

# Senate Bill 1553

Sponsored by Senator BOQUIST (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires insurers, fraternal benefit societies and certain nonprofit corporations to apply to and obtain from Secretary of State authorization to transact business in this state. Specifies effect of failing to obtain authorization. Requires insurer, fraternal benefit society or nonprofit corporation to maintain registered agent and registered office in this state.

Permits plaintiff to recover greater of \$5,000 or actual damages in cause of action that arises out of business or transaction with insurer, fraternal benefit society or nonprofit corporation that has not obtained authorization to transact business in state. Permits Secretary of State to impose civil penalty of not more than \$1,000 for failure to obtain authorization to transact business in this state.

Imposes public safety assessment on covered entities. Establishes Public Safety Assessment Fund. Transfers revenues to fund. Applies to calendar years beginning on or after January 1, 2019.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to regulation of certain business entities; creating new provisions; amending ORS 731.026,  
3 731.036, 731.354, 731.380, 731.804, 732.005, 743.650, 748.414, 748.605 and 750.333; repealing ORS  
4 731.378, 731.381, 748.509, 748.601 and 748.603; prescribing an effective date; and providing for  
5 revenue raising that requires approval by a three-fifths majority.

6 **Be It Enacted by the People of the State of Oregon:**

7 **SECTION 1. (1) As used in this section and section 2 of this 2018 Act, "covered entity"**  
8 **means:**

9 (a) **An insurer, as defined in ORS 731.106;**

10 (b) **A fraternal benefit society, as described in ORS 748.106; and**

11 (c) **A nonprofit corporation that is not otherwise subject to a requirement to file articles**  
12 **of incorporation under ORS 65.051 or obtain an authorization to transact business in this**  
13 **state under ORS 65.701.**

14 (2)(a) **A covered entity may not transact business in this state until the covered entity**  
15 **has filed an application with, and received an authorization from, the Secretary of State to**  
16 **transact business in this state. The covered entity must obtain the authorization before ob-**  
17 **taining a license, certificate or other authorization from any other agency of this state.**

18 (b) **Transacting business in this state includes, but is not limited to, undertaking any of**  
19 **these activities:**

20 (A) **Maintaining, defending or settling any proceeding;**

21 (B) **Holding meetings of the covered entity's board of directors or shareholders or car-**  
22 **rying on other activities that involve the covered entity's internal affairs;**

23 (C) **Maintaining bank accounts;**

24 (D) **Maintaining offices or agencies for transferring, exchanging or registering the cov-**  
25 **ered entity's securities or maintaining trustees or depositories with respect to the securities;**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (E) Selling through independent contractors;

2 (F) Soliciting or obtaining orders, donations, contributions or other funds, whether  
3 through the mail, through employees or agents or otherwise;

4 (G) Creating or acquiring indebtedness, mortgages or security interests in real or per-  
5 sonal property;

6 (H) Securing or collecting debts or enforcing mortgages or security interests in property  
7 that secures the debts;

8 (I) Owning real or personal property; and

9 (J) Conducting other transactions.

10 (3)(a) Except as provided in paragraph (b) of this subsection, a covered entity that fails  
11 to obtain an authorization under subsection (2) of this section, or a successor or assignee  
12 of the covered entity if the successor or assignee does not obtain authorization, may not  
13 maintain a proceeding in any court of this state until after the covered entity or the suc-  
14 cessor or assignee obtains the authorization.

15 (b) A covered entity may defend against an action brought against the covered entity in  
16 a court of this state.

17 (4) A court may stay a proceeding that a covered entity, or a successor or assignee of  
18 the covered entity, has commenced until the court determines whether the covered entity,  
19 the successor or the assignee requires an authorization under subsection (2) of this section  
20 to transact business in this state. If the court determines that the covered entity requires  
21 an authorization, the court may stay the proceeding until after the covered entity obtains  
22 the authorization.

