

House Bill 3374

Sponsored by Representatives KENNEMER, SCHAUFLEER; Representative SHIELDS (at the request of Consumers and Agents Action Committee)

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**.

Limits ability of insurers to terminate appointment of insurance producers under certain conditions.

A BILL FOR AN ACT

1
2 Relating to insurance producers; creating new provisions; and amending ORS 744.081.

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

4 **SECTION 1.** ORS 744.081 is amended to read:

5 744.081. (1) **As used in this section:**

6 (a) **"Captive agent" means an insurance producer who derives at least 80 percent of gross**
7 **income from a single insurer and the insurer's affiliated companies.**

8 (b) **"Noncompetition agreement" means a requirement that an insurance producer, upon**
9 **termination of an agency appointment with an insurer, may not solicit, accept or service the**
10 **insurance business of any of the insurer's policyholders for a period of time after termi-**
11 **nation of an agency appointment.**

12 [(1)] (2) **Except as provided in subsection (4) of this section,** an insurer may terminate an
13 agency appointment at any time as provided in this section. Termination shall be without prejudice
14 to the contract rights, if any, of the insurance producer so terminated. The insurer shall give written
15 notice of the termination and the date thereof to the insurance producer at least 90 days prior to
16 the effective date of the termination. The notice must specify the reasons for the termination. The
17 insurer shall deliver the notice either in person or by mail at the address last provided by the in-
18 surance producer to the insurer. The insurance producer shall not have a cause of action against
19 the insurer as a result of any statement in the notice unless the statement is false and the insurer
20 knew the statement was false when made.

21 [(2)] (3) An insurer may terminate an agency appointment without giving the notice required by
22 subsection [(1)] (2) of this section on any of the grounds specified in this subsection. The following
23 are grounds for termination under this subsection:

24 (a) The insurance producer's insurance license is denied, restricted, revoked, suspended or can-
25 celed by any public authority;

26 (b) The insurance producer's business is sold, transferred or merged and the insurer has not
27 appointed the successor;

28 (c) The insurance producer is insolvent or fails to remit balances to the insurer in accordance
29 with the agreement;

30 (d) The insurance producer commits fraud or engages in intentional misconduct;

31 (e) The insurer amends its certificate of authority in order to discontinue a class of insurance;

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 (f) The insurer ceases selling insurance in this state; or

2 (g) The insurer and insurance producer mutually agree to terminate the agency appointment.

3 **(4) Except for grounds for termination listed in subsection (3) of this section, an insurer**
4 **may not terminate the agency appointment of an insurance producer who has acted as an**
5 **insurance producer for the insurer under an agency appointment for a period of at least 10**
6 **years if the insurance producer:**

7 **(a) Is a captive agent; or**

8 **(b) Is an insurance producer with a noncompetition agreement in the agency appointment**
9 **with the insurer.**

10 [(3)] **(5)** An insurance producer may terminate an agency appointment at any time, but the ter-
11 mination shall be without prejudice to the contract rights, if any, of the appointing insurer. The
12 insurance producer shall give written notice of the termination and the date thereof to the director
13 not later than the 30th day after the effective date of the termination, and to the insurer. The di-
14 rector may require reasonable proof from the insurance producer that the insurance producer has
15 given such notice to the insurer.

16 **SECTION 2. The amendments to ORS 744.081 by section 1 of this 2009 Act apply to:**

17 **(1) Any new agency appointments or renewals of existing agency appointments made on**
18 **or after the effective date of this 2009 Act; and**

19 **(2) Any existing agency appointments that do not contain a definite expiration date.**

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