

# Senate Bill 654

Sponsored by Senator BOQUIST

## 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**.

Imposes public safety assessment on covered entities. Defines "covered entity." Establishes Public Safety Assessment Fund. Requires certain covered entities to submit copy of return or form that covered entity must submit to obtain exemption from federal taxation if covered entity pays officer or employee more than \$1 million. Applies to calendar years beginning on or after January 1, 2019.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to regulation of certain business entities; creating new provisions; amending ORS 731.026,  
3 731.036, 731.804, 743.650, 748.414 and 748.605; repealing ORS 731.381, 748.509, 748.601 and  
4 748.603; and prescribing an effective date.

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

6 **SECTION 1. (1) As used in this section:**

7 (a) **"Covered entity" means any of the following entities that transact business in this**  
8 **state that, in the aggregate, generates revenue in excess of \$1 million in a calendar year:**

9 (A) **An insurer, as defined in ORS 731.106;**

10 (B) **A fraternal benefit society, as described in ORS 748.106; and**

11 (C) **A nonprofit corporation that is not otherwise subject to a requirement to file articles**  
12 **of incorporation under ORS 65.051 or obtain an authorization to transact business in this**  
13 **state under ORS 65.701.**

14 (b) **"Employee remuneration" means applicable employee remuneration, as defined in**  
15 **section 162(m) of the Internal Revenue Code, as amended and in effect on December 31, 2018.**

16 (c) **"Subject revenue" includes program service revenue, employee remuneration and**  
17 **funds received from a government entity.**

18 (d) **"Transacts business in this state" means conducting any of these activities in this**  
19 **state:**

20 (A) **Maintaining, defending or settling any proceeding;**

21 (B) **Holding meetings of the covered entity's board of directors or shareholders or car-**  
22 **rying on other activities that involve the covered entity's internal affairs;**

23 (C) **Maintaining bank accounts;**

24 (D) **Maintaining offices or agencies for transferring, exchanging or registering the cov-**  
25 **ered entity's securities or maintaining trustees or depositories with respect to the securities;**

26 (E) **Selling through independent contractors;**

27 (F) **Soliciting or obtaining orders, donations or contributions of other funds, whether**  
28 **through the mail, through employees or agents or otherwise;**

29 (G) **Creating or acquiring indebtedness, mortgages or security interests in real or per-**

**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 sonal property;

2 (H) Securing or collecting debts or enforcing mortgages or security interests in property  
3 that secures the debts;

4 (I) Owning real or personal property; and

5 (J) Conducting other transactions.

6 (2) In order to fund public safety in this state, an assessment is imposed on all covered  
7 entities, to the extent that the subject revenue of the covered entity exceeds \$1 million for  
8 the calendar year. The assessment shall be in the amount of 1.9 percent of the subject re-  
9 venue in excess of \$1 million that the covered entity receives during the calendar year.

10 (3) The assessment imposed under this section is payable no later than April 15 following  
11 the calendar year for which it is imposed. The assessment is payable in the form and manner  
12 that the Department of Revenue establishes.

13 (4) All revenues from the assessment imposed under this section must, after payment  
14 of refunds and administrative costs, be deposited in the Public Safety Assessment Fund es-  
15 tablished in section 3 of this 2019 Act.

16 (5) If a covered entity, other than an insurer that is a for-profit entity, pays more than  
17 \$1 million to any of the covered entity's officers or employees during a calendar year, the  
18 covered entity shall submit to the Department of Revenue not later than July 1 of the fol-  
19 lowing calendar year a copy of any return or form that the covered entity must submit to  
20 the Internal Revenue Service as a requirement for the covered entity to obtain an exemption  
21 from federal income tax.

22 **SECTION 2.** (1) The Department of Revenue shall collect the assessment required under  
23 section 1 of this 2019 Act in the same manner in which the department assesses and collects  
24 income taxes under ORS chapter 314. The department may issue a warrant as provided in  
25 ORS 314.430 and record the warrant in the County Clerk Lien Record maintained under ORS  
26 205.130. A warrant issued under this section has the same force and effect as a warrant is-  
27 sued under ORS 314.430.

28 (2) The department by rule shall establish policies and procedures for administering the  
29 assessment imposed under section 1 of this 2019 Act.

