

Chapter 737

1967 REPLACEMENT PART

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CROSS REFERENCES

Definitions and general provisions applicable, 731.004 to 731.194
Forms and filings prior to 1968, effect, 1967 c.359 §708
"Insurance Code" defined, 731.004

Savings clause with respect to pre-1968 law, 1967 c.359 §173

737.135
Disapproval of filings by commissioner, 737.336

Note: The newly enacted sections and amendments to existing sections in ORS chapter 737 first become operative on January 1, 1968. See 1967 c.359 §714.

737.005 [Amended by 1963 c.580 §92; repealed by 1967 c.359 §704]

737.010 [Amended by 1967 c.359 §303; renumbered 737.280]

737.015 [Repealed by 1967 c.359 §704]

GENERAL PROVISIONS

737.020 Filing rates with commissioner.

(1) Every insurer shall file with the commissioner all rating schedules to be used on risks or operations in this state, and shall file any amendments to or corrections of such schedules. Every filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated.

(2) An insurer may satisfy its obligation to make such filings by becoming a member of or a subscriber to a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf.

(3) Compliance with the rate regulatory provisions of ORS 737.290 to 737.560 shall be deemed compliance with this section. [1967 c.359 §299]

737.030 Rate discriminations prohibited.

No filings made pursuant to this chapter by an insurer shall discriminate unfairly between risks of essentially the same hazard. [1967 c.359 §300]

737.040 Compliance with filed rates.

No insurer or its agents shall deviate on risks or operations in this state from its rating schedules on file with the commissioner pursuant to this chapter. [1967 c.359 §301]

737.050 Application of ORS 737.020 to 737.040 ORS 737.020 to 737.040 do not apply to life or health insurance. [1967 c.359 §302]

737.105 [Amended by 1961 c.562 §7; 1965 c.611 §17; repealed by 1967 c.359 §704]

737.110 [Repealed by 1967 c.359 §704]

737.115 [Repealed by 1967 c.359 §704]

737.120 [Repealed by 1967 c.359 §704]

737.125 [Repealed by 1967 c.359 §704]

737.130 [Repealed by 1967 c.359 §704]

737.135 Commissioner may initiate proceedings to determine lawfulness of filings; hearing and order. (1) If at any time after a filing has been made, either within the waiting period or thereafter, the commissioner is of the opinion that a filing does not meet the requirements of ORS 737.105 to 737.185, he shall give to every insurer or rating organization which made such filing written notice of a hearing to be held at a place designated by him, the notice to be given not less than 10 days prior to the time set for the hearing and to specify the matters to be considered at such hearing. The insurer or rating organization may waive the right to such hearing by notice in writing to the commissioner.

(2) If, after such hearing or after receipt of notice of waiver of such hearing, the commissioner finds that the filing meets the requirements of ORS 737.105 to 737.185, he shall issue an order approving such filing. If he finds that the filing does not meet those requirements, he shall issue an order specifying in what respects he finds that such filing fails to meet those requirements and stating that the filing shall not become effective or, if the filing is then in effect, stating when, within a reasonable period thereafter, it shall be deemed no longer effective. The latter order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order. Copies of the order approving or disapproving the filing shall be sent to every such insurer and rating organization.

737.140 [Repealed by 1967 c.359 §704]

737.145 [Repealed by 1967 c.359 §704]

737.150 [Repealed by 1967 c.359 §704]

737.155 [Repealed by 1967 c.359 §704]

737.160 [Repealed by 1967 c.359 §704]

737.165 [Repealed by 1967 c.359 §704]

737.170 [Repealed by 1967 c.359 §704]

737.175 [Repealed by 1967 c.359 §704]

737.180 [Amended by 1967 c.359 §308; renumbered 737.312]

737.185 [Repealed by 1967 c.359 §704]

CASUALTY, PROPERTY, MARINE AND TITLE INSURANCE RATES

737.280 Purpose of ORS 737.290 to 737.560; construction. (1) The purpose of ORS 737.290 to 737.560 is to promote the public welfare by regulating insurance rates

to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of ORS 737.290 to 737.560.

(2) ORS 737.290 to 737.560 is not intended:

(a) To prohibit or discourage reasonable competition.

(b) To prohibit or encourage, except to the extent necessary to accomplish the purpose stated in subsection (1) of this section, uniformity in insurance rates, rating systems, rating plans or practices.

