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ARCHIVES DIVISION

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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 836
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE REGULATION

FILED

10/27/2020 3:02 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Relating to the filing of registration statements and prior notice of certain transactions by insurers

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/30/2020 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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350 Winter Street NE
Salem, OR 97301

Filed By:
Karen Winkel
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/23/2020

TIME: 11:00 AM

OFFICER: Van Pounds

ADDRESS: Labor & Industries Building

350 Winter Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Conference call only due to COVID-19.

Dial-in: 888-808-6929

Access code: 4969117#

In case of technical issues, call
Karen Winkel at 971-345-1108.

NEED FOR THE RULE(S):

These rules set forth procedural requirements that the director deems necessary to carry out the provisions of ORS 732.517 to 732.592, in a manner as set forth in the National Association of Insurance Commissioners (NAIC) Insurance Holding Company System Model Regulation #450 and consistent with NAIC accreditation requirements. This rulemaking amends two rules. Consistent with NAIC Model Regulation #450, this proposed rulemaking amends OAR 836-027-0010 to require that an amendment to the annual registration statement (Form B) be filed within fifteen (15) days following the end of the month of any material change, and that only the changed items be reported. Consistent with NAIC Model Regulation #450, this proposed rulemaking also amends OAR 836-027-0160 to require that

agreements for cost sharing services and management services, for which notice of proposed transaction is given on Form D, contain certain provisions.

The division will convene a public rulemaking advisory committee to review and comment upon the proposed rulemaking. That committee will be comprised of representatives of insurers, who will be directly affected by the rulemaking, as well as representatives of business (including small business) and public interest groups.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Copies of the NAIC Insurance Holding Company System Model Regulation #450 and the draft rules are available from Karen Winkel, the division's Rules Coordinator, at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website:

<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

FISCAL AND ECONOMIC IMPACT:

The rules and the proposed amendments pertain to the requirement that insurers file annual registration statements and amendments of such statements, and that insurers give prior notice of certain transactions (e.g., management agreements, service agreements and cost-sharing agreements). The cost of complying with the proposed amendments should be minimal, in that the amendments reinforce current insurer practices.

The rules and the proposed amendments do not have a financial impact on state agencies, local governments or the public generally.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The rules and the proposed amendments do not have a financial impact on state agencies, local governments or the public generally.

(2)(a) The rules and the proposed amendments only affect insurers, none of which meet the definition of small business in the state of Oregon. See ORS 183.310(10).

(2)(b) To the extent that the proposed rules reflect generally accepted insurer business practices, there should be minimal additional reporting, recordkeeping and administrative activities and cost associated with the amendment of the rules.

(2)(c) To the extent that the proposed rules reflect generally accepted insurer business practices, there should be minimal additional cost of professional services, equipment supplies, labor and administration associated with the amendment of the rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The division invited representatives of business, including small business, to participate in the public rulemaking advisory process.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

836-027-0010, 836-027-0160

AMEND: 836-027-0010

RULE SUMMARY: Amends rule relating to the filing of registration statements by insurers.

CHANGES TO RULE:

836-027-0010

Registration of Insurers - Statement Filing ¶

(1) An insurer required to file an annual registration statement pursuant to ORS 732.517 to 732.592 shall:¶

(1a) Furnish the required information on Form B. Form B is set forth on the website of the Department of Consumer and Business Services at: www.insurance.oregon.gov; and¶

(2b) Include a statement that the insurer's board of directors oversees corporate governance and internal controls.¶

(2) An amendment to Form B:¶

(a) Shall be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement; and¶

(b) Shall be filed in the Form B format with only those items which are being amended reported.

Statutory/Other Authority: ORS 732.572

Statutes/Other Implemented: ORS 732.517 - 732.592

AMEND: 836-027-0160

RULE SUMMARY: Amends rule relating to the giving of prior notice of certain transactions by insurers.

CHANGES TO RULE:

836-027-0160

Transactions Subject to Prior Notice - Notice Filing ¶

(1) An insurer required to give notice of a proposed transaction pursuant to ORS 732.574 shall furnish the required information on Form D. Form D is set forth on the website of the Department of Consumer and Business Services at: www.insurance.oregon.gov.¶

(2) Agreements for cost sharing services and management services shall at a minimum and as applicable:¶

(a) Identify the person providing services and the nature of such services;¶

(b) Set forth the methods to allocate costs;¶

(c) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual;¶

(d) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;¶

(e) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;¶

(f) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;¶

(g) Specify that all books and records of the insurer are and remain the property of the insurer and are subject to the control of the insurer;¶

(h) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;¶

(i) Include standards for termination of the agreement with and without cause;¶

(j) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;¶

(k) Specify that, if the insurer is placed in receivership or seized by the director under ORS chapter 734:¶

(A) All of the rights of the insurer under the agreement extend to the receiver or the director; and¶

(B) All books and records will immediately be made available to the receiver or the director, and shall be turned over to the receiver or the director immediately upon the receiver or the director's request;¶

(l) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to ORS chapter 734; and¶

(m) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the director under ORS chapter 734, and will make them available to the receiver, for so long as the affiliate continues to receive timely payment for services rendered.

Statutory/Other Authority: ORS 732.572

Statutes/Other Implemented: ORS 732.517 - 732.592