

# House Bill 3605

Sponsored by COMMITTEE ON ELECTIONS, ETHICS AND RULES (at the request of House Interim Committee on Workforce and Economic Development)

## 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**.

Permits Governor in conjunction with declaration of emergency to issue executive order that suspends or extends certain requirements of law and provisions set forth in policies and contracts of insurance. Specifies contents of executive order and powers Governor may exercise. Specifies additional requirements that apply to premium finance companies.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to regulation of insurance policy terms; and declaring an emergency.

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

4 **SECTION 1. Sections 2 to 4 of this 2008 Act are added to and made a part of the Insur-**  
5 **ance Code.**

6 **SECTION 2. (1) In conjunction with a declaration of a state of emergency under ORS**  
7 **401.055, the Governor may issue an executive order to suspend provisions of the Insurance**  
8 **Code and of policies and contracts of insurance in accordance with section 3 of this 2008 Act.**  
9 **The executive order shall specify all of the following:**

10 (a) **The geographical area to which the executive order applies, which may not exceed the**  
11 **area specified in the declaration of a state of emergency.**

12 (b) **Special circumstances under which provisions of the executive order will apply to**  
13 **persons who do not reside in the geographical area specified in the executive order, which**  
14 **at a minimum shall include circumstances in which a person demonstrates that the person**  
15 **is located in the specified area during the term of the executive order but is unable to relo-**  
16 **cate from the specified area for five or more consecutive days.**

17 (c) **The term during which the executive order will remain in effect, which may not ex-**  
18 **ceed the period of time during which the state of emergency is in effect.**

19 (d) **A period or periods of time during which a suspension of a due date, deadline or time**  
20 **limit required by law or set forth in a policy or contract of insurance is in effect or the**  
21 **length of time by which the due date, deadline or time limit is extended, if the extension or**  
22 **suspension differs in length from the term of the executive order.**

23 (e) **A description of all other measures permitted under section 3 of this 2008 Act that**  
24 **the Governor intends to take by means of the executive order.**

25 (2) **The executive order issued under subsection (1) of this section may delegate authority**  
26 **to the Department of Consumer and Business Services to issue orders necessary to apply the**  
27 **provisions of the executive order to individual cases.**

28 (3) **The department may adopt emergency rules that are consistent with the provisions**  
29 **of an executive order issued under subsection (1) of this section in order to implement the**

**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 provisions of the executive order.

2 **SECTION 3. (1) Except as provided in subsection (6) of this section, the Governor, by**  
3 **executive order issued under section 2 of this 2008 Act, may:**

4 (a) Extend or suspend a due date, deadline or time limit set forth in a policy or contract  
5 of insurance or required by law if the due date, deadline or time limit concerns the payment  
6 of a premium, the transmission of funds, the submission of information or the performance  
7 of an act as a condition for continuing coverage under the policy or contract;

8 (b) Prevent the cancellation, lapse or nonrenewal of policies or contracts of insurance  
9 or coverage provided under a policy or contract;

10 (c) Prohibit insurers from accruing or demanding payment of interest, a penalty, a late  
11 fee or other fees or charges as expenses or compensation for payments missed during the  
12 extension or suspension period specified in the executive order; and

13 (d) Prohibit cancellation or nonrenewal of a policy or contract of insurance solely because  
14 a claim is made in connection with an event identified in a declaration of a state of emer-  
15 gency under ORS 401.055.

16 (2) Notwithstanding the Governor's ability under subsection (1) of this section to prevent  
17 cancellation or nonrenewal of a policy or contract of insurance, a cancellation or nonrenewal,  
18 if otherwise valid under the terms of the policy or contract, is valid and effective under the  
19 following circumstances:

20 (a) The insurer extends coverage under the policy or contract for the duration of an ex-  
21 tension or suspension period specified in an executive order and charges for the coverage a  
22 pro rata portion of the premium due for the entire term of the policy or contract. The  
23 cancellation or nonrenewal is effective immediately upon the expiration or termination of the  
24 extension or suspension period specified in the executive order.

25 (b) The insurer gives proper notice of cancellation or nonrenewal and the insured does  
26 not pay a premium for or make a claim under the policy or contract. After the expiration  
27 or termination of the extension or suspension period specified in the executive order, or after  
28 such a reasonable period for making a claim as may be set forth in the terms of the policy  
29 or contract, the insurer may treat the effective date of the insurer's notice as the effective  
30 date of the cancellation or nonrenewal.

31 (3) An insurer's offer of replacement coverage that is voluntarily accepted in an affiliated  
32 company or made pursuant to a depopulation program, assumption or other arrangement  
33 approved by the Director of the Department of Consumer and Business Services does not  
34 constitute a cancellation or nonrenewal for purposes of this section.

35 (4) An insurer that receives a claim from an insured that owes a premium during an  
36 extension or suspension period specified in an executive order may offset the amount of the  
37 premium due from the amount of any claim paid under a policy or contract of insurance that  
38 is subject to the extension or suspension period.