(3) ORS 737.290 to 737.560 shall be liberally interpreted to carry into effect the provisions of this section.

[Formerly 737.010]

737.290 Scope of ORS 737.290 to 737.560.

(1) ORS 737.290 to 737.560 applies on risks or operations in this state, to all forms of, or any combination of:

(a) Casualty insurance;

(b) Property, marine and inland marine insurance;

(c) Surety insurance; and

(d) Title insurance.

(2) ORS 737.290 to 737.560 shall not apply to:

(a) Reinsurance, other than joint reinsurance to the extent stated in ORS 737.390;

(b) Health insurance; or

(c) Wet marine and transportation insurance.

[1967 c.359 §305]

737.300 Multi-peril policies, insurer to designate applicable provisions. If any class or classes of insurance or subclasses thereof, provided by an insurer in accordance with the Insurance Code under one policy with an undivided premium therefor, are subject to both the property and marine rate regulatory provisions and the casualty and surety rate regulatory provisions of ORS 737.280 to 737.560, the insurer shall file with the commissioner a designation of which such group of rate regulatory provisions shall apply to such class or classes of insurance or subclasses thereof.

[1967 c.359 §306]

737.305 [Repealed by 1967 c.359 §704]

737.310 Method of rate making; factors considered. (1) Rates shall be made in accordance with this section, but uniformity among insurers in any matters within the

scope of this section is neither required nor prohibited, except to the extent necessary to meet the requirements of subsection (3) of this section.

(2) Manual, minimum, class rates, rating schedules or rating plans shall be made and adopted, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans.

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

(4) Due consideration shall be given to past and prospective loss experience within and outside this state, to the hazards of conflagration and catastrophe, to a reasonable margin for underwriting profit and to contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state.

(5) In the case of fire insurance rates, consideration shall be given to the experience of the fire insurance business during a period of not less than the most recent five-year period for which such experience is available.

(6) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or group of insurers to reflect the requirements of the operating methods of any such insurer or group of insurers with respect to any class of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expenses are applicable.

(7) Casualty and surety risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates for such risks may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses.

[Amended by 1967 c.359 §307]

737.312 Agreements among insurers for assignment of risks; rate modifications. Agreements may be made among insurers

with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to such insurance but who are unable to procure such insurance through ordinary methods. Such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

[Formerly 737.180]

737.315 Filing of rating schedules and data required; contents. (1) Every insurer shall file with the commissioner, except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans, every manual, minimum, class rate, rating schedule or rating plan and every other rating rule, and every modification of any of the foregoing which it proposes to use.

(2) Every such filing shall state the proposed effective date thereof and shall indicate the character and extent of the coverage contemplated.

(3) When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of ORS 737.290 to 737.560, he shall require such insurer to furnish the information upon which it supports such filing. The information furnished in support of a filing may include the experience or judgment of the insurer or rating organization making the filing, its interpretation of any statistical data it relies upon, the experience of other insurers or rating organizations or any other relevant factors.

(4) A filing and any supporting information shall be open to public inspection immediately upon submission to the commissioner.

(5) Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

(6) An insurer may satisfy its obligation to make such filings by becoming a member of or a subscriber to a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf. Such insurer may so adopt the filings of a rating organization on part of the classes of risks insured by it and may make its own filings as to other classes which shall be uniform

throughout the insurer's territorial classification.

[Amended by 1967 c.359 §309; 1967 c.366 §1]

737.320 Review of filings; effective date of filings. (1) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of ORS 737.290 to 737.560.

(2) Subject to the exception in subsection (3) of this section, the effective date of each filing shall be the date specified therein but not earlier than the 15th day after the date the filing is received by the commissioner or from the date of his receipt of the information furnished in support of a filing if such supporting information is required by him as provided in subsection (3) of ORS 737.315. The waiting period may be extended by the commissioner for an additional period not to exceed 15 days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing, which he has reviewed, to become effective before the expiration of the waiting period. A filing shall be deemed to meet the requirements of ORS 737.290 to 737.560 unless disapproved by the commissioner within the waiting period or any extension thereof.

(3) Specific inland marine rates on risks specially rated by a rating organization or any specific filing with respect to a surety bond required by law or by court or by executive order, rule or regulation of a public body and not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of ORS 737.290 to 737.560 so long as the filing remains in effect unless the commissioner disapproves the filing upon review.

