Chapter 743

1979 REPLACEMENT PART

Insurance Policies

GENERAL PROVISIONS

743.003 Scope of chapter
743.006 Filing and approval of policy forms
743.009 Grounds for disapproval of policy forms
743.010 Commissioner to adopt rules with respect to certain health insurance policy forms
743.012 Commissioner's withdrawal of approval
743.015 Filing and approval of credit life and credit health insurance forms; filing of rates
743.018 Life and health insurance, filing rates
743.021 Regulation of sales material
743.024 Insurable interest and beneficiaries, personal insurance
743.027 Consent of individual required for life and health insurance; exceptions
743.028 Commissioner authorized to prescribe uniform health insurance claim forms
743.030 Life insurance for benefit of charity
743.033 Insurable interest, property insurance
743.037 Nondiscriminatory health insurance coverage for women
743.039 Alteration of application, life and health insurance
743.042 Representations in applications
743.045 Policy constitutes entire contract
743.048 Provision for construction according to foreign law prohibited
743.051 Standard provisions in general
743.052 Reimbursement for certain surgical services performed by dentists
743.054 Contents of policies in general
743.057 Underwriters' and combination policies
743.060 Additional policy contents
743.063 Charter and bylaw provisions
743.066 Assessment policies, special contents
743.069 Validity and construction of noncomplying forms
743.072 Permissible classes of insurance in one policy
743.075 Binders
743.078 Delivery of policy
743.080 Effective date of coverage; applicability
743.081 Renewal by certificate
743.084 Payment discharges insurer
743.087 Assignment of policies
743.093 Forms for proof of loss
743.096 Certain conduct not deemed waiver
743.099 Exemption of proceeds, individual life insurance other than annuities
743.102 Exemption of proceeds, group life insurance
743.105 Exemption of proceeds, annuity policies; assignability of rights
743.108 Exemption of proceeds, health insurance
743.111 Return of premium on destruction of property
743.114 Recovery of attorney fees in action on policy
743.116 Reimbursement for services performed at state hospitals
743.117 Reimbursement for services of optometrist
743.120 Health insurance coverage for newly born children
743.123 Health insurance coverage for services provided by psychologist
743.125 Denial or cancellation of health insurance because of diethylstilbertrol use by mother prohibited
743.128 Reimbursement for services of nurse practitioner
743.132 Reimbursement for services of denturist

INDIVIDUAL LIFE INSURANCE AND ANNUITIES

(Generally)

743.150 Scope of ORS 743.150, 743.153 and 743.156
743.153 Statement of benefits
743.156 Statement of premium

(Individual Life Insurance Policies)

743.159 Scope of ORS 743.162 to 743.243
743.162 Payment of premium
743.165 Grace period
743.168 Incontestability
743.171 Incontestability and limitation of liability after reinstatement
743.174 Entire contract
743.177 Statements of insured
743.180 Misstatement of age
743.183 Dividends
743.186 Policy loan
743.189 Reinstatement
743.192 Payment of claims
743.195 Settlement option
743.198 Title
743.201 Beneficiary, industrial policies
743.204 Standard Nonforfeiture Law for Life Insurance; applicability
743.207 Required provisions relating to nonforfeiture
743.210 Determination of cash surrender values
743.213 Determination of paid-up nonforfeiture benefits
743.216 Adjusted premiums
743.219 Supplemental rules for calculating nonforfeiture benefits
743.222 Policy benefits and premiums that shall be disregarded in calculating cash surrender values and paid-up nonforfeiture benefits
743.225 Prohibited provisions
743.228 Acts of corporate insured or beneficiary with respect to policy
743.230 Variable life policy provisions
743.231 "Profit-sharing policy" defined
743.234 "Charter policy" or "founders policy" defined
743.237 "Coupon policy" defined
743.240 Profit-sharing, charter or founders policies prohibited
743.243 Restrictions on form of coupon policy
743.245 Variable life insurance policy provisions

743.247 Notice to variable life insurance policyholders

(Individual Annuity and Pure Endowment Policies)

743.252 Scope of ORS 743.255 to 743.273
743.255 Grace period, annuities
743.258 Incontestability, annuities
743.261 Entire contract, annuities
743.264 Misstatement of age or sex, annuities
743.267 Dividends, annuities
743.270 Reinstatement, annuities
743.271 Periodic stipulated payments, variable annuities
743.272 Computing benefits, variable annuities
743.273 Standard provisions, reversionary annuities
743.275 Standard Nonforfeiture Law for Individual Deferred Annuities; operative date; application
743.278 Required provisions in annuity policies; exception
743.281 Calculation of "minimum nonforfeiture amount"
743.284 Computation of benefits
743.287 Commencement of annuity payments at optional maturity dates; calculation of benefits
743.290 Notice of nonpayment of certain benefits to be included in annuity policy
743.295 Effect of certain life insurance and disability benefits on minimum nonforfeiture amounts

GROUP LIFE INSURANCE

743.303 Requirements for issuance of group life insurance policies
743.306 Required provisions in group life insurance policies
743.309 Nonforfeiture provisions
743.312 Grace period
743.315 Incontestability
743.318 Application; representations by policyholders and insureds
743.321 Evidence of insurability
743.324 Misstatement of age
743.327 Beneficiary for payments under policy
743.330 Issuance of certificates
743.333 Termination of individual coverage
743.336 Termination of policy or class of insured persons
743.339 Death during period for conversion to individual policy
743.342 Statement furnished to insured under credit life insurance policy
743.345 Assignability of group life policies

POLICY LANGUAGE SIMPLIFICATION

743.350 Short title
743.353 Purpose
743.357 Definitions for ORS 743.350 to 743.370
743.362 Scope of ORS 743.350 to 743.370
743.365 Reading ease standards for life and health insurance policies; procedures for determining ease of reading; certificate of compliance with standards to accompany policy filing
743.368 Commissioner may authorize lower reading ease standards; conditions
743.370 Approval of certain policy forms not containing specified provisions; conditions for approval

INDIVIDUAL HEALTH INSURANCE

743.402 Exceptions to individual health insurance policy requirements
743.405 General requirements, individual health insurance policies
743.408 Mandatory provisions, individual health insurance policies
743.411 Entire contract; changes
743.412 Coverage for alcholism treatment; conditions; limits
743.414 Time limit on certain defenses; incontestability
743.417 Grace period
743.420 Reinstatement
743.423 Notice of claim
743.426 Claim forms
743.429 Proofs of loss
743.432 Time of payment of claims
743.435 Payment of claims
743.438 Physical examinations and autopsy
743.441 Legal actions
743.444 Change of beneficiary
743.447 Optional provisions, individual health insurance
743.450 Change of occupation
743.453 Misstatement of age
743.456 Other insurance in same insurer
743.459 Insurance with other insurers, expense incurred benefits
743.462 Insurance with other insurers, other than expense incurred benefits
743.465 Relation of earnings to insurance
743.468 Unpaid premium
743.471 Cancellation
743.474 Conformity with state statutes
743.477 Illegal occupation
743.480 Intoxicants and controlled substances
743.483 Arrangement of provisions
743.486 Construction of term "insured" in statutory policy provisions
743.489 Extension of coverage beyond policy period; effect of misstatement of age
743.492 Policy return and premium refund provision
743.495 Use of unqualified terms "noncancelable" or "guaranteed renewable"; synonymous terms
743.498 Statement in policy of cancelability or renewability

FRANCHISE HEALTH INSURANCE

743.516 "Franchise health insurance" defined
743.519 Requirements for franchise health insurance
743.520 Sale of union or association membership to qualify for franchise health insurance prohibited

GROUP AND BLANKET HEALTH INSURANCE

743.522 "Group health insurance" defined
743.525 Continuation of benefits to family or dependents after death of group member
743.527 Certain group health insurance policies to continue in effect upon payment of premium by insured individual; conditions for continued coverage; required provisions in policies
743.528 Required provisions in group health insurance policies
743.529 Continuation of benefits after termination of group health insurance policy
743.531 Direct payment of hospital and medical services

743.534 "Blanket health insurance" defined
743.537 Required provisions, blanket health insurance policies
743.540 Application and certificates not required, blanket health insurance policies
743.543 Facility of payment, blanket health insurance policies
743.546 Policy form approval, blanket health insurance
743.549 Restriction on reduction of benefits provisions in group and blanket health policies
743.552 Guidelines for application of ORS 743.549
743.555 Application of ORS 743.549 and 743.552
743.557 Group health insurance coverage for alcoholism treatment
743.558 Group health insurance coverage for mental or nervous conditions

CREDIT LIFE AND CREDIT HEALTH INSURANCE

743.561 Definitions for credit life and credit health insurance provisions
743.564 Applicability of credit life and credit health insurance provisions
743.567 Forms of credit life and credit health insurance
743.570 Limits on amount of credit life insurance
743.573 Limit on amount of credit health insurance
743.576 Duration of credit life and credit health insurance
743.579 Credit life and credit health insurance policy or group certificate; contents; delivery of policy, certificate or copy of application
743.582 Charges and refunds to debtor, credit life and credit health insurance
743.585 Status of remuneration to creditor
743.588 Claim report and payment, credit life and credit health insurance

FIRE INSURANCE

743.603 Fire insurance not to exceed value of property insured
743.606 Standard fire insurance policy
743.607 Exceptions to standard fire insurance policy requirements
743.609 Insuring agreement
743.612 Concealment, fraud
743.615 Uninsurable and excepted property
743.618 Perils not included
743.621 Other insurance
743.624 Conditions suspending insurance
743.627 Additional perils insured
743.630 Added provisions
743.633 Waiver provisions
743.636 Cancellation
743.639 Mortgagee interest and obligation of mortgagee
743.642 Pro rata liability of insurer
743.645 Requirements in case loss occurs
743.648 Appraisal
743.651 Insurer's options
743.654 Abandonment
743.657 When loss payable
743.660 Suit on policy
743.663 Subrogation
743.666 Coverage for loss from nuclear reaction or radiation
743.669 Other fire insurance policy provisions permitted
743.672 Mutual insurers policyholders' liability; nonassessable policies
743.675 Mutual insurer's action to recover assessment
743.678 Mutual fire insurers, withdrawal of members
743.681 Mutual fire insurance policy cancellation

MORTGAGE INSURANCE

743.705 Limitations on issuance of mortgage insurance
743.708 Insured obligations as legal investments and securities for deposit

PRODUCT LIABILITY INSURANCE

743.720 Definitions for ORS 743.723
743.723 Product liability insurers to submit annual reports to commissioner; contents of reports; availability to public

