

D R A F T

SUMMARY

Permits insurance licensee to not provide annual notices of licensee's policies and practices with respect to disclosing personal information if licensee provides personal information to nonaffiliated third parties only in accordance with applicable law and does not change policies and practices that licensee last disclosed to customer.

A BILL FOR AN ACT

1
2 Relating to insurer notices about personal information practices; creating
3 new provisions; and amending ORS 746.620.

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

5 **SECTION 1.** ORS 746.620 is amended to read:

6 746.620. (1) A licensee must provide a clear and conspicuous notice of
7 personal information practices to individuals in connection with insurance
8 transactions under the **following** circumstances and at the **following** times
9 [*as follows*]:

10 (a) Except as provided in this paragraph, to a consumer who becomes a
11 customer of the licensee, not later than the date that the licensee establishes
12 a continuing relationship under which the licensee provides one or more in-
13 surance products or services to the consumer that are to be used primarily
14 for personal, family or household purposes. A licensee may provide the notice
15 within a reasonable time after the date the licensee establishes a customer
16 relationship if:

17 (A) Establishing the customer relationship is not at the customer's
18 election; or

19 (B) Providing notice not later than the date that the licensee establishes

1 a customer relationship would substantially delay the customer's transaction
2 and the customer agrees to receive the notice at a later time.

3 (b) To a consumer other than as described in paragraph (a) of this sub-
4 section, before the licensee discloses any personal information about the
5 consumer pursuant to the requirements of ORS 746.665, unless the disclosure
6 meets one or more of the conditions specified in ORS 746.665.

7 (2)(a) **Except as provided in paragraph (b) of this subsection**, a
8 licensee shall provide a clear and conspicuous notice to a customer that ac-
9 curately reflects the **licensee's** privacy policies and practices not less than
10 annually during the continuation of the relationship described in subsection
11 (1)(a) of this section. For the purpose of this subsection, a notice is given
12 annually if *[it]* **the notice** is given at least once in any period of 12 con-
13 secutive months during which the relationship exists. A licensee may define
14 the period of 12 consecutive months, but the licensee must apply the period
15 to the customer on a consistent basis.

16 (b) **A licensee need not provide the notice described in paragraph**
17 **(a) of this subsection each year if the licensee provides personal in-**
18 **formation to an unaffiliated third party only in accordance with ORS**
19 **746.665 and does not change the policies and practices related to dis-**
20 **closing personal information about which the licensee last notified**
21 **customers in accordance with this section. If the licensee changes the**
22 **licensee's privacy policies and practices, the licensee shall notify cus-**
23 **tomers in accordance with this section.**

24 (3) The privacy notice required by subsections (1) and (2) of this section
25 must be in writing and **must be** clear and conspicuous. The notice may be
26 provided in electronic form if the recipient agrees. In addition to any other
27 personal information the licensee wishes to provide, the notice *[shall]* **must**
28 include the following items of personal information that apply to the licensee
29 and to the individuals to whom the licensee sends the notice:

30 (a) The categories of personal information that the licensee collects.

31 (b) The categories of personal information that the licensee discloses.

1 (c) The categories of affiliates and nonaffiliated third parties to whom the
2 licensee discloses personal information other than persons to whom the
3 licensee discloses information under ORS 746.665.

4 (d) The categories of personal information about former customers of the
5 licensee that the licensee discloses and the categories of affiliates and non-
6 affiliated third parties to whom the licensee discloses personal information
7 about the licensee's former customers, other than persons to whom the
8 licensee discloses personal information under ORS 746.665.

9 (e) If a licensee discloses personal information to a nonaffiliated third
10 party under ORS 746.665, a separate description of the categories of personal
11 information the licensee discloses and the categories of nonaffiliated third
12 parties with whom the licensee has contracted.

13 (f) An explanation of the individual's right under ORS 746.630 to author-
14 ize disclosure of personal information, including the methods by which the
15 individual may exercise that right.

16 (g) Any disclosure that the licensee makes under section 603(d)(2)(A)(iii)
17 of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) re-
18 garding the ability to opt out of disclosures of personal information among
19 affiliates.

20 (h) The policies and practices of the licensee with respect to protecting
21 the confidentiality and security of personal information.

22 (i) Any disclosure that the licensee makes under subsection (4) of this
23 section.

