

Senate Bill 776

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND ECONOMIC DEVELOPMENT

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**.

Adopts model legislation from National Association of Insurance Commissioners for adjuster licensing, with modifications.

A BILL FOR AN ACT

1
2 Relating to insurance adjusters; creating new provisions; amending ORS 192.502, 446.676, 744.001,
3 744.002, 744.003, 744.004, 744.007, 744.008, 744.009, 744.013, 744.014, 744.018, 744.022, 744.024,
4 744.026, 744.028, 744.031, 744.033, 744.074, 744.528, 744.535, 744.555, 744.704, 746.275, 819.482,
5 822.015, 822.070 and 822.105; and repealing ORS 744.505, 744.515, 744.525, 744.531, 744.538 and
6 744.541.

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

8 **SECTION 1. Sections 2 to 10 of this 2011 Act are added to and made a part of the In-**
9 **urance Code.**

10 **SECTION 2. As used in sections 2 to 10 of this 2011 Act:**

11 (1) **“Adjuster” means an individual, a business entity, an independent contractor or an**
12 **employee of an independent contractor who:**

13 (a) **Investigates, negotiates or settles property, casualty or workers’ compensation claims**
14 **for insurers or self-insurers;**

15 (b) **Contracts for compensation from insurers or self-insurers; and**

16 (c) **If an individual, is treated by the insurer or self-insurer as an independent contractor,**
17 **not as an employee, under the Internal Revenue Code.**

18 (2) **“Automated claims adjudication system” means a preprogrammed computer system**
19 **designed for the collection, data entry, calculation and final resolution of property insurance**
20 **claims that:**

21 (a) **May be utilized only by a licensed adjuster, licensed producer or individuals supervised**
22 **by a licensed adjuster or licensed producer;**

23 (b) **Must comply with all provisions of the Insurance Code; and**

24 (c) **Must be certified as compliant with sections 2 to 10 of this 2011 Act by a licensed**
25 **adjuster who is an officer of a licensed business entity.**

26 (3) **“Business entity” has the meaning given that term in ORS 731.116.**

27 (4) **“Catastrophe” means an event, declared by the Governor, that results in a large**
28 **number of deaths or injuries, causes extensive damage or destruction of facilities that sus-**
29 **tain human needs, produces an overwhelming demand on state and local emergency response**
30 **resources and mechanisms, causes a severe long-term effect on general activity and severely**
31 **affects state, local and private sector capabilities to begin and sustain emergency response**

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 activities.

2 (5) "Home state" means the District of Columbia or any state or territory of the United
3 States in which an adjuster maintains a principal place of business or principal place of res-
4 idence and is licensed to act as a resident adjuster. If the state of residence of the adjuster
5 does not license adjusters for the class of insurance sought, the adjuster may designate as
6 a home state any state in which the adjuster is licensed and in good standing.

7 **SECTION 3.** A person may not act or attempt to act as an adjuster in this state unless
8 the person is licensed as an adjuster by the Director of the Department of Consumer and
9 Business Services or is exempt from licensure as an adjuster under section 4 of this 2011
10 Act.

11 **SECTION 4.** (1) A license as an adjuster is not required for:

12 (a) Attorneys admitted to practice in this state, when acting in their professional ca-
13 pacity as an attorney;

14 (b) An individual employed solely to obtain facts surrounding a claim or to furnish tech-
15 nical assistance to a licensed adjuster;

16 (c) An individual who is employed to investigate suspected fraudulent insurance claims
17 but who does not adjust losses or determine claims payments;

18 (d) An individual who performs duties that are solely executive, administrative, manage-
19 rial or clerical or some combination thereof and who does not investigate, negotiate or settle
20 claims with policyholders, claimants or the legal representatives of policyholders or claim-
21 ants;

22 (e) A licensed health care provider or the provider's employee providing managed care
23 services, if the services do not include determination of compensability;

24 (f) A managed care organization or the organization's employee providing managed care
25 services, if the services do not include determination of compensability;

26 (g) An individual who settles only reinsurance or subrogation claims;

27 (h) An officer, director, manager or employee of an authorized insurer, surplus lines
28 insurer or risk retention group or an attorney-in-fact of a reciprocal insurer;

29 (i) A manager of the United States branch of an alien insurer;

30 (j) An individual who investigates, negotiates or settles life, accident and health, annuity
31 or disability insurance claims;

32 (k) An individual employee, under a self-insured arrangement, who adjusts claims on be-
33 half of an employer;

34 (L) A licensed insurance producer, attorney-in-fact of a reciprocal insurer or managing
35 general insurance producer of an insurer, to whom claim authority has been granted by the
36 insurer;

37 (m) An individual authorized to adjust workers' compensation or disability claims under
38 the authority of a third party administrator license pursuant to ORS 744.700 to 744.740; or

39 (n) An individual who collects claim information from, or furnishes claim information to,
40 insureds or claimants and who conducts data entry, including entering data into an auto-
41 mated claims adjudication system, if that individual is an employee of a licensed adjuster or
42 its affiliate where no more than 25 such persons are under the supervision of:

43 (A) One licensed adjuster; or

44 (B) One licensed insurance producer who is otherwise exempt from licensure under par-
45 agraph (L) of this subsection.

1 (2) A person may make one adjustment before obtaining an adjuster's license if the per-
2 son applies for the license within two days after entering upon the adjustment and in all
3 other respects complies with sections 2 to 10 of this 2011 Act.

4 (3) A person holding a temporary permit issued under ORS 744.555 may perform acts
5 authorized under ORS 744.555 without obtaining an adjuster's license.

6 (4) Any average adjuster or adjuster of maritime losses may adjust maritime losses
7 without obtaining an adjuster's license.

8 (5) A person may perform or provide repair or replacement service under home pro-
9 tection insurance without obtaining an adjuster's license.

10 **SECTION 5.** (1) An individual applying for a resident adjuster license must file an appli-
11 cation with the Director of the Department of Consumer and Business Services on the ap-
12 propriate uniform individual application published by the National Association of Insurance
13 Commissioners and approved by the director, and declare under penalty of suspension, re-
14 vocation or refusal of the license that the statements made in the application are true, cor-
15 rect and complete to the best of the individual's knowledge and belief. Before approving the
16 application, the director must find that the individual:

17 (a) Is at least 18 years of age;

18 (b) Is eligible to designate this state as the individual's home state, except that a resident
19 of Canada is not required to comply with this paragraph;

20 (c) Is trustworthy, reliable and of good reputation, evidence of which shall be determined
21 by the director;

22 (d) Has not committed an act that is a ground for probation, suspension, revocation or
23 refusal of an adjuster license as set forth in section 8 of this 2011 Act;

24 (e) Has completed a prelicensing course of study for the classes of insurance for which
25 the individual has applied;

26 (f) Has successfully passed the examination for the classes of insurance for which the
27 individual has applied; and

28 (g) Has paid an application fee set by the director.

29 (2) A business entity applying for a resident adjuster license shall file an application with
30 the director on the appropriate uniform business entity application published by the National
31 Association of Insurance Commissioners and adopted by the director, and declare under
32 penalty of suspension, revocation or refusal of the license that the statements made in the
33 application are true, correct and complete to the best of the business entity's knowledge and
34 belief. Before approving the application, the director must find that the business entity:

35 (a) Is eligible to designate this state as its home state;

36 (b) Has designated a licensed adjuster responsible for the business entity's compliance
37 with the insurance laws and rules of this state;

38 (c) Has not committed an act that is a ground for probation, suspension, revocation or
39 refusal of an adjuster license as set forth in section 8 of this 2011 Act;

40 (d) Has paid an application fee set by the director; and

41 (e) Has submitted the names, addresses, Social Security numbers, administrative histo-
42 ries, criminal background checks, biographical statements and, if required by the director,
43 fingerprints of all executive officers and directors of the applicant and of all executive offi-
44 cers and directors of entities owning or of any individuals owning, directly or indirectly,
45 more than 50 percent of the outstanding voting securities of the applicant.

1 (3) In making a determination of license eligibility, the director may require fingerprints
2 of individual applicants and may submit the fingerprints and the fee required to perform or
3 have performed a criminal background check.

4 (4) The director shall perform or have performed a criminal background check on each
5 individual applicant for an adjuster license.

6 (5) The director shall treat and maintain an applicant's fingerprints and any criminal
7 background check as confidential and shall apply security measures for the electronic stor-
8 age of fingerprints and necessary identifying information. The director shall limit the use of
9 the fingerprints and any criminal background check solely for the purposes authorized by
10 this section. The fingerprints and criminal background information are not subject to
11 subpoena, other than a subpoena issued in a criminal action or investigation.

12 (6) The director may require any other documents reasonably necessary to verify the
13 information contained in the application.

14 (7) The director shall, by rule, set the term of the license and any requirements neces-
15 sary for renewal of the license, including payment of a renewal fee set by the director.