[Amended by 1967 c.359 §310]

737.325 Suspension or modification of filing requirement; excess rates for specific risks. (1) Under such rules and regulations as he adopts, the commissioner, by written order, may suspend or modify the requirement of filing as to any class of insurance, or subdivision or combination thereof, or as to classes of risks, for which the rates cannot practicably be filed before they are used. Such orders, rules and regulations shall be

made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he deems advisable to ascertain whether any rates affected by such order meet the standards set forth in ORS 737.310.

(2) Upon the written application of the insured, stating the reasons therefor, filed with the commissioner and approved by him, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

[Amended by 1967 c.359 §311]

737.330 Contracts to comply with effective filings; exception. (1) No insurer shall make or issue a policy except in accordance with the filings which are in effect for the insurer as provided in ORS 737.290 to 737.560.

(2) This section does not apply to policies for inland marine risks as to which filings are not required.

[Amended by 1967 c.359 §312]

737.335 [Repealed by 1967 c.359 §704]

737.336 Disapproval of filings by commissioner. (1) If within the waiting period or the extension thereof, if any, as provided in subsection (2) of ORS 737.320, the commissioner finds that a filing does not meet the requirements of ORS 737.290 to 737.560, he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing, specifying therein in what respects he finds such filing fails to meet the requirements of ORS 737.290 to 737.560 and stating that such filing shall not become effective.

(2) If within 30 days after a specific inland marine rate on a risk specially rated by a rating organization subject to subsection (3) of ORS 737.320 has become effective, or if within 30 days after a special surety filing subject to subsection (3) of ORS 737.320 has become effective, the commissioner finds such filing does not meet the requirements of ORS 737.290 to 737.560, he shall send to the rating organization or insurer which made such filing written notice of disapproval of such filing, specifying therein in what respects he finds that such filing fails to meet the requirements of ORS 737.290 to 737.560 and stating when, after a reasonable period, such filing shall be deemed no longer effective. Such disapproval shall not affect any policies made or issued prior to the expiration of the period set forth in the notice.

(3) If at any time subsequent to the applicable review period provided for in subsection (1) or (2) of this section, the commissioner finds a filing does not meet the requirements of ORS 737.290 to 737.560, he shall, after a hearing held upon not less than 10 days' written notice, specifying the matters to be considered at such hearing, to the insurer or rating organization which made such filing, issue an order specifying in what respects he finds that such filing fails to meet the requirements of ORS 737.290 to 737.560, and stating when, after a reasonable period, such filing shall be deemed no longer effective. A copy of such order shall be sent to the insurer and rating organization which made such filing. The order shall not affect any policy made or issued prior to the expiration of the period set forth in the order.

[1967 c.359 §313]

737.340 Initiation of proceedings by aggrieved person to determine lawfulness of filings; hearing and order. (1) Any person aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon; however, the insurer or rating organization which made the filing may not proceed under this section. The application shall specify the grounds to be relied upon by the applicant.

(2) If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall hold a hearing, within 30 days after receipt of such application, at a place designated by him and upon not less than 10 days' written notice to the applicant and to the insurer or rating organization which made such filing.

(3) If, after such hearing, the commissioner finds that the filing does not meet the requirements of ORS 737.290 to 737.560, he shall issue an order specifying in what respects he finds that such filing fails to meet those requirements and stating when, after a reasonable period, such filing shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to such insurer or rating organization. The order shall not affect any policy made or issued prior to the expiration of the period set forth in the order.

[Amended by 1967 c.359 §314]

737.345 Filings judged on basis of rates produced, when not to be disapproved. Every manual, minimum, class rate, rating schedule, rating plan, rating rule, rating system, plan of operation or any modification of any of the foregoing, which has been filed pursuant to ORS 737.290 to 737.560, shall be held to meet the requirements of ORS 737.290 to 737.560, if the rates thereby produced meet those requirements.

[Amended by 1967 c.359 §315]

737.346 Fictitious grouping for rate purposes prohibited. (1) As used in this section, "fictitious grouping" means a grouping by way of membership, license, franchise, contract, agreement or any method other than common ownership, or use and control.

(2) No insurer shall:

(a) Make available, through any rating plan or form, property, inland marine, casualty or surety insurance, or any combination thereof, at a preferred rate or premium to any person based upon a fictitious grouping of that person.

