

Department of Consumer & Business Services  
**Oregon Division of Financial Regulation – 5**  
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## STANDARDS FOR SURETY, FIDELITY, AND FINANCIAL GUARANTY FORMS AND RATES FILING

This checklist (product standards) has been provided as an aid to assist you in preparing your filing. It does not need to be included with a paper submission, nor does it need to be attached in SERFF under the Supporting Documentation tab. However, the reviewer may request the completed checklist (product standards) at any time during their review. ORS 731.296, OAR 836-010-0011 (2) & (3). This checklist includes relevant statutes, rules, bulletins, and other documented positions to enforce ORS 731.016. **The standards are summaries. Review of the entire statute or rule will be necessary.**

After diligent consideration has been given to each item, mark either the “Yes” or the “N/A” box when applicable. Compliance with these provisions must be certified by both the filer and an officer of the company signing the Certificate of Compliance form. These signatures certify the forms being submitted meet the requirements of our checklist and statutes. “Not applicable” can be used only if the item does not apply to the coverage being filed. If the reviewer requests the checklist (product standard), any line left blank may result in the delay or disapproval of the filing. *(If submitting your filings electronically, bookmark the provision(s) in the form(s) that satisfy the requirement and identify the page/paragraph on this form.)*

**Market:**

**TOI (type of insurance) code:**

Commercial

10.0 Financial guaranty

23.0/24.0 Fidelity/surety

23.0 Fidelity

24.0 Surety

Review requirements	Reference	Description of review standards requirements	Check Answer	
<b>GENERAL REQUIREMENTS (FOR ALL FILINGS)</b>				
Requirements	OAR 836-010-0011 As required on SERFF or our Web site	<p>Required forms are located on SERFF or on our Web site at: <a href="http://dfr.oregon.gov/rates-forms/pc/Pages/pc.aspx">http://dfr.oregon.gov/rates-forms/pc/Pages/pc.aspx</a>. These must be submitted for your filing to be accepted as complete:</p> <ol style="list-style-type: none"> <li>1. Transmittal form. (This form is not required unless a paper filing is being submitted.)</li> <li>2. Filing Description under the General Information tab or a Cover letter or Filing Memorandum under the Supporting Documentation tab that explains the intent or purpose of the forms/rules/rates.</li> <li>3. Third-party filer's letter of authorization.</li> <li>4. Signed Certificate of compliance form.</li> <li>5. For form submissions, a comparison document (annotated, highlighted, red-lined or side-by-side) must be provided for each previously approved form. Submit document/s under the Supporting Documentation tab.</li> <li>6. Rates, rules and actuarial memorandum stating the reasons and procedures used to derive the rate change.</li> <li>7. Forms filed for approval need to be attached under the Form Schedule tab.</li> <li>8. Attach to the Supporting Documentation tab, any previously approved Oregon Amendatory Endorsements that bring the submitted forms into compliance with Oregon statutes.</li> <li>9. When submitting a paper filing, send two complete sets of the entire filing. Include a self-addressed stamped envelope that is large enough to return the second copy of the filing.</li> </ol> <p>NOTE: This checklist does not need to be submitted with the filings. However, it may be requested by the reviewer. Please use this document as a tool to help you comply with our requirements.</p>	Yes  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>	N/A  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>
Requirements	ORS 742.003(1), ORS 737.205	<p>Included in this filing for review:</p> <ol style="list-style-type: none"> <li>1. New policy or program</li> <li>2. Endorsements amending an existing program that include additional coverages in these standards need only attach the pages addressing that area.</li> <li>3. Rates and rules</li> </ol>	Yes <input type="checkbox"/> <input type="checkbox"/>  <input type="checkbox"/>	N/A <input type="checkbox"/> <input type="checkbox"/>  <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Check Answer or enter page & paragraph
Requirements	ORS 742.048(2)	No policy has been issued or will be issued upon the forms in this filing until approved.	Yes <input type="checkbox"/> No <input type="checkbox"/>
Limits	ORS 742.350(1)	An insurer executing bonds, undertakings, and fulfilling other obligations required by law is authorized to write surety.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	ORS 742.350(2)	The execution of any obligation is in all respects a full and complete compliance with every requirement.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	ORS 742.356(3)	All contracts of indemnity or security entered into are lawful and not otherwise prohibited by law or against public policy.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	ORS 742.368	A surety insurer executing any bond or undertaking under the provisions of the Insurance Code is estopped in any proceeding to deny its corporate power to execute such bond or undertaking or to assume such liability, and all such bonds or undertakings shall in any action be construed by the rules applicable to insurance policies and indemnity contracts.	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>FORMS</b>			
Access to courts	ORS 742.061	<p>Surety: If the action is brought upon the bond of a contractor or subcontractor executed and delivered as provided in ORS 279B.055, 279B.060, 279.380 or 701.430 and the plaintiff's recovery does not exceed the amount of any tender made by the defendant in such action, a reasonable amount to be fixed by the court as attorney fees shall be taxed and allowed to the defendant as part of the costs of the action and any appeal thereon. If in an action brought upon such a bond the surety is allowed attorney fees and costs and the contractor or subcontractor has incurred expenses for attorney fees and costs in defending the action, the attorney fees and costs allowed the surety shall be applied first to reimbursing the contractor or subcontractor for such expenses.</p> <p>Fidelity: Attorney fees - If a claim settlement is not made within six months and action is brought to court, should the plaintiff's recovery exceed the amount of payment made by the defendant, the court will set attorney fees to be paid as part of the costs of legal action and any appeal, unless the parties agree to binding arbitration.</p>	