16 **SECTION 6.** (1) Unless denied licensure pursuant to section 8 of this 2011 Act, persons
17 that have met the requirements of section 5 of this 2011 Act shall be issued a resident
18 adjuster license. An adjuster may qualify for a license in one or more of the following classes
19 of insurance:

20 (a) Property and casualty;

21 (b) Workers' compensation; and

22 (c) Any other class of insurance designated by the Director of the Department of Con-
23 sumer and Business Services by rule.

24 (2) Any individual holding an adjuster license is not required to hold any other insurance
25 or self-insurance administrator license in this state.

26 (3) An adjuster license shall remain in effect, unless made subject to probation, sus-
27 pended, revoked or refused, until the license expires and may be renewed subject to section
28 5 of this 2011 Act.

29 (4) An adjuster whose license expires may, within 12 months after the renewal date, be
30 reissued an adjuster license upon receipt of a renewal request, as prescribed by the director.
31 However, a penalty in the amount of double the unpaid renewal fee must be paid to reissue
32 the expired license.

33 (5) An adjuster who is unable to comply with the license renewal procedures and re-
34 quirements due to military service, long-term medical disability or some other extenuating
35 circumstance may request a waiver of the procedures and requirements and a waiver of any
36 examination requirement, fine or other sanction imposed for failure to comply with renewal
37 requirements.

38 (6) The adjuster must inform the director by any means acceptable to the director of any
39 change in residence or business address for the adjuster's home state or in legal name within
40 30 days after the change.

41 (7) The adjuster license must contain the licensee's name and address, a personal iden-
42 tification number, the date of issuance, the date of expiration and any other information the
43 director deems necessary.

44 (8) To assist in the performance of the director's duties, the director may contract with
45 nongovernmental entities, including the National Association of Insurance Commissioners,

1 its affiliates or subsidiaries, to perform any administrative functions, including collection of
2 fees and data related to licensing that the director deems appropriate.

3 **SECTION 7.** (1) An individual who applies for an adjuster license in this state who is or
4 was the holder in good standing of a license in another state for the same class or classes
5 of insurance based upon an adjuster examination is not required to complete any prelicensing
6 education or examination requirements set forth in section 5 of this 2011 Act. This exemption
7 applies if:

8 (a) The individual is currently licensed in another state; or

9 (b) The individual holds an expired license in another state and an application for an
10 adjuster license is received by the Director of the Department of Consumer and Business
11 Services within 90 days after the date of expiration.

12 (2) An individual licensed as an adjuster in another state based upon an adjuster exam-
13 ination who establishes legal residency in this state must apply within 90 days after estab-
14 lishing legal residency to become a resident adjuster licensee pursuant to section 6 of this
15 2011 Act.

16 (3) An individual who is a resident of Canada and who applies for an adjuster license in
17 this state must complete all prelicensing education and examination requirements set forth
18 in section 5 of this 2011 Act.

19 **SECTION 8.** (1) The Director of the Department of Consumer and Business Services may
20 place a licensee on probation, suspend, revoke or refuse to issue or renew an adjuster's li-
21 cense or may impose a civil penalty in accordance with ORS 731.988 for any of the following
22 causes:

23 (a) Providing incorrect, misleading, incomplete or materially untrue information in a li-
24 cense application;

25 (b) Violating any insurance law or any rule, subpoena or order of the director or of an-
26 other state's insurance commissioner;

27 (c) Obtaining or attempting to obtain a license through misrepresentation or fraud;

28 (d) Improperly withholding, misappropriating or converting any moneys or properties
29 received in the course of doing insurance business;

30 (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract
31 or application for insurance;

32 (f) Having been convicted of a felony;

33 (g) Having admitted committing or been found to have committed an insurance unfair
34 trade practice or insurance fraud;

35 (h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence,
36 untrustworthiness or financial irresponsibility in the conduct of insurance business in this
37 state or elsewhere;

38 (i) Having an insurance license or its equivalent made subject to probation, suspended,
39 revoked or refused in any other state, province, district or territory;

40 (j) Forging another's name in any document related to an insurance transaction;

41 (k) Cheating, including improperly using notes or any other reference material, to com-
42 plete an examination for an insurance license;

43 (L) Failing to comply with an administrative or court order imposing a child support ob-
44 ligation; or

45 (m) Failing to pay state income tax or comply with any administrative or court order

1 directing payment of state income tax that remains unpaid.

2 (2) If the director refuses an application for licensure or renewal of an existing license,
3 the director shall notify the applicant or licensee in writing advising the applicant or licensee
4 of the reason for the refusal. The applicant or licensee may make a written demand upon the
5 director within 30 days after notification for a hearing before the director to determine the
6 reasonableness of the refusal. The hearing must be held within 30 days after the director
7 receives the written demand and must be held pursuant to ORS 731.240.

8 (3) The adjuster license of a business entity may be subject to probation, suspended, re-
9 voked or refused if the director finds, after a hearing held pursuant to ORS 731.240, that:

10 (a) The designated licensed adjuster for the business entity committed the violation while
11 acting on the business entity's behalf or representing the business entity;

12 (b) The violation was known or should have been known by at least one of the business
13 entity's executive officers, directors or managers; and

14 (c) The violation was not reported to the Director of the Department of Consumer and
15 Business Services, or the business entity did not take action to correct the violation.

16 (4) In addition to or instead of any applicable probation, suspension, revocation or re-
17 fusal, a business entity may, after a hearing, be subject to a civil penalty pursuant to ORS
18 731.988.

19 (5) The director may enforce the provisions of sections 2 to 10 of this 2011 Act and any
20 rule adopted under sections 2 to 10 of this 2011 Act even if the person's adjuster license has
21 been surrendered or has expired by operation of law.

22 **SECTION 9.** An adjuster shall retain a copy of each contract between the adjuster and
23 an insurer or self-insurer and comply with the record retention policy as agreed to in that
24 contract.

25 **SECTION 10.** (1) An adjuster must report to the Director of the Department of Consumer
26 and Business Services any administrative action taken against the adjuster in another ju-
27 risdiction or by another governmental agency in this state within 30 days after the final
28 disposition of the matter. The report must include a copy of the order, consent order and
29 any other relevant legal documents.

30 (2) The adjuster must report to the director any criminal conviction against the adjuster
31 in this state or any other jurisdiction within 30 days after the final disposition of the criminal
32 matter. The report must include a copy of the initial complaint filed, the judgment of con-
33 viction and any other relevant legal documents.

34 **SECTION 11.** ORS 744.528 is amended to read:

35 744.528. (1) A person who resides in another state or a province of Canada and is licensed in
36 that state or province as an adjuster may be licensed to act as a nonresident adjuster in this state
37 as provided in this section if the state or province in which the person resides gives the same
38 privilege to a resident adjuster of this state.

39 (2) An applicant for a license to act as a nonresident adjuster must do the following:

40 [(a) Apply for the license on forms designed and furnished by the Director of the Department of
41 Consumer and Business Services as provided in ORS 744.001.]

42 [(b) If the applicant is an individual, pass an examination required by ORS 744.535.]

43 (a) Apply for the license on forms furnished by the Director of the Department of Con-
44 sumer and Business Services as provided in section 5 of this 2011 Act.

45 (b) If the applicant is a business entity, provide the names, addresses, Social Security

1 **numbers, administrative histories, criminal background checks, biographical statements and**
 2 **fingerprints of all executive officers and directors of the applicant and of all executive offi-**
 3 **cers and directors of entities owning or of any individuals owning, directly or indirectly,**
 4 **more than 50 percent of the outstanding voting securities of the applicant.**

5 **(3) As a condition of the nonresident adjuster license, the licensee must maintain a res-**
 6 **ident adjuster license in the licensee's home state or province. The nonresident adjuster li-**
 7 **cence issued under this section terminates and must be surrendered immediately to the**
 8 **director if the licensee's resident adjuster license terminates for any reason other than the**
 9 **issuance of a new resident adjuster license in the licensee's home state or province.**

10 **SECTION 12.** ORS 744.535 is amended to read:

11 744.535. (1) The Director of the Department of Consumer and Business Services shall give an
 12 examination to each individual applicant for a license as an adjuster **unless exempt pursuant to**
 13 **section 7 of this 2011 Act.** The examination must test the qualifications and competence of the
 14 applicant and the knowledge of the applicant with respect to the classes of insurance that may be
 15 dealt with under the license and with respect to the duties and responsibilities of an adjuster under
 16 the laws of this state.

17 *[(2) The requirement of an examination under subsection (1) of this section shall not apply to an*
 18 *applicant who is licensed as an independent adjuster in another state that licenses adjusters of this*
 19 *state without examination.]*

20 *[(3)]* **(2)** The director shall give examinations at such times and places within the state as the
 21 director deems necessary to reasonably serve the best interests of all concerned, provided that the
 22 director shall give an examination at least once every six months if applications for licenses are
 23 then pending.