23 (5) In an application for authorization under subsection (2) of this section, a covered en-  
24 tity shall either:

25 (a) Submit the covered entity's articles of incorporation or articles of organization to the  
26 Secretary of State for review, acceptance and filing in the manner provided for nonprofit  
27 corporations under ORS 65.051; or

28 (b) Submit an application with the following information, if the covered entity is incor-  
29 porated or organized under laws other than the laws of this state:

30 (A) The name of the covered entity or, if the name the covered entity uses is not avail-  
31 able, a name that satisfies the requirements of ORS 65.094;

32 (B) The name of the state or country under the law of which the covered entity is in-  
33 corporated or organized;

34 (C) The registry number in the state or country under the law of which the covered en-  
35 tity is incorporated or organized;

36 (D) The covered entity's date of incorporation or organization and the period of duration  
37 if the period is not perpetual;

38 (E) The street address and the mailing address for the covered entity;

39 (F) The street address of the covered entity's registered office in this state, which may  
40 not be a commercial mail receiving agency, a mail forwarding business or a virtual office;

41 (G) The names and respective addresses of the president and secretary of the covered  
42 entity; and

43 (H) Whether the covered entity has members or shareholders.

44 (6) If the covered entity changes the covered entity's corporate name or duration, the  
45 covered entity shall amend the articles of incorporation or organization or the application

1 the covered entity submitted under subsection (5) of this section to set forth both the cov-  
 2 ered entity's name and period of duration as shown in the Secretary of State's records and  
 3 the covered entity's new corporate name or new duration.

4 (7) A covered entity authorized to transact business in this state under subsection (2)  
 5 of this section shall continuously maintain in this state:

6 (a) A registered agent, which must be:

7 (A) An individual who resides in this state; or

8 (B) A corporation or foreign corporation or a domestic limited liability company or for-  
 9 eign limited liability company, all as defined in ORS 60.001, or a professional corporation or  
 10 foreign professional corporation, as defined in ORS 58.015, provided that the corporation,  
 11 foreign corporation, domestic limited liability company, foreign limited liability company,  
 12 professional corporation or foreign professional corporation has an office in this state; and

13 (b) A registered office, the street address of which must be the residence or office of the  
 14 registered agent.

15 (8) In an action in which the cause of action arises out of business or a transaction that  
 16 the defendant conducted or carried out without first obtaining an authorization under sub-  
 17 section (2) of this section, the plaintiff may recover the greater of \$5,000 or the actual dam-  
 18 ages the plaintiff suffered as a consequence of the business or transaction. The court may  
 19 award reasonable attorney fees to the prevailing party in the action.

20 (9) The Secretary of State may impose a civil penalty of not more than \$1,000 for each  
 21 violation of this section. The Secretary of State shall impose the civil penalty as provided in  
 22 ORS 183.745.

23 **SECTION 2.** (1) As used in this section:

24 (a) "Excessive employee remuneration" means applicable employee remuneration, as de-  
 25 fined in section 162(m) of the Internal Revenue Code, as amended and in effect on December  
 26 31, 2017.

27 (b) "Subject revenue" includes program service revenue, excessive employee  
 28 remuneration and funds received from a government entity.

29 (2) In order to fund public safety in this state, an assessment is imposed on all covered  
 30 entities, to the extent that the subject revenue of the covered entity exceeds \$2.5 million for  
 31 the calendar year. The assessment shall be in the amount of 1.9 percent of the subject re-  
 32 venue in excess of \$2.5 million that is received by the covered entity during the calendar  
 33 year.

34 (3) The assessment imposed under this section shall be payable no later than April 15  
 35 following the calendar year for which it is imposed. The assessment shall be payable in the  
 36 form and manner established by the Department of Revenue.

37 (4) All revenues from the assessment imposed under this section shall, after payment of  
 38 refunds and administrative costs, be deposited in the Public Safety Assessment Fund estab-  
 39 lished in section 4 of this 2018 Act.

40 **SECTION 3.** (1) The assessment required under section 2 of this 2018 Act shall be as-  
 41 sessed and collected by the Department of Revenue in the same manner as income taxes are  
 42 assessed and collected under ORS chapter 314. The department may issue a warrant as pro-  
 43 vided in ORS 314.430 and record the warrant in the County Clerk Lien Record maintained  
 44 under ORS 205.130. A warrant issued under this section has the same force and effect as a  
 45 warrant issued under ORS 314.430.

