Chapter 741

1955 REPLACEMENT PART

Accident and Health Insurance

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741.005 Definitions. As used in this chapter, the term "policy of accident and sickness insurance" includes any policy or contract covering the kinds of insurance described in ORS 741.010. [1955 c.737 §2]

741.010 Companies may be authorized to engage in accident and health insurance business. Insurance companies may be organized in this state for the purpose of transacting, and foreign and alien companies may be granted permission to transact, the business of writing insurance against bodily injury or death by accident, and against disablement resulting from sickness, and every insurance appertaining thereto, including identification.

741.020 Exceptions to application of this chapter. (1) This chapter does not apply to or affect fraternal benefit associations, societies or orders with representative form of government operating on a lodge system or the benefit certificates or policies issued by them.

(2) Nothing in this chapter applies to or affects any general or blanket or group policy of insurance, insuring 25 or more persons, issued to any municipal corporation or department thereof, or to any corporation, copartnership, association, or individual employer, police or fire department, underwriters corps, salvage bureau, or like associations or organizations where the officers, members or employes or classes or departments thereof are insured against specified accidental bodily injuries or diseases while exposed to the hazards of the occupation or otherwise for a premium intended to cover the risks of all the persons insured under such policy.

(3) Nothing in this chapter applies to or affects contracts of life insurance or contracts supplemental thereto which contain provisions intended to safeguard such life insurance against lapse or that provide a special surrender value therefor in the event that the insured thereunder, by reason of accidental bodily injury or disease, is unable to continue the premium payments thereon.

741.022 Additional exceptions to application of this chapter. Nothing in this chapter shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance; or (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract. [1955 c.737 §10]

741.028 Appeals under this chapter. Any order or decision of the commissioner under this chapter may be appealed by any party in the interest to the Circuit Court of Marion County within 20 days after receipt of service of the order or decision. The filing of the appeal shall operate as a stay of the order or decision until the court directs otherwise. The court may review all facts and, in disposing of the issue before it, may modify, affirm or reverse the order or decision of the commissioner in whole or in part. The order of decree of the circuit court shall be appealable to the Supreme Court in the same manner as other judgments and decrees. [1955 c.737 §11]

741.030 Capital and surplus requirements. (1) After May 2, 1955, any company applying for authority to transact the business described in ORS 741.010 shall show to the satisfaction of the State Insurance Commissioner:

(a) If a foreign or alien corporation, that it is possessed of and will maintain at all times a combined paid-up capital and surplus in the United States of not less than $500,000, or if a foreign or alien mutual corporation or company that it is possessed of and will maintain at all times a combined deposit capital and surplus in the United States over all liabilities therein for the benefit of all policyholders in the United States of not less than $500,000; or

(b) If a domestic company, that it is possessed of and will maintain at all times a combined paid-up capital and surplus of not less than $500,000;

and is in compliance with the requirements of the laws of this state relating to such paid-up capital and the investments of such companies, excepting life insurance com-

panies now doing business under ORS 739.105 and life insurance companies transacting their business upon the mutual plan and possessing assets amounting to $1,000,000 or more and a surplus over all liabilities of $500,000 or more.

(2) The foregoing and no other shall be the sole qualifications as to capital for such companies.

(3) Certificates of authority and licenses issued prior to May 2, 1955, are not affected by the 1955 amendment to this section. [Amended by 1955 c.409 §5]

741.040 Issuance and suspension or revocation of certificates of authority. (1) If the applicant company has furnished evidence of its authority to transact such insurance as it requests permission to do in this state and has complied with all requirements of the law and of the Department of Insurance of the State of Oregon, the State Insurance Commissioner shall issue his certificate of authority to such company, specifying the class or classes of disability insurance which it may transact under such authorization, such certificate to continue in full force and effect until suspended or revoked by the commissioner.