24 **(3) The director shall require payment of an examination fee by an applicant in an**
 25 **amount determined by the director to compensate the Department of Consumer and Busi-**
 26 **ness Services for the cost of administering the examination.**

27 **(4) The director may make arrangement, including contracting with an outside testing**
 28 **service, for administering examinations and collecting any required examination fee.**

29 **(5) An individual who fails to appear for the examination as scheduled or fails to pass the**
 30 **examination must reapply and submit all required fees and application materials before being**
 31 **rescheduled for another examination.**

32 **SECTION 13.** ORS 744.555 is amended to read:

33 744.555. (1) To facilitate the settlement of claims under insurance policies when there is wide-
 34 spread property loss in this state arising out of a catastrophe, the Director of the Department of
 35 Consumer and Business Services may issue a temporary permit to any person authorized in another
 36 state to adjust losses claimed under insurance policies to act as an adjuster in the catastrophe area
 37 for or against an authorized insurer. A temporary permit issued pursuant to this section shall be
 38 effective for such time as the director determines necessary and shall be in lieu of the license and
 39 fee requirements otherwise applicable.

40 (2) A temporary permit may be obtained by filing with the director a written application therefor
 41 in the form prescribed by the director. The application shall contain the name, *[and]* address **and**
 42 **Social Security number** of the applicant, **the name of the insurer that the applicant will rep-**
 43 **resent, the effective date of the contract between the insurer and the applicant,** the name of
 44 the state in which the applicant is authorized to adjust losses claimed under insurance policies and
 45 any other information the director may require.

1 (3) Such a permit may also be issued in respect to any adjuster who is licensed or permitted to
2 act as such in the state of domicile of the adjuster and who is sent into this state on behalf of an
3 authorized insurer or insured for the purpose of investigating or making adjustment of a particular
4 loss under policies of insurance.

5 **(4) A person that is otherwise qualified to adjust losses claimed under insurance policies,**
6 **but is not licensed in this state at the time a catastrophe is declared, may act as an emer-**
7 **gency adjuster for up to five days prior to submitting the application for a temporary**
8 **adjuster permit under this section.**

9 **SECTION 14.** ORS 192.502, as amended by section 15, chapter 76, Oregon Laws 2010, is
10 amended to read:

11 192.502. The following public records are exempt from disclosure under ORS 192.410 to 192.505:

12 (1) Communications within a public body or between public bodies of an advisory nature to the
13 extent that they cover other than purely factual materials and are preliminary to any final agency
14 determination of policy or action. This exemption shall not apply unless the public body shows that
15 in the particular instance the public interest in encouraging frank communication between officials
16 and employees of public bodies clearly outweighs the public interest in disclosure.

17 (2) Information of a personal nature such as but not limited to that kept in a personal, medical
18 or similar file, if public disclosure would constitute an unreasonable invasion of privacy, unless the
19 public interest by clear and convincing evidence requires disclosure in the particular instance. The
20 party seeking disclosure shall have the burden of showing that public disclosure would not consti-
21 tute an unreasonable invasion of privacy.

22 (3) Public body employee or volunteer addresses, Social Security numbers, dates of birth and
23 telephone numbers contained in personnel records maintained by the public body that is the em-
24 ployer or the recipient of volunteer services. This exemption:

25 (a) Does not apply to the addresses, dates of birth and telephone numbers of employees or vol-
26 unteers who are elected officials, except that a judge or district attorney subject to election may
27 seek to exempt the judge's or district attorney's address or telephone number, or both, under the
28 terms of ORS 192.445;

29 (b) Does not apply to employees or volunteers to the extent that the party seeking disclosure
30 shows by clear and convincing evidence that the public interest requires disclosure in a particular
31 instance;

32 (c) Does not apply to a substitute teacher as defined in ORS 342.815 when requested by a pro-
33 fessional education association of which the substitute teacher may be a member; and

34 (d) Does not relieve a public employer of any duty under ORS 243.650 to 243.782.

35 (4) Information submitted to a public body in confidence and not otherwise required by law to
36 be submitted, where such information should reasonably be considered confidential, the public body
37 has obliged itself in good faith not to disclose the information, and when the public interest would
38 suffer by the disclosure.

39 (5) Information or records of the Department of Corrections, including the State Board of Parole
40 and Post-Prison Supervision, to the extent that disclosure would interfere with the rehabilitation of
41 a person in custody of the department or substantially prejudice or prevent the carrying out of the
42 functions of the department, if the public interest in confidentiality clearly outweighs the public in-
43 terest in disclosure.

44 (6) Records, reports and other information received or compiled by the Director of the Depart-
45 ment of Consumer and Business Services in the administration of ORS chapters 723 and 725 not

1 otherwise required by law to be made public, to the extent that the interests of lending institutions,
2 their officers, employees and customers in preserving the confidentiality of such information out-
3 weighs the public interest in disclosure.

4 (7) Reports made to or filed with the court under ORS 137.077 or 137.530.

5 (8) Any public records or information the disclosure of which is prohibited by federal law or
6 regulations.

7 (9)(a) Public records or information the disclosure of which is prohibited or restricted or other-
8 wise made confidential or privileged under Oregon law.

9 (b) Subject to ORS 192.423, paragraph (a) of this subsection does not apply to factual information
10 compiled in a public record when:

11 (A) The basis for the claim of exemption is ORS 40.225;

12 (B) The factual information is not prohibited from disclosure under any applicable state or fed-
13 eral law, regulation or court order and is not otherwise exempt from disclosure under ORS 192.410
14 to 192.505;

15 (C) The factual information was compiled by or at the direction of an attorney as part of an
16 investigation on behalf of the public body in response to information of possible wrongdoing by the
17 public body;

18 (D) The factual information was not compiled in preparation for litigation, arbitration or an
19 administrative proceeding that was reasonably likely to be initiated or that has been initiated by
20 or against the public body; and

21 (E) The holder of the privilege under ORS 40.225 has made or authorized a public statement
22 characterizing or partially disclosing the factual information compiled by or at the attorney's di-
23 rection.

24 (10) Public records or information described in this section, furnished by the public body ori-
25 ginally compiling, preparing or receiving them to any other public officer or public body in con-
26 nection with performance of the duties of the recipient, if the considerations originally giving rise
27 to the confidential or exempt nature of the public records or information remain applicable.

28 (11) Records of the Energy Facility Siting Council concerning the review or approval of security
29 programs pursuant to ORS 469.530.

30 (12) Employee and retiree address, telephone number and other nonfinancial membership records
31 and employee financial records maintained by the Public Employees Retirement System pursuant to
32 ORS chapters 238 and 238A.

33 (13) Records of or submitted to the State Treasurer, the Oregon Investment Council or the
34 agents of the treasurer or the council relating to active or proposed publicly traded investments
35 under ORS chapter 293, including but not limited to records regarding the acquisition, exchange or
36 liquidation of the investments. For the purposes of this subsection:

37 (a) The exemption does not apply to:

38 (A) Information in investment records solely related to the amount paid directly into an invest-
39 ment by, or returned from the investment directly to, the treasurer or council; or

40 (B) The identity of the entity to which the amount was paid directly or from which the amount
41 was received directly.

42 (b) An investment in a publicly traded investment is no longer active when acquisition, exchange
43 or liquidation of the investment has been concluded.

44 (14)(a) Records of or submitted to the State Treasurer, the Oregon Investment Council, the
45 Oregon Growth Account Board or the agents of the treasurer, council or board relating to actual

1 or proposed investments under ORS chapter 293 or 348 in a privately placed investment fund or a
2 private asset including but not limited to records regarding the solicitation, acquisition, deployment,
3 exchange or liquidation of the investments including but not limited to:

4 (A) Due diligence materials that are proprietary to an investment fund, to an asset ownership
5 or to their respective investment vehicles.

6 (B) Financial statements of an investment fund, an asset ownership or their respective invest-
7 ment vehicles.

8 (C) Meeting materials of an investment fund, an asset ownership or their respective investment
9 vehicles.

10 (D) Records containing information regarding the portfolio positions in which an investment
11 fund, an asset ownership or their respective investment vehicles invest.

12 (E) Capital call and distribution notices of an investment fund, an asset ownership or their re-
13 spective investment vehicles.

14 (F) Investment agreements and related documents.

15 (b) The exemption under this subsection does not apply to:

16 (A) The name, address and vintage year of each privately placed investment fund.

17 (B) The dollar amount of the commitment made to each privately placed investment fund since
18 inception of the fund.

19 (C) The dollar amount of cash contributions made to each privately placed investment fund since
20 inception of the fund.

21 (D) The dollar amount, on a fiscal year-end basis, of cash distributions received by the State
22 Treasurer, the Oregon Investment Council, the Oregon Growth Account Board or the agents of the
23 treasurer, council or board from each privately placed investment fund.

24 (E) The dollar amount, on a fiscal year-end basis, of the remaining value of assets in a privately
25 placed investment fund attributable to an investment by the State Treasurer, the Oregon Investment
26 Council, the Oregon Growth Account Board or the agents of the treasurer, council or board.

