

# House Bill 3654

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 **as introduced**.

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.

## A BILL FOR AN ACT

1  
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.**

28 (b) **The extent to which the mortgage insurer's business is diversified across time, ge-**  
29 **ography, credit quality, origination and distribution channels.**

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

**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 (d) The quality, diversification and liquidity of the mortgage insurer's assets and invest-  
2 ment portfolio.

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

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

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

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

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

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

14 (k) The capital contributions that have been invested or are available for future invest-  
15 ment in the mortgage insurer.

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

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

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

23 (a) In effect for a specified period of time, not to exceed two years, unless the director  
24 determines that a longer period is reasonable and justified under the circumstances; and

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

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

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

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

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