(2) The certificate of authority granted to such company may be suspended at any time by the commissioner on receipt of satisfactory evidence that the company or its agents are transgressing the laws of the state, or that the company is financially impaired or that the acts of the company or its agents are not in conformity with the insurance laws. Such certificates of authority may also be revoked for the same causes after due notice of complaint has been given and a hearing granted to the company on such complaint.

741.050 [Repealed by 1955 c.737 §13]

741.060 [Repealed by 1955 c.737 §13]

741.070 [Repealed by 1955 c.737 §13]

741.080 [Repealed by 1955 c.737 §13]

741.090 [Repealed by 1955 c.737 §13]

741.100 Records to be kept at office of resident agent. Each company writing accident and health insurance in this state shall maintain at the office or offices of its resident licensed agent or agents complete records of business written in this state.

741.110 Approval of form of policy. No policy of insurance against loss or damage from disease or by bodily injury by accident, or both, of the assured shall be issued or delivered in this state:

(1) Unless and until a copy of the form thereof and the table or manual of risks of the corporation have been filed at least 30 days with the State Insurance Commissioner, unless before the expiration of the 30 days the commissioner approves the same in writing.

(2) If the commissioner has notified the corporation in writing that, in his opinion and for reasons specified, the form of the policy does not comply with the requirements of the laws of this state. Upon the petition of the corporation the opinion of the commissioner shall be subject to review by any court of competent jurisdiction. [1955 c.737 §3]

741.120 Prerequisites to issuance of policy. (1) No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless:

(a) The entire money and other considerations therefor are expressed therein;

(b) The time at which the insurance takes effect and terminates is expressed therein;

(c) It purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed 19 years and any other person dependent upon the policyholder;

(d) The style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light faced type of a style in general use, the size of which shall be uniform and not less than 10 point with a lower case unspaced alphabet length not less than 120 point. The "text" shall include all printed matter except the name and address of the insurance company, name or title of the policy, the brief description if any, and captions and subcaptions;

(e) The exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in this section, are printed at the insurance company's option either included with the benefit provision to which they apply or under an appropriate caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS, provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(f) Each such form, including riders and endorsements, shall be identified by a form number in the lower left hand corner of the first page thereof; and

(g) It contains no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurance company a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short rate table filed with the commissioner.

(2) If any policy is issued by an insurance company domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection (1) of this section and in ORS 741.130. [1955 c.737 §4]

741.130 Standard policy provisions. (1) Except as provided in subsection (3) of this section each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section; provided, however, that the insurance company may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this subsection or, at the option of the insurance company, by such appropriate individual or group captions or subcaptions as the commissioner may approve:

(a) A provision as follows: ENTIRE CONTRACT: CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the company and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

(b) A provision as follows: TIME LIMIT ON CERTAIN DEFENSES: (A) After three years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability, as defined in the policy, commencing after the expiration of such three year period.

The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three year period, nor to limit the application of paragraphs (a), (b), (c), (d) and (e) of subsection (2) of this section in the event of misstatement with respect to age or occupation or other insurance.

A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (i) until at least age 50 or, (ii) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurance company's option, under the caption INCONTESTABLE: After this policy has been in force for a period of three years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(B) No claim for loss incurred or disability, as defined in the policy, commencing after three years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(c) A provision as follows: GRACE PERIOD: A grace period of———— (insert a number not less than "7" for weekly premium policies, "10" for monthly premium policies and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force.

A policy which contains a cancelation provision may add at the end of the above provision: subject to the right of the company to cancel in accordance with the cancelation provision hereof.

A policy in which the insurance company reserves the right to refuse any renewal shall have at the beginning of the above provision: Unless not less than five days prior to the premium due date the company has delivered to the insured or has mailed to his last address as shown by the records of the company written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.

(d) A provision as follows: REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the company or by any agent duly authorized by the company to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the company or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the company or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the company has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and company shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement.

The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (A) until at least age 50 or, (B) in the case of a policy issued after age 44, for at least five years from its date of issue.

