability under this section as follows:

(a) If the termination of a guaranty contract is for reasons other than those set forth in [paragraph (b)] **paragraphs (b) and (c)** of this subsection, it is effective at 12 midnight not less than [30] **45** days after the date the notice is mailed to the employer.

(b) If the termination of a guaranty contract is based on the insurer's decision not to offer insurance to employers within a specific premium category, it is effective not sooner than 90 days after the date the notice is mailed to the employer.

(c) If the termination of a guaranty contract is based on nonpayment of premium, the termination is effective not sooner than 10 days after the date the notice is mailed to the employer.

[c] **(d)** The termination of a surety bond is effective at 12 midnight not less than 30 days after the date the notice is received by the director.

(3) Notice to the employer under this section shall be given by mail, addressed to the employer at the last-known address of the employer. If the employer is a partnership, notice may be given to any of the partners. If the employer is a limited liability company, notice may be given to any manager, or in a member managed limited liability company, to any of the members. If the employer is a corporation, notice may be given to any agent or officer of the corporation under whom legal process may be served.

(4) Termination shall in no way limit liability that was incurred under the guaranty contract or surety bond prior to the effective date of the termination.

(5) If, before the effective date of a termination under this section, the employer gives notice to the insurer that it has not obtained coverage from another insurer and intends to become insured under the assigned risk plan established under ORS 656.730, the insurer shall insure that continuing

coverage is provided to the employer under the plan without further application by the employer, transferring the risk to the plan as of the effective date of termination. If the insurer is a servicing carrier under the plan, it shall continue to provide coverage for the employer as a servicing carrier, at least until another servicing carrier is provided for the employer in the normal course of administering the plan. If the insurer is not a servicing carrier, it shall apply to the plan for coverage on the employer's behalf. Nothing in this section is intended to limit the authority of administrators of the plan to require the employer to provide deposits or to make payments consistent with plan requirements. However, the rules of the plan shall allow any deposit requirements imposed by the plan to be deferred for as long as one year.

SECTION 2. If Senate Bill 559 becomes law, ORS 656.427, as amended by section 1 of this 2007 Act, is amended to read:

656.427. (1) An insurer that issues [*a guaranty contract or a surety bond*] **a workers' compensation insurance policy or surety bond** to an employer under this chapter may [*terminate liability on its contract or bond, as the case may be,*] **cancel the policy or surety bond prior to the expiration date of the policy or surety bond** by giving the employer and the Director of the Department of Consumer and Business Services notice of [*termination*] **cancellation** in accordance with rules adopted by the director. [*A notice of termination shall state the effective date of termination.*] **Notice required under this section must be provided to the director within 10 calendar days after the effective date of the cancellation provided in the notice given to the employer.**

(2) An insurer may [*terminate liability*] **cancel a workers' compensation insurance policy or surety bond** under this section as follows:

(a) If the [*termination of a guaranty contract*] **cancellation of a workers' compensation insurance policy** is for reasons other than those set forth in paragraphs (b) and (c) of this subsection, it is effective at 12 midnight not less than 45 days after the date the notice is mailed to the employer.

(b) If the [*termination of a guaranty contract*] **cancellation of a workers' compensation insurance policy** is based on the insurer's decision not to offer insurance to employers within a specific premium category, it is effective not sooner than 90 days after the date the notice is mailed to the employer.

(c) If the [*termination of a guaranty contract*] **cancellation of a workers' compensation insurance policy** is based on nonpayment of premium, the [*termination*] **cancellation** is effective not sooner than 10 days after the date the notice is mailed to the employer.

(d) The [*termination*] **cancellation** of a surety bond is effective at 12 midnight not less than 30 days after the date the notice is received by the director.

(3) An insurer may nonrenew a workers' compensation insurance policy by providing notice in the manner provided for in subsection (2) of this section.

[(3)] (4) Notice to the employer under this section shall be given by mail, addressed to the employer at the last-known address of the employer. If the employer is a partnership, notice may be given to any of the partners. If the employer is a limited liability company, notice may be given to any manager, or in a member managed limited liability company, to any of the members. If the employer is a corporation, notice may be given to any agent or officer of the corporation under whom legal process may be served.

[(4)] (5) [*Termination*] **Cancellation of a workers' compensation insurance policy or surety bond** shall in no way limit liability that was incurred under the [*guaranty contract or surety bond*] **policy or surety bond** prior to the effective date of the [*termination*] **cancellation**.