30 **SECTION 3.** The Public Safety Assessment Fund is established in the State Treasury,  
31 separate and distinct from the General Fund. Interest earned by the Public Safety Assess-  
32 ment Fund shall be credited to the fund. The fund consists of moneys appropriated or  
33 transferred to the fund and moneys deposited in the fund under section 1 of this 2019 Act.  
34 Moneys in the fund are continuously appropriated to the Department of Public Safety Stan-  
35 dards and Training to be used for the purpose of public safety enhancement and distributed  
36 in the form of grants equally among:

37 (1) The Oregon State Police.

38 (2) The State Fire Marshal.

39 (3) Local law enforcement agencies.

40 (4) Rural fire protection districts.

41 (5) The Office of Emergency Management.

42 **SECTION 4.** Sections 1 and 2 of this 2019 Act apply to calendar years beginning on or  
43 after January 1, 2019.

44 **SECTION 5.** ORS 731.026 is amended to read:

45 731.026. The Insurance Code applies to:

1 (1) A fraternal benefit society, **to the extent that the fraternal benefit society is not subject**  
 2 **to ORS chapter 748** [*complying with ORS chapter 748, only as provided in such chapter*].

3 (2) A health care service contractor complying with ORS 750.005 to 750.095, only as provided  
 4 in such sections.

5 (3) A legal expense organization complying with ORS 750.505 to 750.715, only as provided in  
 6 such sections.

7 (4) A multiple employer welfare arrangement complying with ORS 750.301 to 750.341, only as  
 8 provided in such sections.

9 **SECTION 6.** ORS 731.036 is amended to read:

10 731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance  
 11 Code does not apply to any of the following to the extent of the subject matter of the exemption:

12 (1) A bail bondsman, other than a corporate surety and its agents.

13 [(2) *A fraternal benefit society that has maintained lodges in this state and other states for 50 years*  
 14 *prior to January 1, 1961, and for which a certificate of authority was not required on that date.*]

15 [(3)] (2) A religious organization providing insurance benefits only to its employees, if the or-  
 16 ganization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal  
 17 Revenue Code on September 13, 1975.

18 [(4)] (3) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a  
 19 self-insurance program for tort liability in accordance with ORS 30.282.

20 [(5)] (4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a  
 21 self-insurance program for property damage in accordance with ORS 30.282.

22 [(6)] (5) Cities, counties, school districts, community college districts, community college service  
 23 districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure  
 24 for health insurance coverage, excluding disability insurance, their employees or retired employees,  
 25 or their dependents, or students engaged in school activities, or combination of employees and de-  
 26 pendants, with or without employee or student contributions, if all of the following conditions are  
 27 met:

28 (a) The individual or jointly self-insured program meets the following minimum requirements:

29 (A) In the case of a school district, community college district or community college service  
 30 district, the number of covered employees and dependents and retired employees and dependents  
 31 aggregates at least 500 individuals;

32 (B) In the case of an individual public body program other than a school district, community  
 33 college district or community college service district, the number of covered employees and depen-  
 34 dents and retired employees and dependents aggregates at least 500 individuals; and

35 (C) In the case of a joint program of two or more public bodies, the number of covered em-  
 36 ployees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

37 (b) The individual or jointly self-insured health insurance program includes all coverages and  
 38 benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

39 (c) The individual or jointly self-insured program must have program documents that define  
 40 program benefits and administration;

41 (d) Enrollees must be provided copies of summary plan descriptions including:

42 (A) Written general information about services provided, access to services, charges and sched-  
 43 uling applicable to each enrollee's coverage;

44 (B) The program's grievance and appeal process; and

45 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-

1 tabulated under ORS chapters 743, 743A and 743B;

2 (e) The financial administration of an individual or jointly self-insured program must include the  
3 following requirements:

4 (A) Program contributions and reserves must be held in separate accounts and used for the ex-  
5 clusive benefit of the program;

6 (B) The program must maintain adequate reserves. Reserves may be invested in accordance with  
7 the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper  
8 actuarial calculations including the following:

9 (i) Known claims, paid and outstanding;

10 (ii) A history of incurred but not reported claims;

11 (iii) Claims handling expenses;

12 (iv) Unearned contributions; and

13 (v) A claims trend factor; and

14 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-  
15 cordance with the provisions of ORS 742.065 unless the program has received written approval for  
16 an alternative arrangement for protection against economic loss from the Director of the Depart-  
17 ment of Consumer and Business Services;

18 (f) The individual or jointly self-insured program must have sufficient personnel to service the  
19 employee benefit program or must contract with a third party administrator licensed under ORS  
20 chapter 744 as a third party administrator to provide such services;

21 (g) The public body, or the program administrator in the case of a joint insurance program of  
22 two or more public bodies, files with the Director of the Department of Consumer and Business  
23 Services copies of all documents creating and governing the program, all forms used to communicate  
24 the coverage to beneficiaries, the schedule of payments established to support the program and,  
25 annually, a financial report showing the total incurred cost of the program for the preceding year.  
26 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing  
27 requirement; and

28 (h) Each public body in a joint insurance program is liable only to its own employees and no  
29 others for benefits under the program in the event, and to the extent, that no further funds, in-  
30 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

31 [(7)] **(6)** All ambulance services.