27 (F) The net internal rate of return of each privately placed investment fund since inception of
28 the fund.

29 (G) The investment multiple of each privately placed investment fund since inception of the fund.

30 (H) The dollar amount of the total management fees and costs paid on an annual fiscal year-end
31 basis to each privately placed investment fund.

32 (I) The dollar amount of cash profit received from each privately placed investment fund on a
33 fiscal year-end basis.

34 (15) The monthly reports prepared and submitted under ORS 293.761 and 293.766 concerning the
35 Public Employees Retirement Fund and the Industrial Accident Fund may be uniformly treated as
36 exempt from disclosure for a period of up to 90 days after the end of the calendar quarter.

37 (16) Reports of unclaimed property filed by the holders of such property to the extent permitted
38 by ORS 98.352.

39 (17)(a) The following records, communications and information submitted to the Oregon Business
40 Development Commission, the Oregon Business Development Department, the State Department of
41 Agriculture, the Oregon Growth Account Board, the Port of Portland or other ports, as defined in
42 ORS 777.005, by applicants for investment funds, loans or services including, but not limited to,
43 those described in ORS 285A.224:

44 (A) Personal financial statements.

45 (B) Financial statements of applicants.

1 (C) Customer lists.

2 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
3 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
4 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
5 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
6 ery or deposition statutes to a party to litigation or potential litigation.

7 (E) Production, sales and cost data.

8 (F) Marketing strategy information that relates to applicant's plan to address specific markets
9 and applicant's strategy regarding specific competitors.

10 (b) The following records, communications and information submitted to the State Department
11 of Energy by applicants for tax credits:

12 (A) Personal financial statements.

13 (B) Financial statements of applicants.

14 (C) Customer lists.

15 (D) Information of an applicant pertaining to litigation to which the applicant is a party if the
16 complaint has been filed, or if the complaint has not been filed, if the applicant shows that such
17 litigation is reasonably likely to occur; this exemption does not apply to litigation which has been
18 concluded, and nothing in this subparagraph shall limit any right or opportunity granted by discov-
19 ery or deposition statutes to a party to litigation or potential litigation.

20 (E) Production, sales and cost data.

21 (F) Marketing strategy information that relates to applicant's plan to address specific markets
22 and applicant's strategy regarding specific competitors.

23 (18) Records, reports or returns submitted by private concerns or enterprises required by law
24 to be submitted to or inspected by a governmental body to allow it to determine the amount of any
25 transient lodging tax payable and the amounts of such tax payable or paid, to the extent that such
26 information is in a form which would permit identification of the individual concern or enterprise.
27 Nothing in this subsection shall limit the use which can be made of such information for regulatory
28 purposes or its admissibility in any enforcement proceedings. The public body shall notify the tax-
29 payer of the delinquency immediately by certified mail. However, in the event that the payment or
30 delivery of transient lodging taxes otherwise due to a public body is delinquent by over 60 days, the
31 public body shall disclose, upon the request of any person, the following information:

32 (a) The identity of the individual concern or enterprise that is delinquent over 60 days in the
33 payment or delivery of the taxes.

34 (b) The period for which the taxes are delinquent.

35 (c) The actual, or estimated, amount of the delinquency.

36 (19) All information supplied by a person under ORS 151.485 for the purpose of requesting ap-
37 pointed counsel, and all information supplied to the court from whatever source for the purpose of
38 verifying the financial eligibility of a person pursuant to ORS 151.485.

39 (20) Workers' compensation claim records of the Department of Consumer and Business Services,
40 except in accordance with rules adopted by the Director of the Department of Consumer and Busi-
41 ness Services, in any of the following circumstances:

42 (a) When necessary for insurers, self-insured employers and third party claim administrators to
43 process workers' compensation claims.

44 (b) When necessary for the director, other governmental agencies of this state or the United
45 States to carry out their duties, functions or powers.

1 (c) When the disclosure is made in such a manner that the disclosed information cannot be used
2 to identify any worker who is the subject of a claim.

3 (d) When a worker or the worker's representative requests review of the worker's claim record.

4 (21) Sensitive business records or financial or commercial information of the Oregon Health and
5 Science University that is not customarily provided to business competitors.

6 (22) Records of Oregon Health and Science University regarding candidates for the position of
7 president of the university.

8 (23) The records of a library, including:

9 (a) Circulation records, showing use of specific library material by a named person;

10 (b) The name of a library patron together with the address or telephone number of the patron;
11 and

12 (c) The electronic mail address of a patron.

13 (24) The following records, communications and information obtained by the Housing and Com-
14 munity Services Department in connection with the department's monitoring or administration of
15 financial assistance or of housing or other developments:

16 (a) Personal and corporate financial statements and information, including tax returns.

17 (b) Credit reports.

18 (c) Project appraisals.

19 (d) Market studies and analyses.

20 (e) Articles of incorporation, partnership agreements and operating agreements.

21 (f) Commitment letters.

22 (g) Project pro forma statements.

23 (h) Project cost certifications and cost data.

24 (i) Audits.

25 (j) Project tenant correspondence.

26 (k) Personal information about a tenant.

27 (L) Housing assistance payments.

28 (25) Raster geographic information system (GIS) digital databases, provided by private forestland
29 owners or their representatives, voluntarily and in confidence to the State Forestry Department,
30 that is not otherwise required by law to be submitted.

31 (26) Sensitive business, commercial or financial information furnished to or developed by a
32 public body engaged in the business of providing electricity or electricity services, if the information
33 is directly related to a transaction described in ORS 261.348, or if the information is directly related
34 to a bid, proposal or negotiations for the sale or purchase of electricity or electricity services, and
35 disclosure of the information would cause a competitive disadvantage for the public body or its re-
36 tail electricity customers. This subsection does not apply to cost-of-service studies used in the de-
37 velopment or review of generally applicable rate schedules.

38 (27) Sensitive business, commercial or financial information furnished to or developed by the
39 City of Klamath Falls, acting solely in connection with the ownership and operation of the Klamath
40 Cogeneration Project, if the information is directly related to a transaction described in ORS 225.085
41 and disclosure of the information would cause a competitive disadvantage for the Klamath
42 Cogeneration Project. This subsection does not apply to cost-of-service studies used in the develop-
43 ment or review of generally applicable rate schedules.

44 (28) Personally identifiable information about customers of a municipal electric utility or a
45 people's utility district or the names, dates of birth, driver license numbers, telephone numbers,

1 electronic mail addresses or Social Security numbers of customers who receive water, sewer or
 2 storm drain services from a public body as defined in ORS 174.109. The utility or district may re-
 3 lease personally identifiable information about a customer, and a public body providing water, sewer
 4 or storm drain services may release the name, date of birth, driver license number, telephone num-
 5 ber, electronic mail address or Social Security number of a customer, if the customer consents in
 6 writing or electronically, if the disclosure is necessary for the utility, district or other public body
 7 to render services to the customer, if the disclosure is required pursuant to a court order or if the
 8 disclosure is otherwise required by federal or state law. The utility, district or other public body
 9 may charge as appropriate for the costs of providing such information. The utility, district or other
 10 public body may make customer records available to third party credit agencies on a regular basis
 11 in connection with the establishment and management of customer accounts or in the event such
 12 accounts are delinquent.

13 (29) A record of the street and number of an employee's address submitted to a special district
 14 to obtain assistance in promoting an alternative to single occupant motor vehicle transportation.

15 (30) Sensitive business records, capital development plans or financial or commercial information
 16 of Oregon Corrections Enterprises that is not customarily provided to business competitors.

17 (31) Documents, materials or other information submitted to the Director of the Department of
 18 Consumer and Business Services in confidence by a state, federal, foreign or international regulatory
 19 or law enforcement agency or by the National Association of Insurance Commissioners, its affiliates
 20 or subsidiaries under ORS 86A.095 to 86A.198, 86A.990, 86A.992, 697.005 to 697.095, 697.602 to
 21 697.842, 705.137, 717.200 to 717.320, 717.900 or 717.905 **or section 6 of this 2011 Act**, ORS chapter
 22 59, 723, 725 or 726, the Bank Act or the Insurance Code when:

23 (a) The document, material or other information is received upon notice or with an under-
 24 standing that it is confidential or privileged under the laws of the jurisdiction that is the source of
 25 the document, material or other information; and

26 (b) The director has obligated the Department of Consumer and Business Services not to dis-
 27 close the document, material or other information.

28 (32) A county elections security plan developed and filed under ORS 254.074.

29 (33) Information about review or approval of programs relating to the security of:

30 (a) Generation, storage or conveyance of:

31 (A) Electricity;

32 (B) Gas in liquefied or gaseous form;

33 (C) Hazardous substances as defined in ORS 453.005 (7)(a), (b) and (d);

34 (D) Petroleum products;

35 (E) Sewage; or

36 (F) Water.

37 (b) Telecommunication systems, including cellular, wireless or radio systems.

38 (c) Data transmissions by whatever means provided.