(b) Write or deliver a form, plan or policy of insurance covering a grouping or combination of persons or risks, any of which are within this state, at a preferred rate or form other than that offered to the public generally and persons not in the group, unless the form, plan or policy and the rates or premiums to be charged therefor have been approved by the commissioner. The commissioner shall not approve any form, plan or policy, or the rates therefor, that would constitute a violation of paragraph (a) of this subsection.

(3) Nothing in this section applies to policies of life or health insurance.

[Formerly 737.512]

737.348 Insuring groups of employers.

(1) Notwithstanding ORS 737.346, an insurer qualified to issue guaranty contracts to direct responsibility employers under ORS 656.001 to 656.794 may issue a guaranty contract insuring subject employers as a group provided the following conditions are met:

(a) All the employers in the group are members of an organization that has been in existence for at least two years.

(b) The organization was formed for a purpose other than that of obtaining workmen's compensation coverage.

(c) The occupations of the employers in the organization are substantially similar, taking into consideration the nature of the

services being performed by workmen of such employers.

(d) The employers in the group constitute at least 50 percent of the total employers in such organization, unless the total number of workmen to be covered in the group exceeds 500, in which event the employers in the group must constitute at least 25 percent of all employers in the organization.

(e) The formation and operation of a group program in the organization will substantially improve accident prevention and claims handling for the employers in the group.

(2) The Workmen's Compensation Board shall certify employers insured pursuant to this section as a single direct responsibility employer group.

[Formerly 736.170]

RATING ORGANIZATIONS

737.350 Application for license by rating organization. Any person, whether located within or outside this state, may make application to the commissioner for a license as a rating organization for such classes of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business.

(2) A list of its members and subscribers.

(3) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(4) A statement of its qualifications as a rating organization. This statement shall be on forms prescribed and furnished by the commissioner and, in the case of a fire insurance rating organization, shall include a showing as to its facilities for inspecting and surveying the various municipalities and fire risks in this state and for inspecting and surveying in this state the facilities for the preventing, confining and extinguishing of fires and such other information as the commissioner may require.

[Amended by 1967 c.359 §318]

737.355 Issuance of license to rating organization; revocation and suspension; notice of organizational changes. (1) If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the classes of insurance, or subdivision or class of risk or a part or combination thereof for which the applicant is authorized to act as a rating organization. Each application shall be granted or denied in whole or in part by the commissioner within 60 days of the date of its filing with him.

(2) Licenses issued pursuant to this section shall remain in effect for three years unless suspended or revoked by the commissioner sooner. The license fee shall be as provided in ORS 731.804. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this section.

(3) Every rating organization shall notify the commissioner promptly of every change regarding matters listed in subsections (1), (2) and (3) of ORS 737.350.

[Amended by 1967 c.359 §319]

737.360 Rating organization to accept insurers as subscribers; rules of organization to be reasonable; review of applications for subscribership and of reasonableness of rules. (1) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer, not a member, to be a subscriber to its rating services for any class of insurance, subdivision or class of risk or a part or combination thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall be given to subscribers.

(2) Each rating organization shall furnish its rating services without discrimination to its members and subscribers. Any rating organization may subscribe to or purchase actuarial, technical or other services, and such services shall be available to all members and subscribers without discrimination.

(3) The reasonableness of any rule or regulation in its application to subscribers, or the refusal of any rating organization to admit an insurer as a subscriber, at the request of any subscriber or any such insurer, shall be reviewed by the commissioner at a hearing held at a place designated by the commissioner and upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers, he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification, he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified, he shall make an order affirming its action.

(4) No rating organization shall adopt any rule, the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

[Amended by 1967 c.359 §320]

737.365 Cooperative activities among rating organizations and insurers. (1) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of ORS 737.290 to 737.560 hereby is authorized, provided the filings resulting from such cooperation are subject to and consistent with those sections which are applicable to filings generally.

(2) The commissioner may review such cooperative activities and practices and if, after a hearing, he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with ORS 737.290 to 737.560, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with those sections and requiring the discontinuance of such activity or practice.

