

Enrolled
House Bill 3631

Sponsored by Representative VANORMAN; Representatives BARKER, BARNHART, BOONE, BUCKLEY, CLEM, DEMBROW, DOHERTY, FREDERICK, GARRARD, GELSER, GREENLICK, HARKER, HOLVEY, HOYLE, KENNEMER, KOMP, KOTEK, MATTHEWS, NATHANSON, NOLAN, OLSON, ROBLAN, J SMITH, STIEGLER, TOMEI, WITT, Senators BONAMICI, BURDICK, DINGFELDER, EDWARDS, MONNES ANDERSON, PROZANSKI, ROSENBAUM, SCHRADER, VERGER (Presession filed.)

CHAPTER

AN ACT

Relating to insurer discrimination against victims of violence; creating new provisions; amending ORS 746.015; and declaring an emergency.

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

SECTION 1. ORS 746.015 is amended to read:

746.015. (1) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life, or between risks of essentially the same degree of hazard, in the availability of insurance, in the application of rates for insurance, in the dividends or other benefits payable under insurance policies, or in any other terms or conditions of insurance policies.

(2) Discrimination by an insurer in the application of its underwriting standards or rates based solely on an individual's physical disability is prohibited, unless such action is based on sound actuarial principles or is related to actual or reasonably anticipated experience. For purposes of this subsection, "physical disability" shall include, but not be limited to, blindness, deafness, hearing or speaking impairment or loss, or partial loss, of function of one or more of the upper or lower extremities.

(3) Discrimination by an insurer in the application of its underwriting standards or rates based solely upon an insured's or applicant's attaining or exceeding 65 years of age is prohibited, unless such discrimination is clearly based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(4)(a) [No] **An insurer may not**, on the basis of the status of an insured or prospective insured as a victim of domestic **violence or sexual** violence, [shall] do any of the following:

(A) Deny, cancel or refuse to issue or renew an insurance policy;

(B) Demand or require a greater premium or payment;

(C) Designate domestic **violence or sexual** violence, **physical or mental injuries sustained as a result of domestic violence or sexual violence or treatment received for such injuries** as a preexisting condition for which coverage will be denied or reduced;

(D) Exclude or limit coverage for losses or deny a claim; or

(E) Fix any lower rate for or discriminate in the fees or commissions of an insurance producer for writing or renewing a policy.

(b) The fact that an insured or prospective insured is or has been a victim of domestic **violence or sexual** violence shall not be considered a permitted underwriting or rating criterion.

(c) Nothing in this subsection prohibits an insurer from taking an action described in paragraph (a) of this subsection if the action is otherwise permissible by law and is taken in the same manner and to the same extent with respect to all insureds and prospective insureds without regard to whether the insured or prospective insured is a victim of domestic **violence or sexual violence**.

(d) An insurer that complies in good faith with the requirements of this subsection shall not be subject to civil liability due to such compliance.

(e) For purposes of this subsection, "domestic violence" means the occurrence of one or more of the following acts between family or household members:

(A) Attempting to cause or intentionally or knowingly causing physical injury;

(B) Intentionally or knowingly placing another in fear of imminent serious physical injury; or

(C) Committing sexual abuse in any degree as defined in ORS 163.415, 163.425 and 163.427.

(f) For purposes of this subsection, "sexual violence" means the commission of a sexual offense described in ORS 163.305 to 163.467, 163.427 or 163.525.

(5) If the Director of the Department of Consumer and Business Services has reason to believe that an insurer in the application of its underwriting standards or rates is not complying with the requirements of this section, the director shall, unless the director has reason to believe the non-compliance is willful, give notice in writing to the insurer stating in what manner such noncompliance is alleged to exist and specifying a reasonable time, not less than 10 days after the date of mailing, in which the noncompliance may be corrected.

(6)(a) If the director has reason to believe that noncompliance by an insurer with the requirements of this section is willful, or if, within the period prescribed by the director in the notice required by subsection (5) of this section, the insurer does not make the changes necessary to correct the noncompliance specified by the director or establish to the satisfaction of the director that such specified noncompliance does not exist, the director may hold a hearing in connection therewith. Not less than 10 days before the date of such hearing the director shall mail to the insurer written notice of the hearing, specifying the matters to be considered.

(b) If, after the hearing, the director finds that the insurer's application of its underwriting standards or rates violates the requirements of this section, the director may issue an order specifying in what respects such violation exists and stating when, within a reasonable period of time, further such application shall be prohibited. If the director finds that the violation was willful, the director may suspend or revoke the certificate of authority of the insurer.

(7) Affiliated workers' compensation insurers having reinsurance agreements which result in one carrier ceding 80 percent or more of its workers' compensation premium to the other, while utilizing different workers' compensation rate levels without objective evidence to support such differences, shall be presumed to be engaging in unfair discrimination.

SECTION 2. The amendments to ORS 746.015 by section 1 of this 2010 Act apply to policies or certificates of insurance offered or renewed on or after the effective date of this 2010 Act.

SECTION 3. This 2010 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect on its passage.

Passed by House February 9, 2010

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Chief Clerk of House

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Speaker of House

Passed by Senate February 22, 2010

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President of Senate

Received by Governor:

.....M,....., 2010

Approved:

.....M,....., 2010

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Governor

Filed in Office of Secretary of State:

.....M,....., 2010

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Secretary of State