39 (34) The information specified in ORS 25.020 (8) if the Chief Justice of the Supreme Court des-
 40 ignates the information as confidential by rule under ORS 1.002.

41 (35)(a) Employer account records of the State Accident Insurance Fund Corporation.

42 (b) As used in this subsection, "employer account records" means all records maintained in any
 43 form that are specifically related to the account of any employer insured, previously insured or un-
 44 der consideration to be insured by the State Accident Insurance Fund Corporation and any infor-
 45 mation obtained or developed by the corporation in connection with providing, offering to provide

1 or declining to provide insurance to a specific employer. “Employer account records” includes, but
 2 is not limited to, an employer’s payroll records, premium payment history, payroll classifications,
 3 employee names and identification information, experience modification factors, loss experience and
 4 dividend payment history.

5 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
 6 discovery documents in litigation pursuant to applicable rules of civil procedure.

7 (36)(a) Claimant files of the State Accident Insurance Fund Corporation.

8 (b) As used in this subsection, “claimant files” includes, but is not limited to, all records held
 9 by the corporation pertaining to a person who has made a claim, as defined in ORS 656.005, and all
 10 records pertaining to such a claim.

11 (c) The exemption provided by this subsection may not serve as the basis for opposition to the
 12 discovery documents in litigation pursuant to applicable rules of civil procedure.

13 (37) Except as authorized by ORS 408.425, records that certify or verify an individual’s discharge
 14 or other separation from military service.

15 **SECTION 15.** ORS 446.676 is amended to read:

16 446.676. ORS 446.671 does not apply to the following manufactured structures or persons:

17 (1) A unit of government or a public or private utility.

18 (2) The owner of a manufactured structure, as shown by a document evidencing ownership is-
 19 sued by any jurisdiction if the person owned the manufactured structure for personal, family or
 20 household purposes. If the person sells, trades, displays or offers for sale, trade or exchange two or
 21 more manufactured structures during a calendar year, the person has the burden of proving that the
 22 person owned the structures primarily for personal, family or household purposes.

23 (3) A conservator, receiver, trustee, personal representative or public officer while performing
 24 any official duties. The exemption provided by this subsection applies to actions taken for the pur-
 25 poses of winding up the affairs of a manufactured structure dealer or dealership and not to the
 26 continuing operation of a dealership.

27 (4) A real estate licensee representing a buyer or seller in a transaction involving real property
 28 under ORS 308.875 or a manufactured structure that is recorded in the deed records of a county.

29 (5) An escrow agent making an application for an ownership document as described under ORS
 30 446.591 (5).

31 (6) The security interest holder of a manufactured structure as shown by a document evidencing
 32 ownership issued by any jurisdiction.

33 (7) The sale of a manufactured structure by the manufacturer to a manufactured structure
 34 dealer. However, a manufacturer must obtain a manufactured structure dealer license under ORS
 35 446.691 in order to sell manufactured structures to retail customers.

36 (8) An insurance adjuster authorized **or allowed** to do business under [ORS 744.505 or 744.515]
 37 **ORS 744.555 or section 4 or 6 of this 2011 Act** who is disposing of a manufactured structure for
 38 salvage.

39 (9) A person who sells or trades or offers to sell or trade a manufactured structure that has been
 40 used in the operation of the person’s business unless the person’s business is the buying, selling,
 41 brokering, trading or exchanging of manufactured structures, displaying new or used manufactured
 42 structures for sale or acting as agent for an owner selling a manufactured structure or for a person
 43 interested in buying a manufactured structure.

44 (10) A person who is licensed as a manufactured structure dealer in another jurisdiction and is
 45 participating in a temporary exhibition of manufactured structures, if the exhibition includes at least

1 two other manufactured structure dealers licensed in this state or another jurisdiction, lasts 10 days
2 or less and charges admission to the public. An exemption may be claimed under this subsection for
3 a total of not more than 10 days during a calendar year.

4 (11) A person who receives no money, goods or services, either directly or indirectly, for dis-
5 playing a manufactured structure or acting as an agent in the selling or buying of a manufactured
6 structure.

7 (12) A manufactured dwelling park or mobile home park owner that consigns a manufactured
8 structure for sale by a licensed manufactured structure dealer.

9 (13) The sale of an abandoned manufactured dwelling by a manufactured dwelling park owner
10 pursuant to ORS 90.675 (10) if the park owner makes a reasonable effort to transfer the title for the
11 manufactured dwelling to the purchaser.

12 (14) A licensed real estate broker acting in the employ of, on behalf of or under the supervision
13 of an individual who is both a licensed principal real estate broker and a licensed manufactured
14 structure dealer.

15 (15) A financial institution or trust company acting as *[attorney in fact]* **attorney-in-fact** under
16 a duly executed power of attorney from the owner or purchaser authorizing the selling, leasing or
17 exchanging of the owner's or purchaser's assets. As used in this subsection, "financial institution"
18 and "trust company" have the meanings given those terms in ORS 706.008.

19 **SECTION 16.** ORS 744.001 is amended to read:

20 744.001. (1) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033 and
21 744.037 govern the licensing of *[adjusters and]* insurance consultants.

22 (2) An applicant for a license as *[an adjuster or]* an insurance consultant shall apply for the li-
23 cense to the Director of the Department of Consumer and Business Services. The applicant shall
24 include the following information:

25 (a) The applicant's name, business address, residence address, present occupation, occupation for
26 the last 12 months, the portion of time to be devoted to the insurance business, previous insurance
27 experience and the names of employers during the preceding five years. The applicant shall include
28 the business address of the principal place of business and the business address of each additional
29 location at which the applicant will transact business under the license.

30 (b) All assumed business names and other names under which the applicant will engage in
31 business under the license.

32 (c) Whether the applicant has ever been convicted of or is under indictment for a crime, whether
33 the applicant has ever had a judgment entered against the applicant for fraud, whether any insurer
34 or insurance producer claims the applicant is indebted to it and the details of any such indebtedness,
35 and whether any license of the applicant to act in any occupational or professional capacity has
36 ever been refused, revoked or suspended in this or any other state.

37 (d) The applicant's fingerprints, if the applicant is applying for a resident license. An applicant
38 applying for a nonresident license shall provide the applicant's fingerprints only if the director so
39 requests.

40 (e) The class or classes of insurance to be transacted under the license.

41 (f) Any other information that the director requires by rule.

42 (3) If the applicant for a license under this section is a firm or corporation, the application shall
43 show, in addition, the names of all members, officers and directors. If the applicant is a corporation,
44 the application shall state the names of all stockholders who own, directly or indirectly, more than
45 10 percent of any class of any equity security of the corporation, and shall designate each individual

1 who is to exercise the powers to be conferred by the license upon the firm or corporation.

2 (4) Each application shall be accompanied by the applicable fees established by the director.

3 **SECTION 17.** ORS 744.002 is amended to read:

4 744.002. (1) The Director of the Department of Consumer and Business Services may issue a li-
5 cense authorizing a person to act as [*an adjuster or*] an insurance consultant. [*A person licensed to*
6 *act in one capacity may also be licensed to act in the other capacity if the person meets the appropriate*
7 *qualifications. For purposes of this chapter, the capacity in which a person is licensed to act constitutes*
8 *a "license category" or a "category of insurance business."*]

9 (2) A license issued under this section shall set forth [*each license category in which the licensee*
10 *may engage. For each license category, the license shall also set forth*] the class or classes of insurance
11 in which the licensee may engage, as provided in[:]

12 [(a) ORS 744.531, for the license category of adjuster.]

13 [(b)] ORS 744.626[, for the license category of insurance consultant].

14 (3) The director may issue resident and nonresident licenses under this section as follows:

15 (a) The director may issue a resident license to a person if the person is a resident of this state
16 or, if not a resident of this state, the person has a place of transacting insurance in this state.

17 (b) The director may issue a nonresident license to a person if the person is not a resident of
18 this state.

19 (4) The director shall issue a license under this section:

20 (a) If the applicant has completed and submitted to the director an application for the license
21 and has submitted all applicable fees, including any examination fees, as established by the director
22 with the application;

23 (b) If the director determines that no ground for denial of the license exists under ORS 744.013;
24 and

25 (c) If the director determines that the applicant has met the applicable qualifications and re-
26 quirements for each [*license category, and for each*] class of insurance for which application is made.

27 **SECTION 18.** ORS 744.003 is amended to read:

28 744.003. (1) The Director of the Department of Consumer and Business Services may add a
29 [*category of insurance business to an adjuster or insurance consultant license upon application by the*
30 *licensee for amendment of the license.*]

31 [(2) *The director may add a*] class or classes of insurance to [*a*] **an insurance consultant** license
32 upon application by the licensee for amendment of the license.

33 [(3)] (2) The director may require that applications under this section be made in the same
34 manner as applications for the initial license, or the director may establish other application pro-
35 cedures.