SURETY INSURANCE

743.732 Bonds, undertakings and other obligations required by law may be executed by surety insurers
743.735 Reimbursement of private persons required to give bond
743.738 Reimbursement of public officials required to give bond
743.741 Surety insurer may take measures to reduce risk of loss
743.744 Release of surety on official bonds by action of obligee
743.747 Release of surety on bond of public official by action of surety
743.750 Release of surety on depository bond; provision required in such bonds
743.753 Fixing amount of new bond after release from original
743.755 Cancellation of bond by surety
743.756 Surety insurer may not deny power to execute bond; construction of policies
743.759 Bond construed as including omitted statutory provisions
743.762 Guaranteed arrest bond certificate
743.765 Surety may issue guaranteed arrest bond certificate not to exceed $200
743.768 Requirements to issue guaranteed arrest bond certificate

CASUALTY INSURANCE

743.780 Insurers to report malpractice claims to Board of Medical Examiners
743.783 Bankruptcy clause required in certain liability policies

MOTOR VEHICLE LIABILITY INSURANCE

743.786 Definitions for ORS 743.786 to 743.795
743.789 Motor vehicle liability policies to provide uninsured motorist coverage
743.792 Requirements of uninsured motorist coverage
743.795 Allocation of responsibility among insurers
743.800 Hospital, medical, disability and funeral benefits required for motor vehicle liability policies; definitions for ORS 743.800 to 743.835
743.805 Alternative forms of coverage; limitation on benefits; requirements relating to personal injury protection benefits
743.810 Primary nature of benefits
743.815 Exclusions from coverage

743.820 Benefits may be more favorable than those required by ORS 743.800 and 743.805
743.825 Reimbursement of other insurers paying benefits; arbitrating issues of liability and amount of reimbursement
743.828 Notice of claim or legal action to insurer; insurer to elect manner of recovery of benefits furnished; lien of insurer
743.830 Subrogation rights of insurers to certain amounts received by claimant; recovery actions against persons causing injury
743.833 Rules
743.835 Effect of personal injury protection benefits paid

CANCELLATION OF AUTOMOBILE LIABILITY POLICIES

743.900 Definitions for ORS 743.900 to 743.930
743.905 Grounds for cancellation of policies; notice required; applicability
743.910 Manner of giving cancellation notice
743.916 Renewal of policies; requirements for refusal to renew
743.920 Proof of cancellation or nonrenewal notice
743.925 Notifying insured under canceled or unrenewed policy of eligibility for participation in insurance pool
743.930 Immunity from liability of persons furnishing information regarding cancellation or nonrenewal of policies

CROSS REFERENCES

Definitions and general provisions applicable, 731.004 to 731.194
Gifts of life insurance policies and annuity contracts to minors, 126.805 to 126.880
"Insurance Code" defined, 731.004
Life insurance policies as security for savings association loans, 722.332
Medical records disclosure to insurer, 192.550
Motor vehicle liability policies, 486.556, 486.561
Recovery upon policy on claim or insolvency of insurer, 734.510 to 734.710
Retail instalment contracts, insurance, 83.110, 83.580
State as insurer of public vehicles, 278.210
Trusts for death benefits payable under life insurance policies, administration, 128.460 to 128.500

743.045

Certain policies subject to additional provisions under financial responsibility law, 486.556

743.099

Insurance proceeds under Uniform Simultaneous Death Act, 112.615
Murderer of insured as beneficiary, 112.455 to 112.555

743.150

Fiduciary, limit on investment in life insurance, 128.057

743.204

Minimum valuation standards for policies, 733.120, 733.130

743.303

Group life insurance for police and firemen not subject to requirements of section, 243.045

743.603

Reports of fires required, 476.270

SURETY INSURANCE

Actions on official bonds, 30.210 to 30.250
Collection agency and debt consolidation agency bonds, particular requirements, 697.080, 697.645
Construction of "a surety," "a corporate insurance company" or similar words in statute relating to official bond, 174.140
Purchase of fidelity bonds for certain state officers, 279.710, 279.712

743.744

Cancellation of savings association surety bond, 722.034

743.786 to 743.930

Motor vehicle insurance as evidence for financial responsibility law, 486.506 to 486.575

743.789

State self-insurance to provide uninsured motorist coverage, 278.215

743.792

State self-insurance to provide uninsured motorist coverage, 278.215

GENERAL PROVISIONS

743.003 Scope of chapter. This chapter applies as to all insurance policies delivered or issued for delivery in this state other than reinsurance and wet marine and transportation insurance policies. [1967 c.359 §335]

743.006 Filing and approval of policy forms. (1) Except where otherwise provided by law, no basic policy form, or application form where written application is required and is to be made a part of the policy, or rider, indorsement or renewal certificate form shall be delivered or issued for delivery in this state until the form has been filed with and approved by the commissioner. This section does not apply to:

(a) Forms of unique character which are designed for and used with respect to insurance upon a particular risk or subject;

(b) Forms issued at the request of a particular life or health insurance policy owner or certificate holder and which relate to the manner of distribution of benefits or to the reservation of rights and benefits thereunder; or

(c) Forms of group life or health insurance policies, or both, which have been agreed upon as a result of negotiations between the policyholder and the insurer.

(2) The commissioner shall within 30 days after the filing of any such form approve or disapprove the form. The commissioner shall give written notice of such action to the insurer proposing to deliver such form and when a form is disapproved the notice shall show wherein such form does not comply with the law.

(3) The 30-day period referred to in subsection (2) of this section may be extended by the commissioner for an additional period not to exceed 30 days if he gives written notice within the first 30-day period to the insurer proposing to deliver the form that he needs such additional time for the consideration of such form.

(4) The commissioner may at any time request an insurer to furnish him a copy of any form exempted under subsection (1) of this section. [Formerly 736.300]

743.009 Grounds for disapproval of policy forms. The commissioner shall disapprove any form requiring his approval:

(1) If he finds it does not comply with the law;

(2) If he finds it contains any provision, including statement of premium, or has any label, description of its contents, title, heading, backing or other indication of its provisions, which is unintelligible, uncertain, ambiguous or abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued;

(3) If, in his judgment, its use would be prejudicial to the interests of the insurer's policyholders;

(4) If he finds it contains provisions which are unjust, unfair or inequitable;

(5) If he finds sales presentation material disapproved by him pursuant to ORS 743.021 is being used with respect to the form; or

(6) If, with respect to any of the following forms, he finds the benefits provided therein are not reasonable in relation to the premium charged:

(a) Individual health insurance policy forms subject to ORS 743.402 to 743.498, including benefit certificates issued by fraternal benefit societies;

(b) Health insurance policy forms issued by health care service contractors, except those forms issued under group health insurance coverages; or

(c) Credit life and credit health insurance forms subject to ORS 743.561 to 743.588. [1967 c.359 §337; 1969 c.336 §11; 1973 c.608 §1]

743.010 Commissioner to adopt rules with respect to certain health insurance policy forms. (1) In addition to all other powers of the commissioner with respect thereto, the commissioner may issue rules with respect to policy forms described in paragraphs (a) and (b) of subsection (6) of ORS 743.009:

(a) Establishing minimum benefit standards;

(b) Requiring the ratio of benefits to premiums to be not less than a specified percentage in order to be considered reasonable, and requiring the periodic filing of data that will demonstrate the insurer's compliance; and

(c) Establishing requirements intended to discourage duplication or overlapping of coverage and replacement, without regard to the advantage to policyholders, of existing policies by new policies.

(2) The commissioner shall issue rules pursuant to subsection (1) of this section with respect to policy forms marketed as supple-

ments to federal Medicare benefits, and such rules shall provide for a minimum loss ratio of 60 percent. [1979 c.857 §2]

743.012 Commissioner's withdrawal of approval. 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 form on any ground set forth in ORS 743.009. The written notice of such hearing shall state the reason for the proposed withdrawal. No insurer shall deliver such form in this state after the effective date of such withdrawal, which shall be as the commissioner may prescribe but not less than 30 days after the giving of notice of withdrawal. [1967 c.359 §338]

743.015 Filing and approval of credit life and credit health insurance forms; filing of rates. (1) All credit life and credit health insurance policies subject to ORS 743.561 to 743.588, and all certificates of insurance, notices of proposed insurance, applications for insurance, indorsements and riders used in connection with such kinds of policies, delivered or issued for delivery in this state and the schedules of premium rates pertaining thereto shall be filed with the commissioner. Such forms shall be subject to approval, disapproval or withdrawal of approval by the commissioner as provided in ORS 743.006, 743.009 and 743.012. Policies issued pursuant to ORS 731.442 shall be subject to the same regulation as other credit insurance policies.

(2) An insurer may revise such schedules of premium rates from time to time, and shall file such revised schedules with the commissioner. No insurer shall issue any such credit life or credit health insurance policy for which the premium rate exceeds that determined by the schedules of such insurer as then on file with the commissioner.

(3) If such a group policy of credit life or credit health insurance has been or is delivered in another state the insurer shall be required to file only the group certificate, the individual application and notice of proposed insurance delivered or issued for delivery in this state as specified in subsections (2) and (4) of ORS 743.579, and such forms shall be approved by the commissioner if they conform with the requirements specified in such 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. [Formerly 739.595; 1969 c.336 §12; 1971 c.231 §20]

743.018 Life and health insurance, filing rates. Except for group life and health insurance, and except as provided in ORS 743.015, every insurer shall file with the commissioner all schedules and tables of premium rates for life and health insurance to be used on risks in this state, and shall file any amendments to or corrections of such schedules and tables. [1967 c.359 §340]

743.021 Regulation of sales material. (1) The commissioner, if he considers it necessary, may require the filing by an insurer or agent of any sales presentation material for use in the sale or the presentation for sale of any policy. The commissioner, within 60 days after the filing of the sales presentation material, shall disapprove any such sales presentation material if he finds that, in whole or in part, it is false, deceptive or misleading. Upon disapproval, such sales presentation material shall not be made, issued, circulated, displayed or given other use by the insurer or its agents.

(2) The commissioner, by rule, shall require any agent who sells or attempts to sell insurance to provide to each prospective insured such information as the commissioner considers necessary to adequately inform the prospective insured regarding the insurance transaction. [1967 c.359 §341; 1971 c.231 §21; 1973 c.525 §1]

743.024 Insurable interest and beneficiaries, personal insurance. (1) Any individual of competent legal capacity may procure or effect an insurance policy on his own life or body for the benefit of any person. However, except as provided in ORS 743.030, no person shall procure or cause to be procured any insurance policy upon the life or body of another unless the benefits under such policy are payable to the individual insured or his personal representatives, or to a person having, at the time such policy was entered into, an insurable interest in the individual insured.