Review requirements	Reference	Description of review standards requirements	Check Answer or enter page & paragraph
Arbitration	ORS 36.600 to 36.740	Voluntary arbitration is permitted by the Oregon Constitution and statutes after all internal appeals have been exhausted and can be binding upon consent of the covered insured if both parties mutually agree to the process at the time of the dispute. <i>Arbitration takes place under the laws of Oregon or another agreed-upon procedure. Arbitration must be held in the insured's county and state.)</i>	
Cancellation & nonrenewal	ORS 742.366(1)	As used in this section: (a) "Bond" means any undertaking, recognizance, or other obligation required by statute, ordinance, or regulation to be executed by a surety and given to a public body by any person as a condition to the granting of a permit, license, or franchise by a public body. (b) "Public body" means the state and any department, agency, board, or commission of the state, any city, county, school district, or other political subdivision or municipal or public corporation, any instrumentality thereof, and any court.	
	ORS 742.023, ORS 742.366(3), ORS 746.240	Notwithstanding subsection 2, a statute, ordinance, regulation, or the provisions of a bond may provide procedures for release of surety on a bond. Review the statutes for any notice of cancellation requirements that may apply. If there are none, the Division requires adequate notice of cancellation be provided to the parties and clearly outlined in the contract forms.	
	ORS 742.358	When the obligee wishes to cancel, they are required to provide the principal and the surety a 10 day notice of their desire to cancel the contract.	
	ORS 742.360, ORS 742.366(3)	For public bonds, the surety may cancel a bond by sending notice of cancellation by registered or certified mail to the public body with which the bond is filed and to the principal at the principal's address of record with the surety. The cancellation takes effect on the date specified in the notice but not earlier than the 30 <sup>th</sup> day after the date of mailing. The surety shall have no liability under the bond for an act or default occurring after the effective date of such cancellation.	
	ORS 742.362	For bank depository bonds, a 30 day notice of cancellation has been provided.	
Discrimination	ORS 746.015, OAR 836-081-0010	The form does not unfairly discriminate in availability of coverage, application or rates, or other benefits or terms and conditions of insurance policies or bonds.	Yes <input type="checkbox"/>

Review requirements	Reference	Description of review standards requirements	Check Answer or enter page & paragraph
Discrimination, continued	ORS 106.300 thru ORS 106.340	If applicable, a provision that recognizes a Domestic Partnership is included in the policy. When referring to a spouse, a registered domestic partner must be added. Terms and provisions in the Insurance Code and in rules adopted under the Code that refer to or indicate the marital relationship, its dissolution and dependents in a marital relationship will apply in the same manner to domestic partnerships, to their dissolution and to dependents in the partnership.	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
Legibility of forms	ORS 742.005(2)	The forms are clear and understandable in the presentation of premiums, labels, contents, title, headings, backing, and other indication (including restrictions) in the provisions. The information is clear and understandable to the consumer and is not unintelligible, uncertain, ambiguous, abstruse, or likely to mislead.	Yes <input type="checkbox"/> No <input type="checkbox"/>
Policy documentation	ORS 742.370	Whenever any person is required by the provisions of any statute to give a bond to this state or any of its political subdivisions and the statute requires to be included therein any specific provisions, the bond shall have the same legal effect as though such provisions were included therein, although such provisions were omitted.	

Review requirements	Reference	Description of review standards requirements	Check Answer or enter page & paragraph
<b>RATE, RULE, RATING PLAN, CLASSIFICATION, AND TERRITORY FILING REQUIREMENTS</b>			
Requirements	ORS 737.205	Submit copies of rates, rating plans, and rating systems must be filed.	Yes <input type="checkbox"/> No <input type="checkbox"/>
	ORS 737.205(1)	Effective date is not earlier than the date the filing is received by the Division of Financial Regulation.	Yes <input type="checkbox"/> No <input type="checkbox"/>
Discrimination	ORS 746.015, OAR 836-081-0010	Rates, rating plans, and rating systems do not discriminate unfairly in the availability of insurance and application of rates.	Yes <input type="checkbox"/> No <input type="checkbox"/>
Rebates	ORS 746.035, ORS 746.045	Are inducements or rebates specified in the policy? (If "yes," explain in the cover letter and identify the location in the rule.)	Yes <input type="checkbox"/> No <input type="checkbox"/>
<b>Ratemaking generally</b>			
Credibility	ORS 737.310, OAR 836-010-0021	1. Provide all data used and judgments made. 2. Provide description of methodology used.	
Fees, service charges	ORS 737.310, OAR 836-010-0021	Provide cost-accounting justification on initial filings and subsequent changes.	
Loss valuation	ORS 737.310, OAR 836-010-0021	Provide complete premium data.	
		Provide loss and LAE data.	
		Provide information on the expected loss ratio.	
Investment income	ORS 737.310, OAR 836-010-0021	1. Cash flow method <i>or</i> 2. Alternative method showing amount of investment income earned on loss, LAE, and unearned premium reserve to earned premium.	
Underwriting profit & contingencies	ORS 737.310, OAR 836-010-0021	1. Oregon data for commission and brokerage.	
		2. Countrywide data for general and other acquisition expenses as reported in the <i>Insurance Expense Exhibit</i> .	
		3. Oregon data for taxes, licenses, and fees.	
		4. Historic experience	