Chapter 739

1961 REPLACEMENT PART

Life Insurance

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PROVISIONS APPLICABLE TO ALL INSURERS

739.005 Life insurance company defined. Any corporation, association, partnership or individual organized under any charter, compact, agreement or statute of this or any other state or country and doing a business in this state involving the payment of money or other things of value to families or representatives of policy or certificate holders or members conditioned upon the continuance or cessation of human life, or involving an insurance, guaranty, contract or pledge for the payment of endowments or annuities, is a life insurance company and is subject to the General Insurance Law.

739.010 [Amended by 1953 c 585 §1, repealed by 1955 c 221 §1]

739.015 Commissioner's inquiries. The commissioner may address any proper inquiries to any life insurance company or its officers in relation to its doings or condition or any other matter connected with its transactions. Any company so addressed shall promptly and truthfully reply in writing to such inquiries. The reply shall be verified by an officer of the company, if the commissioner so requires.

739.020 Valuation of securities. In a life insurance company's annual statement, and for the purpose of determining its solvency, bonds or other evidences of debt may, if amply secured and if not in default as to principal or interest, be valued as follows:

(1) If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield meantime the effective rate of interest at which the purchase was made. The purchase price in no case may be taken at a higher figure than the actual market value at the time of purchase. The commissioner has full discretion in determining the method of calculating values according to this rule, and the values found by him in accordance with such method are final and binding; or

(2) At their market value or their book value, but in no event at an aggregate value exceeding the aggregate of the values calculated according to subsection (1) of this section.

739.025 Valuation of policies. (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state. In the case of an alien company such valuation shall be limited to its business within the United States (including any territory and insular possession thereof and the District of Columbia) He may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods, net level premium method or other, used in the calculation of such reserves.

(2) All valuations made by the commissioner or by his authority shall be made upon the net premium basis.

(3) In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise.

(4) In lieu of the valuation of reserves required by this section, the commissioner may accept the valuation made by the company, upon such evidence of its correctness as he may require. In the case of any foreign or alien company he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard provided in ORS 739.030 or 739.035 and if that official accepts as sufficient and valid for all legal purposes the certificate of valuation of the Oregon commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that official's state or jurisdiction.

(5) The commissioner may vary the standard of mortality in particular cases of invalid lives and other extra hazards.

(6) Any company which at any time has adopted a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided in ORS 739.030 or 739.035 may, with the approval of the commissioner, adopt any standard of valuation not lower than the minimum standard.

[Amended by 1961 c 223 §1]

739.030 Legal minimum standards for policies issued prior to operative date of Standard Nonforfeiture Law. (1) This section applies only to policies and contracts

issued prior to the operative date defined in ORS 739.340.

(2) The legal minimum standard for the valuation of life insurance contracts issued before January 1, 1918, is the method and basis of valuation applied by the insurance department of this state in the valuation of such contracts before January 1, 1918.

(3) The legal minimum standard for the valuation of life insurance contracts issued on and after January 1, 1918, is the one year preliminary term method of valuation, on the basis of the American Experience Table of Mortality with interest at three and one-half percent per annum.

(4) The legal minimum standard for the valuation of annuities issued on and after January 1, 1918, is McClintock's "Table of Mortality Among Annuitants" with interest at four percent per annum. However, annuities deferred 10 or more years and written in connection with life insurance shall be valued on the same basis as that used in computing the consideration or premium therefor, or upon any higher standard at the option of the company.

739.035 Legal minimum standards for policies issued on or after operative date of Standard Nonforfeiture Law. (1) This section applies only to policies and contracts issued on or after the operative date defined in ORS 739.340.

(2) The minimum standard for the valuation of all such policies and contracts is the Commissioners Reserve Valuation Method defined in subsection (3) of this section, three and one-half percent interest, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies — the Commissioners 1941 Standard Ordinary Mortality Table for such policies issued prior to the operative date of subsection (5) of ORS 739.360, and the Commissioners 1958 Standard Ordinary Mortality Table for such policies issued on or after such operative date. However, for any category of such policies issued on female risks, all modified net premiums and present values referred to in this section may be calculated according to an age not more than three years younger than the actual age of the insured.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies — the 1941 Standard Industrial Mortality Table.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts — the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, Ultimate, or any modification of either of these tables approved by the commissioner

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such contracts — the Group Annuity Mortality Table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts — for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 Disability Study of the Society of Actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961, and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) Disability Table (1926); and for policies or contracts issued prior to January 1, 1961, the Class (3) Disability Table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies — for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table, for policies issued on or after January 1, 1961, and prior to January 1, 1966, either such table or, at the option of the company, the Inter-Company Double Indemnity Mortality Table; and for policies issued prior to January 1, 1961, the Inter-Company Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on a substandard basis and other special benefits—such tables as may be approved by the commissioner.

(3) The reserve according to the Commissioners Reserve Valuation Method, for the life insurance and endowment benefits of a policy providing for a uniform

amount of insurance and requiring the payment of uniform premiums is the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policy, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of paragraph (a) over paragraph (b):

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, however, that such net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one year term premium for such benefits provided for in the first policy year.

(4) Reserves according to the Commissioners Reserve Valuation Method shall be calculated by a method consistent with the principles of subsection (3) for:

(a) Life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums. Any extra premiums charged because of impairments or special hazards shall, however, be disregarded in the determination of modified net premiums.

(b) Annuity and pure endowment contracts.

(c) Disability and accidental death benefits in all policies and contracts.

(d) All other benefits, except life insurance and endowment benefits in life insurance policies.

(5) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, be less than the aggregate reserves calculated in accordance with the method set forth in subsection (3) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

[Amended by 1961 c 223 §2]

739.040 Optional use of other standards. (1) Reserves for any category of policies, contracts or benefits may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standards provided in ORS 739.030 or 739.035.

(2) In such case, with respect to the calculation of reserves of policies and contracts to which ORS 739.035 applies, the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein. However, reserves for participating life insurance policies may be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies. If such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half percent, the company issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner approves.

739.045 Additional liability when inadequate premium charged. When the actual premium charged after May 21, 1917, for an insurance by any life insurance company is less than the net premium for such insurance computed according to the table of mortality and rate of interest prescribed in ORS 739.025 to 739.040 the company shall be charged as a separate liability with the value of an annuity, the amount of which shall equal the difference between such net and actual premiums, and the term of which in years shall equal the number of future annual premiums due on such insurance at the date of valuation.

739.050 to 739.100 [Reserved for expansion]

MUTUAL ASSESSMENT ASSOCIATIONS

739.105 Authorization of business on mutual assessment plan. No corporations or associations without capital stock, other than fraternal benefit societies, may transact a life insurance business upon the

mutual assessment plan within this state except:

(1) Companies that were authorized to transact such business in this state before May 21, 1917;

(2) Companies that have adopted and use only such rates and plans as are based upon the American Experience Table of Mortality, value their outstanding life insurance contracts on the American Experience Table of Mortality with interest at four percent per annum, or at a less rate, and have the reserve required by such mortality table invested in assets of an approved character; or

(3) Companies that have adopted and use only such rates and plans as are based upon the Commissioner's 1941 Standard Ordinary Table of Mortality with interest at three percent per annum or a less rate and have the reserve required by such mortality table invested in assets of an approved character.