(e) A provision as follows: NOTICE OF CLAIM: Written notice of claim must be given to the company within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the company at ———— (insert the location of such office as the company may designate for the purpose), or to any authorized agent of the company, with information sufficient to identify the insured, shall be deemed notice to the company.

In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurance company may at its option insert the following between the first and second sentences of the above provision: Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the company notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the company on account of such claim or any denial of liability in whole or in part by the company shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.

(f) A provision as follows: CLAIM FORMS: The company, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within 15 days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for

filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

(g) A provision as follows: PROOFS OF LOSS: Written proof of loss must be furnished to the company at its office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the company is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

(h) A provision as follows: TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid——— (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

(i) A provision as follows: PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the company, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured.

The following provisions, or either of them, may be included with the foregoing provision at the option of the insurance company: (A) If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the company may pay such indemnity, up to an amount not exceeding $——— (insert an amount which shall not exceed $1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the company to be equitably entitled thereto. Any payment made by the company in good faith pursuant to this provision shall fully discharge the company to the extent of such payment. (B) Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the company's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

(j) A provision as follows: PHYSICAL EXAMINATIONS AND AUTOPSY: The company at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

(k) A provision as follows: LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

(L) A provision as follows: CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured; and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries or to any other changes in this policy.

The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurance company's option.

(2) Except as provided in paragraph (c) of this subsection, no such policy delivered or issued for delivery to any person

in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section; provided, however, that the insurance company may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurance company, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(a) A provision as follows: CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed his occupation to one classified by the company as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the company will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the company for such more hazardous occupation. If the insured changes his occupation to one classified by the company as less hazardous than that stated in this policy, the company, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the company prior to the occurrence of the loss for which the company is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the company in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

(b) A provision as follows: MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

(c) A provision as follows: OTHER INSURANCE IN THIS COMPANY: If an accident or sickness or accident and sickness policy or policies previously issued by the company to the insured be in force concurrently herewith, making the aggregate indemnity for ——— (insert type of coverage or coverages) in excess of $——— (insert maximum limit of indemnity or indemnities), the excess insurance shall be void, and all premiums paid for such excess shall be returned to the insured or to his estate.

Or, in lieu thereof: Insurance effective at any one time on the insured under a like policy or policies in this company is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the company will return all premiums paid for all other such policies.

(d) A provision as follows: INSURANCE WITH OTHER COMPANIES: If there be other valid coverage, not with this company, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this company has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this company had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the foregoing policy provision is included in a policy which also contains the next following policy provision, there shall be added to the caption of the foregoing provision the phrase EXPENSE INCURRED BENEFITS. The insurance com-

pany may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employe benefit organizations. For the purpose of applying the foregoing policy provisions with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurance company has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

(e) A provision as follows: INSURANCE WITH OTHER COMPANIES: If there be other valid coverage, not with this company, providing benefits for the same loss on other than an expense incurred basis and of which this company has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the company had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

If the foregoing policy provision is included in a policy which also contains the next preceding policy provision, there shall be added to the caption of the foregoing provision the phrase OTHER BENEFITS. The insurance company may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employe benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurance company has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

(f) A provision as follows: RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the company will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be

inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (A) until at least age 50 or, (B) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurance company may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employe benefit organizations.

(g) A provision as follows: UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(h) A provision as follows: CANCELATION: The company may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the company, stating when, not less than five days thereafter, such cancelation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the company, effective upon receipt or on such later date as may be specified in such notice. In the event of cancelation, the company will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the company cancels, the earned premium shall be computed pro rata. Cancelation shall be without prejudice to any claim originating prior to the effective date of cancelation.

(i) A provision as follows: CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date hereby is amended to conform to the minimum requirements of such statutes.

(j) A provision as follows: ILLEGAL OCCUPATION: The company shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

(k) A provision as follows: INTOXICANTS AND NARCOTICS: The company shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

(3) If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurance company, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(4) The provisions which are the subject of subsections (1) and (2) of this section, or any corresponding provisions which are used in lieu thereof in accordance with such subsections, shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurance company, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued.