1       **(2) In order to facilitate collection of the assessment imposed under section 2 of this 2018**  
 2 **Act, not later than January 31 of each year, the Secretary of State shall provide to the de-**  
 3 **partment the names and addresses of all entities registered under section 1 of this 2018 Act**  
 4 **during the prior calendar year.**

5       **(3) The department shall by rule establish policies and procedures for the administration**  
 6 **of the assessment imposed under section 2 of this 2018 Act.**

7       **SECTION 4. The Public Safety Assessment Fund is established in the State Treasury,**  
 8 **separate and distinct from the General Fund. Interest earned by the Public Safety Assess-**  
 9 **ment Fund shall be credited to the fund. The fund shall consist of moneys appropriated or**  
 10 **transferred to the fund, and moneys deposited under section 2 of this 2018 Act. Moneys in**  
 11 **the fund are continuously appropriated to the Department of Public Safety Standards and**  
 12 **Training, to be used for the purpose of public safety enhancement and distributed in the form**  
 13 **of grants equally to the following:**

- 14       **(1) The Oregon State Police.**
- 15       **(2) The State Fire Marshal.**
- 16       **(3) Local law enforcement agencies.**
- 17       **(4) Rural fire protection districts.**
- 18       **(5) The Office of Emergency Management.**

19       **SECTION 5. Sections 2 and 3 of this 2018 Act apply to calendar years beginning on or**  
 20 **after January 1, 2019.**

21       **SECTION 6.** ORS 731.026 is amended to read:

22       731.026. The Insurance Code applies to:

- 23       **(1) A fraternal benefit society, to the extent that the fraternal benefit society is not subject**  
 24 **to ORS chapter 748 [complying with ORS chapter 748, only as provided in such chapter].**
- 25       **(2) A health care service contractor complying with ORS 750.005 to 750.095, only as provided**  
 26 **in such sections.**
- 27       **(3) A legal expense organization complying with ORS 750.505 to 750.715, only as provided in**  
 28 **such sections.**
- 29       **(4) A multiple employer welfare arrangement complying with ORS 750.301 to 750.341, only as**  
 30 **provided in such sections.**

31       **SECTION 7.** ORS 731.036 is amended to read:

32       731.036. Except as provided in ORS 743.029 or as specifically provided by law, the Insurance  
 33 Code does not apply to any of the following to the extent of the subject matter of the exemption:

- 34       **(1) A bail bondsman, other than a corporate surety and its agents.**
- 35       **[(2) A fraternal benefit society that has maintained lodges in this state and other states for 50 years**  
 36 **prior to January 1, 1961, and for which a certificate of authority was not required on that date.]**
- 37       **[(3)] (2) A religious organization providing insurance benefits only to its employees, if the or-**  
 38 **ganization is in existence and exempt from taxation under section 501(c)(3) of the federal Internal**  
 39 **Revenue Code on September 13, 1975.**
- 40       **[(4)] (3) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a**  
 41 **self-insurance program for tort liability in accordance with ORS 30.282.**
- 42       **[(5)] (4) Public bodies, as defined in ORS 30.260, that either individually or jointly establish a**  
 43 **self-insurance program for property damage in accordance with ORS 30.282.**
- 44       **[(6)] (5) Cities, counties, school districts, community college districts, community college service**  
 45 **districts or districts, as defined in ORS 198.010 and 198.180, that either individually or jointly insure**

1 for health insurance coverage, excluding disability insurance, their employees or retired employees,  
2 or their dependents, or students engaged in school activities, or combination of employees and de-  
3 pendants, with or without employee or student contributions, if all of the following conditions are  
4 met:

5 (a) The individual or jointly self-insured program meets the following minimum requirements:

6 (A) In the case of a school district, community college district or community college service  
7 district, the number of covered employees and dependents and retired employees and dependents  
8 aggregates at least 500 individuals;

9 (B) In the case of an individual public body program other than a school district, community  
10 college district or community college service district, the number of covered employees and depen-  
11 dents and retired employees and dependents aggregates at least 500 individuals; and

12 (C) In the case of a joint program of two or more public bodies, the number of covered em-  
13 ployees and dependents and retired employees and dependents aggregates at least 1,000 individuals;

14 (b) The individual or jointly self-insured health insurance program includes all coverages and  
15 benefits required of group health insurance policies under ORS chapters 743, 743A and 743B;

16 (c) The individual or jointly self-insured program must have program documents that define  
17 program benefits and administration;

18 (d) Enrollees must be provided copies of summary plan descriptions including:

19 (A) Written general information about services provided, access to services, charges and sched-  
20 uling applicable to each enrollee's coverage;