24 (j) A description of the rights established under ORS 746.640 and 746.645
25 and the manner in which such rights may be exercised.

26 (4) If a licensee discloses personal information as authorized under ORS
27 746.665, the licensee is not required to list those exceptions in the privacy
28 notices required by this section. When describing the categories of parties
29 to whom disclosure is made, the licensee [*must*] **shall** state only that the
30 licensee makes disclosures to other affiliated parties or nonaffiliated third
31 parties, as applicable, as authorized by law.

1 (5) In lieu of the notice required in subsection (3) of this section, the
2 licensee may provide to a consumer an abbreviated notice, in writing or in
3 electronic form if the consumer agrees, informing the consumer that:

4 (a) Personal information may be collected from persons other than the
5 consumer proposed for coverage;

6 (b) Such information as well as other personal or privileged information
7 subsequently collected by the licensee may in certain circumstances be dis-
8 closed to third parties without authorization;

9 (c) A right of access and correction exists with respect to all personal
10 information collected; and

11 (d) The **licensee shall provide the** notice prescribed in subsection (3) of
12 this section [*shall be furnished*] to the consumer upon request.

13 (6) The Director of the Department of Consumer and Business Services
14 by rule may apply the categories of consumer and customer as defined in
15 ORS 746.600 for the purpose of establishing specific requirements for notice
16 of personal information practices, authorization for disclosure of personal
17 information, conditions for disclosure of personal information under this
18 section and ORS 746.630 and 746.665, and exceptions. The director shall
19 consider applicable definitions and terms used in the federal Gramm-Leach-
20 Bliley Act (P.L. 106-102), applicable definitions and requirements used in the
21 model "Privacy of Consumer Financial and Health Information Regulation"
22 adopted by the National Association of Insurance Commissioners and other
23 sources as may be needed so that the terms defined in ORS 746.600 and ap-
24 plicable to this section and ORS 746.630 and 746.665:

25 (a) Facilitate compliance with requirements in federal law and the laws
26 of other states that establish protections of nonpublic personal information;
27 and

28 (b) Establish separate and discrete requirements relating to the privacy
29 notice and [*its*] **the contents and delivery of the privacy notice** for cus-
30 tomers and consumers, so that the requirements provide reasonable notice
31 and facilitate compliance with requirements in federal law and in the laws

1 of other states.

2 (7) The director shall determine by rule:

3 (a) When a privacy notice must be provided to a certificate holder or
4 beneficiary of a group policy and to a third-party claimant.

5 (b) When the obligation to provide annual notice ceases.

6 (c) Requirements for revision of the notice by a licensee.

7 (8) An insurance producer is not subject to the requirements of this sec-
8 tion when the insurer on whose behalf the insurance producer acts otherwise
9 complies with the requirements of this section and the insurance producer
10 does not disclose any personal information to any person other than the
11 insurer or its affiliate, or as otherwise authorized by law.

12 (9) A licensee may provide a joint notice from the licensee and one or
13 more of [*its*] **the licensee's** affiliates or other financial institutions, as
14 identified in the notice, as long as the notice is accurate with respect to the
15 licensee and the other institutions. A licensee may also provide a notice on
16 behalf of a financial institution.

17 (10) The obligations imposed by this section upon a licensee may be sat-
18 isfied by another licensee authorized to act on behalf of the first licensee.

19 (11) For purposes of this section and ORS 746.630 and 746.665, an indi-
20 vidual is not the consumer of a licensee solely because the individual is
21 covered under a group life insurance policy issued by the licensee or is a
22 participant or beneficiary of an employee benefit plan that the licensee ad-
23 ministers or sponsors or for which the licensee acts as a trustee, insurer or
24 fiduciary, if:

25 (a) The licensee provides to the policyholder the initial, annual and re-
26 vised notices under this section; and

27 (b) The licensee does not disclose to a nonaffiliated third party personal
28 information about the individual other than as permitted by ORS 746.665.

29 (12) When an individual becomes a consumer of a licensee under sub-
30 section (11) of this section, this section and ORS 746.630 and 746.665 apply
31 to the licensee with respect to the individual.

1 **SECTION 2. The amendments to ORS 746.620 by section 1 of this**
2 **2017 Act apply to notices that a licensee gives on or after the effective**
3 **date of this 2017 Act.**

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