[(5)] (6) If, before the effective date of a [*termination*] **cancellation** under this section, the employer gives notice to the insurer that it has not obtained coverage from another insurer and intends to become insured under the assigned risk plan established under ORS 656.730, the insurer shall [*insure*] **ensure** that continuing coverage is provided to the employer under the plan without further application by the employer, transferring the risk to the plan as of the effective date of [*termination*] **cancellation**. If the insurer is a servicing carrier under the plan, it shall continue to provide coverage for the employer as a servicing carrier, at least until another servicing carrier is

provided for the employer in the normal course of administering the plan. If the insurer is not a servicing carrier, it shall apply to the plan for coverage on the employer's behalf. Nothing in this section is intended to limit the authority of administrators of the plan to require the employer to provide deposits or to make payments consistent with plan requirements. However, the rules of the plan shall allow any deposit requirements imposed by the plan to be deferred for as long as one year.

(7) The cancellation of a workers' compensation insurance policy under this section is effective on the earliest of:

(a) The expiration of the term of the policy;

(b) The effective date of a cancellation under subsection (2) of this section; or

(c) The effective date of a policy for which another insurer makes a proof of coverage filing on behalf of the employer.

SECTION 3. If Senate Bill 559 becomes law, ORS 656.427, as amended by section 3, chapter 241, Oregon Laws 2007 (Enrolled Senate Bill 559), is amended to read:

656.427. (1) An insurer that issues a workers' compensation insurance policy or surety bond to an employer under this chapter may cancel the policy or surety bond prior to the expiration date of the policy or surety bond by giving the employer and the Director of the Department of Consumer and Business Services notice of cancellation in accordance with rules adopted by the director. Notice required under this section must be provided to the director within 10 calendar days after the effective date of the cancellation provided in the notice given to the employer.

(2) An insurer may cancel a workers' compensation insurance policy or surety bond under this section as follows:

(a) If the cancellation **of a workers' compensation insurance policy** is for reasons other than those set forth in *[paragraph (b)] paragraphs (b) and (c)* of this subsection, it is effective at 12 midnight not less than *[30] 45* days after the date the notice is mailed to the employer.

(b) If the cancellation **of a workers' compensation insurance policy** is based on the insurer's decision not to offer insurance to employers within a specific premium category, it is effective not sooner than 90 days after the date the notice is mailed to the employer.

(c) If the cancellation of a workers' compensation insurance policy is based on nonpayment of premium, the cancellation is effective not sooner than 10 days after the date the notice is mailed to the employer.

[(c)] (d) The *[termination] cancellation* of a surety bond is effective at 12 midnight not less than 30 days after the date the notice is received by the director.

(3) An insurer may nonrenew a workers' compensation insurance policy by providing notice in the manner provided for in subsection (2) of this section.

(4) Notice to the employer under this section shall be given by mail, addressed to the employer at the last-known address of the employer. If the employer is a partnership, notice may be given to any of the partners. If the employer is a limited liability company, notice may be given to any manager, or in a member managed limited liability company, to any of the members. If the employer is a corporation, notice may be given to any agent or officer of the corporation under whom legal process may be served.

(5) Cancellation of a workers' compensation insurance policy or surety bond shall in no way limit liability that was incurred under the policy or surety bond prior to the effective date of the cancellation.

(6) If, before the effective date of a cancellation under this section, the employer gives notice to the insurer that it has not obtained coverage from another insurer and intends to become insured under the assigned risk plan established under ORS 656.730, the insurer shall ensure that continuing coverage is provided to the employer under the plan without further application by the employer, transferring the risk to the plan as of the effective date of cancellation. If the insurer is a servicing carrier under the plan, it shall continue to provide coverage for the employer as a servicing carrier, at least until another servicing carrier is provided for the employer in the normal course of administering the plan. If the insurer is not a servicing carrier, it shall apply to the plan for coverage on

the employer's behalf. Nothing in this section is intended to limit the authority of administrators of the plan to require the employer to provide deposits or to make payments consistent with plan requirements. However, the rules of the plan shall allow any deposit requirements imposed by the plan to be deferred for as long as one year.

(7) The cancellation of a workers' compensation insurance policy under this section is effective on the earliest of:

- (a) The expiration of the term of the policy;
- (b) The effective date of a cancellation under subsection (2) of this section; or
- (c) The effective date of a policy for which another insurer makes a proof of coverage filing on behalf of the employer.

SECTION 4. If Senate Bill 559 becomes law, the amendments to ORS 656.427 by sections 2 and 3 of this 2007 Act become operative on July 1, 2009.

Passed by House May 9, 2007

Received by Governor:

Repassed by House June 8, 2007

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

Approved:

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Chief Clerk of House

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

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Speaker of House

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Governor

Passed by Senate June 6, 2007

Filed in Office of Secretary of State:

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President of Senate

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

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Secretary of State