739.110 Required surplus. (1) A company qualifying under subsection (2) or (3) of ORS 739.105 shall accumulate and maintain admitted assets in excess of actual liabilities by an amount equal to one percent of all insurance such company has in force. Such assets, and also those described in subsection (2) of this section, shall consist of cash, money on deposit in banks or investments authorized by the General Insurance Law or the laws of the state in which the company is organized.

(2) A company qualifying under subsection (1) of ORS 739.105 shall maintain admitted assets in excess of actual liabilities by an amount equal to two percent of all insurance such company has in force.

739.115 Standard plan policies. A company authorized to transact business under ORS 739.105 may issue limited payment certificates of insurance or policies with guaranteed surrender values at adequate rates based upon the American Experience Table and three and one-half percent interest per annum or upon the Commissioner's 1941 Standard Ordinary Mortality Table and three percent interest per annum, or a less rate of interest, and subject to valuation as provided in ORS 739.025 to 739.040.

739.120 Accumulation funds. (1) A company authorized to transact business under ORS 739.105 may issue certificates of insurance providing for the collection of a stated amount in addition to the stipulated premium.

(2) Such additional payment shall be held by the company as an accumulation fund for the protection of the insurance provided under such certificate. It shall draw interest at a designated rate. The entire amount of such accumulation, with interest, shall be held as a trust fund by the company subject to withdrawal, on terms stated in the contract, at any time on 30 days' notice.

(3) Such accumulation fund shall, for the purpose of the General Insurance Law, be considered as premium income subject to the same taxes and reported by the company as premiums paid in advance and be considered as a liability.

739.125 Policies. No company authorized to transact business under ORS 739.105 may issue any certificate of insurance or policy which does not include all conditions and provisions relating to the contract of insurance required by ORS 739.320.

739.130 to 739.155 [Reserved for expansion]

DOMESTIC MUTUAL LIFE AND DISABILITY INSURANCE COMPANIES

739.160 Definitions applicable to ORS 739.160 to 739.170. As used in ORS 739.160 to 739.170, unless the context requires otherwise:

(1) "Company" or "companies" means a domestic mutual company licensed to write life insurance or disability insurance or both except mutual assessment associations and fraternal benefit societies.

(2) "Person" or "persons" means individuals, government or governmental agencies, state or political subdivisions thereof, public and private corporations, firms, boards, associations, estates, trustees or fiduciaries.

[1957 c 5 §1]

739.165 Policyholders and members of a company; determination. (1) Each owner of one or more valid and existing contracts of annuity, life insurance (including endowment contracts) or disability insurance issued by a company, other than a contract of reinsurance, is a policyholder and member of such company possessing the rights and obligations of such membership. An owner is the person given the rights of ownership or the power to make transactions with the

company under terms of the contract, including an assignee, other than the company which issued the policy, who has received an assignment absolute on its face subject to any reasonable minimum requirements relating to assignments found in the contract or in the bylaws of the company. In a policy of group insurance or a group contract the person contracting with the company and to whom the master contract is issued is the member; the lives insured and individuals holding certificates thereunder are not policyholders or members. A person who, because of the death of the life insured in a contract of insurance including contracts of endowment or the death of the life referred to in an annuity contract, has obtained rights as a beneficiary to death benefits or settlement payments is not a policyholder or member.

(2) A company shall be owned and operated in the interest of its members. Any person who otherwise qualifies under subsection (1) of this section may be a member of a company.
[1957 c 5 §§2, 3]

Note: Subsection (1) of section 5, chapter 5, Oregon Laws 1957, provides as follows:

"Section 5. (1) All contracts issued by a company after the effective date of this Act [August 20, 1957] shall be subject to the provisions of this Act [ORS 739.160 to 739.170]. The provisions of this Act shall apply to all contracts issued and to persons who became policyholders prior to the effective date provided that such application is duly approved by the membership pursuant to its articles of incorporation and bylaws."

739.170 Voting rights of members. Each member is entitled to one vote on each matter coming before a corporate meeting of the members and for each director to be elected regardless of the number of contracts or amount of insurance and benefits held by such member. The member under a group policy or contract shall have but one vote regardless of the number of individuals insured or benefited thereunder. Two or more persons who qualify as policyholders under a single contract shall be deemed one policyholder and member for purposes of voting and collectively shall be entitled to one vote; fractional voting shall not be permitted. Where a member is a minor, the vote shall be vested in the parent or legal guardian of such minor. Cumulative voting for directors shall not be permitted unless expressly provided for in the company's articles of incorporation. The right to vote shall be subject to such reasonable minimum requirements as to duration of membership as may be made in the articles of incorporation and bylaws of the company. A member may in every case vote in person or by proxy; the right to vote by proxy shall be subject to reasonable provisions pertaining thereto contained in the articles of incorporation and bylaws of the company.
[1957 c 5 §4]

739.175 to 739.200 [Reserved for expansion]

CONVERSION OF STOCK COMPANIES INTO MUTUAL COMPANIES

739.205 What companies may convert. Any domestic capital stock life insurance corporation having a surplus of $300,000 or more may carry out a plan to acquire the shares of its capital stock for the benefit of its policyholders, and convert itself into a mutual life insurance corporation. Such a corporation may conduct a life insurance business in this state.

739.210 Mutualization plans. (1) A corporation formed prior to June 4, 1929, may provide a plan of mutualization in its articles of incorporation.

(2) A corporation formed on or after June 4, 1929, may adopt such a plan by a vote of a majority of the entire number of its directors.

(3) A plan adopted under subsection (2) of this section shall be approved by a vote of the stockholders holding a majority in amount of the entire capital stock of such corporation, at a special meeting of the stockholders called for the purpose.

(a) Notice of the time, place and object of such a meeting shall be given to the stockholders in the manner provided by the bylaws or rules of the corporation for notices of special meetings and also by publication once a week for three successive weeks before said meeting in at least one daily or weekly newspaper having a general circulation in the county wherein such corporation has its principal office.

(b) At such a meeting, or any adjournment thereof, a vote of the stockholders for or against the plan shall be conducted by three judges. The judges shall be stockholders of such corporation and shall be appointed by the board of directors. If one or more of the judges are absent, the judge or judges present shall appoint a judge or judges who shall act in place of the judge or judges absent. Judges shall take and subscribe an oath

or affirmation, before an officer authorized by law to administer the same, well and truly and according to law to conduct the election to the best of their ability.

(c) The corporation shall furnish the judges at such meeting with a statement of the amount of its capital stock, the names of the stockholders and the amount held by each. This statement shall be signed by at least one of the executive officers and an affidavit annexed that the statement is true and correct to the best of his knowledge and belief.

(d) The stockholders may vote in person or by proxy, and all votes shall be cast by ballot. Each ballot shall have indorsed thereon the number of shares represented. Shares transferred within 21 days of the election shall not entitle the holder to vote. Otherwise each share of stock shall entitle the holder to one vote. The judges shall decide upon the qualifications of voters.

(e) The judges shall count the number of shares voted for and against the plan and declare whether the persons holding a majority in amount of the entire capital stock of such corporation have approved or disapproved the plan. They shall make out triplicate returns of the election, stating the number of shares of stock that voted for and against the plan, and subscribe and deliver them to one of the executive officers of the corporation.

