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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

07/27/2022 1:34 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: In the matter of clarifying notice requirements for midterm cancellations of package policies

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/31/2022 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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503-947-7694
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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: 08/24/2022

TIME: 3:00 PM

OFFICER: Raven Collins

ADDRESS: Labor & Industries Building
350 Winter St NE

Basement, Conference Room E
Salem, OR 97301

SPECIAL INSTRUCTIONS:

This is a hybrid meeting conducted in-person and virtually via Microsoft TEAMS.

Join by entering a meeting ID

Meeting ID: 259 851 518 012

Passcode: CvTQn9

Or call in (audio only)

+1 503-446-4951,,199705508# United States, Portland

Phone Conference ID: 199 705 508#

NEED FOR THE RULE(S)

ORS 731.244 provides that the Division of Financial Regulation (DFR) "may make reasonable rules necessary for or as an aid to the effectuation of the Insurance Code." ORS 731.244 further provides that "no such rule shall extend, modify, or conflict with the Insurance Code or the reasonable implications thereof." ORS 836-010-0011 (2) states that an insurer filing a form policy for approval "must follow the applicable standards set forth on the website of DFR at

dfr.oregon.gov ... except that if the insurer files electronically on SERFF, the insurer must comply with the Oregon standards set forth in SERFF.” The same standards are found in both locations, and an editor’s note to the rule explains that the referenced materials are available from DFR. Product standards are regularly published by DFR, and are comprised of a checklist containing legal citations and summaries of applicable Oregon revised statutes or administrative rules. Any insurer making a submission for review must certify that all forms are compliant with the published standards.

ORS 742.702 (2) sets forth a baseline of at least 10 working days’ notice before a commercial liability insurance policy can be cancelled. DFR has adopted and published many product standards, including the “Standards for Monoline and Package Property Forms, Rates, and Rules Filing” – Form No. 440-3618 on DFR’s website. The product standards state that a notice period of at least 10 working days exists only for midterm cancellations for non-payment of premiums, fraud, or material misrepresentation. A notice period of 30 days exists for any other statutorily permitted reason.

This proposed rule is intended to codify these product standards to further clarify requirements, and does not create any new or different requirements. The genesis of this rulemaking was a question from an advisory organization about whether DFR was prohibited from requiring a midterm cancellation notice period that was longer than the period set out in ORS 742.702 (2).

DFR, through its authority, is not limited to applying and enforcing the 10 working day minimum notice period set out in ORS 742.702 (2), because the product standards are incorporated by reference into OAR 836-010-0011 (2).

Based on information available to DCBS, the proposed rule would not have any additional fiscal or economic impact on state agencies, local governments, the public, nor small businesses.

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

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

The rulemaking advisory committee was asked if the adoption of this rule would affect equity in Oregon in any way. The group responded that it would not. It was also asked whether the new rule would impact one group of people differently than other groups. The answer to that question was the same. This rule is not expected to have any direct impact, either positive or negative, on racial equity. It will primarily help commercial policyholders by clarifying notice requirements.

FISCAL AND ECONOMIC IMPACT:

This rulemaking clarifies the notice requirements that are already in place and does not create new requirements for businesses generally. It is not expected to have a fiscal impact.

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) Based on information currently available to DCBS, the proposed rule would not have a fiscal or economic impact on state agencies, local government units, nor the public.

(2)(a) The proposed rule is unlikely to affect small businesses. Based on financial filings and other information available to DFR, the department does not believe that any insurer affected by these rules would meet the definition of a small business under ORS 183.310.

(2)(b) The proposed rule does not affect ordinary compliance requirements for small businesses. No additional reporting, recordkeeping, or administrative activities will be required.

(2)(c) The proposed rule does 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 rulemaking advisory committee included insurers that provide coverage for small businesses.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

AMEND: 836-085-0055

RULE SUMMARY: Amend in order to clarify notice period requirements for commercial liability insurance policy cancellations as outlined within the published DFR product standards.

CHANGES TO RULE:

836-085-0055

Cancellation of Commercial Package Policies ¶

(1) A commercial package policy that includes commercial liability insurance coverage is subject to ORS 742.702 (Grounds for cancellation), governing cancellation of commercial liability insurance policies. For purposes of this rule, "commercial liability insurance" has the meaning given that term in ORS 731.074 ("Commercial liability insurance").¶

(2) An insurer may cancel a commercial package policy that includes commercial liability insurance if:¶

(a) At least 10 working days prior written or electronic notice is given for non-payment of premium;¶

(b) At least 30 days prior written or electronic notice is given for any other statutorily permitted reason; or¶

(c) An insurer may nonrenew a commercial package policy that includes commercial liability insurance if at least 45 days prior written or electronic notice is given.

Statutory/Other Authority: ORS 731.244, 742.702

Statutes/Other Implemented: ORS 742.702