21 (B) The program's grievance and appeal process; and

22 (C) Other group health plan enrollee rights, disclosure or written procedure requirements es-  
23 tablished under ORS chapters 743, 743A and 743B;

24 (e) The financial administration of an individual or jointly self-insured program must include the  
25 following requirements:

26 (A) Program contributions and reserves must be held in separate accounts and used for the ex-  
27 clusive benefit of the program;

28 (B) The program must maintain adequate reserves. Reserves may be invested in accordance with  
29 the provisions of ORS chapter 293. Reserve adequacy must be calculated annually with proper  
30 actuarial calculations including the following:

31 (i) Known claims, paid and outstanding;

32 (ii) A history of incurred but not reported claims;

33 (iii) Claims handling expenses;

34 (iv) Unearned contributions; and

35 (v) A claims trend factor; and

36 (C) The program must maintain adequate reinsurance against the risk of economic loss in ac-  
37 cordance with the provisions of ORS 742.065 unless the program has received written approval for  
38 an alternative arrangement for protection against economic loss from the Director of the Depart-  
39 ment of Consumer and Business Services;

40 (f) The individual or jointly self-insured program must have sufficient personnel to service the  
41 employee benefit program or must contract with a third party administrator licensed under ORS  
42 chapter 744 as a third party administrator to provide such services;

43 (g) The public body, or the program administrator in the case of a joint insurance program of  
44 two or more public bodies, files with the Director of the Department of Consumer and Business  
45 Services copies of all documents creating and governing the program, all forms used to communicate

1 the coverage to beneficiaries, the schedule of payments established to support the program and,  
 2 annually, a financial report showing the total incurred cost of the program for the preceding year.  
 3 A copy of the annual audit required by ORS 297.425 may be used to satisfy the financial report filing  
 4 requirement; and

5 (h) Each public body in a joint insurance program is liable only to its own employees and no  
 6 others for benefits under the program in the event, and to the extent, that no further funds, in-  
 7 cluding funds from insurance policies obtained by the pool, are available in the joint insurance pool.

8 ~~[(7)]~~ **(6)** All ambulance services.

9 ~~[(8)]~~ **(7)** A person providing any of the services described in this subsection. The exemption un-  
 10 der this subsection does not apply to an authorized insurer providing such services under an insur-  
 11 ance policy. This subsection applies to the following services:

12 (a) Towing service.

13 (b) Emergency road service, which means adjustment, repair or replacement of the equipment,  
 14 tires or mechanical parts of a motor vehicle in order to permit the motor vehicle to be operated  
 15 under its own power.

16 (c) Transportation and arrangements for the transportation of human remains, including all  
 17 necessary and appropriate preparations for and actual transportation provided to return a  
 18 decedent's remains from the decedent's place of death to a location designated by a person with  
 19 valid legal authority under ORS 97.130.

20 ~~[(9)(a)]~~ **(8)(a)** A person described in this subsection who, in an agreement to lease or to finance  
 21 the purchase of a motor vehicle, agrees to waive for no additional charge the amount specified in  
 22 paragraph (b) of this subsection upon total loss of the motor vehicle because of physical damage,  
 23 theft or other occurrence, as specified in the agreement. The exemption established in this sub-  
 24 section applies to the following persons:

25 (A) The seller of the motor vehicle, if the sale is made pursuant to a motor vehicle retail in-  
 26 stallment contract.

27 (B) The lessor of the motor vehicle.

28 (C) The lender who finances the purchase of the motor vehicle.

29 (D) The assignee of a person described in this paragraph.

30 (b) The amount waived pursuant to the agreement shall be the difference, or portion thereof,  
 31 between the amount received by the seller, lessor, lender or assignee, as applicable, that represents  
 32 the actual cash value of the motor vehicle at the date of loss, and the amount owed under the  
 33 agreement.

34 ~~[(10)]~~ **(9)** A self-insurance program for tort liability or property damage that is established by  
 35 two or more affordable housing entities and that complies with the same requirements that public  
 36 bodies must meet under ORS 30.282 (6). As used in this subsection:

37 (a) "Affordable housing" means housing projects in which some of the dwelling units may be  
 38 purchased or rented, with or without government assistance, on a basis that is affordable to indi-  
 39 viduals of low income.

