

House Bill 3320

Sponsored by Representative REYNOLDS (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, 2022.

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 731.236 and 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, 2021.**

13 **SECTION 2. ORS 731.236 is amended to read:**

14 731.236. (1) The Director of the Department of Consumer and Business Services shall enforce the
15 provisions of the Insurance Code for the public good, and shall execute the duties imposed by the
16 code.

17 (2) The director has the powers and authority expressly conferred by or reasonably implied from
18 the provisions of the Insurance Code.

19 (3) The director may conduct such examinations and investigations of insurance matters, in ad-
20 dition to examinations and investigations expressly authorized, as the director considers proper to
21 determine whether any person has violated any provision of the Insurance Code or to secure infor-
22 mation useful in the lawful administration of any such provision. The cost of such additional exam-
23 inations and investigations shall be borne by the state.

24 **(4) The director by rule shall establish procedures for investigating complaints the di-**
25 **rector receives under ORS 731.264. The procedures must:**

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

27 **(b) Specify standards for regular and informative communication with the person who**

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 **made the complaint;**

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

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

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

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

7 **(e) Identify the range of potential enforcement actions the Department of Consumer and**
8 **Business Services may take with respect to the complaint;**

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

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

12 [(4)] (5) The director has such additional powers and duties as may be provided by other laws
13 of this state.

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

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

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

26 **(3) The director may provide to any requester information about complaints that the di-**
27 **rector receives against an insurer for any of the unlawful practices described in ORS 746.230.**
28 **Before providing information about a complaint the director receives, the director shall re-**
29 **move information that could identify the person that submitted the complaint.**

30 [(3)] (4) Notwithstanding subsections (1) [*and* (2)] **to (3)** of this section, the director shall es-
31 tablish by rule a method for publishing an annual statistical report containing the insurer's name
32 and the number, percentage, type and disposition of complaints the Department of Consumer and
33 Business Services receives against each insurer that transacts insurance within this state.

34 **(5)(a) As used in this subsection, "authorized representative" means a member of a**
35 **person's family, the person's health care provider, the person's attorney, an elected repre-**
36 **sentative of this state or another person the person designates.**

37 **(b) The director may disclose information in and related to a complaint described in**
38 **subsection (1) of this section to the person who made the complaint and to an authorized**
39 **representative of the person who made the complaint.**

40 **SECTION 4.** (1) The amendments to ORS 731.236 and 731.264 by sections 2 and 3 of this
41 **2021 Act become operative on January 1, 2022.**

42 **(2) The Director of the Department of Consumer and Business Services may adopt rules**
43 **and take any other action before the operative date specified in subsection (1) of this section**
44 **that is necessary to enable the director, on and after the operative date specified in sub-**
45 **section (1) of this section, to exercise and undertake all of the duties, functions and powers**

1 conferred on the director by the amendments to ORS 731.236 and 731.264 by sections 2 and
2 3 of this 2021 Act.

3 **SECTION 5.** This 2021 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2021 Act takes effect
5 on its passage.
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