

# D R A F T

## SUMMARY

Prohibits insurer from denying insured's claim under motor vehicle insurance policy if insurer learns that motor vehicle was previously declared total loss. Permits insurer to cancel insurance policy under specified conditions.

Provides that cancellation of motor vehicle insurance policy because insurer learns that motor vehicle was previously declared total loss is not effective unless insurer refunds premium payments insured made under policy or renewal of policy.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1  
2 Relating to insurance policies that cover motor vehicles declared to be a  
3 total loss; creating new provisions; amending ORS 742.562 and 742.564;  
4 and declaring an emergency.

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

6 **SECTION 1. Section 2 of this 2013 Act is added to and made a part**  
7 **of ORS chapter 742.**

8 **SECTION 2. (1) As used in this section, "policy" has the definition**  
9 **given that term in ORS 742.560.**

10 **(2) An insurer may not deny a claim that an insured makes under**  
11 **a policy on the basis of information that shows that the motor vehicle**  
12 **that the policy insures was previously declared a total loss.**

13 **(3) An insurer may cancel a policy that insures a motor vehicle that**  
14 **was previously declared a total loss only as provided in ORS 742.564.**

15 **SECTION 3. ORS 742.562 is amended to read:**

16 **742.562. (1) A notice of cancellation of a policy [*shall be*] is effective only**

1 if *[it]* **the notice** is based on one or more of the following reasons:

2 (a) Nonpayment of premium.

3 (b) Fraud or material misrepresentation *[affecting]* **that affects** the policy  
4 or in *[the presentation of]* **presenting** a claim *[thereunder]* **under the**  
5 **policy**, or violation of any of the terms or conditions of the policy.

6 (c) The named insured or any operator either resident in the same  
7 household or who customarily operates an automobile insured under the  
8 policy has had driving privileges suspended or revoked pursuant to law dur-  
9 ing the policy period, or, if the policy is a renewal, during *[its]* **the**  
10 **renewal's** policy period or the 180 days **that** immediately *[preceding its]*  
11 **precede the** effective date **of the renewal**. An insurer may not cancel a  
12 policy for the reason that the driving privileges of the named insured or  
13 operator were suspended pursuant to ORS 809.280 (6) or (8) if the suspension  
14 was based on a nondriving offense.

15 (d) **The insurer learned that the motor vehicle insured under the**  
16 **policy was previously declared a total loss. The insurer, in cancelling**  
17 **a policy or a renewal for the reason set forth in this paragraph, shall**  
18 **comply with ORS 742.564 (2).**

19 (2) This section *[shall]* **does** not apply to *[any]* a policy or coverage  
20 *[which]* **that** has been in effect less than 60 days at the time **the insurer**  
21 **mails or delivers** notice of cancellation *[is mailed or delivered by the*  
22 *insurer]* unless *[it]* **the policy or coverage** is a renewal *[policy]*.

23 (3) This section *[shall]* **does** not apply to nonrenewal.

24 **SECTION 4.** ORS 742.564 is amended to read:

25 742.564. (1) *[No]* **A** notice of cancellation of a policy to which ORS 742.562  
26 applies *[shall be]* **is not** effective unless *[mailed or delivered by]* the insurer  
27 **mails or delivers the notice** to the named insured at least 30 days *[prior*  
28 *to]* **before** the effective date of cancellation and *[accompanied by]* **accom-**  
29 **panies the notice with** a statement of the reason or reasons for cancella-  
30 tion, provided, however, that *[where]* **if the** cancellation is for nonpayment  
31 of premium, **the insurer shall give** at least 10 days' notice of cancellation

1 [accompanied by the reason therefor shall be given] and accompany the  
2 notice with the reason for the cancellation.

3 (2) A notice of cancellation of a policy or a renewal for the reason  
4 set forth in ORS 742.562 (1)(d) is not effective unless, in addition to  
5 complying with the provisions of subsection (1) of this section, the  
6 insurer refunds all premium payments the insured made under the  
7 policy, or under the renewal, beginning from the effective date of the  
8 policy or the renewal to the date of cancellation.

9 [(2)] (3) This section [shall] does not apply to nonrenewal.

10 **SECTION 5.** Section 2 of this 2013 Act and the amendments to ORS  
11 742.562 and 742.564 by sections 3 and 4 of this 2013 Act apply to insur-  
12 ance policies that are issued or renewed on or after the effective date  
13 of this 2013 Act.

14 **SECTION 6.** This 2013 Act being necessary for the immediate s  
15 preservation of the public peace, health and safety, an emergency is  
16 declared to exist, and this 2013 Act takes effect on its passage.

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