A-Engrossed

House Bill 3654

Ordered by the House February 8
Including House Amendments dated February 8

Sponsored by COMMITTEE ON BUSINESS AND LABOR

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.

Allows Director of Department of Consumer and Business Services to waive, upon request of mortgage insurer, requirements regarding ratio of aggregate insurance policies issued to surplus to policyholders.

Declares emergency, effective on passage.

1 **A BILL FOR AN ACT**

2 Relating to mortgage insurance limitation; creating new provisions; amending ORS 731.516; and de-

3 claring an emergency.

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

5 **SECTION 1.** ORS 731.516 is amended to read:

6 731.516. **(1) As used in this section, "policyholders' position" means the aggregate amount**

7 **of mortgage insurance policies covering amounts of insured obligations, divided by the**

8 **insurer's surplus to policyholders as defined in ORS 731.504 (6).**

9 **(2) Except as provided in subsection (3) of this section,** a mortgage insurer shall not have

10 outstanding at any time [*mortgage insurance policies covering amounts of insured obligations and*

11 *amounts of insured future lease payments aggregating more than 25 times the insurer's "surplus to*

12 *policyholders" as defined in ORS 731.504 (6)*] **a policyholders' position greater than 25**.

13 **(3)(a) The Director of the Department of Consumer and Business Services may waive the**

14 **requirement in subsection (2) of this section in response to the request of a mortgage insurer**

15 **if the director finds that the mortgage insurer's policyholders' position is reasonable in re-**

16 **lation to the mortgage insurer's aggregate insured risk and adequate to the mortgage**

17 **insurer's financial needs.**

18 **(b) The request of the mortgage insurer must be made in writing at least 60 days prior**

19 **to the date the mortgage insurer expects to exceed the policyholders' position allowed by**

20 **subsection (2) of this section, and shall at a minimum address the factors set forth in sub-**

21 **section (4) of this section that the director may use in making a decision on the waiver re-**

22 **quest.**

23 **(4) In determining whether a mortgage insurer's requested policyholders' position is**

24 **reasonable in relation to the mortgage insurer's aggregate insured risk and adequate to the**

25 **mortgage insurer's financial needs, the director may consider the following factors:**

26 **(a) The size of the mortgage insurer as measured by its assets, capital and surplus, re-**

27 **serves, premium writings, insurance in force and other appropriate criteria.**

(b) The extent to which the mortgage insurer's business is diversified across time, geography, credit quality, origination and distribution channels.

(c) The nature and extent of the mortgage insurer's reinsurance program.

(d) The quality, diversification and liquidity of the mortgage insurer's assets and investment portfolio.

(e) The historical and projected trends in the magnitude of the mortgage insurer's policyholders' position.

(f) The policyholders' position maintained by other comparable mortgage insurers.

(g) The adequacy of the mortgage insurer's reserves.

(h) The quality and liquidity of investments in affiliates of the mortgage insurer. The director may treat any such investment as a nonadmitted asset for purposes of determining the adequacy of the mortgage insurer's policyholders' position.

(i) The quality of the mortgage insurer's earnings and the extent to which the reported earnings of the mortgage insurer include extraordinary items.

(j) An independent actuary's opinion as to the reasonableness and adequacy of the mortgage insurer's historical and projected policyholders' position.

(k) The capital contributions that have been invested or are available for future investment in the mortgage insurer.

(L) The historical and projected trends in the components of the mortgage insurer's aggregate insured risk including, but not limited to, the quality and type of the risks included in the aggregate insured risk.

(m) Any other factors the director believes are relevant in making a decision on the request.

(5) The director may retain accountants, actuaries or other experts to assist the director in the review of the mortgage insurer's request submitted under subsection (3) of this section.

(6) Any waiver granted by the director under subsection (3) of this section is:

(a) In effect for a specified period of time, not to exceed two years. The mortgage insurer may request an extension of the waiver for a period not exceeding two additional years, and the director shall review the extension request based upon the factors set forth in subsection (4) of this section.

(b) Subject to any terms and conditions that the director considers necessary to restore the mortgage insurer's policyholders' position to 25 or lower as required by subsection (2) of this section.

(7) The director may adopt rules to carry out the provisions of this section.

(8) The director shall charge a fee for a waiver request under this section designed to reimburse the Department of Consumer and Business Services for all costs incurred by the department in reviewing the waiver request.

SECTION 2. If a mortgage insurer whose policyholders' position exceeds or is expected to exceed the limit set forth in ORS 731.516, as amended by section 1 of this 2010 Act, on or within 70 days of the effective date of this 2010 Act requests a waiver from the Director of the Department of Consumer and Business Services within 10 days after the effective date of this 2010 Act, the mortgage insurer shall be deemed to have complied with the notice requirements of ORS 731.516 (3)(b).

SECTION 3. This 2010 Act being necessary for the immediate preservation of the public

1   **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**

2   **on its passage.**

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