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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

11/24/2020 3:06 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Wind down of emergency order prohibiting nonrenewals of insurance policies

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/29/2020 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: 12/22/2020

TIME: 9:00 AM

OFFICER: Raven Collins

ADDRESS: Labor & Industries Building

350 Winter Street NE

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Conference call only due to COVID-19.

Dial-in: 877-336-1839

Access code: 6260030#

In case of technical issues, call

Karen Winkel at 971-345-1108.

NEED FOR THE RULE(S):

The Department of Consumer and Business Services (DCBS) issued an emergency order on March 25, 2020, suspending all cancellations and nonrenewals of insurance policies. While the order was in place, insurers were required to renew policies even if the insured failed to pay premium or if there were other permissible grounds for nonrenewal.

Under normal circumstances, insurers are more restricted in the allowable reasons for cancelling a policy midterm than a nonrenewal decision. After the emergency order expired, insurers had policies in force that they had legitimate reasons to nonrenew but were not allowed to cancel midterm. This rule would put insurers back in the place they were had the emergency order not been issued, and allow a cancellation for the same reasons the insurer was permitted to nonrenew.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Draft rules are available from Karen Winkel, Rules Coordinator, Division of Financial Regulation located at 350 Winter St. NE, Salem, OR 97301 and are available on the division's website at:
<https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

FISCAL AND ECONOMIC IMPACT:

This rulemaking adopting the expiration of an emergency order as a reason to cancel a commercial liability policy does not create new requirements for state agencies, units of local government, nor members of the public. It will not have a fiscal impact on these entities or DCBS.

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) This rulemaking adopting the expiration of an emergency order as a reason to cancel a commercial liability policy does not create new requirements for state agencies, units of local government, nor members of the public. It will not have a fiscal impact on these entities or DCBS.

(2)(a) The proposed rules are unlikely to affect small businesses. The division is not aware of any insurer subject to this rule that meets the definition of a small business under Oregon law. See ORS 183.310(10).

(2)(b) The proposed rules do not affect ordinary compliance requirements for small businesses. Minimal additional reporting, recordkeeping, or administrative activities will be required.

(2)(c) The proposed rules do not create or affect compliance requirements for small businesses. No equipment, supplies, or labor will be required.

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

Members of the advisory committee included insurers that provide coverage for small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

836-054-0400, 836-054-0410

ADOPT: 836-054-0400

RULE SUMMARY: Adopts the expiration of an emergency order as a legitimate reason to cancel a commercial liability policy under ORS 742.702.

CHANGES TO RULE:

836-054-0400

Purpose and Scope of OAR 836-054-0410

The purpose of OAR 836-054-0400 to 836-054-0410 is to wind down an emergency order by the director of the Department of Consumer and Business Services. Under ORS 731.870, the director may order the temporary postponement of insurance policy nonrenewals. This rule provides that expiration of an emergency order is a valid reason to cancel a commercial liability policy under ORS 742.702 if the emergency order was the sole reason the policy was renewed.

Statutory/Other Authority: ORS 731.244, ORS 742.702

Statutes/Other Implemented: ORS 742.702, ORS 731.870

ADOPT: 836-054-0410

RULE SUMMARY: Explains when an insurer may cancel a commercial liability policy.

CHANGES TO RULE:

836-054-0410

Cancellations

An insurer may cancel a commercial liability policy if:

- (1) The insurer was required to renew the policy by an emergency order issued by the director;
- (2) The cancellation is not due to claims resulting solely from the circumstances on which the emergency order was based, except in cases of fraud or material misrepresentation;
- (3) The insurer has provided 45 days written notice to the insured and insurance producer, if any; and
- (4) The cancellation does not violate any other law or order by the director.

Statutory/Other Authority: ORS 731.244, ORS 742.702

Statutes/Other Implemented: ORS 742.702, ORS 731.870