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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**  
10/25/2019 3:23 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: REVISES NOTICE OF Update of statement blanks, valuation manual, guidance manual and financial forms

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/04/2019 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: 12/03/2019

TIME: 10:00 AM

OFFICER: Van Pounds

ADDRESS: Labor & Industries Building

350 Winter Street NE

Conference Room E

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Conference phone information:

Call 888-808-6929

Access code 4969117

NEED FOR THE RULE(S):

Annual and Quarterly Statement Blanks and Instructions:

ORS 731.574 requires insurers to file annual financial statements with the director of the Department of Consumer and Business Services, and authorizes the director to prescribe use of the annual statement blank and instructions prepared by the National Association of Insurance Commissioners (NAIC) for such purpose. The director has chosen to exercise such authority through rulemaking, and has routinely updated the rule to reflect the then current blanks and instructions.

Commencing with the 2018 reporting year, the director added a NAIC quarterly statement blank requirement to the

rule in response to a regulatory concern. Inclusion of the quarterly statement blank requirement provides guidance to insurers, and is consistent with accreditation standards established by the NAIC.

#### Valuation Manual:

Insurers in Oregon, like other states, must keep sufficient capital in reserve in order to pay claims, and use actual experience of policyholders when calculating claims reserves by means of principle-based reserving. The director is authorized to prescribe use of the Valuation Manual, developed by the NAIC, to make those calculations, and has done so through rulemaking. To the extent that the NAIC revises the Valuation Manual from time-to-time, adoption of the Valuation Manual is updated accordingly.

#### ORSA Guidance Manual:

ORS 732.650 to 732.672 establish requirements for insurers to maintain a risk management framework and to complete an own risk and solvency assessment. Own risk and solvency assessments are confidential internal assessments of material and relevant risks associated with an insurer's or insurance group's business plan and the sufficiency of capital resources to support the business plan. The director is authorized to designate by rule the guidance and standards for completing an own risk and solvency assessment.

#### Additional Financial and Registration Statements and Reports:

OAR 836-027-0030 prescribes the form size and binding requirements for certain financial and registration statements and reports filed by insurers.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

A copy of the draft rules is available from the division's rules coordinator, Karen Winkel, and is accessible on the division's website at: <https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

The NAIC Policy Statement on Financial Regulation Standards is available on the division's website at: <https://dfr.oregon.gov/laws-rules/Pages/proposed-rules.aspx>.

The NAIC Valuation Manual and the NAIC Own Risk and Solvency Assessment Guidance Manual are available for public inspection at the division, 350 Winter Street, NE, Salem, OR 97301, and are accessible online respectively at:

[https://www.naic.org/documents/cmte\\_a\\_latf\\_related\\_val\\_2020\\_edition.pdf](https://www.naic.org/documents/cmte_a_latf_related_val_2020_edition.pdf) and  
[https://www.naic.org/documents/prod\\_serv\\_fin\\_recievership\\_ORSA-2014.pdf](https://www.naic.org/documents/prod_serv_fin_recievership_ORSA-2014.pdf).

FISCAL AND ECONOMIC IMPACT:

Insurers should incur minimal additional costs for filing their financial statements and complying with instructions. The costs arise from the statutory requirements for preparing and filing financial statements and supplements, and are an ongoing cost of doing business. The costs are not imposed uniquely by Oregon, but by each of the states in which an insurer does business. The costs of complying specifically with changes for the 2019 annual and 2020 quarterly reporting cannot be readily quantified.

Insurers should incur minimal additional costs in complying with the updated versions of the Valuation Manual and the Own Risk and Solvency Assessment Guidance Manual. The costs arise from the statutory requirements for maintaining reserves and assessing risks, and are an ongoing cost of doing business. The costs of complying specifically with updated versions of the manuals cannot be readily quantified.

The form size and binding requirements specified by the amendment to OAR 863-027-0030 are consistent with current industry filing practices and the practices employed by most insurers. The projected additional cost of compliance with such requirements should be minimal.

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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) Neither the division nor other agencies or units of local government are expected to incur any additional fiscal impact from this rulemaking. To the extent that financial assessment and reporting requirements help assure that insurers are responsibly managed, it is reasonable to assume that the insurance consuming public will be positively impacted.

