

Secretary of State
STATEMENT OF NEED AND FISCAL IMPACT
A Notice of Proposed Rulemaking Hearing accompanies this form.

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ARCHIVES DIVISION
SECRETARY OF STATE

Department of Consumer and Business Services, Insurance Regulation
Agency and Division

836
Administrative Rules Chapter Number

Disclosure of Information about Complaints Regarding Unlawful Claims Settlement Practices.

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

Adopting OAR 836-005-0405 relating to Disclosure of Information about Complaints Regarding Unlawful Claims Settlement Practices.

Statutory Authority:

ORS 731.264

Other Authority:

Statutes Implemented:

ORS 731.264, 2016 Or Laws ch 62 (Enrolled Senate Bill 1591)

Need for the Rule(s):

ORS 731.264 as amended by Senate Bill 1591, provides that the Director of the Department of Consumer and Business Services (DCBS) may provide to any requester information about complaints against insurers for unlawful practices described under ORS 746.230. The statute does not further define what types of records and under what circumstances records must be disclosed. The proposed rules would clarify the method in which individuals may request information about complaints, the types of records and information that DCBS could and could not disclose, and the circumstances and manner in which DCBS would disclose that information.

Documents Relied Upon, and where they are available:

ORS 731.264 is available at <http://www.oregonlegislature.gov>. Senate Bill 1591 and legislative history of Senate Bill 1591 (2016 Legislative Session) are available at the Division of Financial Regulation, Labor and Industries Building, 350 Winter St. NE, Salem, OR 97301 or upon request from Karen.j.winkel@oregon.gov.

Fiscal and Economic Impact:

The fiscal impact of the proposed rule on the Division of Financial Regulation (DFR) will depend on a number of unknown factors. Consumer complaints filed about insurers were previously not subject to public records requests. DFR does not have information that could reliably predict the number of records request it will receive after the effective date. Under ORS 192.440(4)(a), DFR is authorized to charge fees reasonably calculated to reimburse the agency for the cost of producing records. DFR may also waive or reduce fees if doing so is in the public interest. DFR does not have information that could reliably predict the nature of requests under the proposed rule and what percentage of the requests will be eligible for a fee waiver.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Based on available information, these proposed rules would have no financial impact on state agencies or local governments besides DFR, because they create no new mandates for state or local government entities. Requests for information between state and local government entities is not governed by the Oregon Public Records Law.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:

No small businesses would be directly subject to the proposed rule. The only entity subject to the rule is DFR. Only information about complaints against insurers are eligible for disclosure. No insurer in Oregon qualifies as a small business. Under the proposed rule, all persons, including small businesses, are now eligible to make a request for records.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

The proposed rule provides that the Director will disclose certain types of information related to consumer complaints under certain circumstances. It does not create any reporting, recordkeeping, or other requirements with which small businesses or other entities need to comply.

c. Equipment, supplies, labor and increased administration required for compliance:

The proposed rule provides that the Director will disclose certain types of information related to consumer complaints under certain circumstances. It does not create any reporting, recordkeeping, or other requirements with which small businesses or other entities need to comply.

How were small businesses involved in the development of this rule?

Small businesses would not be subject to the proposed rule. A rule advisory committee consisting of consumer advocates and representatives from the insurance industry was convened; however, since no insurer in Oregon nor other stakeholders qualify as a small business, none were consulted.

**Administrative Rule Advisory Committee consulted?: Yes
If not, why?:**

10-31-2016 5:00 p.m.	Karen Winkel	karen.i.winkel@oregon.gov
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address