739.215 Approval of mutualization plan by commissioner and policyholders. (1) Before a mutualization plan, whether provided by the articles of incorporation or adopted by a vote of the directors, may be carried out it must be submitted to the insurance commissioner and approved by him in writing.

(2) A plan must also be approved by a majority of the policyholders, whose insurance shall then be in force, voting at a meeting called for the purpose.

(a) Notice of the time, place and object of the meeting shall be given the policyholders by publication once a week for three successive weeks before the meeting in at least one daily or weekly newspaper having a general circulation and published in the county wherein such corporation has its principal office, and in at least one daily or weekly newspaper published in the capital city of each and every state of the United States in which the corporation does business.

(b) At such a meeting, or any adjournment thereof, a vote of the policyholders for or against the plan shall be conducted by three judges. The judges shall be policyholders of the corporation and shall be appointed jointly by the commissioner and the board of directors of the corporation. If one or more of the judges are absent, the judge or judges present shall appoint a judge or judges who shall act in the place of the judge or judges absent. Judges shall take and subscribe an oath or affirmation, before an officer authorized by law to administer the same, well and truly and according to law to conduct the election to the best of their ability.

(c) The corporation shall produce to the judges such books, records and papers of the corporation as the judges may request, in order to assist them in the proper conduct of the meeting.

(d) The votes shall be cast by ballot. Each policyholder shall be entitled to cast one vote in person or by proxy. No proxy shall be received or entitle the holder to vote unless the same bears a date, or has been executed, within six months next preceding the election or meeting. The judges shall decide upon the qualification of voters.

(e) The judges shall count the number of votes cast for and against the plan and declare whether a majority of policyholders voting at said meeting has approved or disapproved the plan. They shall make out triplicate returns of the election, stating the number of policyholders who voted for and against the plan, and subscribe and deliver them to one of the executive officers of the corporation.

739.220 Effect of rejection of proposal by policyholders. If a majority of the policyholders whose insurance is in force votes against the adoption of a mutualization plan provided for by the corporation's articles of incorporation, the corporation shall continue as originally organized and no further vote or action shall be taken to effectuate such change for a period of five years from the date of the return of the judges declaring the result of the vote.

739.225 Papers that must be filed after approval; constructive notice. (1) Within 30 days of the approval, as required by ORS 739.210 and 739.215, of a mutualization plan adopted by vote of the directors, the corporation shall file in the offices of the Corporation Commissioner and of the State Insurance Commissioner:

(a) A copy of the plan.

(b) A copy of the resolution of the directors adopting the plan.

(c) One of the triplicate returns of the stockholders' election.

(d) One of the triplicate returns of the policyholders' election.

(2) Within 30 days of the approval, as required by ORS 739.215, of a mutualization plan provided in the articles of incorporation, the corporation must file in the offices of the Corporation Commissioner and of the State Insurance Commissioner:

(a) One of the triplicate returns of the policyholders' election.

(b) Supplemental articles of incorporation.

(3) Filings made under this section are lawful notice to all interested parties of the adoption and approval of the plan.

739.230 Dissenting stockholders' rights when plan was adopted by directors. (1) If any stockholders of a corporation converting under a plan adopted by vote of the directors have not consented to the plan they may at any time within 30 days from the filing made under ORS 739.225 apply by petition to the circuit court in the county in which the principal office of the corporation is located to appoint an assessor or assessors to appraise their shares.

(2) On failure of such stockholders to apply for the appointment of an assessor or assessors within 30 days the corporation may make such application.

(3) Upon the filing of a petition for the appointment of an assessor or assessors the court shall direct such notice to be given as it may deem proper to the corporation, if the petition was filed by stockholders, or to the dissenting stockholders, if the petition was filed by the corporation.

(4) Upon proof of the giving of the notice, and upon hearing of parties in interest who may appear in response thereto, the court shall appoint an assessor or assessors.

(5) The person or persons so appointed shall appraise the shares of the stockholders without regard to any appreciation or depreciation in consequence of the plan. Such appraisal when confirmed by the court shall be final and conclusive.

(6) The corporation shall either:

(a) Pay to the stockholders the value of their shares so ascertained, whereupon the stockholders shall transfer the shares held by them to the corporation; or

(b) Deposit the value of the shares of the stockholders with said court, whereupon the stockholders shall cease to have any interest in the shares or the corporation or in the property or assets of the corporation, and the shares shall become the property of the corporation.

(7) In case the value of the shares is not paid or deposited within 30 days after the appraisement or award is made and confirmed by the court the appraisal or award shall be filed in the office of the clerk of the court as a judgment against the corporation, and may be collected like other judgments.

(8) The cost of such court proceedings, including a reasonable allowance to the assessor or assessors, shall be paid by the corporation upon the approval and order of the court.

739.235 Valuation and transfer of shares when plan was provided by articles of incorporation. Immediately upon a filing made under subsection (2) of ORS 739.225 the corporation shall pay, or cause to be paid, to the stockholders the amount provided in the original plan or articles of incorporation and the stockholders shall transfer the shares of stock held by them to the corporation. In the event the original articles do not provide a valuation for the stock or the amount to be paid each stockholder therefor upon mutualization, the valuation of the stock and payment therefor shall be made as provided in ORS 739.230.

739.240 Cancellation of shares; certificate issued to converted corporation. (1) Whether the mutualization plan was provided by the articles of incorporation or adopted by the directors, when a corporation has acquired all the shares of its capital stock they shall be canceled, and such facts shall be set forth in duplicate certificates to be executed by the secretary of the corporation under the seal thereof. One certificate shall be filed in the office of the Corporation Commissioner and the other in the office of the State Insurance Commissioner, whereupon all rights of the stockholders of the corporation to vote at any meeting of the corporation or to retain any interest in the corporation or in the property or assets thereof shall absolutely cease and determine.

(2) Upon such filing the corporation shall become a mutual life insurance corporation under such corporate name or title as may have been adopted in the plan. The State

Insurance Commissioner shall issue to the corporation a certificate, under his hand and the seal of his office, granting the use of the corporate name or title. The corporation shall be subject to the provisions of, and have and enjoy the rights and privileges and exercise the powers conferred or permitted by, the then existing general laws of this state providing for the organization and regulation of domestic insurance companies.

739.245 [Repealed by 1957 c.5 §5]

739.250 to 739.300 [Reserved for expansion]

POLICY PROVISIONS AND BENEFITS

739.305 Filing of policy forms with commissioner. No policy of life insurance or endowment or annuity contract shall be issued or delivered in this state until the form of the same has been filed with the commissioner. No such policy or contract shall be issued if the commissioner gives written notice within 30 days of such filing to the company proposing to issue it showing wherein the form of such policy does not comply with the law.

739.310 Policy must embody contract. No life insurance company shall make any insurance, guarantee, contract or pledge in this state, or to or with any resident or citizen thereof, which does not definitely state the amount of benefits payable, the manner of payment and the consideration therefor. No life insurance contract or policy may be issued which does not include all conditions and provisions relating to the contract.