(2) If the beneficiary, assignee or other payee under any policy made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may

maintain an action to recover such benefits from the person so receiving them.

(3) An insurer shall be entitled to rely upon all statements, declarations and representations made by an applicant for insurance relative to the matter of insurable interest. No insurer shall incur legal liability, except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

(4) This section does not apply to annuity policies. [1967 c.359 §342]

743.027 Consent of individual required for life and health insurance; exceptions. No life or health insurance policy upon an individual, except a policy of group life insurance or of group or blanket health insurance, shall be made or effectuated unless at the time of the making of the policy the individual insured, being of competent legal capacity to contract, applies therefor or has consented thereto in writing, except in the following cases:

(1) A spouse may effectuate such insurance upon the other spouse.

(2) Any person having an insurable interest in the life of a minor, or any person upon whom a minor is dependent for support and maintenance, may effectuate insurance upon the life of or pertaining to such minor.

(3) Family policies may be issued insuring any two or more members of a family on an application signed by either parent, a stepparent, or by a husband or wife. [1967 c.359 §342a]

743.028 Commissioner authorized to prescribe uniform health insurance claim forms. The commissioner shall prescribe uniform health insurance claim forms which shall be used by all insurers transacting health insurance in this state and by all state agencies that require health insurance claim forms for their records. [1973 c.109 §2]

743.030 Life insurance for benefit of charity. (1) Life insurance policies 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 policies 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 policy 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 policy 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. [Formerly 739.420]

743.033 Insurable interest, property insurance. No policy of insurance of property or of any interest in property or arising from property shall be enforceable as to the insurance except for the benefit of persons having an insurable interest in the things insured as at the time of the loss. [1967 c.359 §344]

743.036 [Formerly 736.330; 1973 c.823 §149; repealed by 1973 c.827 §83]

743.037 Nondiscriminatory health insurance coverage for women. Each policy of health insurance shall provide:

(1) The same payments for costs of maternity to unmarried women that it provides to married women, including the wives of insured persons choosing family coverage; and

(2) The same coverage for the child of an unmarried woman that the child of an insured married person choosing family coverage receives. [1973 c.521 §2]

743.039 Alteration of application, life and health insurance. (1) An application for a life insurance policy may not provide for alterations by any person other than the applicant in either the application or the policy to be issued thereon with respect to the amount of insurance, classification of risk, plan of insurance or the benefits unless the application contains a statement that no such changes are effective until approved in writing by the applicant.

(2) No alteration of any written application for any health insurance policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant. [1967 c.359 §346]

743.042 Representations in applications. (1) All statements and descriptions in any application for an insurance policy by or in behalf of the insured, shall be deemed to be representations and not warranties. Misrepresentations, omissions, concealment of facts,

and incorrect statements shall not prevent a recovery under the policy unless either:

(a) Fraudulent; or

(b) Material either to the acceptance of the risk, or to the hazard assumed by the insurer.

(2) This section does not apply to surety insurance. [1967 c.359 §347]

743.045 Policy constitutes entire contract. (1) Except as provided in ORS 743.075, every contract of insurance shall be construed according to the terms and conditions of the policy. Where the contract is made pursuant to a written application therefor, if the insurer delivers a copy of such application with the policy to the insured, thereupon such application shall become a part of the insurance policy. If the application is not so delivered to the insured, it shall not be a part of the insurance policy and the insurer shall be precluded from introducing such application as evidence in any action based upon or involving such policy.

(2) If any life or health insurance policy shall be reinstated or renewed, and the insured or assignee or beneficiary with a vested interest under such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within 30 days after the receipt at its home or branch office of such request and of satisfactory evidence of such requesting beneficiary's vested interest, deliver or mail to the person making such request a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action based upon or involving such policy or its reinstatement or renewal.

(3) This section does not apply to surety insurance. [Formerly 736.305; 1971 c.231 §22]

743.048 Provision for construction according to foreign law prohibited. No policy of insurance shall contain any condition, stipulation or agreement requiring such policy to be construed according to the laws of any other state or country. Any such condition, stipulation or agreement shall be invalid. [Formerly 736.315]

743.051 Standard provisions in general. (1) Insurance policies shall contain such standard or uniform provisions as are required by the applicable provisions of the Insurance Code. However, the insurer may at its option substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary.

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

(3) Except as provided in subsection (2) of this section, no policy shall contain any provision inconsistent with or contradictory to any standard or uniform provision used or required to be used. [1967 c.359 §350]

743.052 Reimbursement for certain surgical services performed by dentists. Notwithstanding any provision of a policy of health insurance, whenever the policy provides for payment of a surgical service, the performance for the insured of such surgical service by any dentist acting within the scope of his license is compensable if performance of that service by a physician acting within the scope of his license would be compensable. [1971 c.372 §2]

743.054 Contents of policies in general. (1) Every policy shall specify:

(a) The names of the parties to the contract.

(b) The subject of the insurance.

(c) The hazards or perils insured against.

(d) The time when the insurance thereunder takes effect and the period during which the insurance is to continue.

(e) The premium.

(f) The conditions and provisions pertaining to the insurance.

(2) If under the policy the exact amount of premium is determinable only at stated intervals or termination of the contract, a statement of the basis and rates upon which the premium is to be determined and paid shall be included.

(3) This section does not apply to surety

insurance policies, or to group life or health insurance policies. [1967 c.359 §351]

743.057 Underwriters' and combination policies. (1) Two or more authorized insurers may jointly issue, and shall be jointly and severally liable on, an underwriters' policy bearing their names. Any one insurer may issue policies in the name of an underwriter's department and such policy shall plainly show the true name of the insurer.

(2) Two or more insurers may, with the approval of the commissioner, issue a combination policy which shall contain provisions substantially as follows:

(a) That the insurers executing the policy shall be severally liable for the full amount of any loss or damage, according to the terms of the policy, or for specified percentages or amounts thereof, aggregating the full amount of insurance under the policy, and

(b) That service of process, or of any notice or proof of loss required by such policy, upon any of the insurers executing the policy, shall constitute service upon all such insurers.

(3) This section does not apply to co-surety obligations. [1967 c.359 §352]

743.060 Additional policy contents. A policy may contain additional provisions not inconsistent with the Insurance Code and which are:

(1) Required to be inserted by the laws of the insurer's domicile;

(2) Necessary, on account of the manner in which the insurer is constituted or operated, in order to state the rights and obligations of the parties to the contract; or

(3) Desired by the insurer and neither prohibited by law nor in conflict with any provisions required to be included therein. [1967 c.359 §353]

743.063 Charter and bylaw provisions. No policy shall contain any provision purporting to make any portion of the charter, bylaws or other constituent document of the insurer (other than the subscriber's agreement or power of attorney of a reciprocal insurer) a part of the contract unless such portion is set forth in full in the policy. Any policy provision in violation of this section shall be invalid. [1967 c.359 §354]

743.066 Assessment policies, special contents. Every policy issued on the assessment plan, and the form of any application for such a policy to be signed by the applicant, shall have conspicuously printed near the top of the face thereof in boldface type of a size not smaller than used for any caption in the policy or application, as applicable, the words "The policyholder is subject to assessment by the company" or such other words as the commissioner may require. [1967 c.359 §355; 1971 c.231 §23]

743.069 Validity and construction of noncomplying forms. (1) A policy in violation of the Insurance Code, but otherwise binding on the insurer, shall be held valid, but shall be construed as provided in the Insurance Code.

(2) Any insurance policy issued and otherwise valid which contains any condition, omission or provision not in compliance with the Insurance Code, shall not be thereby rendered invalid but shall be construed and applied in accordance with such conditions and provisions as would have applied had such policy been in full compliance with the Insurance Code. [1967 c.359 §356]

743.072 Permissible classes of insurance in one policy. (1) Except as provided in this section, when more than one class of insurance as defined in ORS 731.150 to 731.194 is effected by an insurer each class shall be written in a separate and distinct policy. Any such policy may be canceled, surrendered or otherwise terminated without affecting other premiums paid or policies held by the same insured.

(2) Except as provided in this section, the same policy shall not include insurance coverages as to which the liability of the insurer for unearned premiums or the reserve for unpaid, deferred or undetermined loss claims is estimated in a different manner.

(3) Insurance in one policy may be effected upon automobiles and vehicles, and the accessories and other property transported upon and used in connection therewith, against loss or damage by fire, collision and explosion, and against loss by legal liability for damage to persons or property, or both, resulting from the maintenance, use or operation of such automobiles or vehicles, and against loss by burglary, embezzlement or theft, or any one or more of them. Premiums and losses for such insurance are to be reported to the commissioner under the title "automobile insurance." For this purpose an insurer need not use the standard fire insurance policy required by ORS 743.606.

(4) Insurance in one policy may be effected against loss or damage of property and against personal injury and death, and liability therefor, from explosion of steam boilers, tanks and engines, pipes and machinery connected therewith, and breakage of flywheels and machinery. Premiums and losses for such insurance are to be reported to the commissioner under the title "steam boiler insurance."

(5) Insurance under the classes of life and health insurance may be effected in one policy.

(6) Insurance in one policy effected against any physical loss or damage occurring to properties may include coverage as to other perils, either on an unspecified basis as to coverage or for a single premium.

(7) Insurance in one policy effected against loss or destruction of baggage while traveling which is written on a single premium nonrenewable basis may include travel ticket health insurance benefits. [Formerly 736.310; 1971 c.231 §24; 1973 c.149 §1]

743.075 Binders. (1) Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable indorsements as are designated in the binder, except as superseded by the clear and express terms of the binder.

(2) Except as provided in subsection (3) of this section and ORS 746.195, within 90 days after issue of a binder a policy shall be issued in lieu thereof, including within its terms the identical insurance bound under the binder and the premium therefor.

(3) If the policy has not been issued a binder may be extended or renewed beyond such 90 days with the written approval of the commissioner, or in accordance with such rules relative thereto as the commissioner may promulgate.

(4) This section does not apply to life or health insurance. [1967 c.359 §358; 1975 c.391 §1; 1977 c.742 §8]

743.078 Delivery of policy. (1) Subject to the insurer's requirements as to payment of premium, every policy shall be mailed or delivered to the insured or to the person entitled thereto within a reasonable period of time after its issuance except where a condition required by the insurer has not been met by the insured.

