

# House Bill 3412

Sponsored by Representative POST

## 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 insurer in policy against risk of loss to property to provide that insurer include, at request of first-party claimant, amount of claimant's deductible in demand when exercising subrogation rights under policy, that insurer share proportionately with claimant proceeds of settlement or judgment and that insurer may not deduct expenses from proceeds unless insurer retains outside attorney, in which case insurer may deduct pro rata amount for expenses of retaining attorney.

## A BILL FOR AN ACT

1  
2 Relating to insurance policies against risks of loss to property; creating new provisions; and  
3 amending ORS 742.242.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 742.**

6 **SECTION 2. An insurer shall include in a policy that insures against a risk of loss to  
7 property, including fire insurance, the following provisions:**

8 (1) **The insurer, at the request of a first-party claimant under the policy, shall include  
9 the amount of the claimant's deductible in the insurer's demand whenever the insurer ex-  
10 ercises the insurer's subrogation rights under the policy.**

11 (2) **The insurer shall share on a proportionate basis with the first-party claimant the  
12 proceeds of any settlement or judgment the insurer obtains in a demand or action for  
13 subrogation, unless the claimant has otherwise recovered the amount of the claimant's  
14 deductible.**

15 (3) **The insurer may not deduct from the proceeds described in subsection (2) of this  
16 section any amount for expenses unless the insurer retains an attorney who is not an em-  
17 ployee of the insurer for the purpose of obtaining the settlement or judgment, in which case  
18 the insurer may deduct a pro rata share of the cost of retaining the attorney.**

19 **SECTION 3. ORS 742.242 is amended to read:**

20 742.242. A fire insurance policy shall contain a provision as follows[:], "**Subject to the pro-  
21 visions set forth in section 2 of this 2019 Act**, this company may require from the insured an  
22 assignment of all right of recovery against any party for loss to the extent that payment therefor  
23 is made by this company."

24 **SECTION 4. Section 2 of this 2019 Act and the amendments to ORS 742.242 by section 3  
25 of this 2019 Act apply to insurance policies that an insurer issues or renews on or after the  
26 effective date of this 2019 Act.**

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**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.