(2)(a) Insurers that are small businesses will incur economic costs and benefits from this rulemaking to the same extent as other insurers. However, the division knows of no insurers in Oregon who meet the definition of small business for the purpose of ORS Chapter 183 (i.e., a business “which is independently owned and operated from all other businesses and which has 50 or fewer employees”).

(2)(b) Preparation and filing of financial and registration statements and reports, and conduct of self-assessments, are regular and ongoing business practices, and require appropriate financial and business expertise. The division does not have information regarding specific costs incurred by insurers for such preparation, filing and assessments, or about any expected increase or decrease in such costs due to changes in the statement blanks or instructions, or changes in the manuals. As noted, it is unlikely that any small business is affected by this rulemaking.

(2)(c) Filing of financial and registration statements and reports, and conduct of self-assessments, are routine and

ongoing practices. No increase in equipment, supplies, labor or administration is anticipated to be necessary because of this rulemaking.

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

The division is not aware of any small businesses affected by these rules. Nevertheless, the division provided opportunity for feedback from public rulemaking advisory committee members, including small business and public policy representatives, regarding the proposed amendment of the rules.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

836-011-0000, 836-011-0030, 836-027-0030, 836-031-0605

AMEND: 836-011-0000

RULE SUMMARY: Amends for the purpose of prescribing: (1) the required financial statement forms, with instructions, to be filed annually by insurers; (2) the required financial statement forms, with instructions, to be filed quarterly by insurers; and (3) the required annual statement supplements, with instructions, to be filed by insurers, for the 2019 annual and 2020 quarterly reporting years. In addition, clarifies the rule's applicability to multiple employer welfare arrangements and to specify the need for compliance with annual statement instructions posted on the division's website.

CHANGES TO RULE:

836-011-0000

Annual Statement Blank and Instructions ¶¶

(1) For the purpose of complying with ORS 731.574, every authorized insurer, including every health care service contractor and multiple employer welfare arrangement, shall file its financial statement required by ORS 731.574 for the 2018~~9~~ reporting year on the annual statement blank approved for the 2018~~9~~ reporting year by the National Association of Insurance Commissioners, for the type or types of insurance transacted by the insurer, and for the 2019~~20~~ reporting year on the quarterly statement blank approved for the 2019~~20~~ reporting year by the National Association of Insurance Commissioners, for the type or types of insurance transacted by the insurer.

¶¶

(2) Every authorized insurer, including every health care service contractor and multiple employer welfare arrangement, shall complete its annual statement blank and quarterly statement blank under section (1) of this rule for the 2018~~9~~ and 2019~~20~~ reporting year, respectively, according to the applicable instructions published for that year by the National Association of Insurance Commissioners, for completing the blank, as required by ORS 731.574. ¶¶

(3) Every authorized insurer, including every health care service contractor, shall file each annual statement supplement for the 2018~~9~~ reporting year, as required by the applicable instructions published for that year by the National Association of Insurance Commissioners, and shall complete the supplement according to those instructions. ¶¶

(4) The applicable instructions published by the National Association of Insurance Commissioners referred to in this rule are available for inspection at the Department of Consumer and Business Services. Any person interested in inspecting those instructions should contact the Department at [web.inscomp@oregon.gov](mailto:web.inscomp@oregon.gov). ¶¶

(5) ~~This rule is adopted under the authority of ORS 731.244, 731.574 and 733.210 for the purpose of implementing ORS 731.574 and 733.210~~ Additional instructions for the filing of financial statements and reports by type of insurance are posted under annual statement instructions on the department's Division of Financial Regulation website at [dfr.oregon.gov](http://dfr.oregon.gov). Every authorized insurer, including every health care service contractor and

multiple employer welfare arrangement, shall comply with such instructions as applicable.

Statutory/Other Authority: ORS 731.244, ORS 733.210, ORS 731.574

Statutes/Other Implemented: ORS 733.210, ORS 731.574

AMEND: 836-011-0030

RULE SUMMARY: Amends to update the version of the NAIC Own Risk and Solvency Assessment Guidance Manual that insurers must use when conducting an own risk and solvency assessment.

