

House Bill 2449

Sponsored by Representatives SMITH DB, MORGAN (at the request of former Representative Wayne Krieger (Presession 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**.

Prohibits insurer from canceling or raising premiums on policies of fire insurance by more than three percent if insured's property is located within wildland-urban interface or insured's primary employment or economic or business activity is farming or resource extraction. Specifies exceptions. Requires Department of Consumer and Business Services to determine by rule how to measure employment or economic or business activity for purposes of qualifying for limitations on cancellations and policy increases.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to fire insurance that covers property located in the wildland-urban interface; creating new
3 provisions; amending ORS 737.310 and 742.224; and prescribing an effective date.

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

5 **SECTION 1.** ORS 737.310 is amended to read:

6 737.310. The following standards shall apply to the making and use of rates:

7 (1) Rates shall not be excessive, inadequate or unfairly discriminatory.

8 (2) As to all classes of insurance, other than workers' compensation and title insurance:

9 (a) No rate shall be held to be excessive unless:

10 (A) Such rate is unreasonably high for the insurance provided; and

11 (B) A reasonable degree of competition does not exist in the area with respect to the classi-
12 fication to which such rate is applicable.

13 (b) No rate shall be held inadequate unless such rate is unreasonably low for the insurance
14 provided and:

15 (A) Use or continued use of such rate endangers the solvency of the insurer; or

16 (B) The use of such rate by the insurer has, or if continued will have, the effect of destroying
17 competition or creating a monopoly.

18 (3)(a) **Except as provided in subsection (6)(b) of this section**, rates for each classification
19 of coverage [*shall*] **must** be based on the claims experience of insurers within Oregon on that clas-
20 sification of coverage unless that experience provides an insufficient base for actuarially sound
21 rates.

22 (4) Due consideration shall be given to past and prospective loss experience within this state,
23 to the hazards of conflagration and catastrophe, to a reasonable margin for profit and to contin-
24 gencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to
25 their policyholders, members or subscribers, to past and prospective expenses specially applicable
26 to this state, and to all other relevant factors, including judgment factors deemed relevant, within
27 this state.

28 (5) In addition to subsection (4) of this section, rates for home protection insurance may include

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 provision for unreimbursed costs of risk inspection and for loss costs under policies which are ter-
 2 minated without premium because the related home sale is not made.

3 (6)(a) In the case of fire insurance rates, consideration may be given to the experience of the
 4 fire insurance business during the most recent five-year period for which such experience is avail-
 5 able.

6 **(b) Notwithstanding paragraph (a) of this subsection, an insurer may not increase an**
 7 **insured's premium for fire insurance more than three percent in each year in which the fire**
 8 **insurance policy is in effect for the insured if the fire insurance covers:**

9 **(A) Property located in the wildland-urban interface, as defined in ORS 477.015; or**

10 **(B) Property of an insured that is engaged in farming or resource extraction as the**
 11 **insured's primary employment or economic or business activity. The Department of Con-**
 12 **sumer and Business Services by rule shall determine how and by what measure an insured's**
 13 **employment or economic or business activity would qualify the insured for the limitation on**
 14 **premium increases set forth in this paragraph.**

15 (7) The systems of expense provisions included in the rates for use by any insurer or group of
 16 insurers may differ from those of other insurers or groups of insurers to reflect the requirements
 17 of the operating methods of any such insurer or group of insurers with respect to any class of in-
 18 surance, or with respect to any subdivision or combination thereof for which subdivision or combi-
 19 nation separate expenses are applicable.

20 (8) Risks may be grouped by classifications for the establishment of rates and minimum premi-
 21 ums. Classification rates for casualty, surety or inland marine risks may be modified to produce
 22 rates for individual risks in accordance with rating plans which establish standards for measuring
 23 variations in hazards or expense provisions or both. Such standards may measure any differences
 24 among risks that can be demonstrated to have a probable effect upon losses or expenses.

25 (9) Due consideration shall be given, in the making and use of rates for all insurance, to in-
 26 vestment income earned by the insurer, to insurer profits and to accumulated reserves for vocational
 27 rehabilitation services and for claim costs related to orders or awards made pursuant to ORS
 28 656.278.

29 (10) The Director of the Department of Consumer and Business Services, by rule, shall prescribe
 30 the conditions under which a division of payroll between different manual classifications is permit-
 31 ted for purposes of computing workers' compensation premiums.

32 (11)(a) The director shall not approve any workers' compensation rating system that does not
 33 include a plan for rewarding employers, however small, that have good loss experience or programs
 34 likely to improve accident prevention. However, this paragraph is not intended to require that all
 35 employers be experience rated.

36 (b) The director shall not approve any workers' compensation rating system that does not allow
 37 the insurer to include potential third party recovery as one of the variables in the claims reserving
 38 process.