739.315 Prohibited provisions. After January 1, 1918, no policy of life insurance other than industrial insurance, annuities and pure endowments with or without return of premiums shall be issued or delivered in this state or be issued by a domestic life insurance company if it contains any of the following provisions:

(1) A provision limiting the time within which any action at law or suit in equity may be commenced to less than three years after the cause of action or suit accrues.

(2) A provision by which the policy purports to be issued or to take effect more than six months before the original application for the insurance was made.

(3) A provision for forfeiture of the policy for failure to repay any loan on the policy or any interest on such loan while the total indebtedness on the policy is less than the loan value thereof.

739.320 Required provisions. (1) After January 1, 1918, no policy of life insurance, other than industrial insurance, annuities and pure endowments with or without return of premium, shall be issued or delivered in this state or be issued by a domestic life insurance company unless it contains in substance the following provisions:

(a) A provision that all premiums after the first shall be payable in advance, either at the home office of the company or to an agent of the company.

(b) A provision that the insured is entitled to 30 days of grace within which the payment of any premium after the first year may be made, subject at the option of the company to an interest charge not in excess of five percent per annum for the number of days of grace elapsing before the payment of the premium. During the period of grace the policy shall continue in full force. In case the policy becomes a claim during the period of grace before the overdue premium or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, with interest on any overdue premium, may be deducted from any amount payable under the policy in settlement.

(c) A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after it has been in force for two years during the lifetime of the insured, except for nonpayment of premiums At the option of the company the two-year limit within which the policy may be contested shall not apply to the provisions for benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident.

(d) A provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall be used in defense of a claim under the policy unless contained in a written application and unless a copy of such statement is indorsed upon or attached to the policy when issued.

(e) A provision that if it is found at any time before final settlement under a policy that the age of the insured has been misstated, the amount payable under the policy shall be such as the premium would have purchased at the correct age, or the premium may be adjusted and credit given to the insured or to the company, according to the company's published rate at date of issue.

(f) A provision that the policy shall participate in the surplus of the company annually, beginning not later than the end of the third policy year. Any policy containing provision for participation at the end of the first policy year, and annually thereafter, may provide that each annual dividend shall be paid subject to the payment of the premium for the next ensuing year. The insured under any annual dividend policy shall have the right each year to have the dividend arising from such participation paid in cash, and if the policy provides other dividend options, it shall further provide which of said options is effective if the insured does not elect any such other option on or before the expiration of the period of grace allowed for the payment of the premium. This provision shall not apply to any form of paid-up insurance or temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies, or to nonparticipating policies

(g) A provision that after the policy has been in force three full years the company, at any time while the policy is in force, will advance, on proper assignment or pledge of the policy and on the sole security thereof at a specified rate of interest, a sum equal to or at the option of the insured less than the amount required by ORS 739.325 under the conditions specified thereby, and that the company will deduct from such loan value any existing indebtedness on the policy not otherwise deducted in determining such loan value and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. This provision shall not be required in term insurance, nor shall it apply to temporary insurance or pure endowment insurance, issued or granted in exchange for lapsed or surrendered policies.

(h) A provision for nonforfeiture benefits and cash surrender values in accordance with the requirements of ORS 739.335 or 739.345.

(i) A provision specifying the options to which the policyholder is entitled in the event of default in a premium payment.

(j) A table showing in figures the loan values and the options available under the policy each year upon default in premium payments, during at least the first 20 years of the policy or during the premium paying period if less than 20 years.

(k) A provision that if in event of default in premium payments the value of the policy was applied to the purchase of other insurance as provided for in this section, and if such insurance is in force and the original policy has not been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company and payment of arrears of premiums and the payment or reinstatement of any other indebtedness to the company upon said policy, with interest at the rate of not exceeding six percent per annum.

(L) A provision that when a policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and of the interest of the claimant, and not later than two months after the receipt of such proof.

(m) A table showing the amounts of instalments, if any, in which a policy may provide its proceeds may be payable.

(n) A title briefly and correctly describing the policy.

(2) Any of the foregoing provisions or portions thereof not applicable to single premium or nonparticipating or term policies shall to that extent not be incorporated therein. Any policy may be issued or delivered in this state which, in the opinion of the commissioner, contains provisions on any one or more of the several foregoing requirements more favorable to the policyholder than hereinbefore required. The provisions of this section shall not apply to policies of reinsurance.

(3) A clause in any policy of life insurance providing that such policy shall be incontestable after a specified period shall preclude only a contest of the validity of the policy, and shall not preclude the assertion at any time of defenses based upon provisions in the policy which exclude or restrict coverage, whether or not such restrictions or exclusions are excepted in such clause.

[Amended by 1961 c 466 §6]

739.325 Loan value. (1) In the case of policies issued prior to the operative date defined in ORS 739.340, the loan value referred to in paragraph (g) of subsection (1) of ORS 739.320 is the reserve at the end of the current policy year on the policy and on any dividend additions thereto, less a sum not more than:

(a) Two and one-half percent of the amount insured by the policy and of any

dividend additions thereto; or, at the option of the company,

(b) One-fifth of the entire reserve, the policy to specify the mortality table and rate of interest adopted for computing such reserve.

Such policies may further provide that such loan may be deferred for not exceeding three months after the application therefor is made.

(2) In the case of all other policies, the loan value is the cash surrender value at the end of the current policy year as required by ORS 739.350. The company shall reserve the right to defer such loan, except when made to pay premiums, for six months after application therefor is made.

739.330 Interest on loans may be added to principal. In ascertaining the indebtedness due upon policy or premium loans, the interest, if not paid when due, shall be added to the principal of such loans and shall bear interest at the rate specified in the note or loan agreement.

739.335 Nonforfeiture benefits of policies issued prior to operative date of Standard Nonforfeiture Law. (1) This section applies only to policies of life insurance issued prior to the operative date defined in ORS 739.340. It has no application to term insurance of 20 years or less.

(2) The nonforfeiture benefit and cash surrender value referred to in paragraph (h) of subsection (1) of ORS 739.320 shall be available in event of default in premium payments after premiums have been paid for three years. It shall be a stipulated form of insurance the net value of which shall be at least equal to the reserve at the date of default on the policy and on dividend additions thereto, if any, the policy to specify the mortality table and rate of interest adopted for computing such reserve, less a specified percentage, not more than two and one-half, of the amount insured by the policy and of existing dividend additions thereto, if any, and less any existing indebtedness to the company on or secured by the policy.

(3) The policy may be surrendered to the company at its home office within one month of date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as provided in subsection (2). The company may defer payment for not more than three months after the application therefor is made.

(4) In event of default in a premium payment before the options described in subsections (2) and (3) become available the reserve on any dividend additions then in force may, at the option of the company, be paid in cash or applied as a net premium to the purchase of paid-up term insurance for any amount not in excess of the face of the original policy.

[Amended by 1953 c 92 §1]

739.340 Standard Nonforfeiture Law; exceptions. (1) ORS 739.340 to 739.370 are known as the Standard Nonforfeiture Law.

(2) The operative date of the Standard Nonforfeiture Law as to any policy or contract is the earlier of:

(a) January 1, 1948; or

(b) The date specified in a written notice, filed with the commissioner by any company, of election to comply with the Standard Nonforfeiture Law as to such policy as of the specified date.

(3) The Standard Nonforfeiture Law does not apply to:

(a) Any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract.