36 **SECTION 19.** ORS 744.004 is amended to read:

37 744.004. (1) The Director of the Department of Consumer and Business Services may issue or
38 amend a firm or corporation license under ORS 744.002 only if the firm or corporation[, *for each*
39 *category of insurance business that the firm or corporation applies for on its license,*] employs an in-
40 dividual whose license under ORS 744.002 authorizes the individual to [*engage in that category of*
41 *insurance business*] **act as an insurance consultant.**

42 (2) When a firm or corporation applies for a license or applies to amend the license, the director
43 may issue or amend the license only if the firm or corporation, for each class of insurance that the
44 firm applies to transact, employs an individual whose license under ORS 744.002 authorizes the in-
45 dividual to transact that class of insurance.

1 **SECTION 20.** ORS 744.007 is amended to read:

2 744.007. (1) A license issued under ORS 744.002 expires on its expiration date unless it is re-
3 newed on or before its expiration date.

4 (2) A license expires on the last day of the month in which the first anniversary of the initial
5 issuance date of the license occurs, unless the Director of the Department of Consumer and Business
6 Services designates another date. Thereafter, the license shall expire on the second anniversary
7 following each renewal.

8 [(3) *When a category of insurance business is added to a license, the expiration date for the license*
9 *shall be the last day of the month in which the second anniversary of the issuance date of the amended*
10 *license occurs, unless the director establishes another expiration date.*]

11 [(4)] (3) The fee for renewal of a license shall be the fee established by the director[, *which shall*
12 *include the fee established for each category of insurance business on the license*].

13 [(5)] (4) The director by rule may establish procedures for renewal of licenses.

14 [(6)] (5) A suspended license is subject to renewal and to all requirements applicable to renewal
15 if the license expires during the suspension period.

16 **SECTION 21.** ORS 744.008 is amended to read:

17 744.008. An [*adjuster or*] insurance consultant may renew a license subject to the following re-
18 quirements:

19 (1) The licensee must pay the [*applicable*] fee established by the Director of the Department of
20 Consumer and Business Services.

21 (2) The licensee must satisfy all [*applicable*] continuing education requirements and all other
22 [*applicable*] conditions and requirements specified by statute.

23 (3) If the licensee holds a nonresident license, the licensee must submit proof to the director,
24 with respect to each [*category of insurance business and*] class of insurance set forth on the license,
25 that the licensee continues to hold a valid license or other evidence of authority issued by the state
26 of residence of the licensee for the same [*category*] **class** of insurance [*business*].

27 (4) [*If the licensee is an insurance consultant,*] The licensee must provide satisfactory evidence
28 that the insurance required under ORS 744.635 is in effect.

29 (5) The licensee must satisfy any other requirements established by the director by rule.

30 **SECTION 22.** ORS 744.009 is amended to read:

31 744.009. (1) The Director of the Department of Consumer and Business Services may renew an
32 expired license of an [*adjuster or*] insurance consultant upon application if the license expired within
33 two years prior to the application and if:

34 (a) The license was not suspended or revoked by the director, or not renewed, on any ground
35 under ORS 744.013;

36 (b) The director is satisfied, by examination or otherwise, that the person is knowledgeable
37 about the portions of the Insurance Code applicable to the license;

38 (c) The person pays double the amount of the regular renewal fee; and

39 (d) The person satisfies all requirements for renewal.

40 (2) A person who does not renew an expired license as provided in this section may obtain a
41 license only if the person applies and qualifies for and is issued the license in the same manner as
42 a person who initially applies for the license.

43 **SECTION 23.** ORS 744.013 is amended to read:

44 744.013. (1) If the Director of the Department of Consumer and Business Services finds with re-
45 spect to an [*adjuster or*] insurance consultant or an applicant for an [*adjuster or*] insurance con-

1 sultant license that one or more of the grounds set forth in subsection (2) of this section exist, the
2 director may take the following disciplinary actions:

3 (a) The director may refuse to renew or may suspend or revoke a license issued under ORS
4 744.002 or the authority under a license to engage in any [*category of insurance business or any*]
5 class of insurance.

6 (b) The director may refuse to issue a license under ORS 744.002 or refuse to grant authority
7 under a license to engage in any [*category of insurance business or any*] class of insurance.

8 (2) The director may take any disciplinary action under subsection (1) of this section on one or
9 more of the following grounds:

10 (a) Incompetence or untrustworthiness of the applicant [*or adjuster*] or insurance consultant.

11 (b) Falsification by the applicant [*or adjuster*] or insurance consultant of the application for the
12 license or an amendment thereto, or engagement in any dishonest act in relation to the application
13 or examination therefor.

14 (c) Violation of or noncompliance with any applicable provision of the Insurance Code or any
15 rule or order of the director.

16 (d) Misappropriation or conversion to the [*adjuster's or*] insurance consultant's own use, or il-
17 legal withholding, of money or property belonging to policyholders, insurers, beneficiaries or others,
18 and received by the [*adjuster or*] insurance consultant in the conduct of business under the license.

19 (e) Conviction in any jurisdiction, of an offense which if committed in this state, constitutes a
20 felony, a misdemeanor involving dishonesty or breach of trust, or an offense punishable by death or
21 imprisonment under the laws of the United States. The record of the conviction shall be conclusive
22 evidence of the conviction.

23 (f) Material misrepresentation of the terms of any insurance policy or proposed insurance policy.

24 (g) Use of a fraudulent or dishonest practice by the [*adjuster or*] insurance consultant in the
25 conduct of business under the license, or demonstration therein that the [*adjuster or*] insurance
26 consultant is incompetent, untrustworthy or a source of injury and loss to the public or others.

27 (h) Error by the director in issuing or renewing a license.

28 (i) Failure to pay a civil penalty assessed by the director that has become final by operation of
29 law or upon appeal.

30 (j) Failure to pay any fee or charge to the director.

31 (k) Use of the license principally to effect insurance on property or against liability of the ap-
32 plicant [*or adjuster*] or insurance consultant, or to evade the provisions of ORS chapter 746.

33 (L) Cancellation, revocation, suspension or refusal to renew by any state of a license or other
34 evidence of authority to act as an insurance producer[, *adjuster*] or insurance consultant. The record
35 of the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the
36 action taken.

37 (m) Cancellation, revocation, suspension or refusal to renew by any state or federal agency of
38 the authority to practice law or to practice under any other regulatory authority if the cancellation,
39 revocation, suspension or refusal to renew was related to the business of an insurance producer[,
40 *adjuster*] or insurance consultant or if dishonesty, fraud or deception was involved. The record of
41 the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the
42 action taken.

43 (n) Failure to comply with continuing education requirements applicable to the license or any
44 [*category*] **class** of insurance authorized under the license, unless the director has waived the re-
45 quirements.

1 (o) Dishonesty, fraud or misrepresentation not related to the business of an insurance
2 producer[, *adjuster*] or insurance consultant.

3 (3) The director may refuse to issue or renew or may revoke or suspend the license of a firm
4 or corporation or may take any such action with respect to any authority applied for by or granted
5 to the firm or corporation to engage under the license in any [*category of insurance business or*]
6 class of insurance if the director finds that any ground set forth in subsection (2) of this section
7 exists:

8 (a) With respect to any individual [*adjuster or*] insurance consultant employed by or under con-
9 tract with the firm or corporation.

10 (b) With respect to a director or officer of the firm or corporation.

11 (c) With respect to any person who directly or indirectly has the power to direct or cause to
12 be directed the management, control or activities of the [*adjuster or*] insurance consultant.

13 **SECTION 24.** ORS 744.014 is amended to read:

14 744.014. (1) The Director of the Department of Consumer and Business Services may place a
15 condition of probation on an [*adjuster or*] insurance consultant license or on a [*category of insurance*
16 *business authorized by a license or on a*] class of insurance **in which the licensee may engage** if
17 any ground for disciplinary action under ORS 744.013 exists, as follows:

18 (a) When the license is initially issued.

19 (b) When the license is renewed, amended or reinstated, or when a new license is issued for the
20 purpose of adding a [*category of insurance business or*] class of insurance.

21 (c) At any time during the effective period of the license.

22 (2) During a probationary period under this section, the director may take any action authorized
23 under ORS 744.013.

24 (3) A license applicant or licensee has the same right to a hearing on the placing of a condition
25 of probation as the license applicant or licensee has with respect to any action taken by the director
26 under ORS 744.013.

27 **SECTION 25.** ORS 744.018 is amended to read:

28 744.018. (1) With regard to any license issued under this chapter:

29 [(1)] (a) The Director of the Department of Consumer and Business Services may reinstate a
30 revoked license, any revoked category of insurance business or any revoked class of insurance. The
31 director may grant reinstatement upon fulfillment by the former holder of the license of conditions
32 set by the director.

33 [(2)] (b) The director may modify the suspension of a license, a category of insurance business
34 or a class of insurance and reinstate the license, category or class:

35 [(a)] (A) At a time certain; or

36 [(b)] (B) When the person subject to the suspension fulfills conditions set by the director for
37 reinstatement.