39 (12) At the time an insurer issues a workers' compensation insurance policy to an insured for
 40 the first time, the insurer shall give written notice to the insured of the rating classifications to
 41 which the insured's employees are to be assigned and shall provide an adequate description of work
 42 activities in each classification. In the event an insurer recommences coverage following its termi-
 43 nation, the notice required under this subsection must be given only if the gap in coverage exceeds
 44 six months.

45 (13) If an insurer determines the workers' compensation insurance policy of an insured needs

1 reclassification, the insurer:

2 (a) May bill an additional premium for the revised classification after the insurer has provided
3 the insured at least 60 days' written notice of the reclassification.

4 (b) Shall bill retroactively to policy inception or date of change in insured's operations for any
5 reclassification that results in a net reduction of premium.

6 (c) May, notwithstanding paragraph (a) of this subsection, retroactively bill an insured for re-
7 classification during the policy year without prior notice of reclassification if the insurer shows by
8 a preponderance of the evidence that:

9 (A) The insured knew that the employees were misclassified, or the insured was adequately in-
10 formed by the insurer of the proper classification for the insured's employees;

11 (B) The insured provided improper or inaccurate information concerning its operations; or

12 (C) The insured's operations changed after the date information on the employees was obtained
13 from the insured.

14 (14) In consultation with system participants, the director shall analyze the rating classification
15 system to investigate changes that simplify the system and reduce costs for employers and insurers
16 while preserving rate equity and minimizing the potential for abuse. The director shall give partic-
17 ular emphasis to the method of allocating payroll to rating classifications and to alternatives to
18 methods that require verifiable payroll records. Upon completion of this analysis, the director shall
19 implement appropriate changes to the system.

20 (15) The director shall adopt rules to carry out the provisions of this section and may by rule
21 specify procedures relating to rating and ratemaking by workers' compensation insurers.

22 (16) A rate increase based solely upon an insured's attaining or exceeding 65 years of age shall
23 be presumed to be unfairly discriminatory unless the increase is clearly based on sound actuarial
24 principles or is related to actual or reasonably anticipated experience.

25 **SECTION 2.** ORS 742.224 is amended to read:

26 742.224. (1) A fire insurance policy shall contain a provision as follows: "This policy shall be
27 canceled at any time at the request of the insured, in which case this company shall, upon demand
28 and surrender of this policy, refund the excess of paid premium above the customary short rates for
29 the expired time."

30 (2) The policy also shall provide:

31 (a) That, **except as provided in paragraph (c) of this subsection**, the insurer may cancel the
32 policy at any time by giving 10 days' written notice of cancellation to the insured in the event of
33 nonpayment of premium or 30 days' written notice for any other reason. However, when fire insur-
34 ance coverage is part of a package policy including commercial liability insurance, cancellation of
35 the policy is governed by the provisions of ORS 742.702.

36 (b) That cancellation by the insurer may be made with or without tender of the excess of paid
37 premium above the pro rata premium for the expired time, and that the excess, if not tendered with
38 the cancellation, will be refunded on demand.

39 (c) **Notwithstanding ORS 742.202, an insurer may not cancel a policy of fire insurance**
40 **without the consent of the insured unless within the previous three years the insurer has**
41 **received a claim from the insured for which the insurer paid out more than 75 percent of the**
42 **coverage limit for the policy. An insurer may not cancel a policy of fire insurance without**
43 **the consent of the insured if the reason for the cancellation is the insurer's claims experi-**
44 **ence with other insureds within the municipality, county or region of this state where the**
45 **insured's covered property is located and:**

1 (A) The insured's covered property is located in the wildland-urban interface, as defined
2 in ORS 477.015; or

3 (B) The insured is engaged in farming or resource extraction as the insured's primary
4 employment or economic or business activity. The Department of Consumer and Business
5 Services by rule shall determine how and by what measure an insured's employment or
6 economic or business activity would qualify the insured for the limitation on cancellation set
7 forth in this paragraph.

8 (3) When an insurer gives notice of cancellation, the notice shall state that the excess of paid
9 premium above the pro rata premium for the expired time, if not tendered with the notice, will be
10 refunded on demand.

11 **SECTION 3.** The amendments to ORS 737.310 and 742.224 by sections 1 and 2 of this 2023
12 Act apply to contracts of insurance that an insurer issues or renews on or after the opera-
13 tive date set forth in section 4 of this 2023 Act.

14 **SECTION 4.** (1) The amendments to ORS 737.310 and 742.224 by sections 1 and 2 of this
15 2023 Act become operative on January 1, 2024.

16 (2) The Department of Consumer and Business Services may adopt rules and take any
17 other action before the operative date specified in subsection (1) of this section that is nec-
18 essary to enable the department, on and after the operative date specified in subsection (1)
19 of this section, to undertake and exercise the duties, functions and powers conferred on the
20 department by the amendments to ORS 737.310 and 742.224 by sections 1 and 2 of this 2023
21 Act.

22 **SECTION 5.** This 2023 Act takes effect on the 91st day after the date on which the 2023
23 regular session of the Eighty-second Legislative Assembly adjourns sine die.
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