

House Bill 2956

Sponsored by Representative WILLIAMSON (at the request of Paul Terdal)

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**.

Requires Department of Consumer and Business Services to study and make recommendations concerning changes to Insurance Code that address managing, investigating and enforcing violations identified in complaints against person that is subject to Insurance Code.

Requires Director of Department of Consumer and Business Services by rule to establish procedures for investigating complaints director receives concerning violations of Insurance Code. Specifies required contents of rules.

Provides that director may disclose contents of complaint to authorized representative of person that made complaint.

Becomes operative on January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to investigations of complaints concerning violations of the Insurance Code; creating new
3 provisions; amending ORS 731.264; and declaring an emergency.

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

5 **SECTION 1. (1) The Department of Consumer and Business Services shall study the need**
6 **for and develop recommendations for changes in the Insurance Code that address managing,**
7 **investigating and enforcing violations identified in complaints against a person that is subject**
8 **to the Insurance Code and to give effect to the policy stated in ORS 731.008.**

9 **(2) The department shall submit a report on the findings and recommendations developed**
10 **in accordance with subsection (1) of this section to an interim committee of the Legislative**
11 **Assembly related to insurance, in the manner provided by ORS 192.245, not later than Sep-**
12 **tember 15, 2020.**

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

14 731.264. (1) A complaint made to the Director of the Department of Consumer and Business
15 Services against any person regulated by the Insurance Code, and the record of the complaint, is
16 confidential and may not be disclosed except as **otherwise** provided in [*subsection (3) of*] this section
17 and in ORS 705.137. The complaint, and the record of the complaint, may not be used in any action,
18 suit or proceeding except to the extent the director considers necessary in prosecuting apparent
19 violations of the Insurance Code or other law.

20 (2) Data gathered pursuant to an investigation by the director of a complaint is confidential,
21 may not be disclosed except as **otherwise** provided in **this section and in** ORS 705.137 and may
22 not be used in any action, suit or proceeding except to the extent the director considers necessary
23 in investigating or prosecuting apparent violations of the Insurance Code or other law.

24 (3) The director may provide to any requester information about complaints that the director
25 receives against an insurer for any of the unlawful practices described in ORS 746.230. Before pro-
26 viding information about a complaint the director receives, the director shall remove information
27 that could identify the person that submitted the complaint.

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 (4) Notwithstanding subsections (1) to (3) of this section, the director shall establish by rule a
 2 method for publishing an annual statistical report containing the insurer's name and the number,
 3 percentage, type and disposition of complaints the Department of Consumer and Business Services
 4 receives against each insurer that transacts insurance within this state.

5 **(5) The director may disclose information in a complaint received under this section to**
 6 **an authorized representative of the person who made the complaint.**

7 **(6) The director by rule shall establish procedures for investigating complaints the di-**
 8 **rector receives under this section. The procedures must:**

9 **(a) Set schedules and deadlines for completing an investigation;**

10 **(b) Specify standards for regular and informative communication with the person who**
 11 **made the complaint;**

12 **(c) Specify procedures for:**

13 **(A) Presenting a complaint and evidence to support the complaint; and**

14 **(B) Answering a complaint and presenting rebutting evidence;**

15 **(d) Specify the form and permissible contents of findings and decisions concerning a**
 16 **complaint;**

17 **(e) Identify the range of potential enforcement actions the department may take with**
 18 **respect to the complaint;**

19 **(f) Specify standards and procedures for involving the person who made the complaint in**
 20 **a determination of appropriate restitution and equitable relief under ORS 731.256; and**

21 **(g) Specify procedures for appealing the department's determination.**

22 **SECTION 3.** ORS 731.264, as amended by section 2, chapter 62, Oregon Laws 2016, is amended
 23 to read:

24 731.264. (1) A complaint made to the Director of the Department of Consumer and Business
 25 Services against any person regulated by the Insurance Code, and the record of the complaint, is
 26 confidential and may not be disclosed except as **otherwise** provided in **this section and in** ORS
 27 705.137. The complaint, and the record of the complaint, may not be used in any action, suit or
 28 proceeding except to the extent the director considers necessary in prosecuting apparent violations
 29 of the Insurance Code or other law.

30 (2) Data gathered pursuant to an investigation by the director of a complaint is confidential,
 31 may not be disclosed except as **otherwise** provided in **this section and in** ORS 705.137 and may
 32 not be used in any action, suit or proceeding except to the extent the director considers necessary
 33 in investigating or prosecuting apparent violations of the Insurance Code or other law.

34 (3) Notwithstanding subsections (1) and (2) of this section, the director shall establish by rule
 35 a method for publishing an annual statistical report containing the insurer's name and the number,
 36 percentage, type and disposition of complaints the Department of Consumer and Business Services
 37 receives against each insurer that transacts insurance within this state.

38 **(4) The director may disclose information in a complaint received under this section to**
 39 **an authorized representative of the person who made the complaint.**

40 **(5) The director by rule shall establish procedures for investigating complaints the di-**
 41 **rector receives under this section. The procedures must:**

42 **(a) Set schedules and deadlines for completing an investigation;**

43 **(b) Specify standards for regular and informative communication with the person who**
 44 **made the complaint;**

45 **(c) Specify procedures for:**

1 (A) Presenting a complaint and evidence to support the complaint; and

2 (B) Answering a complaint and presenting rebutting evidence;

3 (d) Specify the form and permissible contents of findings and decisions concerning a
4 complaint;

5 (e) Identify the range of potential enforcement actions the department may take with
6 respect to the complaint;

7 (f) Specify standards and procedures for involving the person who made the complaint in
8 a determination of appropriate restitution and equitable relief under ORS 731.256; and

9 (g) Specify procedures for appealing the department's determination.

10 **SECTION 4.** (1) The amendments to ORS 731.264 by sections 2 and 3 of this 2019 Act be-
11 come operative on January 1, 2020.

12 (2) The Director of the Department of Consumer and Business Services may adopt rules
13 and take any other action before the operative date specified in subsection (1) of this section
14 that is necessary to enable the director, on and after the operative date specified in sub-
15 section (1) of this section, to exercise and undertake all of the duties, functions and powers
16 conferred on the director by the amendments to ORS 731.264 by sections 2 and 3 of this 2019
17 Act.

18 **SECTION 5.** This 2019 Act being necessary for the immediate preservation of the public
19 peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect
20 on its passage.

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