(2) In the event the original policy is delivered or is so required to be delivered to or for deposit with any vendor, mortgagee, or pledgee of any motor vehicle, and in which policy any interest of the vendee, mortgagor, or pledgor in or with reference to such vehicle is insured, a duplicate of such policy setting forth the name and address of the insurer, insurance classification of vehicle, type of coverage, limits of liability, premiums for the respective coverages, and duration of the policy, or memorandum thereof containing the same such information, shall be delivered by the vendor, mortgagee, or pledgee to each such vendee, mortgagor, or pledgor named in the policy or coming within the group of persons designated in the policy to be so included. If the policy does not provide coverage of legal liability for injury to persons or damage to the property of third parties, a statement of such fact shall be printed, written, or stamped conspicuously on the face of such duplicate policy or memorandum. This subsection does not apply to inland marine floater policies. [1967 c.359 §359]

743.080 Effective date of coverage; applicability. (1) Except as provided in subsections (3) and (4) of this section, every policy of insurance shall contain a provision stating that coverage commences at 12:01 a.m. of the date upon which the insurance takes effect.

(2) Any statement of time in a policy shall mean time according to the legal standard of time in effect:

(a) If the policy insures real property, at the location of such property; or

(b) If the policy does not insure real property, at the principal place of business within Oregon of the insured; or, if the insured has no place of business within Oregon, at the residence within Oregon of the insured.

(3) A binder or other contract for temporary insurance may commence coverage at an hour different from 12:01 a.m. in order to provide coverage from the agreed hour of commencement of coverage to 12:01 a.m. of the date on which the written policy as to which such binder or other contract was issued takes effect.

(4) This section does not apply to life, health, mortgage, title, surety or wet marine and transportation insurance. [1971 c.231 §5]

743.081 Renewal by certificate. Any insurance policy terminating by its terms at a specified expiration date and not otherwise

renewable, may be renewed or extended at the option of the insurer, if renewed or extended upon a currently authorized policy form at the premium rate then required therefor, for a specific additional period or periods by certificate or by indorsement of the policy, without requiring the issuance of a new policy. [1967 c.359 §360]

743.084 Payment discharges insurer. Whenever the proceeds of or payments under a life or health insurance policy become payable in accordance with the terms of such policy, or the exercise of any right or privilege under such policy, and the insurer makes payment in accordance with the terms of the policy or in accordance with any written assignment of the policy, the person so designated as being entitled to the proceeds or payments shall be entitled to receive them and to give full acquittance therefor, and such payments shall fully discharge the insurer from all claims under the policy unless, before payment is made, the insurer has received at its home office written notice by or on behalf of some other person that such other person claims to be entitled to such proceeds or payments or some interest in the policy. [1967 c.359 §361]

743.087 Assignment of policies. A policy may be assignable or not assignable, as provided by its terms. Subject to its terms relating to assignability, any life or health insurance policy, under the terms of which the beneficiary may be changed upon the sole request of the insured or owner, may be assigned either by pledge or transfer of title, by an assignment executed by the insured or owner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge, or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment. [1967 c.359 §362]

743.090 [Formerly 736.335; repealed by 1973 c.827 §83]

743.093 Forms for proof of loss. (1) An insurer shall furnish, upon written request of any person claiming to have a loss under an insurance policy issued by such insurer, forms of proof of loss for completion by such person, but such insurer shall not, by reason of the requirement so to furnish forms, have any responsibility for or with reference to the completion of such proof or the manner of any such completion or attempted completion.

(2) With respect to fire insurance, an insured shall have 90 days after receipt of proof of loss forms to furnish proof of loss, notwithstanding anything more restrictive contained in the policy. [1967 c.359 §364]

743.096 Certain conduct not deemed waiver. Without limitation of any right or defense of an insurer otherwise, none of the following acts by or on behalf of an insurer shall be deemed to constitute a waiver of or estoppel to assert any provision of a policy or of any defense of the insurer thereunder:

(1) Acknowledgment of the receipt of notice of loss or claim under the policy.

(2) Furnishing forms for reporting a loss or claim, for giving information relative thereto, or for making proof of loss, or receiving or acknowledging receipt of any such forms or proofs completed or uncompleted.

(3) Investigating any loss or claim under the policy or engaging in negotiations looking toward a possible settlement of any such loss or claim. [1967 c.359 §365]

743.099 Exemption of proceeds, individual life insurance other than annuities. (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 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 such insurance, with interest thereon, shall inure to their benefit from the proceeds of the policy. The insurer 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 insurer has received at its home office 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.

(6) This section does not apply to annuity policies. [Formerly 739.405]

743.102 Exemption of proceeds, group life insurance. (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) of this section do 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. [1967 c.359 §367]

743.105 Exemption of proceeds, annuity policies; assignability of rights. (1) The benefits, rights, privileges and options which are due or prospectively due an annuitant under any annuity policy issued before, on or after June 8, 1967, shall not be subject to execution, nor shall the annuitant be compelled to exercise any such rights, powers or options, nor shall creditors be allowed to interfere with or terminate the policy, except:

(a) As to amounts paid for or as premium on any such annuity with intent to defraud creditors, with interest thereon, and of which the creditor has given the insurer written notice at its home office prior to the making of the payments to the annuitant out of which the creditor seeks to recover. Any such notice shall specify the amount claimed or such facts as will enable the insurer to ascertain such amount, and shall set forth such facts as will enable the insurer to ascertain the annuity policy, the annuitant and the payments sought to be avoided on the ground of fraud.

(b) The total exemption of benefits presently due and payable to any annuitant periodically or at stated times under all annuity policies under which he is an annuitant shall not at any time exceed $250 per month for the length of time represented by such instalments. Such periodic payments in excess of $250 per month shall be subject to garnishee execution to the same extent as are wages and salaries.

(c) If the total benefits presently due and payable to any annuitant under all annuity policies under which he is an annuitant shall at any time exceed payment at the rate of $250 per month, the court may order such annuitant to pay to a judgment creditor or apply on the judgment, in instalments, the portion of such excess benefits as to the court may appear just and proper, after due regard for the reasonable requirements of the judgment debtor and his family, if dependent upon him, as well as any payments required to be made by the annuitant to other creditors under prior court orders.

(2) If the policy so provides, the benefits, rights, privileges or options accruing under the policy to a beneficiary or assignee shall not be transferable nor subject to commutation, and if the benefits are payable periodically or at stated times, the same exemptions and exceptions contained in this section for the annuitant shall apply with respect to such beneficiary or assignee. [1967 c.359 §368]

743.108 Exemption of proceeds, health insurance. Except as may otherwise be expressly provided by the policy, the proceeds or avails of all health insurance policies and of provisions providing benefits on account of the insured's disability which are supplemental to life insurance policies, issued before, on or after June 8, 1967, shall be exempt from all liability for any debt of the insured, and from any debt of the beneficiary existing at the time the proceeds are made available for his use. [1967 c.359 §369]

743.111 Return of premium on destruction of property. (1) In the event of the total destruction of any insured property, if the total amount of loss or agreed loss is less than the total amount insured thereon, the insurer or insurers shall return to the insured the portion of insurance premium paid for the excess of the insurance over the loss. This amount shall be paid at the same time and in the same manner as the loss.

(2) This section does not apply to insurance on stocks of merchandise or property of fluctuating values where the reduced rate percentage clause is made a part of the policy. [Formerly 744.090]

743.114 Recovery of attorney fees in action on policy. If settlement is not made within six months from the date proof of loss is filed with an insurer and an action is brought in any court of this state upon any policy of insurance of any kind or nature, and the plaintiff's recovery exceeds the amount of any tender made by the defendant in such action, a reasonable amount to be fixed by the court as attorney fees shall be taxed as part of the costs of the action and any appeal thereon. [Formerly 736.325; 1971 c.123 §1]

743.116 Reimbursement for services performed at state hospitals. No policy of health insurance shall exclude from payment or reimbursement losses incurred by an insured for any covered service, except for mental illness or psychiatric care, because the service was rendered at any hospital owned or operated by the State of Oregon or its political subdivisions. [1971 c.603 §2]

743.117 Reimbursement for services of optometrist. (1) Notwithstanding any provision of any policy of health insurance, whenever such policy provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed optometrist, the insured under such policy shall be entitled to reimbursement for such service, whether such service is performed by a physician or duly licensed optometrist. Unless such policy shall otherwise provide, there shall be no reimbursement for ophthalmic materials, lenses, spectacles, eyeglasses or appurtenances thereto.

(2) The provisions of this section shall not apply to any policy in effect upon September 13, 1967. [1967 c.271 §§2, 3]

743.120 Health insurance coverage for newly born children. (1) All individual and group health insurance policies providing hospital, medical or surgical expense benefits that include coverage for a family member of the insured shall also provide that the health insurance benefits applicable for children in the family shall be payable with respect to a newly born child of the insured from the moment of birth.

(2) The coverage of newly born children required by subsection (1) of this section shall consist of coverage of injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(3) If payment of a specific premium is required to provide coverage for a child, the policy may require that notification of the birth of the child and payment of the premium be furnished the insurer within 31 days after the date of birth in order to have the coverage extended beyond the 31-day period. [1975 c.135 §2]

743.123 Health insurance coverage for services provided by psychologist. Whenever any provision of any individual or group health insurance policy or contract provides for payment or reimbursement for any service which is within the lawful scope of a psychologist licensed under ORS 675.010 to 675.150:

(1) The insured under such policy or contract shall be free to select, and shall have direct access to, a psychologist licensed under ORS 675.010 to 675.150, without supervision or referral by a physician or another health practitioner, and wherever such psychologist is authorized to practice.

(2) The insured under such policy or contract shall be entitled to have payment or reimbursement made to him or on his behalf for the services performed. Such payment or reimbursement shall be in accordance with the benefits provided in the policy and shall be the same whether performed by a physician or a psychologist licensed under ORS 675.010 to 675.150. [1975 c.338 §2]

743.125 Denial or cancellation of health insurance because of diethylstilbestrol use by mother prohibited. No policy of health insurance may be denied or canceled by the insurer solely because the mother of the insured used drugs containing diethylstilbestrol prior to the insured's birth. [1979 c.268 §6]

743.128 Reimbursement for services of nurse practitioner. (1) Whenever any policy of health insurance provides for reimbursement for any service which is within the lawful scope of practice of a duly licensed and certified nurse practitioner, including prescribing or dispensing drugs, the insured under the policy is entitled to reimbursement for such service whether it is performed by a physician licensed by the Board of Medical

Examiners for the State of Oregon or by a duly licensed nurse practitioner.

