

Senate Bill 774

Sponsored by Senator BEYER (at the request of Steven Kale)

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**.

Prohibits insurer from imposing fee, surcharge, increase in premium or other charge on basis of certain claims history of consumer.

Prohibits insurer or insurance producer from determining rate or imposing fee, surcharge, increase in premium or other charge on homeowner insurance policy on basis of certain inquiry that consumer makes of insurer.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to homeowner insurance policies; creating new provisions; amending ORS 746.686; and de-
3 claring an emergency.

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

5 **SECTION 1.** ORS 746.686 is amended to read:

6 746.686. *[(1) When a consumer applies for a homeowner insurance policy, an insurer may not*
7 *use:]*

8 *[(a) A prior claim of the consumer or a claim relating to the property to be insured, when the date*
9 *of loss of the claim is more than five years preceding the date of application, to determine whether to*
10 *issue the policy or to determine rates or other terms and conditions of the policy. This paragraph does*
11 *not apply when the insurer uses claim experience of the consumer or of the property to provide a dis-*
12 *count to the consumer.]*

13 *[(b) The first claim that the consumer made on a homeowner insurance policy within the five-year*
14 *period immediately preceding the date of application to determine whether to issue the policy.]*

15 *[(c) A prior claim relating to the property to be insured that occurred prior to purchase of the*
16 *property by the consumer, when the consumer demonstrates to the insurer's satisfaction that the risk*
17 *associated with damage resulting from the accident or occurrence that gave rise to the prior claim has*
18 *been mitigated, to determine whether to issue the policy or to determine rates or other terms and con-*
19 *ditions of the policy. For purposes of this paragraph, a risk is mitigated if the consumer has fully re-*
20 *stored the damaged property and has repaired, replaced, restored or eliminated the condition, system*
21 *or use of the property that was the underlying cause of the loss.]*

22 *[(2) When renewing a homeowner insurance policy, an insurer may not use:]*

23 *[(a) A prior claim of the consumer or a claim relating to the property to be insured, when the date*
24 *of loss of the claim is more than five years before the upcoming renewal date, to determine whether to*
25 *renew the policy or to determine rates or other terms and conditions of the policy. This paragraph does*
26 *not apply when the insurer uses claim experience of the consumer or of the property to provide a dis-*
27 *count to the consumer at renewal.]*

28 *[(b) The first claim of the consumer made within the five-year period immediately preceding the*
29 *upcoming renewal date to determine whether to renew the policy.]*

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 (1) An insurer may not determine whether to issue a homeowner insurance policy or
2 determine rates or other terms and conditions of the policy on the basis of:

3 (a) A consumer's prior claim or a claim relating to the property to be insured, if the date
4 of loss of the claim is more than five years preceding the date of the consumer's application
5 for the homeowner insurance policy. This paragraph does not apply if the insurer uses claim
6 experience of the consumer or of the property to provide a discount to the consumer.

7 (b) A prior claim relating to the property to be insured that occurred before the con-
8 sumer purchased the property if the consumer demonstrates to the insurer's satisfaction
9 that the risk associated with damage resulting from the accident or occurrence that gave
10 rise to the prior claim has been mitigated. For purposes of this paragraph, a risk is mitigated
11 if the consumer has fully restored the damaged property and has repaired, replaced, restored
12 or eliminated the condition, system or use of the property that was the underlying cause of
13 the loss.

14 (2) An insurer may not determine whether to renew a homeowner insurance policy or
15 determine rates or other terms and conditions of the policy on the basis of a prior claim of
16 the consumer or a claim relating to the property to be insured if the date of loss of the claim
17 is more than five years before the upcoming renewal date. This subsection does not apply if
18 the insurer uses claim experience of the consumer or of the property to provide a discount
19 to the consumer at renewal.

20 (3) An insurer may not determine whether to issue or renew a homeowner insurance
21 policy on the basis of the first claim the consumer made within the five-year period imme-
22 diately preceding the consumer's application for the policy or an upcoming renewal date.

23 (4) An insurer may not impose a fee, surcharge, increase in premium or other charge
24 as a direct result of, or as compensation for, a claim a consumer made on a homeowner in-
25 surance policy in the five years before an upcoming renewal date for the policy.

26 [(3)] (5) An insurer or insurance producer may not use an inquiry [*made by any means by the*]
27 a consumer **makes by any means** to the insurer or to an insurance producer regarding the terms,
28 conditions or coverage of an insurance policy, including an inquiry about an actual loss or claim
29 filing process, to determine whether to issue or renew a policy, [*or*] to determine rates or other
30 terms and conditions of a policy **or to impose a fee, surcharge, increase in premium or other**
31 **charge on the policy** if the consumer is not making a claim as part of the inquiry. An insurer or
32 insurance producer may verify whether the consumer is making a claim as part of the inquiry. If the
33 consumer affirms that the inquiry is not a claim, the insurer or insurance producer may rely on the
34 affirmation to rebut a later assertion to the contrary. This subsection does not apply to an inquiry
35 by a consumer relating to the possibility of a third party claim against the consumer. The Director
36 of the Department of Consumer and Business Services may adopt rules establishing procedures to
37 implement this subsection.

38 [(4)] (6) This section does not prohibit an insurer from taking any underwriting or rating action
39 that is:

- 40 (a) Based on the known condition or use of the property;
- 41 (b) Based on fraudulent acts of the consumer; or
- 42 (c) Otherwise allowed by law.

43 **SECTION 2. The amendments to ORS 746.686 by section 1 of this 2017 Act apply to**
44 **homeowner insurance policies that an insurer issues or renews after the effective date of**
45 **this 2017 Act.**

1 **SECTION 3. This 2017 Act being necessary for the immediate preservation of the public**
2 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
3 **on its passage.**

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