

Senate Bill 414

Sponsored by Senator SHIELDS (at the request of Autism Society of Oregon) (Pre-session filed.)

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**.

Permits Director of Department of Consumer and Business Services to seek restitution on behalf of consumer that suffered actual damages as result of insurer's violation of Insurance Code or breach of insurance contract or policy and to seek other equitable relief that director deems appropriate under circumstances.

Requires director to acknowledge receiving complaint about insurer, to investigate complaint and to notify person that submitted complaint concerning results of investigation and director's determinations at periodic intervals.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to administration of the Insurance Code; creating new provisions; amending ORS 731.256
3 and 731.264; and declaring an emergency.

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

5 **SECTION 1.** ORS 731.256 is amended to read:

6 731.256. (1) The Director of the Department of Consumer and Business Services may institute
7 *[such]* actions or other lawful proceedings *[as]* **that** the director *[may deem]* **deems** necessary *[for*
8 *the enforcement of any]* **to enforce a** provision of the Insurance Code or any order or action *[made*
9 *or taken by the director]* **the director makes or takes** in pursuance of law.

10 **(2) As part of or in addition to any action or proceeding the director institutes against**
11 **an insurer under subsection (1) of this section, the director may:**

12 **(a) Seek restitution on a consumer's behalf for actual damages the consumer suffers as**
13 **a result of the insurer's violation of a provision of the Insurance Code or applicable federal**
14 **law or the insurer's breach of an insurance contract or policy the insurer has with the**
15 **consumer; and**

16 **(b) Seek other equitable relief the director deems appropriate under the circumstances.**

17 *[(2)]* **(3) If the director has reason to believe that** *[any]* **a person has violated** *[any]* **a provision**
18 **of the Insurance Code or** *[other]* **another law** *[applicable]* **that applies** to insurance operations, *[for*
19 *which]* **and if the violation is subject to** criminal prosecution *[is provided]* and in the opinion of
20 the director *[would be in order]* **criminal prosecution is warranted**, the director shall give the
21 information *[relative thereto]* **about the violation** to the Attorney General or district attorney
22 *[having]* **that has jurisdiction** *[of any such]* **over the violation**. The Attorney General or district
23 attorney promptly shall institute *[such]* **an action or** *[proceedings]* **a proceeding** against *[such]* **the**
24 person as the information requires or justifies.

25 **SECTION 2.** ORS 731.264 is amended to read:

26 731.264. (1) A complaint made to the Director of the Department of Consumer and Business
27 Services against any person regulated by the Insurance Code, and the record *[thereof]* **of the com-**
28 **plaint, [shall be] is confidential** and may not be disclosed except as provided in ORS 705.137. *[No*

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 *such complaint, or the record thereof, shall*] **The complaint or a record of the complaint may not**
2 **be used in any action, suit or proceeding except to the extent [considered] the director considers**
3 **necessary [by the director in the prosecution of] for prosecuting** apparent violations of the Insurance
4 Code or other law.

5 (2) Data gathered pursuant to [an] **the director's** investigation [by the director] of a complaint
6 [shall be] **is** confidential, may not be disclosed except as provided in ORS 705.137 and may not be
7 used in any action, suit or proceeding except to the extent [considered] **the director considers**
8 **necessary [by the director in the investigation or prosecution of] for investigating or prosecuting**
9 **apparent violations of the Insurance Code or other law.**

10 (3) Notwithstanding subsections (1) and (2) of this section, the director shall establish by rule
11 a method for publishing an annual statistical report [containing] **that lists** the insurer's name and
12 the number, percentage, type and disposition of complaints [received by] **that** the Department of
13 Consumer and Business Services **receives concerning** [against] each insurer [transacting] **that**
14 **transacts** insurance within this state.

15 (4) **The director shall acknowledge receiving a complaint described in subsection (1) of**
16 **this section within 10 days after receiving the complaint. The director shall investigate the**
17 **complaint in a timely manner and shall notify the person that submitted the complaint of**
18 **the results of the investigation and the director's determinations within 45 days after the**
19 **director first received the complaint and, after the first notice, at regular intervals of 45**
20 **days or fewer until the director has completed the investigation.**

21 (5) **The director shall establish by rule procedures for conducting investigations into**
22 **complaints the director receives under subsection (1) of this section.**

23 **SECTION 3. (1) The amendments to ORS 731.256 and 731.264 by sections 1 and 2 of this**
24 **2013 Act become operative January 1, 2014.**

25 (2) **The Director of the Department of Consumer and Business Services may take any**
26 **action before the operative date specified in subsection (1) of this section that is necessary**
27 **to enable the director to exercise, on and after the operative date specified in subsection (1)**
28 **of this section, all of the duties, functions and powers conferred on the director by the**
29 **amendments to ORS 731.256 and 731.264 by sections 1 and 2 of this 2013 Act.**

30 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
31 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
32 **on its passage.**

33