(2) This section does not apply to group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Health Maintenance Organization Act. [1979 c.785 §20]

743.132 Reimbursement for services of denturist. Notwithstanding any provisions of any policy of insurance covering dental health, whenever such policy provides for reimbursement for any service which is within the lawful scope of practice of a denturist, the insured under such policy shall be entitled to reimbursement for such service, whether the service is performed by a licensed dentist or a certified denturist. This section shall apply to any policy covering dental insurance which is issued after July 1, 1980. Policies which are in existence on July 1, 1980. Policies which are in existence on July 1, 1980 shall be brought into compliance on the next anniversary date, renewal date, or the expiration date of the applicable collective bargaining contract, if any, whichever date is latest. [1979 c.1 §15]

Note: 743.132 was added to and made a part of the Insurance Code by the people in the exercise of their initiative power but was not added to or made a part of ORS chapter 743 or any series therein. See the Preface to Oregon Revised Statutes for further explanation.

INDIVIDUAL LIFE INSURANCE AND ANNUITIES

(Generally)

743.150 Scope of ORS 743.150, 743.153 and 743.156. ORS 743.150, 743.153 and 743.156 apply only to policies of life insurance, other than group life insurance. [1967 c.359 §372]

743.153 Statement of benefits. A life insurance policy shall contain a provision stating the amount of benefits payable or the method to be used or procedure to be followed in determining such amount, the manner of payment and the consideration therefor. [Formerly 739.310]

743.156 Statement of premium. A life insurance policy shall contain a provision separately stating the premium for each benefit provision of the policy for which such separate statement is necessary, as determined by the commissioner, to give adequate disclosure of the terms of the policy. [1967 c.359 §374]

(Individual Life Insurance Policies)

743.159 Scope of ORS 743.162 to 743.243. ORS 743.162 to 743.243 apply only to policies of life insurance other than group life insurance, and do not apply to annuity or pure endowment policies. Such sections apply to such policies that are policies of variable life insurance, except to the extent the provisions of such sections are obviously inapplicable to variable life insurance or are in conflict with other provisions of such sections that are expressly applicable to variable life insurance. [1967 c.359 §375; 1973 c.435 §16]

743.162 Payment of premium. A life insurance policy shall contain a provision relating to the time and place of payment of premium. [1967 c.359 §376]

743.165 Grace period. A life insurance policy shall contain a provision that a grace period of 30 days, or, at the option of the insurer, of one month of not less than 30 days, or of four weeks in the case of industrial life insurance policies the premiums for which are payable more frequently than monthly, shall be allowed within which the payment of any premium after the first may be made, during which period of grace the policy shall continue in full force. The insurer may impose an interest charge not in excess of six percent per annum for the number of days of grace elapsing before the payment of the premium. If a claim arises under the policy during such period of grace the amount of any premium due or overdue, together with interest and any deferred instalment of the annual premium, may be deducted from the policy proceeds. [1967 c.359 §377]

743.168 Incontestability. (1) A life insurance policy shall contain a provision that the policy shall be incontestable after it has been in force for two years from its date of issue during the lifetime of the insured, except for nonpayment of premiums. At the option of the insurer 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.

(2) A provision in a life insurance policy 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 provision. [1967 c.359 §378]

743.171 Incontestability and limitation of liability after reinstatement. (1) A reinstated policy of life insurance may be contested on account of fraud or misrepresentation of facts material to the reinstatement only for the same period following reinstatement, and with the same conditions and exceptions, as the policy provides with respect to contestability after original issuance.

(2) When any policy of life insurance is reinstated, such reinstated policy may exclude or restrict liability to the same extent that such liability could have been or was excluded or restricted when the policy was originally issued, and such exclusion or restriction shall be effective from the date of reinstatement. [1967 c.359 §379]

743.174 Entire contract. A life insurance policy shall contain a provision that the policy constitutes the entire contract between the parties. [1967 c.359 §380]

743.177 Statements of insured. A life insurance policy shall contain a provision that all statements made by or on behalf of 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 application is indorsed upon or attached to the policy when issued. [1967 c.359 §381]

743.180 Misstatement of age. A life insurance policy shall contain a provision that if it is found at any time before final settlement under the policy that the age of the insured or of any other person whose age is considered in determining the premium or benefit accruing under the policy has been misstated, the amount payable or benefit accruing under the policy shall be such as the premium would have purchased at the correct age or ages, or the premium may be adjusted and credit given to the insured or to the insurer, according to the insurer's published rate at date of issue. [1967 c.359 §382]

743.183 Dividends. (1) A life insurance policy other than a nonparticipating policy shall contain a provision that the policy shall participate in the divisible surplus of the insurer annually, beginning not later than the end of the third policy year. Any policy containing provision for participation beginning at the end of the first or the second policy year may provide that dividends for either or both of such years shall be paid subject to the payment of the premium for the next ensuing year. The owner of the 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 dividend option is effective if the owner does not elect one of such options on or before the expiration of the period of grace allowed for the payment of the premium.

(2) In participating industrial life insurance policies, in lieu of the provision required in subsection (1) of this section, there shall be a provision that, beginning not later than the end of the fifth policy year, the policy shall participate annually in the divisible surplus in the manner set forth in the policy.

(3) This section does not apply to any form of paid-up insurance or temporary insurance or endowment insurance issued or granted in exchange for lapsed or surrendered policies. [1967 c.359 §383]

743.186 Policy loan. (1) A life insurance policy shall contain a provision that after three full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security thereof, at a rate of interest not exceeding eight percent per annum, an amount equal to or, at the option of the party entitled thereto, less than the loan value of the policy. The loan value of the policy shall be equal to the cash surrender value at the end of the then current policy year, less any existing indebtedness not already deducted in determining such cash surrender value including any interest then accrued but not due, any unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on any indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate; and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value thereof, then the policy shall

terminate and become void, but not until notice has been mailed by the insurer at least 30 days prior thereto to the last-known address of the insured or other policy owner and of any assignee of record at the home office of the insurer.

(2) The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of any premium to the insurer, for six months after application therefor.

(3) The policy, at the insurer's option, may provide for automatic premium loan.

(4) This section does not apply to term insurance policies or term insurance benefits provided by rider or supplemental policy provisions, or to industrial life insurance policies. [1967 c.359 §384; 1975 c.575 §1]

743.189 Reinstatement. A life insurance policy shall contain a provision that if in event of default in premium payments the value of the policy is applied to provide a paid-up nonforfeiture benefit, and if such benefit is currently in force and the original policy has not been surrendered to the insurer and canceled, and if a period of not more than three years has elapsed since such default (or two years in the case of an industrial life insurance policy), the policy may be reinstated upon evidence of insurability satisfactory to the insurer and payment of arrears of premiums and the payment or reinstatement of any other indebtedness to the insurer upon such policy, with interest at a rate of not exceeding six percent per annum. [1967 c.359 §385]

743.192 Payment of claims. A life insurance policy shall contain a provision that when the 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. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed two months after receipt of such proof. [1967 c.359 §386]

743.195 Settlement option. A life insurance policy shall contain a table showing the amounts of instalments, if any, by which its proceeds may be payable. [1967 c.359 §387]

743.198 Title. A life insurance policy shall contain a title briefly and correctly describing the policy. If an industrial life insurance policy, it shall have the words "industrial policy" imprinted on the face thereof as part of the descriptive matter. [1967 c.359 §388]

743.201 Beneficiary, industrial policies. An industrial life insurance policy shall have the name of the beneficiary designated thereon, or in the application or other form if attached to the policy, with a reservation of the right to designate or change the beneficiary after the issuance of the policy unless such beneficiary has been irrevocably designated. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until indorsed on the policy by the insurer, and that the insurer may refuse to indorse the name of any proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which shall not be less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, then the insurer may make any payment thereunder to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled thereto by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to any other payment due under the policy. [1967 c.359 §389]

743.204 Standard Nonforfeiture Law for Life Insurance; applicability. (1) ORS 743.204 to 743.222 may be cited as the Standard Nonforfeiture Law for Life Insurance.

(2) The operative date of the Standard Nonforfeiture Law for Life Insurance as to any policy is the earlier of:

(a) January 1, 1948; or

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

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

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

(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 743.216, 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 insurer issuing the policy.

(e) Any policy issued before the operative date of the Standard Nonforfeiture Law for Life Insurance as to such policy. [Formerly 739.340; 1977 c.320 §13]

743.207 Required provisions relating to nonforfeiture. (1) A life insurance policy shall contain 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 insurer 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 743.213.

(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 life insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of the amount required by subsection (1) of ORS 743.210.

(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 life insurance, the insurer 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 743.210.

(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 insurer on the policy. At the option of the insurer such table may also show such values and benefits for any year or years beyond the 20th 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 insurer on the policy.

(2) The insurer 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. [Formerly 739.345]

743.210 Determination of cash surrender values. (1) Any cash surrender value available under a life insurance policy in the event of default in a premium payment due on any policy anniversary, whether or not required by ORS 743.207, 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 743.216, corresponding to premiums which would have fallen due on and after such anniversary; and

(b) The amount of any indebtedness to the insurer 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 743.207, 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 insurer on the policy. [Formerly 739.350]

743.213 Determination of paid-up nonforfeiture benefits. Any paid-up nonforfeiture benefit available under a life insurance 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 743.207 in the absence of the condition that premiums have been paid for at least a specified period. [Formerly 739.355]

743.216 Adjusted premiums. (1) Except as provided in subsection (3) of this section, the adjusted premiums as referred to in ORS 743.210 for any life insurance 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 for the same amount of insurance or for an equivalent uniform amount with uniform premiums for the whole of life issued at the same age, whichever is less.

In applying the percentages specified in paragraphs (c) and (d) of this subsection, 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 items specified in paragraphs (a) and (b) of this subsection shall be calculated separately and as specified in subsections (1) and (2) of this section except that, for the purposes of items specified in paragraphs (b), (c) and (d) of subsection (1) of this section, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in paragraph (b) of this subsection 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 paragraph (a) of this subsection.

(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 the Standard Nonforfeiture Law for Life Insurance 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 six years younger than the actual age of the insured. Except as provided in paragraphs (a) and (b) of this subsection and subsection (7) of this section, such calculations of adjusted premiums and present values for all policies of industrial life 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 insurer 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 the Standard Nonforfeiture Law for Life Insurance 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 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 six years younger than the actual age of the insured. Such rate of interest shall not exceed three and one-half percent, except that a rate of interest not exceeding four percent may be used for policies issued from January 1, 1974, to December 31, 1977, and a rate of interest not exceeding five and one-half percent may be used for policies issued on or after January 1, 1978, and with the further exception that for any single premium whole life or endowment insurance policy a rate of interest not exceeding six and one-half percent may be used.

(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 insurer and approved by the commissioner.

(6) After August 9, 1961, any insurer 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 insurer), such subsection shall become operative with respect to the ordinary policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of such subsection for such insurer shall be January 1, 1966.