(b) Any term policy of uniform amount, or renewal thereof, of 15 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy.

(c) Any term policy of decreasing amount on which each adjusted premium, calculated as specified in ORS 739.360, is less than the adjusted premium so calculated on a policy issued at the same age and for the same initial amount of insurance for a term defined as follows: For ages at issue 50 and under the term shall be 15 years; thereafter, the term shall decrease one year for each year of age beyond 50.

(d) Any policy which is delivered outside this state through an agent or other representative of the company issuing the policy.

(e) Any policy issued before the operative date of the Standard Nonforfeiture Law as to such policy.

[Amended by 1955 c.223 §1]

739.345 Required provisions relating to nonforfeiture. (1) No policy of life insurance shall be issued or delivered in this state unless it contains in substance the following provisions, or corresponding provisions

which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) That in the event of default in any premium payment after premiums have been paid for at least one full year the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of the value required by ORS 739.355.

(b) That upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of the amount required by subsection (1) of ORS 739.350.

(c) That a specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(d) That, if the policy has become paid up by completion of all premium payments or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of the amount required by subsection (2) of ORS 739.350.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter. Such values and benefits shall be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy. At the option of the company such table may also show such values and benefits for any year or years beyond the twentieth policy year.

(f) A brief and general statement of the method to be used in calculating the cash surrender value and the paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy, with an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy.

(2) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(3) The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

739.350 Determination of cash surrender values. (1) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by ORS 739.345, shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums, as defined in ORS 739.360, corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy.

(2) Any cash surrender value available within 30 days after any policy anniversary under any policy paid up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by ORS 739.345, shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

739.355 Determination of nonforfeiture benefits. Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy

anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by paragraph (b) of subsection (1) of ORS 739.345 in the absence of the condition that premiums have been paid for at least a specified period.

739.360 Adjusted premiums. (1) Except as provided in subsection (3) of this section, the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all such adjusted premiums shall be equal to the sum of.

(a) The then present value of the future guaranteed benefits provided for by the policy.

(b) Two percent of the amount of insurance if the insurance is uniform in amount, or of the equivalent uniform amount as defined in subsection (2) of this section if the amount of insurance varies with duration of the policy.

(c) Forty percent of the adjusted premium for the first policy year.

(d) Twenty-five percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less.

In applying the percentages specified in paragraphs (c) and (d), no adjusted premium shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto.

(2) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of this section shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefit or benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy. However, in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

(3) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provisions shall be equal to:

(a) The adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits; plus

(b) During the period for which premiums for such term insurance benefits are payable, the adjusted premiums for such term insurance.

The foregoing items (a) and (b) shall be calculated separately and as specified in subsections (1) and (2) of this section except that, for the purposes of items (b), (c) and (d) of subsection (1), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in item (b) of this subsection (3) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in item (a) of this subsection (3)

(4) Except as provided in paragraphs (a) and (b) of this subsection and subsection (5) of this section, all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners 1941 Standard Ordinary Mortality Table; such calculations for any category of ordinary insurance issued on female risks may, however, be based upon an age not more than three years younger than the actual age of the insured. Except as provided in paragraphs (a) and (b) of this subsection, such calculations of adjusted premiums and present values for all policies of industrial insurance shall be made on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits.

(a) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130 percent of

the rates of mortality according to the applicable table.

(b) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(5) In the case of policies of ordinary insurance issued on or after the operative date of this subsection as prescribed in subsection (6) of this section, all adjusted premiums and present values referred to in this section shall, except as provided in paragraphs (a) and (b) of this subsection, be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest, not exceeding three and one-half percent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, such calculations for any category of ordinary insurance issued on female risks may, however, be based upon an age not more than three years younger than the actual age of the insured

(a) In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table

(b) For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(6) After August 9, 1961, any company may file with the commissioner a written notice of its election to comply with the provisions of subsection (5) of this section after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of such subsection for such company), such subsection shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of such subsection for such company shall be January 1, 1966

[Amended by 1955 c 224 §1, 1961 c 223 §3]

739.365 Supplemental rules for calculating nonforfeiture benefits. (1) Any cash surrender value and any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary.

(2) All values referred to in ORS 739.350 to 739.360 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death.

(3) The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions.

739.370 Policy benefits and premiums that may be disregarded in calculating cash surrender values and nonforfeiture benefits. (1) Notwithstanding the provisions of ORS 739.350, additional benefits payable:

(a) In the event of death or dismemberment by accident or accidental means;

(b) In the event of total and permanent disability;

(c) As reversionary annuity or deferred reversionary annuity benefits;

(d) As term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, ORS 739.340 to 739.370 would not apply;

(e) As term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child; or

(f) As other policy benefits additional to life insurance and endowment benefits;

and premiums for all such additional benefits shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits.

(2) No such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

[Amended by 1961 c 223 §4]

739.375 to 739.400 [Reserved for expansion]

BENEFICIARIES AND INSUREDS

739.405 Proceeds exempt from insured's creditors. (1) When a policy of insurance is effected by any person on his own life or on another life in favor of some person other than himself having an insurable interest in the life insured, the lawful beneficiary thereof, other than himself or his legal representative, is entitled to its proceeds against the

creditors or representatives of the person effecting the policy.

(2) The person to whom a policy of life insurance issued after May 20, 1917, is made payable may maintain an action thereon in his own name.

(3) A policy of life insurance payable to a beneficiary other than the estate of the insured, having by its terms a cash surrender value available to the insured, is exempt from execution issued from any court in this state and in the event of bankruptcy of such insured is exempt from all demands in legal proceeding under such bankruptcy.

(4) Subject to the statute of limitations, the amount of any premiums paid in fraud of creditors for said insurance, with interest thereon, shall inure to their benefit from the proceeds of the policy. The company issuing the policy shall be discharged of all liability thereon by payment of its proceeds in accordance with its terms unless, before such payment, the company has written notice by or in behalf of some creditor, with specifications of the amount claimed, claiming to recover for certain premiums paid in fraud of creditors.

(5) The insured under any policy within this section shall not be denied the right to change the beneficiary when such right is expressly reserved in the policy.

739.410 Trusts of proceeds. (1) Any domestic life insurance company doing business in this state has power to hold in trust the proceeds of any life insurance policy issued by it. Such a trust shall be upon such terms and subject to such limitations as to revocation by the policyholder and control by the beneficiary thereunder as are agreed to in writing by the company and the policyholder.

(2) Trust provisions within this section shall in no manner subject the company to any of the provisions of the laws of Oregon relating to banks or trust companies.

(3) The forms of such trust agreements shall be first submitted to and approved by the State Insurance Commissioner.

739.415 Acts of corporate insured or beneficiary with respect to policy. (1) Whenever a corporation organized under the laws of Oregon or qualified to do business in this state has caused to be insured the life of any director, officer, agent or employe, or whenever such corporation is named as a beneficiary in or assignee of any policy of life insurance, due authority to effect, assign, release, relinquish, convert, surrender, change the beneficiary or take any other or different action with reference to such insurance shall be sufficiently evidenced to the insurance company by a written statement under oath showing that such action has been approved by a majority of the board of directors. Such a statement shall be signed by the president and secretary of the corporation and bear the corporate seal.