40 (b) "Affordable housing entity" means any of the following:

41 (A) A housing authority created under the laws of this state or another jurisdiction and any  
 42 agency or instrumentality of a housing authority, including but not limited to a legal entity created  
 43 to conduct a self-insurance program for housing authorities that complies with ORS 30.282 (6).

44 (B) A nonprofit corporation that is engaged in providing affordable housing.

45 (C) A partnership or limited liability company that is engaged in providing affordable housing

1 and that is affiliated with a housing authority described in subparagraph (A) of this paragraph or  
 2 a nonprofit corporation described in subparagraph (B) of this paragraph if the housing authority or  
 3 nonprofit corporation:

4 (i) Has, or has the right to acquire, a financial or ownership interest in the partnership or lim-  
 5 ited liability company;

6 (ii) Has the power to direct the management or policies of the partnership or limited liability  
 7 company;

8 (iii) Has entered into a contract to lease, manage or operate the affordable housing owned by  
 9 the partnership or limited liability company; or

10 (iv) Has any other material relationship with the partnership or limited liability company.

11 [(11)] (10) Except as provided in ORS 735.500 and 735.510, a person certified by the Department  
 12 of Consumer and Business Services to operate a retainer medical practice.

13 **SECTION 8.** ORS 731.354 is amended to read:

14 731.354. [No] A person [shall] **may not** act as an insurer and [no insurer shall] **an insurer may**  
 15 **not** directly or indirectly transact insurance in this state [except as authorized by a subsisting] **un-**  
 16 **less the insurer:**

17 (1) **Has a valid** certificate of authority issued to the insurer by the Director of the Department  
 18 of Consumer and Business Services[.]; **and**

19 (2) **Has registered with the Secretary of State as provided in section 1 of this 2018 Act.**

20 **SECTION 9.** ORS 731.380 is amended to read:

21 731.380. (1) Subject to subsection (2) of this section, any foreign or alien insurer, without being  
 22 authorized to transact business in this state, may take, acquire, hold and enforce notes secured by  
 23 real estate mortgages or trust deeds and make commitments to purchase such notes. A foreign or  
 24 alien insurer may foreclose the mortgages and trust deeds in the courts of this state, acquire the  
 25 mortgaged property, hold, own and operate the property for a period not exceeding five years and  
 26 dispose of the property. The activities authorized under this subsection by such a foreign or alien  
 27 insurer [shall] **do** not constitute transacting business in this state for the purposes of ORS chapter  
 28 60.

29 (2) Before a foreign or alien insurer engages in any of the activities described in subsection (1)  
 30 of this section, the foreign or alien insurer shall first **register with the Secretary of State as**  
 31 **provided in section 1 of this 2018 Act and** file with the Department of Consumer and Business  
 32 Services a statement signed by [its] **the foreign or alien insurer's** president, secretary, treasurer  
 33 or general manager that [it constitutes] the Director of the Department of Consumer and Business  
 34 Services [its] **is the foreign or alien insurer's** attorney for service of process[, and]. **The foreign**  
 35 **or alien insurer** shall **also** pay an initial filing fee of \$200 and an annual license fee of \$200. The  
 36 statement [shall] **must** include the address of the principal place of business of the foreign or alien  
 37 insurer.

38 (3) The director, upon receiving service of process as authorized by subsection (2) of this section,  
 39 immediately shall forward by registered mail or by certified mail with return receipt all documents  
 40 served upon the director to the principal place of business of the foreign or alien insurer.

41 (4) A foreign or alien insurer that indirectly engages in the activities described in subsection (1)  
 42 of this section because of [its] **the foreign or alien insurer's** beneficial interest in a pool of notes  
 43 secured by real estate mortgages or trust deeds need not comply with subsection (2) of this section.

44 **SECTION 10.** ORS 731.804 is amended to read:

45 731.804. (1) Except as otherwise provided in this section, each authorized insurer doing business