38 (2) **As used in this section, “category of insurance business” means the capacity in which**
39 **a person is licensed to act.**

40 **SECTION 26.** ORS 744.022 is amended to read:

41 744.022. (1) A firm or corporate [*adjuster or*] insurance consultant may engage in a [*category of*
42 *insurance business or a*] class of insurance authorized on its license only through an individual
43 [*adjuster or*] insurance consultant who is authorized to engage in insurance business in that same
44 [*category or*] class.

45 (2) An individual [*adjuster or*] insurance consultant who is employed by or under contract with

1 a firm or corporate [*adjuster or*] insurance consultant may engage in insurance business only to the
2 extent authorized by the license of the individual.

3 **SECTION 27.** ORS 744.024 is amended to read:

4 744.024. (1) Each resident [*adjuster or*] insurance consultant shall maintain in this state a place
5 of business in which the licensee principally engages in insurance business under the license.

6 (2) The principal place of business under subsection (1) of this section of an [*adjuster or*] insur-
7 ance consultant must be accessible to the public.

8 (3) An [*adjuster or*] insurance consultant shall keep at the place of business of the [*adjuster or*]
9 insurance consultant the usual and customary records pertaining to the business under the license.
10 All such records as to any particular transactions shall be kept available and open to the inspection
11 of the Director of the Department of Consumer and Business Services during business hours. An
12 [*adjuster or*] insurance consultant shall keep records of a particular transaction by the [*adjuster*
13 *or*] insurance consultant for three years following the conclusion of the transaction.

14 (4) This section does not prohibit maintenance of a place of business under a license in the
15 licensee's place of residence in this state.

16 **SECTION 28.** ORS 744.026 is amended to read:

17 744.026. (1) A nonresident [*adjuster or*] insurance consultant shall keep at the principal place
18 of business of the licensee the usual and customary records pertaining to the business under the
19 nonresident license. All such records as to any particular transaction shall be kept available and
20 open to the inspection of the Director of the Department of Consumer and Business Services during
21 business hours. For the purpose of this subsection, if a nonresident licensee has a place of trans-
22 acting insurance in this state, that place shall be the principal place of business for the licensee.

23 (2) A nonresident [*adjuster or*] insurance consultant shall keep records of a particular trans-
24 action by the nonresident [*adjuster or*] insurance consultant for three years following conclusion of
25 the transaction.

26 **SECTION 29.** ORS 744.028 is amended to read:

27 744.028. (1) Not later than the 30th day after an [*adjuster or*] insurance consultant changes the
28 address or telephone number of the principal place of business or the residence of the [*adjuster or*]
29 insurance consultant, or any other location at which the licensee transacts business under the li-
30 cense, the licensee shall notify the Director of the Department of Consumer and Business Services
31 of the change. The licensee also shall so notify the director not later than the 30th day after the
32 licensee opens or closes a location at which the licensee transacts business under the license.

33 (2) Not later than the 30th day after a change in or deletion or addition of an assumed business
34 name under which a licensee transacts business under a license as an [*adjuster or*] insurance con-
35 sultant, the licensee shall notify the director of the change.

36 **SECTION 30.** ORS 744.031 is amended to read:

37 744.031. (1) Not later than the 30th day after the authority of an individual [*adjuster or*] insur-
38 ance consultant to act for a firm or corporate [*adjuster or*] insurance consultant has commenced or
39 terminated, the firm or corporate [*adjuster or*] insurance consultant shall notify the Director of the
40 Department of Consumer and Business Services of the commencement or termination.

41 (2) A firm or corporate [*adjuster or*] insurance consultant shall notify the director annually of
42 all changes in its officers and directors during the immediately previous calendar year. If the
43 licensee is a corporation, the licensee shall include in the notice any changes in its stockholders
44 who own, directly or indirectly, more than 10 percent of any class of any equity security of the
45 licensee.

1 (3) The director may establish by rule a different period within which a firm or corporate
2 [*adjuster or*] insurance consultant must notify the director under subsection (1) or (2) of this section.

3 **SECTION 31.** ORS 744.033 is amended to read:

4 744.033. Any application or notice to the Director of the Department of Consumer and Business
5 Services regarding the licensing of an [*adjuster or*] insurance consultant under this chapter must be
6 made in the manner prescribed by the director.

7 **SECTION 32.** ORS 744.074 is amended to read:

8 744.074. (1) The Director of the Department of Consumer and Business Services may place a
9 licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license
10 and may take other actions authorized by the Insurance Code in lieu thereof or in addition thereto,
11 for any one or more of the following causes:

12 (a) Providing incorrect, misleading, incomplete or materially untrue information in the license
13 application.

14 (b) Violating any insurance laws, or violating any rule, subpoena or order of the director or of
15 the insurance commissioner of another state or Mexico or Canada.

16 (c) Obtaining or attempting to obtain a license through misrepresentation or fraud.

17 (d) Improperly withholding, misappropriating or converting any moneys or properties received
18 in the course of doing insurance business.

19 (e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or ap-
20 plication for insurance.

21 (f) Having been convicted of a felony, of a misdemeanor involving dishonesty or breach of trust,
22 or of an offense punishable by death or imprisonment under the laws of the United States. The re-
23 cord of the conviction shall be conclusive evidence of the conviction.

24 (g) Having admitted or been found to have committed any unfair trade practice or fraud related
25 to insurance.

26 (h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence,
27 untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

28 (i) Cancellation, revocation, suspension or refusal to renew by any state of a license or other
29 evidence of authority to act as an [*adjuster or an*] insurance producer or consultant. The record of
30 the cancellation, revocation, suspension or refusal to renew shall be conclusive evidence of the
31 action taken.

32 (j) Cancellation, revocation, suspension or refusal to renew by any state or federal agency, by
33 a Canadian province or by the government of Mexico of the authority to practice law or to practice
34 under any other regulatory authority if the cancellation, revocation, suspension or refusal to renew
35 was related to the business of an [*adjuster or an*] insurance producer or consultant, or if dishonesty,
36 fraud or deception was involved. The record of the cancellation, revocation, suspension or refusal
37 to renew shall be conclusive evidence of the action taken.

38 (k) Forging another person's name to an application for insurance or to any document related
39 to an insurance transaction.

40 (L) Improperly using notes or any other reference material to complete an examination for an
41 insurance license.

42 (m) Knowingly accepting insurance business from an individual who is not licensed.

43 (n) Error by the director in issuing or renewing a license.

44 (o) Failing to pay a civil penalty assessed by the director that has become final by operation
45 of law or upon appeal.

1 (p) Failing to pay any fee or charge to the director.

2 (q) Failing to comply with continuing education requirements applicable to the license or any
3 class of insurance authorized under the license, unless the director has waived the requirements.

4 (2) If the director refuses to issue or renew an insurance producer license, the director shall
5 notify the applicant or licensee and inform the applicant or licensee in writing of the reason for the
6 refusal to issue or renew and of the applicant's or licensee's rights under ORS chapter 183.

7 (3) The director may suspend, revoke or refuse to issue or renew the insurance producer license
8 of a business entity if the director determines that an individual licensee's violation was known or
9 should have been known by one or more of the partners, officers or managers acting on behalf of
10 the partnership or corporation but the violation was not reported to the director and corrective
11 action was not taken.

12 **SECTION 33.** ORS 744.704 is amended to read:

13 744.704. (1) The following persons are exempt from the licensing requirement for third party
14 administrators in ORS 744.702 and from all other provisions of ORS 744.700 to 744.740 applicable to
15 third party administrators:

16 (a) A person licensed under [*ORS 744.002*] **section 6 of this 2011 Act** as an adjuster, **a person**
17 **issued a temporary permit under ORS 744.555 or a person described in section 4 of this 2011**
18 **Act**, whose activities are limited to adjustment of claims and whose activities do not include the
19 activities of a third party administrator.

20 (b) A person licensed as an insurance producer as required by ORS 744.053 and authorized to
21 transact life or health insurance in this state, whose activities are limited exclusively to the sale
22 of insurance and whose activities do not include the activities of a third party administrator.

23 (c) An employer acting as a third party administrator on behalf of:

24 (A) Its employees;

25 (B) The employees of one or more subsidiary or affiliated corporations of the employer; or

26 (C) The employees of one or more persons with a dealership, franchise, distributorship or other
27 similar arrangement with the employers.

28 (d) A union, or an affiliate thereof, acting as a third party administrator on behalf of its mem-
29 bers.

30 (e) An insurer that is authorized to transact insurance in this state with respect to a policy is-
31 sued and delivered in and pursuant to the laws of this state or another state.

32 (f) A creditor acting on behalf of its debtors with respect to insurance covering a debt between
33 the creditor and its debtors.

34 (g) A trust and the trustees, agents and employees of the trust, when acting pursuant to the
35 trust, if the trust is established in conformity with 29 U.S.C. 186.