(2) Such a statement shall be binding upon the corporation and shall protect the insurance company concerned in any act done or suffered by it upon the faith thereof without further inquiry into the validity of the corporate authority or the regularity of the corporate proceedings.

(3) No person shall be disqualified by reason of interest in the subject matter from acting as a director or as a member of the executive committee of such a corporation on any corporate act touching such insurance.

739.420 Policy naming a charity as beneficiary. (1) Contracts of life insurance may be effected although the person paying the consideration has no insurable interest in the life of the person insured if a charitable, benevolent, educational or religious institution is designated irrevocably as the beneficiary.

(2) In making such contracts the person paying the premium shall make and sign the application therefor as owner. The application also must be signed by the person whose life is to be insured. Such a contract shall be valid and binding between and among all of the parties thereto.

(3) The person paying the consideration for such insurance shall have all rights conferred by the contract to loan value at any time during the premium-paying period, but not at maturity, notwithstanding such person has no insurable interest in the life of the person insured.

739.425 to 739 500 [Reserved for expansion]

MARKETING OF INSURANCE

739.505 Licensing agents. (1) No person may solicit, place or procure life insurance as an agent or solicitor unless licensed under this section. No licensed agent may compensate or offer to compensate in any manner, directly or indirectly, any person other than a licensed agent for procuring or in any manner helping to procure an application for life insurance.

(2) Every life insurance company doing business in this state shall give written

notice to the commissioner of the name and residence of, and obtain from him a license for every person appointed by it to act as its agent within this state. The license shall state, in substance, that the company is authorized to do business in this state and that the person named therein is constituted an agent of the company for the transaction of business in this state.

(3) On receipt of an application for and before issuing such license the commissioner shall satisfy himself that the person appointed as an agent is qualified for the business he proposes to transact and that he has filed the applicant's statement and complied with ORS 736.415 and 736.420.

(4) Any license may be transferred by the commissioner upon the proper application of the company or agent obtaining it without the payment of further fees if the transferee is qualified for a license under this section.

(5) All licenses unless sooner revoked or canceled at the request of the holder's employer expire on March 31 next after issuance and must be renewed annually in advance.

739.510 Revoking or suspending licenses. The commissioner may revoke, or suspend for not exceeding one year, any agent's or solicitor's license:

(1) Upon written request of his company or employing agent;

(2) For violation of the insurance laws;

(3) If it appears to the commissioner upon evidence submitted or due proof after 10 days' notice that he knowingly has deceived or defrauded a policyholder or person being solicited for insurance; or

(4) If, after like notice and proof, it appears that he has after written demand failed or neglected to pay over to the company or its agent entitled thereto any premium or part thereof collected by him on any application for or on any policy of life insurance.

[Amended by 1955 c.7 §4]

739.515 Placing rejected risks in other companies. An agent licensed on request of any company doing business in this state shall be entitled to place excess or rejected risks in any other company doing business in this state by and with the knowledge and approval of his own company without additional or separate license.

739.520 Solicitor is agent of company. Any person who solicits and procures an application for life insurance shall in all matters relating to such application for insurance and the policy issued in consequence thereof be regarded as the agent of the company issuing the policy and not the agent of the insured. Any provisions in the application and policy to the contrary are void and of no effect whatever.

739.525 Disposal of premium notes prior to delivery of policy prohibited. No company or agent or other representative thereof shall hypothecate, sell or otherwise dispose of a promissory note, order or other similar obligation received in payment for all or any part of a premium on a policy of insurance applied for under the laws of this state, prior to the delivery of the policy.

739.530 Negotiability of premium notes restricted. Whenever any bill, note or other written evidence of indebtedness is given to any person for the premium of any policy of life insurance, it shall have printed thereupon in legible characters, "Nonnegotiable for 30 days after the date hereof." Such a bill, note or other evidence of indebtedness shall be nonnegotiable during that time within the meaning of the Negotiable Instruments Law.

739.535 Agency company stock and advisory board contracts; policyholder deposits. (1) No corporation or stock company acting as agent of a life insurance company, nor its agents, officers or employes, may sell, agree or offer to sell, or give or offer to give, directly or indirectly, in any manner whatsoever any share of stock, securities, bonds or agreements of any form or nature promising returns and profits as an inducement to insurance or in connection therewith.

(2) No life insurance company doing business in this state shall issue in this state, nor permit its agents, officers or employes to issue or deliver in this state, agency company stock or other stock or securities, or any special or advisory board or other contracts of any kind promising returns and profits as an inducement to insurance. No life insurance company engaging in or permitting its representatives to engage in such practices in this or any other state or territory may be authorized to do business in this state.

(3) Nothing in this section shall prevent an insurer from accepting from a policyholder deposits (in addition to current premium or contract payments) to provide a fund for payment of future premiums or to make possible the future acquisition of additional insurance, annuities or other benefits, whether the interest to be paid on said deposits be fixed or variable. Such deposits, or any portion thereof, not used for the purposes described in this subsection shall be refunded to the policyholder or, upon his death, to designated beneficiaries.

(4) The commissioner upon due proof, after notice and hearing, that any company or agent thereof has violated any of the provisions of this section shall revoke the authority of the company or agent so offending.

[Amended by 1959 c 216 §1]

739.540 Rebates and discriminations prohibited. (1) No life insurance company doing business in this state shall make or permit any distinction or discrimination between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of insurance, or in dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes.

(2) No company or agent shall pay or allow or offer to pay or allow as inducement to insurance, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement not specified in the policy.

(3) No company or agent shall give or sell or purchase or offer to give, sell or purchase as inducement to insurance, or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

(4) No company or agent thereof may make any contract of insurance unless all agreements or understandings by way of inducement are plainly expressed in the policy.

(5) Nothing in this section or in ORS 739.545 shall be construed as prohibiting:

(a) Any company issuing nonparticipating life insurance from paying bonuses to policyholders or otherwise abating their premiums, in whole or in part, out of surplus accumulated from nonparticipating insurance.

(b) Any agent or company from accepting a premium note for a period not exceeding 90 days without interest.

(c) Any company transacting industrial insurance on the weekly payment plan from returning to policyholders, who have made premium payments for a period of at least one year directly to the company at its home or district offices, a percentage of the premium which the company would have paid for the weekly collection of such premiums.

739.545 Accepting rebates prohibited. No person shall receive or accept from any life insurance company doing business in this state, agent, broker or any other person any rebate of premium payable on the policy or any special favor or advantage in the dividend or other benefits to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance.

739.550 Self-incrimination; immunity. No person shall be excused from testifying or from producing any books, papers, contracts, agreements or documents at the trial of any other person charged with violation of ORS 739.540 or 739.545 on the ground that such testimony or evidence may tend to incriminate. No person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise. No testimony so given or produced shall be received against him upon any criminal investigation or proceeding except for perjury committed in so testifying.

739.555 Misrepresentation of policy or benefits prohibited. (1) No life insurance company doing business in this state, and no officer, director or other agent thereof shall make, issue or circulate, or cause to be issued or circulated, any estimate, illustration, circular or statement of any sort wilfully misrepresenting the terms of any policy issued or to be issued by it or the benefits or advantages promised thereby, or the dividends or share of the surplus to be received thereon, or use any name or title of any policy or class of policies misrepresenting the true nature thereof.