CHANGES TO RULE:

836-011-0030

Own Risk and Solvency Assessment ¶

(1) For the purpose of complying with ORS 732.650 to 732.672, every insurer, or insurance group of which the insurer is a member, shall use a process that is comparable to the process described in the ~~July~~December 2014 edition of the NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual.¶

(2) Every insurer required to submit an "Own Risk" and "Solvency Assessment" summary report or combination of reports without waiting for a request from the director of the Department of Consumer and Business Services shall submit this information to the director each year in accordance with the schedule established by the director and the insurer.¶

(3) The NAIC Own Risk and Solvency Assessment (ORSA) Guidance Manual referred to in this rule is available for inspection at the Department of Consumer and Business Services.

Statutory/Other Authority: ORS 731.244, ~~ORS~~ 732.650, ~~ORS~~ 732.662

Statutes/Other Implemented: ORS ~~731.244~~, ~~ORS~~ 732.650, ~~ORS~~ 732.662

AMEND: 836-027-0030

RULE SUMMARY: Amends to clarify the form size and to update the binding requirements for certain financial and registration statements and reports filed by insurers.

CHANGES TO RULE:

836-027-0030

Forms; General Requirements ¶

(1) Forms A, B, C, D, E and F are intended to be guides in the preparation of the statements required by ORS 732.517 to 732.592, including but not limited to the registration provisions thereof. The forms are not intended to be blank forms that are to be filled in. The statements filed shall contain the numbers and captions of all items, but the text of the items may be omitted if the answers to the items are prepared so as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer to any item is in the negative, an appropriate statement to that effect shall be made.¶

(2) One complete copy of each statement, including exhibits and all other papers and documents filed as a part of the statement, shall be filed with the ~~D~~director of the Department of Consumer and Business Services by personal delivery or mail. A copy of Form C shall be filed in each state in which an insurer is authorized to do business if the ~~C~~commissioner of that state has notified the insurer of its request in writing. An insurer who has been so notified shall file the form not later than the 30th day after the date of receipt of the notice. At least one of the copies shall be manually signed and certified in the manner prescribed on the form. Unsigned copies shall be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of such power of attorney or other authority shall also be filed with the statement.¶

(3) If an applicant requests a hearing on a consolidated basis under ~~section 4, chapter 370, Oregon Laws 2013~~ ORS 732.527, in addition to filing the Form A with the director, the applicant must file electronically a copy of Form A with the National Association of Insurance Commissioners.¶

(4) Statements must be prepared on paper 8-1/2" X 11" ~~or 8-1/2" X 13"~~ in size and bound ~~at~~ along the top or left edge or securely fastened at the top left-hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements or exhibits shall be clear, easily readable, and suitable for photocopying. Debits in credit categories and credits in debit categories shall be designated so as to be clearly distinguishable as such on photocopies. Statements shall be in the English language and monetary values shall be stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, it shall be accompanied by a translation into the English language and any monetary value shown in a foreign currency shall be converted into United States currency.¶

[ED. NOTE: Forms referenced are available from the agency.]

Statutory/Other Authority: ORS 732.572

Statutes/Other Implemented: ORS 732.517 - 732.592

AMEND: 836-031-0605

RULE SUMMARY: Amends to designate the version of the Valuation Manual insurers must use in establishing principle-based reserves effective January 1, 2020, with National Association of Insurance Commissioners (NAIC) amendments adopted through August 6, 2019.

CHANGES TO RULE:

836-031-0605

Valuation Manual ¶

For the purpose of complying with Oregon Laws 2015, chapter 547, an insurer shall use the Valuation Manual, as amended by NAIC adoptions through ~~September 10, 2018~~ August 6, 2019, when establishing reserves using a principle-based valuation. The effective date of the Valuation Manual, as amended, is January 1, 2019 ~~20~~. The operative date of the Valuation Manual, as specified under section 16(2) of Oregon Laws 2015, chapter 547, is January 1, 2017. The Valuation Manual referred to in this rule is available for inspection at the Department of Consumer and Business Services.

Statutory/Other Authority: ORS 731.244, 2015 OLr Laws ch 547 sec 16

Statutes/Other Implemented: 2015 OLr Laws ch 547