[Amended by 1967 c.359 §321]

737.370 Examination by rating organization of reports submitted by insurers to determine compliance with filings. Every fire insurance rating organization shall provide, unless previously relieved therefrom by written order of the commissioner, and any other rating organization may provide, for the examination of policies, daily reports, binders, renewal certificates, indorsements or other evidences of insurance, or the cancellation thereof, and may make reasonable rules governing their submission. Such rules shall contain a provision that in the event any insurer does not within 60 days furnish satisfactory evidence to the rating organization of the correction of any error or omission previously called to its attention by the rating organization, it shall be the duty of the rating organization to notify the commissioner thereof. All information so submitted for examination shall be confidential. [Amended by 1967 c.359 §322]

737.375 Insurers making their own fire insurance filings to keep records for purpose of determining compliance with filings. (1) Unless previously relieved therefrom by written order of the commissioner, every insurer which makes its own fire insurance filings, as provided in ORS 737.315, shall keep, with respect to such insurance, a complete record of all applications, daily reports, indorsements, changes and cancellations of policies received by it pertaining to risks to which such filings are applicable, showing the same to have been written and made in conformity with its filings with the commissioner and promptly shall notify its agents or other representatives of any errors therein and shall report to the commissioner any failure upon the part of such agents or other representatives to make corrections in the same manner as is required of a rating organization under ORS 737.370.

(2) Such record of the business of an insurer shall at all times be open to inspection by the commissioner. All information so submitted for examination shall be confidential.

[Amended by 1967 c.359 §323]

737.380 Insurer's compliance with rating organization filings required; procedure for obtaining approval of deviations. (1) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization. However, any insurer may make written application to the commissioner for permission to file a de-

viation from the class rates, schedules, rating plans or rules respecting any class of insurance or class of risk within a class of insurance or combination thereof. With respect to casualty insurance, the deviation shall be a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a class of insurance or a subdivision thereof that is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a class of insurance comprised of a group of manual classifications which is treated as a separate unit for rate-making purposes, or for which separate expense provisions are included in the filings of the rating organization. Such application shall specify the basis for the modification, and a copy thereof shall be sent simultaneously to such rating organization.

(2) If requested by the rating organization the commissioner shall set a time and place for a hearing at which the insurer and rating organization may be heard in regard to the application for deviation and shall give them not less than 10 days' written notice thereof.

(3) In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making listed in ORS 737.310.

(4) The commissioner shall issue an order permitting the deviation of such insurer to be filed, if he finds it to be justified, and such insurer shall make its own filings, as provided in ORS 737.315, as to such classes of insurance as are covered in such order. Thereupon such filing shall become effective. The commissioner shall issue an order denying such application if he finds that the deviation applied for does not meet the requirements of ORS 737.290 to 737.560.

(5) Each deviation permitted to be filed shall be effective for a period of not less than one year from the effective date unless terminated sooner with the approval of the commissioner or in accordance with the provisions of ORS 737.336 or 737.340.

[Amended by 1967 c.359 §324]

737.385 [Repealed by 1967 c.359 §704]

737.386 Appeal to commissioner from action of rating organization approving or rejecting proposed change to filings. (1) Any member of or subscriber to a rating organization may appeal to the commissioner from

the action or decision of the rating organization in approving or rejecting any proposed change in or addition to the filings of the rating organization.

(2) The commissioner, after a hearing held at a place designated by him and upon not less than 10 days' written notice to the appellant and to such rating organization:

(a) Shall issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal; or

(b) If such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings and in the event he finds that such action or decision was unreasonable, he may issue an order directing the rating organization to make an addition to its filings, on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

[1967 c.359 §325]

Note: ORS 737.386 was not added to and made a part of ORS 737.290 to 737.560 by legislative action.

737.390 Regulation of joint underwriting and joint reinsurance. No group, association or other organization of insurers which engages in joint underwriting or joint reinsurance shall engage in any activity which is unfair, unreasonable or otherwise inconsistent with the provisions of ORS 737.290 to 737.360.

[Amended by 1967 c.359 §326]

737.505 Insured entitled to rate information; remedies of aggrieved persons. (1) Every rating organization and every insurer which makes its own rates, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, shall furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by his authorized representative, on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request

within 30 days after it is made, the applicant may proceed in the same manner as if his application had been rejected.

(3) Any party affected by the action of such rating organization or such insurer on such request, within 30 days after written notice of such action, may appeal to the commissioner, who, after a hearing held at a place designated by him upon not less than 10 days' written notice to the appellant and to such rating organization or insurer, shall affirm or reverse such action.