(2) No person shall make any misrepresentation to any person insured in any company for the purpose of inducing or tending

to induce a policyholder in any company to lapse, forfeit or surrender his insurance.

739.560 Misrepresentation to company prohibited. No agent, examining physician or other person shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for life insurance, or make any such statement for the purpose of obtaining any fee, commission, money or benefit from or in any company transacting business under the General Insurance Law.

CREDIT LIFE INSURANCE

739.565 Definitions for ORS 739.565 to 739.620. For the purpose of ORS 739.565 to 739.620

(1) "Credit life insurance" means insurance on the life of a debtor pursuant to or in connection with a specific loan or other credit transaction

(2) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights or privileges for which payment is arranged through a credit transaction, or any successor to the right, title or interest of any such lender, vendor or lessor, and an affiliate, associate or subsidiary of any of them or any director, officer or employe of any of them or any other person in any way associated with any of them

(3) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights or privileges for which payment is arranged through a credit transaction.

(4) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction

(5) "Commissioner" means the Insurance Commissioner.

[1961 c 206 §3]

739.570 Application of ORS 739.565 to 739.620 to life insurance in connection with loans or credit transactions. All life insurance in connection with loans or other credit transactions shall be subject to ORS 739.565 to 739.620, except such insurance in connection with a loan or other credit transaction of more than five years duration, nor shall insurance be subject to ORS 739.565 to 739.620 where the issuance of such insurance is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor

[1961 c.206 §2]

739.575 Forms of credit life insurance. Credit life insurance shall be issued only in the following forms

(1) Individual policies of life insurance issued to debtors on the term plan

(2) Group policies of life insurance issued to creditors providing insurance upon the lives of debtors on the term plan.

[1961 c 206 §4]

739.580 Limits on amount of credit life insurance. (1) The initial amount of credit life insurance shall not exceed the total amount repayable under the contract of indebtedness and, where an indebtedness is repayable in substantially equal instalments, the amount of insurance shall at no time exceed the scheduled or actual amount of unpaid indebtedness, whichever is greater.

(2) Notwithstanding the provisions of subsection (1) of this section, insurance on agricultural credit transaction commitments not exceeding 18 months in duration may be written up to the amount of the loan commitment, on a nondecreasing or level term plan.

(3) Notwithstanding the provisions of subsection (1) of this section, insurance on educational credit transaction commitments may include the portion of such commitment that has not been advanced by the creditor.

[1961 c 206 §5]

739.585 Duration of credit life insurance. The term of any credit life insurance shall, subject to acceptance by the insurer, commence on the date when the debtor becomes obligated to the creditor, except that, where a group policy provides coverage with respect to existing obligations, the insurance on a debtor with respect to such indebtedness shall commence on the effective date of the policy. Where evidence of insurability is required and such evidence is furnished more than 30 days after the date when the debtor becomes obligated to the creditor, the term of the insurance may commence on the date on which the insurance company determines the evidence to be satisfactory, and in such event there shall be an appropriate refund or adjustment of any charge to the debtor for insurance. The term of such insurance shall not extend more than 15 days beyond the scheduled maturity date of the indebtedness except when extended without additional cost to the debtor. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force shall be terminated before any new insurance may be issued in connection with the renewed

or refinanced indebtedness. In all cases of termination prior to scheduled maturity, a refund shall be paid or credited as provided in ORS 739.600.
[1961 c 206 §6]

739.590 Credit life insurance policy or group certificate; contents; delivery of policy, certificate or copy of application. (1) All credit life insurance shall be evidenced by an individual policy, or in the case of group insurance by a certificate of insurance, which individual policy or group certificate of insurance shall be delivered to the debtor.

(2) Each individual policy or group certificate of credit life insurance shall, in addition to other requirements of law, set forth the name and home office address of the insurer, the name or names of the debtor or in the case of a certificate under a group policy, the identity by name or otherwise of the debtor, the premium or amount of payment by the debtor for credit life insurance, a description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions, and shall state that the benefits shall be paid to the creditor to reduce or extinguish the unpaid indebtedness and, wherever the amount of insurance may exceed the unpaid indebtdness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

(3) Said individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as hereinafter provided.

(4) If said individual policy or group certificate of insurance is not delivered to the debtor at the time the indebtedness is incurred, a copy of the application for such policy or a notice of proposed insurance, signed by the debtor and setting forth the name and home office address of the insurer, the name or names of the debtor, the premium or amount of payment by the debtor for credit life insurance, the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time such indebtedness is incurred. The copy of the application for, or notice of proposed insurance, shall also refer exclusively to insurance coverage, and shall be separate and apart from the loan, sale or other credit statement of account, instrument or agreement, unless the information required by this subsection is prominently set forth therein. Upon acceptance of the insurance by the insurer and within 30 days of the date upon which the indebtedness is incurred, the insurer shall cause the individual policy or group certificate of insurance to be delivered to the debtor. Said application or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in ORS 739.585.

(5) If the named insurer does not accept the risk, then and in such event the debtor shall receive a policy or certificate of insurance setting forth the name and home office address of the substituted insurer and the amount of the premium to be charged, and if the amount of premium is less than that set forth in the notice of proposed insurance an appropriate refund shall be made.
[1961 c 206 §7]

739.595 Approval of forms and rates; hearings; notice; judicial review. (1) All policies, certificates of insurance, notices of proposed insurance, applications for insurance, indorsements and riders delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner.

(2) The commissioner shall within 30 days after the filing of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, indorsements and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the coverage, or are contrary to any provision of the insurance code or of any rule or regulation promulgated thereunder.

(3) If the commissioner notifies the insurer that the form is disapproved, it is unlawful thereafter for such insurer to issue or use such form. In such notice, the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the insurer. No such policy, certificate of insurance, notice of proposed insurance, nor any application, indorsement or rider, shall be issued or used until the expiration of 30 days after it has been so filed, unless the commissioner shall give his prior written approval thereto.

(4) The commissioner may, at any time after a hearing held not less than 20 days after written notice to the insurer, withdraw his approval of any such form on any ground

set forth in subsection (2) of this section The written notice of such hearing shall state the reason for the proposed withdrawal.

(5) It is not lawful for the insurer to issue such forms or use them after the effective date of such withdrawal.

(6) If a group policy of credit life insurance·

(a) Has been delivered in this state before August 9, 1961; or

(b) Has been or is delivered in another state before or after August 9, 1961;

the insurer shall be required to file only the group certificate and notice of proposed insurance delivered or issued for delivery in this state as specified in subsections (2) and (4) of ORS 739 590 and such forms shall be approved by the commissioner if they conform with the requirements specified in said subsections and if the schedules of premium rates applicable to the insurance evidenced by such certificate or notice are not in excess of the insurer's schedules of premium rates filed with the commissioner; provided, however, the premium rate in effect on existing group policies may be continued until the first policy anniversary date following the date this Act becomes operative.