(7) In the case of policies of industrial life insurance issued on or after the operative date of this subsection as prescribed in subsection (8) of this section, all adjusted premiums and present values referred to in the Standard Nonforfeiture Law for Life Insurance shall, except as provided in paragraphs (a) and (b) of this subsection, be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits. Such rate of interest shall not exceed three and one-half percent, except that a rate of interest not exceeding four percent may be used for policies issued from January 1, 1974, to December 31, 1977, and a rate of interest not exceeding five and one-half percent may be used for policies issued on or after January 1, 1978, and with the further exception that for any single premium whole life or endowment insurance policy a rate of interest not

exceeding six and one-half percent may be used.

(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 1961 Industrial 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 insurer and approved by the commissioner.

(8) After September 2, 1963, any insurer may file with the commissioner a written notice of its election to comply with the provisions of subsection (7) of this section after a specified date before January 1, 1968. After the filing of such notice, then upon such specified date (which shall be the operative date of such subsection for such insurer), such subsection shall become operative with respect to the industrial life insurance policies thereafter issued by such insurer. If an insurer makes no such election, the operative date of such subsection for such insurer shall be January 1, 1968. [Formerly 739.360; 1973 c.636 §6; 1977 c.320 §14]

743.219 Supplemental rules for calculating nonforfeiture benefits. (1) Any cash surrender value and any paid-up nonforfeiture benefit available under a life insurance 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 743.210, 743.213 and 743.216 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. [Formerly 739.365]

743.222 Policy benefits and premiums that shall be disregarded in calculating cash surrender values and paid-up nonforfeiture benefits. (1) Notwithstanding the provisions of ORS 743.210, additional benefits and premiums therefor in a life insurance policy shall be disregarded in ascertaining cash surrender values and paid-up nonforfeiture benefits when such additional benefits are 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 743.204 to 743.222 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.

(2) No such additional benefits shall be required to be included in any paid-up nonforfeiture benefits. [Formerly 739.370]

743.225 Prohibited provisions. No life insurance policy shall contain 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. [Formerly 739.315]

743.228 Acts of corporate insured or beneficiary with respect to policy. (1) Whenever a corporation organized under the laws of this state 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 life insurance policy, 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 insurer 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 insurer 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. [Formerly 739.415]

743.230 Variable life policy provisions. A variable life insurance policy shall contain in substance the following provisions:

(1) A provision that there will be a period of grace of 30 days within which payment of any premium after the first may be made, during which period of grace the policy will continue in full force. If a claim arises under the policy during such period of grace, the amount of any premiums due or overdue, together with interest not in excess of six percent per annum and any deferred instalment of the annual premium, may be deducted from the policy proceeds. The policy may contain a statement of the basis for determining any variation in benefits that may occur as a result of the payment of premium during the period of grace.

(2) A provision that the policy will be reinstated at any time within three years from the date of a default in premium payments, unless the cash surrender value has been paid or the period of extended insurance has expired, upon the production of evidence of insurability satisfactory to the insurer and the payment of an amount not exceeding the greater of:

(a) All overdue premiums and any other indebtedness to the insurer upon said policy with interest at a rate not exceeding six percent per annum; and

(b) One hundred ten percent of the increase in cash surrender value resulting from reinstatement.

(3) A provision for cash surrender values and paid-up insurance benefits available as nonforfeiture options in the event of default in a premium payment after premiums have been paid for a specified period. If the policy does not include a table of figures for the options so available, the policy shall provide that the insurer will furnish, at least once in each policy year, a statement showing the cash value as of a date no earlier than the next preceding policy anniversary.

(a) The method of computation of cash values and other nonforfeiture benefits shall be as described either in the policy or in a statement filed with the commissioner, and shall be actuarially appropriate to the variable nature of the policy.

(b) The method of computation must result, if the net investment return credited to the policy at all times from the date of issue equals the specified investment increment factor, with premiums and benefits determined accordingly under the terms of the policy, in cash values and other nonforfeiture benefits at least equal to the minimum values required by the Standard Nonforfeiture Law for a policy with such premiums and benefits. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, but are not limited to, a guarantee which provides that the amount payable at death or maturity shall be at least equal to the amount that would be payable if the net investment return credited to the policy at all times from the date of issue is equal to the specified investment increment factor.

(4) A provision specifying the investment increment factor to be used in computing the dollar amount of variable benefits or other variable payments or values under the policy, and guaranteeing that expense and mortality results will not adversely affect such dollar amounts. [1973 c.435 §18]

743.231 "Profit-sharing policy" defined. "Profit-sharing policy" means:

(1) A life insurance policy which by its terms expressly provides that the policyholder will participate in the distribution of earnings or surplus other than earnings or surplus attributable, by reasonable and nondiscriminatory standards, to the participating policies of the insurer and allocated to the policyholder on reasonable and nondiscriminatory standards; or

(2) A life insurance policy the provisions of which, through sales material or oral presentations, are interpreted by the insurer to

prospective policyholders as entitling the policyholder to the benefits described in subsection (1) of this section. [Formerly 739.705]

743.234 "Charter policy" or "founders policy" defined. "Charter policy" or "founders policy" means:

(1) A life insurance policy which by its terms expressly provides that the policyholder will receive some preferential or discriminatory advantage or benefit not available to persons who purchase insurance from the insurer at future dates or under other circumstances; or

(2) A life insurance policy the provisions of which, through sales material or oral presentations, are interpreted by the insurer to prospective policyholders as entitling the policyholder to the benefits described in subsection (1) of this section. [Formerly 739.710]

743.237 "Coupon policy" defined. "Coupon policy" means a life insurance policy which provides a series of pure endowments maturing periodically in amounts not exceeding the gross annual policy premiums. The term "pure endowment" or "endowment" is used in its accepted actuarial sense, meaning a benefit becoming payable at a specific future date if the insured person is then living. [Formerly 739.715]

743.240 Profit-sharing, charter or founders policies prohibited. No profit-sharing, charter or founders policy shall be issued or delivered in this state. [Formerly 739.720]

743.243 Restrictions on form of coupon policy. Coupon policies issued or delivered in this state shall be subject to the following provisions:

(1) No detachable coupons or certificates or passbooks may be used. No other device may be used which tends to emphasize the periodic endowment benefits or which tends to create the impression that the endowments represent interest earnings or anything other than benefits which have been purchased by part of the policyholder's premium payments.

(2) Each endowment benefit must have a fixed maturity date and payment of the endowment benefit shall not be contingent upon the payment of any premium becoming due on or after such maturity date.

(3) The endowment benefits must be expressed in dollar amounts rather than as percentages of other quantities or in other ways, both in the policy itself and in the sale thereof.

(4) A separate premium for the periodic endowment benefits must be shown in the policy adjacent to the rest of the policy premium information and must be given the same emphasis in the policy and in the sale thereof as that given the rest of the policy premium information. This premium shall be calculated with mortality, interest and expense factors which are consistent with those for the basic policy premium. [1967 c.359 §403]

743.245 Variable life insurance policy provisions. A variable life insurance policy shall contain a provision stating the essential features of the procedures to be followed by the insurer in determining benefits thereunder. Such a policy, and any certificate evidencing such a policy, shall contain on its first page a clear and prominent statement to the effect that benefits thereunder are variable. [1973 c.435 §14]

743.247 Notice to variable life insurance policyholders. An insurer issuing individual variable life insurance policies shall mail to each policyholder at least once in each policy year after the first, at his last address known to the insurer:

(1) A statement reporting the investments held in the applicable separate account.

(2) A statement reporting as of a date not more than four months preceding the date of mailing:

(a) In the case of an annuity policy under which payments have not yet commenced, the number of accumulation units credited to such policy and the dollar value of a unit, or the value of the policyholder's account; and

(b) In the case of a life insurance policy, the dollar amount of the death benefit. [1973 c.435 §15]

(Individual Annuity and Pure Endowment Policies)

743.252 Scope of ORS 743.255 to 743.273. ORS 743.255 to 743.273 apply only to annuity and pure endowment policies, other than reversionary annuity policies except as provided in ORS 743.273, and other than group annuity policies, and shall not apply to reversionary or deferred annuity benefits included in life insurance policies. Such sections apply to such policies that are variable annuity policies, except to the extent the

provisions of such sections are obviously inapplicable to variable annuities or are in conflict with other provisions of such sections that are expressly applicable to variable annuities. [1967 c.359 §404; 1973 c.435 §19]

743.255 Grace period, annuities. An annuity or pure endowment policy shall contain a provision that there shall be a period of grace of one month, but not less than 30 days, within which any stipulated payment to the insurer falling due after the first such payment may be made, subject at the option of the insurer to an interest charge thereon at the rate specified in the policy but not exceeding six percent per annum for the number of days of grace elapsing before such payment, during which period of grace the policy shall continue in full force. In case a claim arises under the policy on account of death prior to expiration of the period of grace before the overdue payment to the insurer or the deferred payments of the current policy year, if any, are made, the amount of such payments, with interest on any overdue payments, may be deducted from any amount payable under the policy in settlement. [1967 c.359 §405]

743.258 Incontestability, annuities. If any statement other than those relating to age, sex and identity are required as a condition to issuing an annuity or pure endowment policy, the policy shall contain a provision that the policy shall be incontestable after it has been in force during the lifetime of the person or of each of the persons as to whom such statements are required, for a period of two years from its date of issue, except for nonpayment of stipulated payments to the insurer. At the option of the insurer the two year limit within which the policy may be contested shall not apply to any provisions relative to benefits in the event of disability and any provisions which grant insurance specifically against death by accident or accidental means. [1967 c.359 §406]

743.261 Entire contract, annuities. An annuity or pure endowment policy shall contain a provision that the policy, including a copy of the application if indorsed upon or attached to the policy when issued, shall constitute the entire contract between the parties. [1967 c.359 §407]

743.264 Misstatement of age or sex, annuities. An annuity or pure endowment policy shall contain a provision that if the age or sex of the person or persons upon whose life or lives the policy is made, or of any of them, has been misstated, the amount payable or benefits accruing under the policy shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex, and that if the insurer has made any overpayment or overpayments on account of any such misstatement, the amount thereof with interest at the rate specified in the policy but not exceeding six percent per annum may be charged against the current or next succeeding payment or payments to be made by the insurer under the policy. [1967 c.359 §408]

743.267 Dividends, annuities. If an annuity or pure endowment policy is participating, it shall contain a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the policy. [1967 c.359 §409]

743.270 Reinstatement, annuities. An annuity or pure endowment policy shall contain a provision that the policy may be reinstated at any time within one year from a default in making stipulated payments to the insurer, unless the cash surrender value has been paid, but all overdue stipulated payments and any indebtedness to the insurer on the policy shall be paid or reinstated with interest at the rate specified in the policy but not exceeding six percent per annum, and in cases where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer. [1967 c.359 §410]

743.271 Periodic stipulated payments, variable annuities. A variable annuity policy requiring periodic stipulated payments to the insurer shall contain in substance the following provisions:

(1) A provision that there will be a period of grace of 30 days within which any stipulated payment to the insurer after the first may be made, during which period of grace the policy will continue in full force. The policy may include a statement of the basis for determining the date as of which any such payment received during the period of grace will be applied.