[Amended by 1967 c.359 §327]

737.510 Advisory organizations; registration; jurisdiction of commissioner to restrict unfair practices. (1) Every group, association or other organization of insurers, whether located within or outside this state, which assists authorized insurers which make their own filings or licensed rating organizations in rate making, by the collection and furnishing of loss or expense statistics or by the submission of recommendations, but which does not make filings under ORS 737.290 to 737.560, shall be known as an advisory organization.

(2) Every advisory organization shall file with the commissioner:

(a) A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities.

(b) A list of its members.

(c) The name and address of a resident of this state upon whom notices may be served.

(d) An agreement that the commissioner may examine such advisory organization in accordance with ORS 737.515.

(3) Any insurer which makes its own filings or any rating organization may support its filings by statistics or adopt rate-making recommendations furnished to it by an advisory organization which has complied with this section. If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with ORS 737.290 to 737.560, he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with ORS 737.290 to 737.560. If the act or practice thus specified is not modified to comply with such order, the commissioner may issue an order requiring any insurer which makes its own filings

or any rating organization to discontinue the use of the statistics or rate-making recommendations furnished to it by such advisory organization.

[Amended by 1967 c.359 §328]

737.512 [1959 c.324 §2; 1967 c.359 §316; renumbered 737.346]

737.515 Examination of rating, advisory and other organizations; payment of costs; acceptance of report from another state. (1) The commissioner shall make or cause to be made an examination:

(a) At least once in five years, of each rating organization licensed in this state.

(b) As often as he deems it expedient, of each advisory organization complying with and referred to in ORS 737.510 and of each organization referred to in ORS 737.390.

(2) The reasonable costs of any such examination shall be paid by the organization examined, upon presentation to it of a detailed account of such costs. The officers, manager, agents and employes of any such organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its methods of operation.

(3) All such examinations shall be conducted as provided in ORS 731.300 to 731.316.

(4) In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

[Amended by 1967 c.359 §329]

737.520 Procedure for formulating and making available for use rules and statistical plans of loss and expense experience; assisting organizations. (1) The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him, which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience, in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in ORS 737.310. Such rules and plans also may provide for the recording and reporting of expense experience items which are

specially applicable to this state and are not susceptible of determination by a pro-rating of countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and, in order that such rules and plans may be as uniform as is practicable among the several states, to the rules and to the form of the plans used for such rating systems in other states. No insurer shall be required to record or report its loss experience on a classification basis which is inconsistent with the rating system filed by it.

(2) The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof. Such compilations shall be made available to insurers and rating organizations, subject to reasonable procedures and allocation of costs thereof, under rules promulgated by the commissioner.

[Amended by 1967 c.359 §330]

737.525 [Repealed by 1967 c.359 §704]

737.526 Interchange of data; promoting uniformity of rating laws. (1) Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(2) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate making and the application of rating systems.

[1967 c.359 §331]

Note: ORS 737.526 was not added to and made a part of ORS 737.290 to 737.560 by legislative action.

737.530 [Repealed by 1967 c.359 §704]

737.535 Withholding or giving false information prohibited. No person shall willfully withhold information from or knowingly give false or misleading information to the commissioner, to any statistical agency designated by the commissioner, to any rating organization, or to any insurer, which will affect the rates or premiums chargeable under ORS 737.290 to 737.560.

[Amended by 1967 c.359 §332]

737.540 [Repealed by 1967 c.359 §704]

737.545 Procedure for suspension of rating organization license. The commissioner may suspend the license of any rating organization which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective, and it shall remain in effect for the period fixed by him, unless he modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed.

[Amended by 1967 c.359 §333]

737.550 [Repealed by 1967 c.359 §704]

737.555 [Repealed by 1967 c.359 §704]

737.560 Rating organization membership. (1) Except as provided in subsection (2) of this section, nothing contained in ORS 737.290 to 737.560 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(2) All insurers qualified to issue guaranty contracts to direct responsibility employers under ORS 656.001 to 656.794 shall be, and the State Compensation Department may be, a member of a workmen's compensation rating organization. If the State Compensation Department becomes a member of such an organization, it is entitled without election to membership on any committee thereof established in connection with the operation of the rating organization in this state.

[Amended by 1967 c.359 §334]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Robert W. Lundy, 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, 1967.

Robert W. Lundy
 Legislative Counsel

