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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

10/26/2023 2:24 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Alternative Documentation of Loss Under HB 2982 (2023)

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/22/2023 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 St. 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: 11/15/2023

TIME: 9:30 AM - 10:00 AM

OFFICER: Raven Collins

HEARING LOCATION

ADDRESS: Labor and Industries Building, 350 Winter St. NE, Basement, Conf Rm A, Salem, OR 97301

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-503-446-4951

CONFERENCE ID: 987493702

SPECIAL INSTRUCTIONS:

A hybrid meeting conducted in-person and virtually via Microsoft Teams.

NEED FOR THE RULE(S)

Oregonians who lost their homes and belongings in the 2020 wildfires were frequently required to compile exhaustive inventories of their belongings, homes, and the contents of their homes in order to receive insurance payouts. House Bill 2982 passed during the 2023 Oregon Legislative Session to provide an optional alternative to completion of proof of loss forms required by the insurer.

HB 2982 requires insurers to offer a minimum of 70 percent of coverage that an insured has previously purchased for contents, without simultaneously requiring inventory documentation, if the content loss occurs from a major disaster. HB 2982 also requires insurers to notify the insured that additional benefits may be available if the insured submits inventory documentation. Under HB 2982, insurers are further required to disclose their methodology for depreciating insured property under certain circumstances, and to make payments for specified covered costs within certain

timeframes.

An administrative rule is necessary because HB 2982 includes an expectation that the Department of Consumer and Business Services (DCBS) will develop documentation that consumers can submit to insurers attesting that requirements under the bill have been met.

A Rules Advisory Committee (RAC) met on September 14, 2023, and consisted of stakeholders including insurance regulators, insurance companies, trade associations, and consumer groups.

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

Adoption of the rule will positively impact any Oregonian, no matter their financial situation or cultural background, so long as they had a furnished residence within a major disaster area that is subject to a state of emergency declaration, and experienced a total loss of contents directly related to the emergency that was the subject of the declaration. It will allow insureds in that situation to receive a substantial insurance payout (at least 70 percent coverage) without going through a lengthy inventory process. Although the rule will provide an option of potential benefit to all purchasers of homeowners insurance, it will likely provide disproportionate benefit to communities most at risk of losses due to major disasters such as wildfires, including but not limited to rural communities.

FISCAL AND ECONOMIC IMPACT:

Cost of compliance for businesses generally would be minimal, and compliance costs for small businesses are not anticipated as a result of this rule. The rule primarily affects consumers who will use the adopted form to access new benefits, for whom it will likely have financial benefits, and insurance companies who must accept the new form. Based on financial filings and other information available to the DCBS, the DCBS does not believe that any insurer affected by the rule would meet the definition of a small business under ORS 183.310.

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 currently available information, the proposed rule would not have a fiscal or economic impact on state agencies, local government units, or the general public.

(2)(a) Based on the information available, the proposed rule will have minimal impact on insurers. However, according to financial filings made to the Division of Financial Regulation (DFR), no insurers meet the definition of a small business under ORS 183.310, because no insurer is independently owned and operated.

Committee feedback suggests that it is unlikely that small businesses would be affected.

(2)(b) Based on the available information, including feedback from the RAC, the proposed rules do not impose additional compliance costs related to reporting, recordkeeping, and administrative activities.

(2)(c) Based on current information, including feedback from the RAC, the proposed rules do not impose additional costs for professional services, equipment supplies, labor, and increased administration.

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

The RAC was comprised of a broad stakeholder group within the property and casualty insurance realm. This included representation of trade associations and consumer groups with knowledge of small business impacts.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

ADOPT: 836-080-0245

RULE SUMMARY: Compliance with ORS 742.053 and reference to the DFR website for a model form used to attest the total loss of contents of a residence after a major disaster.

CHANGES TO RULE:

836-080-0245

Statutory Authority and Purpose

(1) OAR 836-80-0245 is adopted pursuant general rulemaking authority in ORS 731.244.¶

(2) For the purpose of complying with ORS 742.053, if a total loss of contents of a residence occurred as a result of a major disaster in a location subject to a state of emergency declaration under ORS 401.165, and the loss was directly related to the emergency that was the subject of the declaration, then the policyholder may certify without providing proof of loss or inventory forms that their residence was furnished, and receive a minimum of 70% of previously purchased contents coverage from their insurer.¶

(3) Refer to The Department of Consumer and Business Services' website for a model form that may be used to certify the prior elements.

Statutory/Other Authority: ORS 731.244

Statutes/Other Implemented: ORS 742.053