32 [(8)] **(7)** A person providing any of the services described in this subsection. The exemption un-  
33 der this subsection does not apply to an authorized insurer providing such services under an insur-  
34 ance policy. This subsection applies to the following services:

35 (a) Towing service.

36 (b) Emergency road service, which means adjustment, repair or replacement of the equipment,  
37 tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated  
38 under its own power.

39 (c) Transportation and arrangements for the transportation of human remains, including all  
40 necessary and appropriate preparations for and actual transportation provided to return a  
41 decedent's remains from the decedent's place of death to a location designated by a person with  
42 valid legal authority under ORS 97.130.

43 [(9)(a)] **(8)(a)** A person described in this subsection who, in an agreement to lease or to finance  
44 the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in  
45 paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage,

1 theft or other occurrence, as specified in the agreement. The exemption established in this sub-  
 2 section applies to the following persons:

3 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-  
 4 stallment contract.

5 (B) The lessor of the motor vehicle.

6 (C) The lender who finances the purchase of the motor vehicle.

7 (D) The assignee of a person described in this paragraph.

8 (b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,  
 9 between the amount received by the seller, lessor, lender or assignee, as applicable, that represents  
 10 the actual cash value of the motor vehicle at the date of loss, and the amount owed under the  
 11 agreement.

12 [(10)] (9) A self-insurance program for tort liability or property damage that is established by  
 13 two or more affordable housing entities and that complies with the same requirements that public  
 14 bodies must meet under ORS 30.282 (6). As used in this subsection:

15 (a) "Affordable housing" means housing projects in which some of the dwelling units may be  
 16 purchased or rented, with or without government assistance, on a basis that is affordable to indi-  
 17 viduals of low income.

18 (b) "Affordable housing entity" means any of the following:

19 (A) A housing authority created under the laws of this state or another jurisdiction and any  
 20 agency or instrumentality of a housing authority, including but not limited to a legal entity created  
 21 to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

22 (B) A nonprofit corporation that is engaged in providing affordable housing.

23 (C) A partnership or limited liability company that is engaged in providing affordable housing  
 24 and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or  
 25 a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or  
 26 nonprofit corporation:

27 (i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-  
 28 ited liability company;

29 (ii) Has the power to direct the management or policies of the partnership or limited liability  
 30 company;

31 (iii) Has entered into a contract to lease, manage or operate the affordable housing owned by  
 32 the partnership or limited liability company; or

33 (iv) Has any other material relationship with the partnership or limited liability company.

34 [(11)] (10) Except as provided in ORS 735.500 and 735.510, a person certified by the Department  
 35 of Consumer and Business Services to operate a retainer medical practice.

36 **SECTION 7.** ORS 731.804 is amended to read:

37 731.804. (1) Except as otherwise provided in this section, each authorized insurer doing business  
 38 in this state shall pay assessments that the Director of the Department of Consumer and Business  
 39 Services determines are necessary to support the legislatively authorized budget of the Department  
 40 of Consumer and Business Services with respect to functions of the department under the Insurance  
 41 Code. The director shall determine the assessments according to one or more percentage rates es-  
 42 tablished by the director by rule. The director shall specify in the rule when assessments [*shall*]  
 43 **must** be made and payments [*shall be*] **are** due. The premium-weighted average of the percentage  
 44 rates may not exceed nine-hundredths of one percent of the gross amount of premiums received by  
 45 an insurer or the insurer's insurance producers from and under the insurer's policies covering direct

1 domestic risks, after deducting the amount of return premiums paid and the amount of dividend  
 2 payments made to policyholders with respect to such policies. In the case of reciprocal insurers, the  
 3 amount of savings paid or credited to the accounts of subscribers *[shall]* **must** be deducted from the  
 4 gross amount of premiums. In establishing the percentage rate or rates, the director shall use the  
 5 most recent premium data approved by the director. In establishing the amounts to be collected  
 6 under this subsection, the director shall take into consideration the expenses of the department for  
 7 administering the Insurance Code and the fees collected under subsection (2) of this section.  
 8 *[When]* **If** the director establishes two or more percentage rates:

9 (a) Each rate *[shall]* **must** be based on such expenses of the department ascribed by the director  
 10 to the line of insurance for which the rate is established.