(5) As used in this chapter, the word "insured" shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

(6) (a) Any policy of a foreign or alien insurance company, when delivered or is-

sued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this chapter and which is prescribed or required by the law of the state under which the insurance company is organized.

(b) Any policy of a domestic insurance company may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

(7) The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this chapter as are necessary, proper or advisable to the administration of this chapter. This provision shall not abridge any other authority granted the commissioner by law. [1955 c.737 §5]

741.140 Prohibited provisions; validity and construction of policies issued in violation of statute. (1) No policy provision which is not subject to ORS 741.130 shall make a policy, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to this chapter.

(2) A policy delivered or issued for delivery to any person in this state in violation of this chapter shall be held valid but shall be construed as provided in this chapter. When any provision in a policy subject to this chapter is in conflict with any provision of this chapter, the rights, duties and obligations of the insurance company, the insured and the beneficiary shall be governed by the provisions of this chapter. [1955 c.737 §6]

741.145 Certain policies, riders and endorsements not subject to ORS 741.120 to 741.140. A policy, rider or endorsement, which could have been lawfully used or delivered or issued for delivery to any person in this state immediately before August 3, 1955, may be used or delivered or issued for delivery to any such person until January 1, 1957, without being subject to ORS 741.120 to 741.140. [1955 c.737 §12]

741.150 Application for policy. (1) The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurance company for a copy of the application, if any, for such reinstatement or renewal, the insurance company shall within 15 days after the receipt of such request at its home office or any branch office of the insurance company, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurance company shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

(2) No alteration of any written application for any such policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurance company, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

(3) The falsity of any statement in the application for any policy covered by this chapter may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurance company. [1955 c.737 §7]

741.160 Waiver of rights of insurer in defense. The acknowledgment by any insurance company of the receipt of notice given under any policy covered by this chapter, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurance company in defense of any claim arising under such policy. [1955 c.737 §8]

741.170 Extension of coverage beyond policy period; effect of misstatement of age. If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurance company or if the insurance company accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancelation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of

the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurance company shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy. [1955 c.737 §9]

741.180 to 741.400 [Reserved for expansion]

741.410 Accident and health insurance written in connection with instalment loans. (1) Accident and health insurance written in connection with instalment loans shall be written in accordance with this chapter and the rules, instructions and orders promulgated by the State Insurance Commissioner relating to the sale of credit accident and health insurance pursuant to this section. Unless a lender is licensed as an insurance agent, he shall not receive or be paid or allowed a service fee for effecting and servicing accident and health insurance in excess of 10 percent of the premium charged to the borrower for such accident and health insurance written in connection with an instalment loan.

(2) Rules, instructions and orders made pursuant to this section shall be principally designed, and shall be promulgated with the purpose of protecting the borrower from excessive charges by or collected through the lender for insurance in relation to the amount of the loan, to avoid duplication or overlapping of insurance coverage, and to avoid loss of the borrower's funds by short-rate cancelation or termination of such insurance. However, nothing in such rules, instructions or orders shall be construed to authorize the State Insurance Commissioner to regulate the premium rates charged by an insurance company, as distinguished from charges for insurance which are collected from the borrower by or through the lender in relation to the amount of the loan or to prohibit operation of normal dividend distributions under participating contracts.

(3) Nothing contained in this section shall be construed to prevent any company or person affected by any rules, instructions or orders made pursuant to this section from testing the validity of the same in any court of competent jurisdiction. [1955 c.125 §2]

741.990 Penalties. Any company, corporation or association to which this chapter applies, or any officer thereof, which issues or delivers in this state, or to any citizen thereof, any accident or health policy or contract in wilful violation of the provisions of this chapter shall be punished by a fine of not more than $500 for each offense; and the State Insurance Commissioner may revoke the license of any company or agent thereof which violates any provision of this chapter.

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Sam R. Haley, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.

Done at Salem, Oregon,
on October 15, 1955.

Sam R. Haley
Legislative Counsel