1 in this state shall pay assessments that the Director of the Department of Consumer and Business  
 2 Services determines are necessary to support the legislatively authorized budget of the Department  
 3 of Consumer and Business Services with respect to functions of the department under the Insurance  
 4 Code. The director shall determine the assessments according to one or more percentage rates es-  
 5 tablished by the director by rule. The director shall specify in the rule when assessments *[shall]*  
 6 **must** be made and payments *[shall be]* **are** due. The premium-weighted average of the percentage  
 7 rates may not exceed nine-hundredths of one percent of the gross amount of premiums received by  
 8 an insurer or the insurer's insurance producers from and under the insurer's policies covering direct  
 9 domestic risks, after deducting the amount of return premiums paid and the amount of dividend  
 10 payments made to policyholders with respect to such policies. In the case of reciprocal insurers, the  
 11 amount of savings paid or credited to the accounts of subscribers *[shall]* **must** be deducted from the  
 12 gross amount of premiums. In establishing the percentage rate or rates, the director shall use the  
 13 most recent premium data approved by the director. In establishing the amounts to be collected  
 14 under this subsection, the director shall take into consideration the expenses of the department for  
 15 administering the Insurance Code and the fees collected under subsection (2) of this section.  
 16 *[When]* **If** the director establishes two or more percentage rates:

17 (a) Each rate *[shall]* **must** be based on such expenses of the department ascribed by the director  
 18 to the line of insurance for which the rate is established.

19 (b) Each rate *[shall]* **must** be applied to the gross amount of premium received by an insurer  
 20 or *[its]* **the insurer's** insurance producers for the applicable line of insurance as provided in this  
 21 subsection.

22 (2) The director may collect fees for specific services provided by the department under the In-  
 23 surance Code according to a schedule of fees established by the director by rule. The director may  
 24 collect such fees in advance. In establishing the schedule for fees, the director shall take into con-  
 25 sideration the cost of each service for which a fee is imposed.

26 (3) Establishment and amendment of the schedule of fees under subsection (2) of this section are  
 27 subject to prior approval of the Oregon Department of Administrative Services and a report to the  
 28 Emergency Board prior to adopting the fees and *[shall]* **must** be within the budget authorized by the  
 29 Legislative Assembly as that budget may be modified by the Emergency Board.

30 (4) The director may not collect an assessment under subsection (1) of this section from *[any of*  
 31 *the following persons:]*

32 *[(a) A fraternal benefit society complying with ORS chapter 748.]*

33 *[(b)]* any person or class of persons designated by the director by rule **other than a fraternal**  
 34 **benefit society, as described in ORS 748.106.**

35 (5) The director may not collect an assessment under subsection (1) of this section with respect  
 36 to premiums received from any of the following policies:

37 (a) Workers' compensation insurance policies.

38 (b) Wet marine and transportation insurance policies.

39 (c) Any category of policies designated by the director by rule.

40 **SECTION 11.** ORS 732.005 is amended to read:

41 732.005. (1) Except where inconsistent with the express provisions of the Insurance Code, ORS  
 42 chapter 60, shall, to the extent applicable, govern the powers, duties and relationships of domestic  
 43 insurers.

44 *[(2) The following sections in ORS chapter 60 do not apply to insurers: ORS 60.004, 60.007 to*  
 45 *60.014, 60.016, 60.017 to 60.024, 60.031, 60.044, 60.051 to 60.057, 60.094 to 60.101, 60.311, 60.470 to*

1 60.534, 60.701 to 60.717, 60.734 to 60.744, 60.787, 60.954, 60.957 to 60.967 and 60.992.]

2 [(3)] (2) ORS 60.224, 60.774 (2)(c) and 60.777 (4) do not apply to insurers without capital stock.

3 [(4)] (3) The enumeration in [subsections (2) and (3)] **subsection (2)** of this section of inapplica-  
4 ble sections in ORS chapter 60 is not exclusive or a limitation upon subsection (1) of this section.

5 [(5)] (4) To the extent applicable and not inconsistent with subsections (1) to [(4)] (3) of this  
6 section, ORS chapter 60 [shall apply] **applies** to insurers without capital stock as well as to insurers  
7 with capital stock. Where applicable to insurers without capital stock, references in ORS chapter  
8 60 to “shareholders” [shall be deemed] **are** references to “policyholders” or “subscribers” as the case  
9 may be.

10 [(6)] (5) In applying ORS chapter 60 as provided in this section, unless the context requires  
11 otherwise[.],

12 [(a) “Office of Secretary of State” or “office” means the Department of Consumer and Business  
13 Services.]

14 [(b) “Secretary of State” means the Director of the Department of Consumer and Business  
15 Services.]

16 [(c) “corporation” and “domestic corporation” mean a domestic insurer.

