

# House Bill 3389

Sponsored by Representative ESQUIVEL; Representatives FREEMAN, G SMITH

## 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**.

Exempts from application of insurance code sale of policies or certificates of health insurance in this state by insurers licensed to transact insurance in another state.

## A BILL FOR AN ACT

Relating to health insurance; creating new provisions; and amending ORS 731.036.

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

**SECTION 1.** ORS 731.036 is amended to read:

731.036. The Insurance Code does not apply to any of the following to the extent of the subject matter of the exemption:

(1) A bail bondsman, other than a corporate surety and its agents.

(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years prior to January 1, 1961, and for which a certificate of authority was not required on that date.

(3) A religious organization providing insurance benefits only to its employees, which organization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal Revenue Code on September 13, 1975.

(4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for tort liability in accordance with ORS 30.282.

(5) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a self-insurance program for property damage in accordance with ORS 30.282.

(6) Cities, counties, school districts, community college districts, community college service districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure for health insurance coverage, excluding disability insurance, their employees or retired employees, or their dependents, or students engaged in school activities, or combination of employees and dependents, with or without employee or student contributions, if all of the following conditions are met:

(a) The individual or jointly self-insured program meets the following minimum requirements:

(A) In the case of a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals;

(B) In the case of an individual public body program other than a school district, community college district or community college service district, the number of covered employees and dependents and retired employees and dependents aggregates at least 500 individuals; and

(C) In the case of a joint program of two or more public bodies, the number of covered em-

**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 employees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

2 (b) The individual or jointly self-insured health insurance program includes all coverages and  
3 benefits required of group health insurance policies under ORS chapters 743 and 743A;

4 (c) The individual or jointly self-insured program must have program documents that define  
5 program benefits and administration;

6 (d) Enrollees must be provided copies of summary plan descriptions including:

7 (A) Written general information about services provided, access to services, charges and sched-  
8 uling applicable to each enrollee's coverage;

9 (B) The program's grievance and appeal process; and

10 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-  
11 tablished under ORS chapters 743 and 743A;

12 (e) The financial administration of an individual or jointly self-insured program must include the  
13 following requirements:

14 (A) Program contributions and reserves must be held in separate accounts and used for the ex-  
15 clusive benefit of the program;

16 (B) The program must maintain adequate reserves. Reserves may be invested in accordance with  
17 the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper  
18 actuarial calculations including the following:

19 (i) Known claims, paid and outstanding;

20 (ii) A history of incurred but not reported claims;

21 (iii) Claims handling expenses;

22 (iv) Unearned contributions; and

23 (v) A claims trend factor; and

24 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-  
25 cordance with the provisions of ORS 742.065 unless the program has received written approval for  
26 an alternative arrangement for protection against economic loss from the Director of the Depart-  
27 ment of Consumer and Business Services;

28 (f) The individual or jointly self-insured program must have sufficient personnel to service the  
29 employee benefit program or must contract with a third party administrator licensed under ORS  
30 chapter 744 as a third party administrator to provide such services;

31 (g) The individual or jointly self-insured program shall be subject to assessment in accordance  
32 with ORS 735.614 and 743.951 and former enrollees shall be eligible for portability coverage in ac-  
33 cordance with ORS 735.616;

34 (h) The public body, or the program administrator in the case of a joint insurance program of  
35 two or more public bodies, files with the Director of the Department of Consumer and Business  
36 Services copies of all documents creating and governing the program, all forms used to communicate  
37 the coverage to beneficiaries, the schedule of payments established to support the program and,  
38 annually, a financial report showing the total incurred cost of the program for the preceding year.  
39 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing  
40 requirement; and

41 (i) Each public body in a joint insurance program is liable only to its own employees and no  
42 others for benefits under the program in the event, and to the extent, that no further funds, in-  
43 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

44 (7) All ambulance services.

45 (8) A person providing any of the services described in this subsection. The exemption under this

1 subsection does not apply to an authorized insurer providing such services under an insurance pol-  
 2 icy. This subsection applies to the following services:

3 (a) Towing service.

4 (b) Emergency road service, which means adjustment, repair or replacement of the equipment,  
 5 tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated  
 6 under its own power.

7 (c) Transportation and arrangements for the transportation of human remains, including all  
 8 necessary and appropriate preparations for and actual transportation provided to return a  
 9 decedent's remains from the decedent's place of death to a location designated by a person with  
 10 valid legal authority under ORS 97.130.

11 (9)(a) A person described in this subsection who, in an agreement to lease or to finance the  
 12 purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in par-  
 13 agraph (b) of this subsection upon total loss of the motor vehicle because of physical damage, theft  
 14 or other occurrence, as specified in the agreement. The exemption established in this subsection  
 15 applies to the following persons:

16 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-  
 17 stallment contract.

18 (B) The lessor of the motor vehicle.

19 (C) The lender who finances the purchase of the motor vehicle.

20 (D) The assignee of a person described in this paragraph.

21 (b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,  
 22 between the amount received by the seller, lessor, lender or assignee, as applicable, which repres-  
 23 ents the actual cash value of the motor vehicle at the date of loss, and the amount owed under the  
 24 agreement.

25 (10) A self-insurance program for tort liability or property damage that is established by two or  
 26 more affordable housing entities and that complies with the same requirements that public bodies  
 27 must meet under ORS 30.282 (6). As used in this subsection:

28 (a) "Affordable housing" means housing projects in which some of the dwelling units may be  
 29 purchased or rented, with or without government assistance, on a basis that is affordable to indi-  
 30 viduals of low income.

31 (b) "Affordable housing entity" means any of the following:

32 (A) A housing authority created under the laws of this state or another jurisdiction and any  
 33 agency or instrumentality of a housing authority, including but not limited to a legal entity created  
 34 to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

35 (B) A nonprofit corporation that is engaged in providing affordable housing.

36 (C) A partnership or limited liability company that is engaged in providing affordable housing  
 37 and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or  
 38 a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or  
 39 nonprofit corporation:

40 (i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-  
 41 ited liability company;

42 (ii) Has the power to direct the management or policies of the partnership or limited liability  
 43 company;

44 (iii) Has entered into a contract to lease, manage or operate the affordable housing owned by  
 45 the partnership or limited liability company; or

1 (iv) Has any other material relationship with the partnership or limited liability company.

2 (11) A community-based health care initiative approved by the Administrator of the Office for  
3 Oregon Health Policy and Research under ORS 735.723 operating a community-based health care  
4 improvement program approved by the administrator.

5 **(12) A foreign insurer that is licensed in another state to transact insurance, with re-**  
6 **spect to the sale by the insurer in this state of a policy or certificate of insurance that is**  
7 **otherwise subject to ORS chapter 743A.**

8 **SECTION 2. The amendments to ORS 731.036 by section 1 of this 2011 Act apply to the**  
9 **sale of a policy or certificate of insurance on or after the effective date of this 2011 Act.**

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