(2) A provision that, at any time within one year from the date of a default in making periodic stipulated payments to the insurer during the life of the annuitant, and unless the cash surrender value has been paid, the policy may be reinstated upon payment to the

insurer of the overdue payments and all indebtedness to the insurer on the policy, with interest. The policy may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness will be applied.

(3) A provision specifying the options available in the event of a default in a periodic stipulated payment. Such options may include an option to surrender the policy for a cash value as determined by the policy, and shall include an option to receive a paid-up annuity if the policy is not surrendered for cash, the amount of the paid-up annuity being determined by applying the value of the policy at the annuity commencement date in accordance with the terms of the policy. [1973 c.435 §21]

743.272 Computing benefits, variable annuities. (1) A variable annuity policy shall specify the investment increment factors to be used in computing the dollar amount of variable benefits or other variable payments or values under the policy, and may guarantee that expense or mortality results or both will not adversely affect such dollar amounts. In the case of an individual variable annuity policy under which the expense or mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be correspondingly specified in the policy. "Expense" as used in this subsection may exclude some or all taxes, as specified in the policy.

(2) In computing the dollar amount of variable benefits or other policy payments or values:

(a) The annual net investment increment assumption shall not exceed five percent, except with the approval of the commissioner; and

(b) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a lower life expectancy at any age or, if approved by the commissioner, from another table. [1973 c.435 §22]

743.273 Standard provisions, reversionary annuities. A policy of reversionary annuity shall contain in substance the following provisions:

(1) The provisions specified in ORS 743.255 to 743.267, except that under ORS 743.255 the insurer may at its option provide for an equitable reduction of the amount of the annuity payments in settlement of an overdue payment in lieu of providing for deduction of the overdue payment from an amount payable upon settlement under the policy.

(2) A provision that the policy may be reinstated at any time within three years from the date of default in making stipulated payments to the insurer, upon production of evidence of insurability satisfactory to the insurer, and upon the condition that all overdue payments and any indebtedness to the insurer on account of the policy be paid or reinstated with interest at the rate specified in the policy but not exceeding six percent per annum. [1967 c.359 §411]

743.275 Standard Nonforfeiture Law for Individual Deferred Annuities; operative date; application. (1) ORS 743.275 to 743.295 may be cited as the Standard Nonforfeiture Law for Individual Deferred Annuities.

(2) The operative date of the Standard Nonforfeiture Law for Individual Deferred Annuities for an insurer is the earlier of:

(a) Two years after October 4, 1977; and

(b) The date specified in a written notice filed with the commissioner by the insurer of election to comply with the Standard Nonforfeiture Law for Individual Deferred Annuities as of the specified date.

(3) The Standard Nonforfeiture Law for Individual Deferred Annuities does not apply to:

(a) Annuity benefits purchased under a group annuity policy issued in conjunction with a retirement or deferred compensation plan established or maintained by an employer, an employe organization, or both. This exclusion does not apply, however, to a retirement or deferred compensation plan providing individual retirement accounts or individual retirement annuities governed by section 408 of the federal Internal Revenue Code.

(b) A premium deposit fund.

(c) A variable annuity policy.

(d) An investment annuity policy.

(e) An immediate annuity policy.

(f) A deferred annuity policy with respect to the period after annuity payments begin.

(g) A reversionary annuity.

(h) A policy issued before the operative date of the Standard Nonforfeiture Law for Individual Deferred Annuities for the insurer. [1977 c.320 §2]

743.278 Required provisions in annuity policies; exception. (1) An annuity policy shall contain in substance the following provisions, or corresponding provisions that in the opinion of the commissioner are at least as favorable to the policyholder:

(a) That upon the termination of consideration payments under the policy the insurer will grant a paid-up annuity benefit on a plan stipulated in the policy, of the value required by ORS 743.284.

(b) That, if the policy provides for a lump sum settlement at maturity or any other time, the insurer will pay upon surrender of the policy on or before the start of annuity payments, in lieu of a paid-up annuity benefit, a cash surrender benefit of the amount required by ORS 743.284. The insurer shall reserve the right to defer the payment of the cash surrender benefit for a period of six months after demand therefor with surrender of the policy.

(c) A statement of the mortality table, if any, and interest rates used in calculating minimum guaranteed paid-up annuity, cash surrender and death benefits under the policy, together with sufficient information to determine the amount of such benefits.

(d) A statement that paid-up annuity, cash surrender and death benefits available under the policy are not less than the minimums required by the statutes of the jurisdiction in which the policy is delivered, with an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the policy, any indebtedness to the insurer on the policy or any prior withdrawals from or partial surrenders of the policy.

(2) Notwithstanding subsection (1) of this section, the policy may provide that if no consideration payments have been received for two full years and the paid-up annuity benefit at maturity on the plan stipulated in the policy, arising from the considerations paid before such two-year period, is less than $20 monthly, the insurer at its option may terminate the policy by payment in cash of the then present value of the paid-up annuity benefit. Such value shall be calculated on the basis of the mortality table, if any, and the interest rate specified in the policy for calculating the paid-up annuity benefit. By this payment the insurer will be relieved of further obligations under the policy. [1977 c.320 §3]

743.281 Calculation of "minimum nonforfeiture amount." "Minimum nonforfeiture amount" as referred to in the Standard Nonforfeiture Law for Individual Deferred Annuities shall be calculated as follows:

(1) For a policy providing for flexible consideration payments, the minimum nonforfeiture amount at a given time equals the then accumulated value at three percent interest of the percentages specified in paragraph (b) of this subsection of the net considerations previously paid, decreased by the then accumulated value at three percent interest of previous withdrawals from or partial surrenders of the policy and the amount of any indebtedness to the insurer on the policy, and increased by any existing additional amounts credited by the insurer to the policy.

(a) The net considerations used in calculating the minimum nonforfeiture amount equal, for a given policy year, the gross considerations credited to the policy during that year less a policy charge for the year of $30 and less a collection charge of $1.25 per consideration credited during that year, but the net considerations shall not be less than zero for any year.

(b) The percentages shall be 65 percent of the net considerations for the first policy year, and 87-1/2 percent of the net considerations for the years thereafter, except that the percentage for years after the first policy year shall be 65 percent for the portion of the total net consideration in any such year that exceeds the sum, but does not exceed twice the sum, of the portions of net considerations in previous years for which the percentage was 65 percent.

(2) For a policy providing for scheduled amounts of consideration payments, the minimum nonforfeiture amount shall be calculated using the assumption that considerations are paid annually in advance and the same calculation method as for a policy with flexible considerations, except that:

(a) The portion of the net considerations for the first policy year to be accumulated shall be 65 percent of such net considerations plus 22-1/2 percent of the excess of such net considerations over the lesser of the net considerations for the second and third policy years; and

(b) The policy charge for a given policy year shall be the lesser of $30 and 10 percent of the gross considerations for the year.

(3) For a policy providing for a single consideration, the minimum nonforfeiture amount shall be calculated using the same method as for a policy with flexible considerations, except that:

(a) The net consideration shall be the gross consideration less a policy charge of $75; and

(b) The percentage shall be 90 percent. [1977 c.320 §4]

743.284 Computation of benefits. (1) Any paid-up annuity benefit available under an annuity policy shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the policy for determining the minimum guaranteed paid-up annuity benefits.

(2) For annuity policies that provide cash surrender benefits, such benefits available prior to maturity shall be an amount not less than the present value on the date of surrender of the portion of the policy maturity value of its paid-up annuity benefits that arises from considerations paid before the surrender, reduced by appropriate amounts reflecting any previous withdrawals from or partial surrenders of the policy. Such present value shall be calculated using an interest rate not more than one percent higher than the interest rate specified in the policy for accumulating the net considerations to determine such policy maturity value, shall be decreased by the amount of any indebtedness to the insurer on the policy, and shall be increased by any existing additional amounts credited by the insurer to the policy. In no event shall the cash surrender benefit be less than the minimum nonforfeiture amount on the date of surrender. The death benefit under an annuity policy that provides cash surrender benefits shall be at least equal to the cash surrender benefit.

(3) For annuity policies that do not provide cash surrender benefits, the present value of the paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of the portion of the policy maturity value of its paid-up annuity benefits that arises from considerations paid before the policy is surrendered in exchange for, or changed to, a deferred paid-up annuity. Such present value shall be calculated for the period prior to the maturity date on the basis of the interest rate specified in the policy for accumulating the net considerations to determine the policy maturity value, and shall be increased by any existing additional amounts credited by the insurer to the policy. For such annuity policies that also do not provide any death benefits before annuity payments start, such present value shall be calculated on the basis of such interest rate and the mortality table specified in the policy for determining the policy maturity value of its paid-up annuity benefit. In no event, however, shall the present value of a paid-up annuity benefit be less at any time than the minimum nonforfeiture amount. [1977 c.320 §5]

743.287 Commencement of annuity payments at optional maturity dates; calculation of benefits. (1) For the purpose of subsections (2) and (3) of ORS 743.284 in the case of annuity policies under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be considered to be the latest date for which such election is permitted by the policy, but not later than the later of the policy anniversary next following the annuitant's 70th birthday and the 10th anniversary of the policy.

(2) Paid-up annuity, cash surrender and death benefits available at any time other than on a policy anniversary of a policy with scheduled amounts of consideration payments shall be calculated with allowance for the lapse of time and the payment of scheduled considerations beyond the start of the policy year in which termination of consideration payments occurs. [1977 c.320 §6]

743.290 Notice of nonpayment of certain benefits to be included in annuity policy. An annuity policy that does not provide cash surrender benefits, or that does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the start of annuity payments, shall include a prominent statement to that effect. [1977 c.320 §7]

743.295 Effect of certain life insurance and disability benefits on minimum nonforfeiture amounts. (1) For an annuity policy that includes, by rider or otherwise, life

insurance benefits that exceed the greater of the cash surrender benefit and the return of the gross considerations with interest, the minimum nonforfeiture benefits shall equal the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion, computed as if each portion were a separate policy.