17 **SECTION 12.** ORS 748.414 is amended to read:

18 748.414. Every society organized or licensed under this chapter is hereby declared to be a  
19 charitable and benevolent institution, and all of [its] **the funds [shall be] the society receives spe-**  
20 **cifically for or expends on charitable purposes are** exempt from all and every state, county, dis-  
21 trict, municipal and school tax, other than taxes on real estate and office equipment.

22 **SECTION 13.** ORS 750.333 is amended to read:

23 750.333. (1) The following provisions apply to trusts carrying out a multiple employer welfare  
24 arrangement:

25 (a) ORS 705.137, 705.138 and 705.139.

26 (b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328,  
27 [731.378,] 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484,  
28 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804, 731.808 and 731.844 to  
29 731.992.

30 (c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

31 (d) ORS 734.014 to 734.440.

32 (e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

33 (f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023, 743.028, 743.029,  
34 743.053, 743.405, 743.406, 743.524, 743.526 and 743.535.

35 (g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034, 743A.036, 743A.040,  
36 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066,  
37 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105,  
38 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170,  
39 743A.175, 743A.180, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

40 (h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127), 743B.195 to 743B.204,  
41 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256,  
42 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343,  
43 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451, 743B.453,  
44 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.

45 (i) The following provisions of ORS chapter 744:

1 (A) ORS 744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037, 744.052  
2 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

3 (B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665,  
4 relating to the regulation of insurance consultants; and

5 (C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

6 (j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

7 (2) For the purposes of this section:

8 (a) A trust carrying out a multiple employer welfare arrangement shall be considered an insurer.

9 (b) References to certificates of authority shall be considered references to certificates of mul-  
10 tiple employer welfare arrangement.

11 (c) Contributions shall be considered premiums.

12 (3) The provision of health benefits under ORS 750.301 to 750.341 shall be considered to be the  
13 transaction of health insurance.

14 (4) The Department of Consumer and Business Services may adopt rules that are necessary to  
15 implement the provisions of ORS 750.301 to 750.341.

16 **SECTION 14.** ORS 743.650 is amended to read:

17 743.650. (1) ORS 743.650 to 743.665 may be known and cited as the “Long Term Care Insurance  
18 Act.”

19 (2) The purpose of ORS 743.650 to 743.665 is to:

20 (a) Promote the public interest in long term care insurance;

21 (b) Promote the availability of long term care insurance policies;

22 (c) Protect applicants for long term care insurance from unfair or deceptive sales or enrollment  
23 practices;

24 (d) Establish standards for long term care insurance;

25 (e) Facilitate public understanding and comparison of long term care insurance policies;

26 (f) Facilitate flexibility and innovation in the development of long term care insurance coverage;  
27 and

28 (g) Ensure that Oregon residents who purchase insurance for long term care shall have access  
29 to policies providing for a comprehensive range of benefits.

30 (3) The requirements of ORS 743.650 to 743.665[, 748.603] and 750.055 apply to policies and cer-  
31 tificates delivered or issued for delivery in this state on or after December 31, 1989. ORS 743.650  
32 to 743.665[, 748.603] and 750.055 are not intended to supersede the obligations of entities subject to  
33 ORS 743.650 to 743.665[, 748.603] and 750.055 to comply with the substance of other applicable in-  
34 surance laws insofar as such laws do not conflict with ORS 743.650 to 743.665[, 748.603] and 750.055,  
35 except that laws and rules designed and intended to apply to Medicare supplement insurance poli-  
36 cies shall not be applied to long term care insurance. A policy that is not advertised, marketed or  
37 offered as long term care insurance or nursing home insurance is not required to meet the require-  
38 ments of ORS 743.650 to 743.665[, 748.603] and 750.055.

39 **SECTION 15.** ORS 748.605 is amended to read:

40 748.605. Insurance issued or delivered by a fraternal benefit society against the risk of economic  
41 loss assumed under a less than fully insured employee health benefit plan is subject to ORS 742.065.  
42 Such insurance is [*subject to ORS 748.603 but is otherwise*] not subject to the provisions of ORS  
43 chapter 748.

44 **SECTION 16.** ORS 731.378, 731.381, 748.509, 748.601 and 748.603 are repealed.

45 **SECTION 17.** This 2018 Act takes effect on the 91st day after the date on which the 2018

1 **regular session of the Seventy-ninth Legislative Assembly adjourns sine die.**

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