



## [Senate Bill 82](#) Guidance

Key provisions of the new law include:

- Requiring more comprehensive, actionable information in consumer notices of cancellation, nonrenewal, and premium increase.
- Requiring insurers to consider home hardening and defensible space efforts in rating and underwriting, while providing flexibility in how this consideration is reflected in an insurer's decisions.
- Requiring extended timelines for rebuilding and contents replacement; allowing homeowners at least 24 months to repair, rebuild, or replace damaged or lost property related to a fire during certain types of declared emergencies.
- Prohibiting the use of the state wildfire risk map for rating and underwriting.

### **Following are inquiries the division has received from the insurance industry regarding SB 82 clarifications and responses:**

1. Will DFR review new forms prior to market use and if so, what is the suggested timeline for submission?
  - Yes, DFR will expedite SB 82-related filing reviews throughout the rest of 2023. Form filings, rate filings, underwriting guidelines, and supporting documentation should be submitted via SERFF by **Wednesday, Nov. 15** to provide adequate time for back and forth communication, including any objections and required revisions.
2. What are insurers required to file with the division?
  - Insurers are required to file underwriting guidelines, rating plans, and forms.
3. Why do insurers have to file these?
  - Underwriting Guidelines
    - ORS 737.205 (1) – Every insurer shall file with the Director of the Department of Consumer and Business Services copies of the rates,

rating plans and rating systems used by it. Except as provided in ORS 737.207 (Commercial liability insurance rate filings), 737.209 (Hearing on rate filings under ORS 737.207) and 737.320 (Review of certain filings) (2), each filing shall become effective immediately on the date specified therein but not earlier than the date such filing is received by the director. This subsection does not apply to inland marine risks which by general custom of the business are not written according to manual rates or rating plans.

- [Product standards checklist 440-3618](#) – Underwriting guideline changes are part of rating systems under ORS 737.205 and thus changes in underwriting eligibility guidelines must be filed with the Director to determine compliance.
  - OAR 836-010-0011 (2) – An insurer must follow the applicable standards set forth on the website of the Division of Financial Regulation (DFR) at [dfr.oregon.gov](http://dfr.oregon.gov), when making rate and form filings, except that if the insurer files electronically on the System for Electronic Rates and Forms Filing, (SERFF), the insurer must comply with the Oregon standards set forth in SERFF.
  - SB 82 Sec. 2 (17) requires an insurer offering homeowner insurance, as defined in ORS 746.600 to: ... (b) Reflect in the insurer’s underwriting guidelines and rate plans how the insurer addresses or considers wildfire risk mitigation actions, as defined in section 1 of this 2023 Act.
- Rating Plans
    - ORS 737.205 (1) – Every insurer shall file with the Director of the Department of Consumer and Business Services copies of the rates, rating plans and rating systems used by it. Except as provided in ORS 737.207 (Commercial liability insurance rate filings), 737.209 (Hearing on rate filings under ORS 737.207) and 737.320 (Review of certain filings) (2), each filing shall become effective immediately on the date specified therein but not earlier than the date such filing is received by the director. This subsection does not apply to inland marine risks which by general custom of the business are not written according to manual rates or rating plans.
    - ORS 746.015 (1) – No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life, or between risks of essentially the same degree of hazard, in the availability of insurance, in the application of rates for insurance, in the dividends or other benefits payable under insurance policies, or in any other terms or conditions of insurance policies.

- Forms
  - ORS 742.003 – Filing and approval of policy forms – Except where otherwise provided by law, no basic policy form, or application form where written application is required and is to be made a part of the policy, or rider, indorsement or renewal certificate form shall be delivered or issued for delivery in this state until the form has been filed with and approved by the Director of the Department of Consumer and Business Services.
  - ORS 731.008 – Purpose of code – The Legislative Assembly declares that the Insurance Code is for the protection of the insurance-buying public.
  - ORS 731.016 – Construction of code – The Insurance Code shall be liberally construed and shall be administered and enforced by the Director of the Department of Consumer and Business Services to give effect to the policy stated in ORS 731.008 (Purpose of Insurance Code).

4. What constitutes a cancellation for purposes of compliance with SB 82?

- Cancellation means the termination of an existing policy. This includes cancellation of new business during the first 60 days, while the insurer is underwriting the policy.

5. To what policies do the notice requirements apply?

- Notice requirements delineated by SB 82 apply to all homeowner insurance policies on and after Jan. 1, 2024. Any cancellation (including midterm cancellation), non-renewal, or renewal with a premium increase that occurs on or after the effective date of the law is subject to the applicable notice requirements.

6. Will product standards will be updated and applied to the form filings?

- Yes; product standards are updated and you can find them on the DFR [website](#).

7. If a company doesn't have a wildfire mitigation discount in any program, does this mean they don't have to include that type of information in the notices?

- If the insurer does not give a wildfire mitigation discount, this information should be affirmatively stated within the notices.

8. Can a company send a single premium change notice to all policyholders and not make a determination whether a premium increase is materially related to wildfire risk?
  - No, SB 82 requires notices to be sent for an increase in premium, cancellation, or nonrenewal that are property-specific and individually tailored. This includes the property-specific characteristics related to wildfire risk that resulted in the insurer's decision, any wildfire risk mitigation actions that an insured could undertake to improve insurability of the property, and the wildfire risk score, to name a few. An insurer should be able to determine whether a premium increase is materially related to wildfire risk and send individualized notices to the affected policyholders regarding SB 82 requirements.
  
9. As for general information posted on the insurer's website, what if wildfire mitigation actions are not considered in rating?
  - If wildfire mitigation actions are not currently considered in the rating process, that should be included within the general information required to be posted on the insurer's website (no later than Jan. 1, 2024). "An insurer offering homeowner insurance, as defined in ORS 746.600, in this state shall make information on **whether** and how wildfire risk mitigation actions, as defined in section 1 of this 2023 Act, may impact the insurer's underwriting and rates publicly available on the insurer's website."
  
10. Would a statewide emergency order trigger the provisions of ORS 742.270?
  - Yes – A declaration of emergency under ORS 401.165 and an order under the Emergency Conflagration Act would both trigger the relevant provisions of SB 82 if there was a covered loss. If there is a covered loss under the applicable insurance policy, then the emergency declaration would indeed trigger the relevant provisions of [HB 3272](#) ("if there is covered damage or loss that occurs in a location that was subject to a declaration of a state of emergency under ORS 401.165" and the covered damage or loss "is directly related to the emergency that was the subject of the declaration ... etc.") SB 82 adds to the HB 3272 requirements found in ORS 742.270, also encompassing fires that are the subject of an order under ORS 476.510 to 476.610 (the Emergency Conflagration Act).