

Senate Bill 1002

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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**.

Increases annuity coverage by Oregon Life and Health Insurance Guaranty Association from \$100,000 to \$250,000.

Declares emergency, effective upon passage.

A BILL FOR AN ACT

Relating to annuities; amending ORS 734.810; and declaring an emergency.

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

SECTION 1. ORS 734.810 is amended to read:

734.810. In addition to the other powers and duties enumerated in ORS 734.750 to 734.890:

(1) If a domestic insurer is an impaired insurer, the Oregon Life and Health Insurance Guaranty Association may, subject to any conditions imposed by the association and approved by the impaired insurer and the Director of the Department of Consumer and Business Services, other than those which impair the contractual obligations of the impaired insurer:

(a) Guarantee or reinsure, or cause to be guaranteed, assumed, or reinsured, any or all of the covered policies of the impaired insurer.

(b) Provide such money, pledges, notes, guarantees or other means as are proper to implement paragraph (a) of this subsection and assure payment of the contractual obligations of the impaired insurer pending action under paragraph (a) of this subsection.

(c) Loan money to the impaired insurer.

(2) If a member insurer is an insolvent insurer, the association shall, subject to the approval of the director:

(a) Guarantee, assume, or reinsure, or cause to be guaranteed, assumed, or reinsured, the covered policies of the insolvent insurer;

(b) Assure payment of the contractual obligations of the insolvent insurer; and

(c) Provide such money, pledges, notes, guarantees or other means as are reasonably necessary to discharge such duties.

(3)(a) In carrying out its duties under subsection (2) of this section, **the association may impose** permanent policy liens or contract liens [*may be imposed*] in connection with any guaranteed, assumption or reinsurance agreement, if the court **considering the lien** finds that the amounts which can be assessed under ORS 734.750 to 734.890 are less than the amounts needed to assure full and prompt performance of the insolvent insurer's contractual obligations or that the economic or financial conditions affecting member insurers are sufficiently adverse to render the imposition of policy or contract liens to be in the public interest, and approves the specific policy liens or contract liens to be used.

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 (b) Before being obligated under subsection (2) of this section the association may request that
 2 there be imposed temporary moratoriums or liens on payments of cash values and policy loans, in
 3 addition to any contractual provisions for deferral of cash or policy loan values, and such temporary
 4 moratoriums and liens may be imposed if they are approved by the court.

5 (4) If the association fails to act as required in subsection (2) of this section within a reasonable
 6 time, the director shall have the powers and duties of the association under ORS 734.750 to 734.890
 7 with respect to insolvent insurers.

8 (5) The association may render assistance and advice to the director, upon request of the di-
 9 rector, concerning rehabilitation, payment of claims, continuance of coverage or the performance
 10 of other contractual obligations of any impaired or insolvent insurer.

11 (6) The association shall have standing to appear before any court in this state having juris-
 12 diction over an impaired or insolvent insurer concerning which the association is or may become
 13 obligated under ORS 734.750 to 734.890. Such standing shall extend to all matters germane to the
 14 powers and duties of the association including, but not limited to, proposals for reinsuring or guar-
 15 anteeing the covered policies of the impaired or insolvent insurer and the determination of the
 16 covered policies and contractual obligations. The association may also appear or intervene before
 17 a court in another state with jurisdiction over an impaired or insolvent insurer for which the asso-
 18 ciation is or may become obligated or with jurisdiction over a third party against whom the asso-
 19 ciation may have rights through subrogation of the policyholders of the insurer.

20 (7)(a) Any person receiving benefits under ORS 734.750 to 734.890 shall be considered to have
 21 assigned the rights under, and any causes of action relating to, the covered policy to the association
 22 to the extent of the benefits received because of ORS 734.750 to 734.890, whether the benefits are
 23 payments of or on account of contractual obligations or continuation of coverage. The association
 24 may require an assignment to it of such rights by any payee, policy or contract owner, beneficiary,
 25 insured or annuitant as a condition precedent to the receipt of any rights or benefits conferred by
 26 ORS 734.750 to 734.890 upon such person. The association shall be subrogated to these rights against
 27 the assets of any insolvent insurer.

28 (b) The subrogation rights of the association under this subsection shall have the same priority
 29 against the assets of the insolvent insurer as that possessed by the person entitled to receive bene-
 30 fits under ORS 734.750 to 734.890.

31 (8) The contractual obligations of the insolvent insurer for which the association becomes or
 32 may become liable shall not exceed the lesser of:

33 (a) The contractual obligations for which the insurer is liable or would have been liable if it
 34 were not an insolvent insurer, unless such obligations are reduced as permitted by subsection (3)
 35 of this section; or

36 (b) The applicable following benefits, subject to subsection (9) of this section:

37 (A) \$300,000 in life insurance death benefits, but not more than \$100,000 in net cash surrender
 38 and net cash withdrawal values for life insurance, with respect to any one life, regardless of the
 39 number of policies or contracts.

40 (B) \$100,000 in health insurance benefits, including any net cash surrender and net cash with-
 41 drawal values, with respect to any one life, regardless of the number of policies or contracts.

42 (C) [~~\$100,000~~] **\$250,000** in the present value of annuity benefits, including net cash surrender and
 43 net cash withdrawal values, with respect to any one life, regardless of the number of policies or
 44 contracts.

45 (D) [~~\$100,000~~] **\$250,000** in present value annuity benefits, in the aggregate, including net cash

1 surrender and net cash withdrawal values, with respect to each individual participating in a gov-
2 ernmental retirement plan established under section 401, 403(b) or 457 of the United States Internal
3 Revenue Code covered by an unallocated annuity contract or the beneficiaries of each such indi-
4 vidual if deceased.

5 (9) The association shall not be liable for more than \$300,000 in the aggregate with respect to
6 any one individual under subsection (8)(b) of this section.

7 (10) Subject to the applicable limitation with respect to any one individual under subsections (8)
8 and (9) of this section, the benefits for which the association may become liable with respect to any
9 one owner of policies or contracts other than an unallocated annuity contract to which subsection
10 (8)(b)(D) of this section applies, whether the owner is an individual, corporation or other person,
11 shall not exceed \$5 million in benefits in the aggregate for all persons covered by such policies or
12 contracts, regardless of the number of the policies and contracts held by the owner.

13 (11) The association may:

14 (a) Enter into such contracts as are necessary or proper to carry out the provisions and pur-
15 poses of ORS 734.750 to 734.890.

16 (b) Sue or be sued, including taking any legal actions necessary or proper for recovery of any
17 unpaid assessments under ORS 734.815.

18 (c) Borrow money to effect the purposes of ORS 734.750 to 734.890. Any notes or other evidence
19 of indebtedness of the association not in default shall be legal investments for domestic insurers and
20 may be carried as admitted assets.

21 (d) Employ or retain such persons as are necessary to handle the financial transactions of the
22 association, and to perform such other functions as become necessary or proper under ORS 734.750
23 to 734.890.

24 (e) Negotiate and contract with any liquidator, rehabilitator, conservator or ancillary receiver
25 to carry out the powers and duties of the association.

26 (f) Take such legal action as may be necessary to avoid payment of improper claims.

27 (g) Exercise, for the purposes of ORS 734.750 to 734.890 and to the extent approved by the di-
28 rector, the powers of a domestic life or health insurer, but in no case may the association issue
29 policies other than those issued to perform the contractual obligations of the impaired or insolvent
30 insurer.

31 **SECTION 2. This 2010 Act being necessary for the immediate preservation of the public**
32 **peace, health and safety, an emergency is declared to exist, and this 2010 Act takes effect**
33 **on its passage.**

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