36 (h) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees
37 and employees acting pursuant to the trust, or a voluntary employees beneficiary association de-
38 scribed in section 501(c) of the Internal Revenue Code, its agents and employees and a custodian
39 and the custodian's agents and employees acting pursuant to a custodian account meeting the re-
40 quirements of section 401(f) of the Internal Revenue Code.

41 (i) A financial institution that is subject to supervision or examination by federal or state fi-
42 nancial institution regulatory authorities, or a mortgage lender, to the extent the financial institu-
43 tion or mortgage lender collects and remits premiums to licensed insurance producers or authorized
44 insurers in connection with loan payments.

45 (j) A company that issues credit cards and advances for and collects premiums or charges from

1 its credit card holders who have authorized collection. The exemption under this paragraph applies
2 only if the company does not adjust or settle claims.

3 (k) A person who adjusts or settles claims in the normal course of practice or employment as
4 an attorney at law. The exemption under this subsection applies only if the person does not collect
5 charges or premiums in connection with life insurance or health insurance coverage.

6 (L) A person who acts solely as an administrator of one or more bona fide employee benefit
7 plans established by an employer or an employee organization, or both, for which the Insurance
8 Code is preempted pursuant to the Employee Retirement Income Security Act of 1974. A person to
9 whom this paragraph applies must comply with the requirements of ORS 744.714.

10 (m) The Oregon Medical Insurance Pool Board, established under ORS 735.600 to 735.650, and
11 the administering insurer or insurers for the board, for services provided pursuant to ORS 735.600
12 to 735.650.

13 (n) An entity or association owned by or composed of like employers who administer partially
14 or fully self-insured plans for employees of the employers or association members.

15 (o) A trust established by a cooperative body formed between cities, counties, districts or other
16 political subdivisions of this state, or between any combination of such entities, and the trustees,
17 agents and employees acting pursuant to the trust.

18 (p) Any person designated by the Director of the Department of Consumer and Business Services
19 by rule.

20 (2) A third party administrator is not required to be licensed as a third party administrator in
21 this state if the following conditions are met:

22 (a) The third party administrator has its principal place of business in another state;

23 (b) The third party administrator is not soliciting business as a third party administrator in this
24 state; and

25 (c) In the case of any group policy or plan of insurance serviced by the third party administra-
26 tor, the lesser of five percent or 100 certificate holders reside in this state.

27 **SECTION 34.** ORS 746.275 is amended to read:

28 746.275. As used in ORS 746.275 to 746.300:

29 (1) "Adjuster" means a person authorized **or allowed** to do business under [*ORS 744.505 or*
30 *744.515*] **ORS 744.555 or section 4 or 6 of this 2011 Act.**

31 (2) "Motor vehicle liability insurance policy" means an insurance policy which provides auto-
32 mobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or
33 automobile physical damage coverage on motor vehicles, but does not include any insurance policy:

34 (a) Covering garage, automobile sales agency, repair shop, service station or public parking
35 place operation hazards; or

36 (b) Issued principally to cover personal or premises liability of an insured, even though such
37 insurance may also provide some incidental coverage for liability arising out of the ownership,
38 maintenance or use of a motor vehicle on the premises of such insured or on the ways immediately
39 adjoining such premises.

40 (3) "Motor vehicle body and frame repair shop" means a business or a division of a business
41 organized for the purpose of effecting repairs to motor vehicles which have been physically damaged.

42 **SECTION 35.** ORS 819.482 is amended to read:

43 819.482. (1) A person commits the offense of acting as a vehicle appraiser without a certificate
44 if the person does not hold a vehicle appraiser certificate issued under ORS 819.480 and the person,
45 for consideration, issues an opinion as to the value of a vehicle.

(2) This section does not apply to:

(a) A person who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 and who appraises vehicles in the operation of the vehicle dealer's business;

(b) A person from another jurisdiction who holds a vehicle appraiser certificate requiring qualifications substantially similar to qualifications required for the certification of a vehicle appraiser in this state;

(c) An insurance adjuster authorized **or allowed** to do business under [ORS 744.505 or 744.515] **ORS 744.555 or section 4 or 6 of this 2011 Act**; or

(d) A person licensed or certified to appraise real estate under ORS 674.310 and who appraises the value of manufactured structures.

(3) The offense described in this section, acting as a vehicle appraiser without a certificate, is a Class A violation.

SECTION 36. ORS 822.015 is amended to read:

822.015. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

(a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or less.

(b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person owned the vehicle primarily for personal, family or household purposes. If the person has sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year, the person shall have the burden of proving that the person owned the vehicles primarily for personal, family or household purposes or for other purposes that the Department of Transportation, by rule, defines as constituting an exemption under this section.

(c) A receiver, trustee, personal representative or public officer while performing any official duties.

(d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by any jurisdiction.

(e) Except as otherwise provided in this paragraph, a manufacturer who sells vehicles the manufacturer has manufactured in Oregon. Nothing in this paragraph prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This paragraph does not exempt a manufacturer who sells or trades campers or travel trailers.

(f) An insurance adjuster authorized **or allowed** to do business under [ORS 744.505 or 744.515] **ORS 744.555 or section 4 or 6 of this 2011 Act** who is disposing of vehicles for salvage.

(g) Except as otherwise provided in this paragraph, a person who sells or trades or offers to sell or trade a vehicle that has been used in the operation of the person's business. This paragraph does not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles.

(h) A person who is licensed as a vehicle dealer in another jurisdiction, or who is an authorized representative of a vehicle dealer licensed in another jurisdiction, and who:

(A) Participates with other dealers in a display of vehicles, including but not limited to an auto show, if the display is an event that lasts for 10 days or less and is an event for which the public is charged admission; or

(B) Participates in a vehicle auction conducted by a vehicle dealer who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040, provided that only certified or licensed

1 vehicle dealers and their authorized representatives are permitted to participate in the auction.

2 (i) A person who receives no money, goods or services, either directly or indirectly, for dis-
3 playing a vehicle or acting as an agent in the buying or selling of a vehicle.

4 (j) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle parts
5 for the person's own use in order to preserve, restore and maintain vehicles for the person's own
6 use or for hobby or historical purposes.

7 (k) A manufactured structure dealer subject to the licensing requirement of ORS 446.671 or a
8 person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer ac-
9 cepted in trade as part of a manufactured structure transaction. A manufactured structure dealer-
10 ship or exempt person may not directly sell more than three vehicles per calendar year under
11 authority of this paragraph, but by consignment with a dealer certified under ORS 822.020 or 822.040
12 may sell an unlimited number of vehicles acquired as described in this paragraph.

13 (L) A lien claimant who sells vehicles in order to foreclose possessory liens.

14 (m) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien claimant
15 acquired through possessory liens if the vehicles are sold at the business location of the lien
16 claimant.

17 (n) Electric personal assistive mobility devices.

18 (2) The department shall adopt rules to carry out the provisions of this section, including but
19 not limited to specifying which dealers may take vehicles on consignment from other jurisdictions.

20 **SECTION 37.** ORS 822.070 is amended to read:

21 822.070. (1) A person commits the offense of conducting an illegal vehicle rebuilding business if
22 the person is not the holder of a valid current dealer certificate issued under ORS 822.020 and the
23 person does any of the following as part of a business:

24 (a) Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles.

25 (b) Engages in making assembled, reconstructed or substantially altered vehicles from motor
26 vehicle components.

27 (2) This section does not apply to the following persons or vehicles:

28 (a) An insurance adjuster authorized **or allowed** to do business under [ORS 744.505 or 744.515]
29 **ORS 744.555 or section 4 or 6 of this 2011 Act** who is disposing of vehicles for salvage.

30 (b) Vehicles or persons exempt from the vehicle dealer certificate requirements by ORS 822.015
31 (1)(a) or (j).

32 (c) Motor vehicles that are not of a type required to be registered under the vehicle code.

33 (d) The holder of a dismantler certificate issued under ORS 822.110.

34 (3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a
35 Class A misdemeanor.

36 **SECTION 38.** ORS 822.105 is amended to read:

37 822.105. In addition to exemptions from the vehicle code under ORS 801.026, ORS 822.100 does
38 not apply to the following:

39 (1) An insurance adjuster authorized **or allowed** to do business under [ORS 744.505 or 744.515]
40 **ORS 744.555 or section 4 or 6 of this 2011 Act** who is disposing of vehicles for salvage.

41 (2) Road rollers, farm tractors, trolleys or traction engines.

42 (3) Implements of husbandry, well-drilling machinery and wheelchairs.

43 (4) Golf carts.

44 **SECTION 39.** ORS 744.528, 744.535, 744.555 and 744.575 are added to and made a part of
45 **sections 2 to 10 of this 2011 Act.**

1 **SECTION 40.** ORS 744.505, 744.515, 744.525, 744.531, 744.538 and 744.541 are repealed.

2 **SECTION 41.** Sections 2 to 10 of this 2011 Act, the amendments to statutes by sections
3 11 to 38 of this 2011 Act and the repeal of statutes by section 40 of this 2011 Act first apply
4 to licenses issued or renewed after the effective date of this 2011 Act.

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