39 (5) An insured or a person responsible for paying a premium for a policy or contract of  
40 insurance may in writing cancel or agree not to renew the policy or contract during an ex-  
41 tension or suspension period specified in an executive order.

42 (6) Subsection (1) of this section does not apply to:

43 (a) Reinsurance contracts, except that ceding insurers shall notify the Department of  
44 Consumer and Business Services within 10 days of the date of any cancellation or nonrenewal  
45 of a reinsurance contract if the cancellation or nonrenewal occurs within the extension or

1 suspension period specified in an executive order.

2 (b) Free-look periods in variable life policies or variable annuity contracts.

3 (c) New policies or contracts of insurance issued during the term of an executive order.

4 (d) Life insurance policies or annuity contracts held by a person other than the insured  
5 or the annuitant or for which the premiums are paid by a person other than the insured or  
6 annuitant and the policyholder or payer does not reside in or is not located in and unable to  
7 relocate from an area specified in an executive order.

8 (e) Policies issued to a business for which the domicile or primary place of business is  
9 outside this state, if issued by an authorized insurer in the following insurance classes:

10 (A) Casualty insurance, to the extent that the coverage is for commercial risks other  
11 than residential or personal property;

12 (B) Marine, inland marine and transportation insurance;

13 (C) Property insurance, to the extent that the coverage is for commercial risks other  
14 than residential or personal property;

15 (D) Surety insurance;

16 (E) Title insurance; and

17 (F) Wet marine and transportation insurance.

18 **SECTION 4.** If the premium for a policy or contract of insurance subject to an executive  
19 order issued under section 2 of this 2008 Act is financed with a premium finance company  
20 under a premium finance agreement, as defined in ORS 746.405, the following provisions  
21 modify any measures taken under section 3 (1) of this 2008 Act:

22 (1) If the premium finance company intends to request a cancellation of a policy or con-  
23 tract of insurance, 10 days before the effective date of cancellation the company shall issue  
24 a statement of intent to cancel to the insured. The statement of intent must:

25 (a) Comply with all applicable terms of the premium finance agreement between the in-  
26 sured and the premium finance company;

27 (b) Provide all contact information necessary to enable the insured to contact the pre-  
28 mium finance company; and

29 (c) Contain an explanation in plain language of the following rights and responsibilities:

30 (A) The insured must notify the premium finance company immediately if the insured  
31 has become unemployed or displaced from the insured's residence;

32 (B) The insured will receive an extension of time for paying premiums or charges due  
33 on the insured's account that ends on the same date on which the extension or suspension  
34 period specified in an executive order terminates or expires; and

35 (C) The insured may cancel the policy or contract of insurance according to instructions  
36 the premium finance company will provide at the insured's request.

37 (2) For a statement of intent to cancel to be effective under this section, the insured  
38 must have actual notice of the statement. The premium finance company must obtain proof  
39 that the insured has received actual notice and may do so by mailing the statement by cer-  
40 tified mail, return receipt requested, or by any other method legally admissible as proof of  
41 actual notice in a court of law.

42 (3) Except as provided in subsection (4) of this section, an insurer that receives a can-  
43 cellation notice from a premium finance company shall process the cancellation in accord-  
44 ance with the terms of the policy or contract of insurance and otherwise according to law.

45 (4) The insurer shall retain all refunds due upon cancellation until the date on which the

1 executive order expires or terminates. On or immediately after that date, the insurer shall  
2 issue the refunds to the premium finance company unless:

3 (a) The insurer receives notice of a claim that arises at a time during which an extension  
4 or suspension period specified in the executive order is in effect. In such a case, the insurer  
5 shall extend coverage under the policy or contract of insurance as if the policy or contract  
6 had not been canceled. The extension will continue until the extension or suspension period  
7 specified in the executive order expires or terminates, after which the insurer may cancel  
8 the policy or contract in accordance with this section and the terms of the policy or con-  
9 tract.

10 (b) The premium finance company receives a payment that brings the account for the  
11 policy or contract of insurance up to date before the date on which the executive order ex-  
12 pires or terminates. In such a case, as soon as the insurer receives a request for rein-  
13 statement from the premium finance company, the insurer shall reinstate the policy or  
14 contract with no lapse in coverage.

15 (5) Subsections (3) and (4) of this section apply to an insurer that finances premiums for  
16 the insurer's own policies and contracts of insurance.

17 **SECTION 5.** Sections 1 to 4 of this 2008 Act apply to policies and contracts of insurance  
18 issued, entered into or renewed on or after the effective date of this 2008 Act.

19 **SECTION 6.** This 2008 Act being necessary for the immediate preservation of the public  
20 peace, health and safety, an emergency is declared to exist, and this 2008 Act takes effect  
21 on its passage.  
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