11 (b) Each rate *[shall]* **must** be applied to the gross amount of premium received by an insurer  
 12 or *[its]* **the insurer's** insurance producers for the applicable line of insurance as provided in this  
 13 subsection.

14 (2) The director may collect fees for specific services provided by the department under the In-  
 15 surance Code according to a schedule of fees established by the director by rule. The director may  
 16 collect such fees in advance. In establishing the schedule for fees, the director shall take into con-  
 17 sideration the cost of each service for which a fee is imposed.

18 (3) Establishment and amendment of the schedule of fees under subsection (2) of this section are  
 19 subject to prior approval of the Oregon Department of Administrative Services and a report to the  
 20 Emergency Board prior to adopting the fees and *[shall]* **must** be within the budget authorized by the  
 21 Legislative Assembly as that budget may be modified by the Emergency Board.

22 (4) The director may not collect an assessment under subsection (1) of this section from *[any of*  
 23 *the following persons:]*

24 *[(a) A fraternal benefit society complying with ORS chapter 748.]*

25 *[(b)]* any person or class of persons designated by the director by rule **other than a fraternal**  
 26 **benefit society, as described in ORS 748.106.**

27 (5) The director may not collect an assessment under subsection (1) of this section with respect  
 28 to premiums received from any of the following policies:

29 (a) Workers' compensation insurance policies.

30 (b) Wet marine and transportation insurance policies.

31 (c) Any category of policies designated by the director by rule.

32 **SECTION 8.** ORS 748.414 is amended to read:

33 748.414. Every society organized or licensed under this chapter is hereby declared to be a  
 34 charitable and benevolent institution, and all of *[its]* **the funds** *[shall be]* **the society receives spe-**  
 35 **cifically for or expends on charitable purposes are** exempt from all and every state, county, dis-  
 36 trict, municipal and school tax, other than taxes on real estate and office equipment.

37 **SECTION 9.** ORS 743.650 is amended to read:

38 743.650. (1) ORS 743.650 to 743.665 may be known and cited as the "Long Term Care Insurance  
 39 Act."

40 (2) The purpose of ORS 743.650 to 743.665 is to:

41 (a) Promote the public interest in long term care insurance;

42 (b) Promote the availability of long term care insurance policies;

43 (c) Protect applicants for long term care insurance from unfair or deceptive sales or enrollment  
 44 practices;

45 (d) Establish standards for long term care insurance;

1 (e) Facilitate public understanding and comparison of long term care insurance policies;

2 (f) Facilitate flexibility and innovation in the development of long term care insurance coverage;

3 and

4 (g) Ensure that Oregon residents who purchase insurance for long term care shall have access  
5 to policies providing for a comprehensive range of benefits.

6 (3) The requirements of ORS 743.650 to 743.665[, 748.603] and 750.055 apply to policies and cer-  
7 tificates delivered or issued for delivery in this state on or after December 31, 1989. ORS 743.650  
8 to 743.665[, 748.603] and 750.055 are not intended to supersede the obligations of entities subject to  
9 ORS 743.650 to 743.665[, 748.603] and 750.055 to comply with the substance of other applicable in-  
10 surance laws insofar as such laws do not conflict with ORS 743.650 to 743.665[, 748.603] and 750.055,  
11 except that laws and rules designed and intended to apply to Medicare supplement insurance poli-  
12 cies shall not be applied to long term care insurance. A policy that is not advertised, marketed or  
13 offered as long term care insurance or nursing home insurance is not required to meet the require-  
14 ments of ORS 743.650 to 743.665[, 748.603] and 750.055.

15 **SECTION 10.** ORS 748.605 is amended to read:

16 748.605. Insurance issued or delivered by a fraternal benefit society against the risk of economic  
17 loss assumed under a less than fully insured employee health benefit plan is subject to ORS 742.065.  
18 Such insurance is [*subject to ORS 748.603 but is otherwise*] not subject to the provisions of ORS  
19 chapter 748.

20 **SECTION 11. ORS 731.381, 748.509, 748.601 and 748.603 are repealed.**

21 **SECTION 12. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
22 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

23