(7) Any order or final determination of the commissioner under the provisions of this section shall be subject to judicial review.
[1961 c.206 §8]

Note: The Legislative Counsel has not, pursuant to ORS 173 160, undertaken to substitute a specific date for the words "the date this Act becomes operative" in subsection (6) of ORS 739 595. Chapter 206 Oregon Laws 1961, took effect on August 9, 1961

739.600 Revised rate schedules; refunds; credits. (1) Any insurer may revise its schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any credit life insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

(2) Each individual policy or group certificate shall provide that in the event of termination of the insurance prior to the scheduled maturity date of the indebtedness, any refund of an amount paid by the debtor for insurance shall be paid or credited promptly to the person entitled thereto; provided, however, that the commissioner shall prescribe a minimum refund and no refund which would be less than such minimum need be made. The formula to be used in computing such refund shall be filed with and approved by the commissioner.

(3) If a creditor requires a debtor to make any payment for credit life insurance and an individual policy or group certificate of insurance is not issued, the creditor shall immediately give written notice to such debtor and shall promptly make an appropriate credit to the account.

(4) The amount charged to a debtor for any credit life insurance shall not exceed the premiums charged by the insurer, as computed at the time the charge to the debtor is determined
[1961 c 206 §9]

739.603 License or authorization to issue or deliver credit life insurance; interest or charges on credit transaction. (1) All policies of credit life insurance shall be delivered or issued for delivery in this state only by an insurer authorized to do an insurance business therein, and shall be issued only through holders of licenses or authorizations issued by the commissioner. The commissioner may promulgate rules and regulations relating to the issuance of such authorizations

(2) Notwithstanding the provisions of any other law of this state, which may expressly or by construction provide otherwise, any commission or service fee or other benefit or return to any creditor arising out of the sale or provision of credit life insurance shall not be deemed interest or charges in connection with loans or credit transactions.
[1961 c 206 §10]

739.605 [1955 c 126 §1, repealed by 1961 c 206 §16]

739.610 Claims; report; payment; who shall settle claim. (1) All claims shall be promptly reported to the insurer or its designated claim representative and the insurer shall maintain adequate claim files. All claims shall be settled as soon as possible and in accordance with the terms of the insurance contract.

(2) All claims shall be paid either by draft drawn upon the insurer or by check of the insurer to the order of the claimant to whom payment of the claim is due pursuant to the policy provisions, or upon direction of such claimant to one specified.

(3) No plan or arrangement shall be used whereby any person, firm or corporation other than the insurer or its designated claim representative shall be authorized to settle or adjust claims. The creditor shall not be designated as claim representative for the

insurer in adjusting claims, provided that a group policyholder may, by arrangement with the group insurer, draw drafts or checks in payment of claims due to the group policyholder subject to audit and review by the insurer
[1961 c 206 §11]

739.615 Debtor's option in selecting insurance required by creditor for additional security. When credit life insurance is required as additional security for any indebtedness, the debtor shall, upon request to the creditor, have the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by him or of procuring and furnishing the required coverage through any insurer authorized to transact an insurance business within this state.
[1961 c 206 §12]

739.620 Rules and regulations; findings of commissioner. The commissioner may, after notice and hearing, issue such rules and regulations as he deems appropriate for the supervision of ORS 739.565 to 739.620. Whenever the commissioner finds that there has been a violation of ORS 739.565 to 739 620 or any rules or regulations issued pursuant thereto, and after written notice thereof and hearing given to the insurer or other person authorized or licensed by the commissioner, he shall set forth the details of his findings together with an order for compliance by a specified date. Such order shall be binding on the insurer and other person authorized or licensed by the commissioner on the date specified unless sooner withdrawn by the commissioner or a stay thereof has been ordered by a court of competent jurisdiction.
[1961 c 206 §13]

GROUP LIFE INSURANCE

739.625 Group life insurance. (1) Any life insurance company authorized or licensed to do business in this state may deliver in this state policies of group life insurance subject to the following requirements:

(a) No policy, except policies issued to a creditor, shall be delivered unless issued upon the lives of 10 or more persons who are associated in a common group. For the purposes of this paragraph, life insurance issued to a creditor is that form of insurance under which the life of a borrower or a purchaser of goods, securities or other personal property is insured in connection with a specific loan or credit transaction.

(b) Not less than 75 percent of the members of the group or 10 lives, whichever is the greater, are insured at the date of issue of the policy. The above requirement shall be as of the date of issuance of the policy and the amounts of insurance under the policy shall be based upon some plan precluding individual selection.

(c) The party contracting for the group insurance shall be responsible for the payment of premiums.

(2) No policy of group life insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder; provided, however, that provisions (f) to (j), inclusive, shall not apply to policies issued to a creditor; that the standard provisions required in ORS 739.320 shall not apply to group life insurance policies; and that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the commissioner is or are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies:

(a) A provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

(b) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest

for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him.

(c) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or his beneficiary.

(d) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

(e) A provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

(f) A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding $500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(g) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in (h), (i) and (j) following.

(h) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, and provided further that,

(A) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(B) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, less, in the case of a person whose membership in the class or classes eligible for coverage terminates but who continues in employment or as a member in another class, the amount of any life insurance for which such person is or becomes eligible under any other group policy within 31 days after such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in instalments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(C) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

(i) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by (h) above, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (A) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes

eligible under any group policy issued or reinstated by the same or another insurer within 31 days after such termination, and (B) $2,000.

(j) A provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with (h) or (i) above and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(k) In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

(3) Paragraph (b) of subsection (1) of this section shall not apply to the delivery of a group insurance policy to any association which is organized and is a policyholder under a group insurance policy on August 3, 1955; nor shall paragraphs (h), (i) and (j) of subsection (2) of this section apply to group policies where the insurance of individual members of the group decreases in amount during the term thereof.
[1955 c 678 §§1, 2]

739.630 Policy or proceeds, when exempt from claims of creditors. (1) A policy of group life insurance or the proceeds thereof payable to a person or persons other than the individual insured or his estate shall be exempt from debts and claims of creditors or representatives of the individual insured and, in the event of bankruptcy of the individual insured, from all demands in legal proceedings under such bankruptcy.

(2) The provisions of subsection (1) shall not apply to group life insurance issued to a creditor covering his debtors to the extent that such proceeds are applied to payment of the obligation for the purpose of which the insurance was so issued.
[1961 c 466 §5]

739.635 to 739.985 [Reserved for expansion]

PENALTIES

739.990 Penalties. (1) Violation of ORS 739.525, 739.540 or 739.545 is punishable, upon conviction, by a fine not exceeding $100 for each offense. In addition the commissioner may revoke the license of the convicted company or agent.

(2) Violation of ORS 739.555 is punishable, upon conviction, by a fine not exceeding $100 for each violation or by imprisonment in the county jail for not more than six months.

(3) Violation of ORS 739.560 is punishable, upon conviction, by a fine not exceeding $100 or by imprisonment in the county jail for not more than one year, or both.

(4) Any person who wilfully makes a false statement of any material fact or thing in a sworn statement as to death or disability for the purpose of procuring payment of a benefit named in a policy or certificate is guilty of perjury.

(5) Violation of ORS 739.565 to 739.620 is punishable upon conviction by a fine not exceeding $100 for each offense. In addition the commissioner may revoke the license of the convicted company or agent.
[Subsection (5) (1959 Replacement Part) enacted as 1955 c 126 §2, 1961 c 206 §15, subsection (5) enacted as 1961 c 206 §14]

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 December 1, 1961.

Sam R. Haley
Legislative Counsel