

House Bill 3081

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 **as introduced**.

Eliminates provisions under which motor vehicle liability insurer is responsible to second insurer or insured is responsible to insurer for reimbursement.

A BILL FOR AN ACT

1
2 Relating to motor vehicle liability insurance; amending ORS 31.555 and 731.418; and repealing ORS
3 742.534, 742.536, 742.538 and 742.544.

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

5 **SECTION 1. ORS 742.534, 742.536, 742.538 and 742.544 are repealed.**

6 **SECTION 2.** ORS 31.555 is amended to read:

7 31.555. (1) If judgment is entered against a party on whose behalf an advance payment referred
8 to in ORS 31.560 or 31.565 has been made and in favor of a party for whose benefit any such advance
9 payment has been received, the amount of the judgment shall be reduced by the amount of any such
10 payments in the manner provided in subsection (3) of this section. However, nothing in ORS 12.155,
11 31.560 and 31.565 and this section authorizes the person making such payments to recover such ad-
12 vance payment if no damages are awarded or to recover any amount by which the advance payment
13 exceeds the award of damages.

14 (2) If judgment is entered against a party who is insured under a policy of liability insurance
15 against such judgment and in favor of a party who has received benefits that have been **payable**
16 **under ORS 742.520** [*the basis for a reimbursement payment by such insurer under ORS 742.534*], the
17 amount of the judgment shall be reduced by reason of such benefits in the manner provided in sub-
18 section (3) of this section.

19 (3)(a) The amount of any advance payment referred to in subsection (1) of this section may be
20 submitted by the party making the payment, in the manner provided in ORCP 68 C(4) for the sub-
21 mission of disbursements.

22 (b) The amount of any benefits referred to in subsection (2) of this section, diminished in pro-
23 portion to the amount of negligence attributable to the party in favor of whom the judgment was
24 entered and diminished to an amount no greater than the [*reimbursement*] payment made by the
25 insurer under [*ORS 742.534*] **ORS 742.520**, may be submitted by the insurer which has made the
26 [*reimbursement*] payment **under ORS 742.520**, in the manner provided in ORCP 68 C(4) for the sub-
27 mission of disbursements.

28 (c) Unless timely objections are filed as provided in ORCP 68 C(4), the court clerk shall apply
29 the amounts claimed pursuant to this subsection in partial satisfaction of the judgment. Such partial
30 satisfaction shall be allowed without regard to whether the party claiming the reduction is other-
31 wise entitled to costs and disbursements in the action.

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 **SECTION 3.** ORS 731.418 is amended to read:

2 731.418. (1) The Director of the Department of Consumer and Business Services may refuse to
3 continue or may suspend or revoke an insurer's certificate of authority if the director finds after a
4 hearing that:

5 (a) The insurer has violated or failed to comply with any lawful order of the director, or any
6 provision of the Insurance Code other than those for which suspension or revocation is mandatory.

7 (b) The insurer is in unsound condition, or in such condition or using such methods and prac-
8 tices in the conduct of its business, as to render its further transaction of insurance in this state
9 hazardous or injurious to its policyholders or to the public.

10 (c) The insurer has failed, after written request by the director, to remove or discharge an offi-
11 cer or director who has been convicted in any jurisdiction of an offense which, if committed in this
12 state, constitutes a misdemeanor involving moral turpitude or a felony, or is punishable by death
13 or imprisonment under the laws of the United States, in any of which cases the record of the con-
14 viction shall be conclusive evidence.

15 (d) The insurer is affiliated with and under the same general management, interlocking
16 directorate or ownership as another insurer that transacts direct insurance in this state without
17 having a certificate of authority therefor, except as permitted under the Insurance Code.

18 (e) The insurer or an affiliate or holding company of the insurer refuses to be examined or any
19 director, officer, employee or representative of the insurer, affiliate or holding company refuses to
20 submit to examination relative to the affairs of the insurer, or to produce its accounts, records, and
21 files for examination when required by the director or an examiner of the Department of Consumer
22 and Business Services, or refuse to perform any legal obligation relative to the examination.

23 (f) The insurer has failed to pay any final judgment rendered against it in this state upon any
24 policy, bond, recognizance or undertaking issued or guaranteed by it, within 30 days after the
25 judgment became final, or within 30 days after time for taking an appeal has expired, or within 30
26 days after dismissal of an appeal before final determination, whichever date is the later.

27 [(g) *The insurer fails to comply with ORS 742.534 (1).*]

28 [(h)] (g) The insurer has failed to comply with ORS 476.270 (1), (2) or (3) or 654.097 (1).

29 (2) Without advance notice or a hearing thereon, the director may suspend immediately the
30 certificate of authority of any insurer as to which proceedings for receivership, conservatorship,
31 rehabilitation, or other delinquency proceedings, have been commenced in any state by the public
32 insurance supervisory official of such state.

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