

Oregon Department of Consumer and Business Services Division of Financial Regulation, Bulletin No. DFR 2025-X

350 Winter Street NE, P.O. Box 14480, Salem, Oregon 97309-0405

503

dfr.oregon.gov

To: Oregon Surplus Lines Association, approved surplus lines carriers, and qualified surplus lines producers

Date: November xx, 2025

RE: Affordable Housing Commercial Property and Liability Insurance Export List — Oregon SB 829 (2025)

I. Purpose

This bulletin provides guidance to surplus lines insurers, qualified surplus lines producers, and retail producers by identifying commercial insurance coverages generally unavailable in Oregon's admitted market for risks associated with affordable housing, and allows coverage placement of the commercial coverages noted in this bulletin via surplus lines carriers without producers placing coverage on behalf of affordable housing entities first needing to perform a diligent search.

II. Authority

- ORS 731.008
- ORS 731.016
- ORS 735.410
- Chapter 600, 2025 Oregon Laws (enrolled 2025 Senate Bill 829)

III. Background

The Oregon Insurance Code, generally requires an insurance producer working on behalf of an affordable housing entity to first conduct a diligent search of admitted commercial carrier offerings for commercial property loss and/or liability coverage needed before procuring this coverage from a surplus lines licensee.¹ In general, a diligent search was deemed complete upon the producer receiving rejection of coverage from multiple insurers.

Senate Bill 829 (2025) directs the Department of Consumer and Business Services (DCBS) to create a new export list that allows surplus lines insurers and qualified surplus lines producers to place commercial property loss and/or liability coverage for

¹ See ORS 735.410(1)(b).

Oregon affordable housing entities directly with a surplus lines carrier without first having to conduct a diligent search for authorized commercial insurance coverage(s).

IV. Director's Guidance

On the basis of Senate Bill 829 (2025), Section 5, commercial property and general liability coverage for affordable housing may be placed with a surplus lines carrier without completing a diligent search described under ORS 735.410(1)(b).

This export list, applies only to properties that meet the definition of affordable housing under ORS 197A.445.² The property must be a residential property:

(A) In which:

- (i) Each unit on the property is made available to own or rent to families with incomes of 80 percent or less of the area median income;
- (ii) The average of all units on the property is made available to families with incomes of 60 percent or less of the area median income; or
- (iii) A manufactured dwelling park is operated that serves only households with incomes of 120 percent or less of the area median income;

And

(B) Whose affordability, including affordability under a covenant as described in ORS 456.270 to 456.295, is enforceable for a duration of no less than 30 years.³

The following categories of commercial insurance may now be placed with a surplus lines licensee for coverage of affordable housing in this state without first conducting a diligent search:

1. Commercial Property⁴

Description: Broad coverage for property damage/loss due to fire, vandalism, wind, water, and other perils for affordable housing.

Reason for Inclusion: Rising construction and replacement costs, combined with elevated risk profiles (e.g., old building systems, absence of sprinklers, higher risk occupancy), have led admitted carriers to limit or withdraw offerings available to affordable housing providers.

² Both Section 1 and Section 3 of Senate Bill 829 (2025) incorporated by reference the definition of “affordable housing” set forth in ORS 197A.445.

³ ORS 197A.445(1)(b) defines “area median income” to mean “the median income for the metropolitan statistical area in which housing is located as determined by the Housing and Community Services Department and adjusted for household size based on information from the United States Department of Housing and Urban Development.”

⁴ ORS 731.182 defines “Property insurance” as “insurance on real or personal property of every kind and of every interest therein, whether on land, water or in the air, against loss or damage from any and all hazard or cause, and against consequential loss from such loss or damage, other than noncontractual legal liability for loss or damage. “Property insurance” does not include title insurance.”

2. General Liability^{5 6}

Description: Liability loss protection for claims specific to affordable housing.

Reason for Inclusion: Limited appetite among admitted market carriers due to perceived high claim severity and volatility of incident frequency. In general, insurer underwriting experience deems the risks of this business too severe or frequent to cover.

TK Keen, Administrator
Acting Insurance Commissioner
Division of Financial Regulation

Date

⁵ ORS 731.074(1) defines “Commercial liability insurance” as insurance for a business, professional, nonprofit or governmental entity against legal, contractual or assumed liability for death, injury or disability of any human, or for damage to property, arising out of acts or omissions in the course of the conduct of the entity.

(2) “Commercial liability insurance” does not include the following lines of insurance or classes of business:

- (a) Marine and transportation insurance;
- (b) Wet marine and transportation insurance;
- (c) FAIR plans and automobile assigned risk insurance;
- (d) Workers’ compensation and employers’ liability insurance;
- (e) Nuclear liability insurance;
- (f) Fidelity and surety insurance;
- (g) Hazardous waste and environmental impairment insurance;
- (h) Aviation insurance; or
- (i) Commercial automobile insurance.

⁶ ORS 731.158 defines “Casualty insurance” as:

(1) Insurance against legal, contractual or assumed liability for death, injury or disability of any human, or for damage to property; and provision for medical, hospital, surgical and disability benefits to injured persons including insurance against the risk of economic loss assumed under a less than fully insured employee health benefit plan and funeral and death benefits to dependents, beneficiaries or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as coverage for personal injury protection benefits under a motor vehicle liability policy or as an incidental coverage with or supplemental to liability insurance;

(2) Motor vehicle physical damage, burglary and theft, glass, boiler and machinery, credit and livestock insurance;

(3) Insurance of the obligations accepted by, imposed upon or assumed by employers under law for death, disablement or occupational diseases of employees;

(4) Insurance which undertakes to perform or provide repair or replacement service or indemnification therefor for the operational or structural failure of specified real or personal property or property components; and

(5) Insurance against any other kind of loss, damage or liability properly a subject of insurance and not within any other class of insurance otherwise defined, if such insurance is not disapproved by the Director of the Department of Consumer and Business Services as being contrary to law or public policy.