(2) Additional benefits payable in the event of total and permanent disability, as reversionary annuity or deferred reversionary annuity benefits, or as other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits required by the Standard Nonforfeiture Law for Individual Deferred Annuities. The inclusion of such additional benefits shall not be required in any paid-up benefits unless the additional benefits would separately require minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits. [1977 c.320 §8]

GROUP LIFE INSURANCE

743.303 Requirements for issuance of group life insurance policies. Policies of group life insurance are subject to the following requirements:

(1) The policy shall be issued upon the lives of persons who are associated in a common group formed for purposes other than the obtaining of insurance, except that group policies of credit life insurance may be issued to persons other than those in a common group;

(2) Not less than 75 percent of the eligible members of the group or 10 lives, whichever is the greater, are insured at the date of issue of the policy;

(3) The amounts of insurance under the policy shall be based on some plan precluding individual selection, except that optional supplemental insurance may be available to persons insured under the policy, if the amounts of such supplemental insurance are based upon age, salary, rank or similar objective standards; and

(4) The person contracting for the group coverage shall be responsible for the payment of premiums. [1967 c.359 §412; 1971 c.231 §44]

743.306 Required provisions in group life insurance policies. (1) Except as provided in subsection (2) of this section a group life insurance policy shall contain in substance the provisions described in ORS 743.309 to 743.342.

(2) The provisions described in ORS 743.327 to 743.339 shall not apply to policies of group credit life insurance. [1967 c.359 §413]

743.309 Nonforfeiture provisions. If a group life insurance policy is on a plan of insurance other than the term plan, it shall contain nonforfeiture provision or provisions which in the opinion of the commissioner are equitable to the insured persons and to the policyholder, but nothing in this section shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies. [1967 c.359 §414]

743.312 Grace period. A group life insurance policy shall contain 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. [1967 c.359 §415]

743.315 Incontestability. A group life insurance policy shall contain 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. [1967 c.359 §416]

743.318 Application; representations by policyholders and insureds. A group life insurance policy shall contain 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 policy-

holder 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. [1967 c.359 §417]

743.321 Evidence of insurability. A group life insurance policy shall contain 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. [1967 c.359 §418]

743.324 Misstatement of age. A group life insurance policy shall contain 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. [1967 c.359 §419]

743.327 Beneficiary for payments under policy. A group life insurance policy shall contain a provision that any sum becoming due by reason of the death of a 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. [1967 c.359 §420]

743.330 Issuance of certificates. A group life insurance policy shall contain 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 ORS 743.333, 743.336 and 743.339. [1967 c.359 §421]

743.333 Termination of individual coverage. A group life insurance policy shall contain 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:

(1) 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;

(2) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, less the amount of any life insurance for which such person is or becomes eligible under the same or 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

(3) 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. [1967 c.359 §422]

743.336 Termination of policy or class of insured persons. A group life insurance policy shall contain 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 ORS 743.333, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

(1) 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

(2) $2,000. [1967 c.359 §423]

743.339 Death during period for conversion to individual policy. A group life insurance policy shall contain 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 ORS 743.333 or 743.336 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. [1967 c.359 §424]

743.342 Statement furnished to insured under credit life insurance policy. A group credit life insurance policy shall contain 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. [1967 c.359 §425]

743.345 Assignability of group life policies. Nothing in the Insurance Code or in any other law shall be construed to prohibit any person insured under a group life insurance policy from making an assignment of all or any part of his incidents of ownership under such policy, including but not limited to the privilege to have issued to him an individual policy of life insurance pursuant to the provisions of ORS 743.333 to 743.339 and the right to name a beneficiary. Subject to the terms of the policy or an agreement between the insured, the group policyholder and the insurer relating to assignment of incidents of ownership under the policy, such an assignment by an insured, made either before or after September 9, 1971, is valid for the purpose of vesting in the assignee, in accordance with any provisions included in the assignment as to the time at which it is to be effective, all of such incidents of ownership so assigned, but without prejudice to the insurer on account of any payment it may make, or individual policy it may issue in accordance with ORS 743.333 to 743.339, prior to receipt of notice of the assignment. [1971 c.231 §6]

POLICY LANGUAGE SIMPLIFICATION

Note: Section 9, chapter 708, Oregon Laws 1979, provides:

Sec. 9. Sections 2 to 9 of this 1979 Act apply to policy forms first delivered or issued for delivery in this state on or after July 1, 1981. Other policy forms shall become subject to sections 2 to 9 of this 1979 Act on July 1, 1984. Any policy form that has been approved or permitted to be issued prior to July 1, 1984, and that meets the standards set by sections 2 to 9 of this 1979 Act need not be refiled for approval, but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner, on or before July 1, 1984, of a list of such forms identified by form number and accompanied by a certificate as to each such form in the manner provided in section 6 of this 1979 Act.

743.350 Short title. ORS 743.350 to 743.370 may be cited as the Life and Health Insurance Policy Language Simplification Act. [1979 c.708 §2]

743.353 Purpose. (1) The purpose of the Life and Health Insurance Policy Language Simplification Act is to establish minimum standards for language used in policies and certificates of life insurance and health insurance delivered or issued for delivery in this state in order to facilitate ease of reading.

(2) ORS 743.350 to 743.370 is not intended to increase the risk assumed by insurers or to supersede their obligation to comply with the substance of other Insurance Code provisions applicable to insurance policies. ORS 743.350 to 743.370 is not intended to impede flexibility and innovation in the development of policy forms or content or to lead to the standardization of policy forms or content. [1979 c.708 §3]

743.357 Definitions for ORS 743.350 to 743.370. As used in ORS 743.350 to 743.370, "policy" has the meaning given in ORS 731.122 and, in addition, includes a certificate issued pursuant to a group insurance policy delivered or issued for delivery in this state. [1979 c.708 §4]

743.362 Scope of ORS 743.350 to 743.370. (1) ORS 743.350 to 743.370 applies to all policies delivered or issued for delivery in this state, except:

(a) Any policy that is a security subject to federal jurisdiction.

(b) Any group policy covering a group of 1,000 or more lives at date of issue, other than a group credit life insurance policy or a group credit health insurance policy. However, this paragraph shall not exempt any certificate issued pursuant to a group policy.

(c) Any group annuity contract that serves as a funding vehicle for a pension, profit-sharing or deferred compensation plan.

(d) Any form used in connection with, as a conversion from, as an addition to, or, pursuant to a contractual provision, in exchange for, a policy delivered or issued for delivery on a form approved or permitted to be issued prior to the date the form must be approved under section 9, chapter 708, Oregon Laws 1979.

(e) The renewal of a policy delivered or issued for delivery prior to the date the policy form must be approved under section 9, chapter 708, Oregon Laws 1979.

(f) Any certificate issued pursuant to a group policy not delivered or issued for delivery in this state.

(2) A non-English language policy will be deemed to comply with ORS 743.365 if the insurer certifies that the policy is translated from an English language policy that complies with ORS 743.365. [1979 c.708 §5]

743.365 Reading ease standards for life and health insurance policies; procedures for determining ease of reading; certificate of compliance with standards to accompany policy filing. (1) No policy form shall be delivered or issued for delivery in this state unless:

(a) The policy text achieves a score of 40 or more on the Flesch reading ease test, or an equivalent score on any comparable test as provided in subsection (3) of this section;

(b) The policy, except for specification pages, schedules and tables is printed in not less than 10-point type, one point leaded;

(c) The style, arrangement and overall appearance of the policy give no undue prominence to any portion of the text, including the text of any indorsements or riders; and

(d) The policy contains a table of contents or an index of the principal sections of the policy, if the policy has more than 3,000 words of text printed on three or less pages, or regardless of the number of words if the policy has more than three pages.

(2) For the purposes of this section, a Flesch reading ease test score shall be calculated as follows:

(a) For policy forms containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms containing more than 10,000 words, two 200-word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.

(b) The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.

(c) The total number of syllables in the text shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.

(d) The sum of the figures computed under paragraphs (b) and (c) of this subsection subtracted from 206.835 equals the Flesch reading ease test score for the policy form.

(e) For purposes of paragraphs (b) and (c) of this subsection, the following procedures shall be used:

(A) A contraction, hyphenated word or numbers and letters, when separated by spaces, shall be counted as one word.

(B) A unit of words ending with a period, semicolon or colon shall be counted as a sentence.

(C) A "syllable" means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. If the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

(f) As used in this section, "text" includes all written matter except the following:

(A) The name and address of the insurer; the name, number or title of the policy; the table of contents or index; captions and subcaptions; specification pages; schedules or tables; and

(B) Policy language drafted to conform to the requirements of any state or federal law, regulation or agency interpretation; policy language required by any collectively bargained agreement; medical terminology; and words that are defined in the policy. However,

the insurer shall identify the language or terminology excepted by this subparagraph and shall certify in writing that the language or terminology is entitled to be excepted by this subparagraph.

(3) Any other reading test may be approved by the commissioner as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

(4) Each policy filing shall be accompanied by a certificate signed by an officer of the insurer stating that the policy meets the minimum required reading ease score on the test used, or stating that the score is lower than the minimum required but should be authorized in accordance with ORS 743.368. To confirm the accuracy of a certification, the commissioner may require the submission of further information.

(5) At the option of the insurer, riders, indorsements, applications and other forms made a part of the policy may be scored as separate forms or as part of the policy with which they may be used. [1979 c.708 §6]

743.368 Commissioner may authorize lower reading ease standards; conditions. The commissioner may authorize a lower score than the Flesch reading ease test score required by ORS 743.365 when, in the commissioner's sole discretion, the commissioner finds that a lower required score:

(1) Will provide a more accurate reflection of the readability of a policy form;

(2) Is warranted by the nature of a particular policy form or type or class of policy forms; or

(3) Is caused by certain policy language drafted to conform to the requirements of any state law, regulation or agency interpretation. [1979 c.708 §7]

743.370 Approval of certain policy forms not containing specified provisions; conditions for approval. A policy form meeting the requirements of ORS 743.365 shall not be disapproved because of other provisions of the Insurance Code that specify the content of policies, if the policy form provides the policyholders and claimants protection not less favorable than they would be entitled to under such provisions. [1979 c.708 §8]

INDIVIDUAL HEALTH INSURANCE

743.402 Exceptions to individual health insurance policy requirements. Nothing in ORS 743.405 to 743.498 shall apply to or affect:

(1) Any workers' compensation insurance policy or any liability insurance policy with or without supplementary expense coverage therein;

(2) Any policy of reinsurance;

(3) Any blanket or group policy of insurance; or

(4) Any life insurance policy, or policy supplemental thereto which contains only such provisions relating to health insurance as:

(a) Provide additional benefits in case of death or dismemberment or loss of sight by accident; or

(b) Operate to safeguard such policy against lapse, or to give a special surrender value or special benefit or an annuity in the event the insured shall become totally and permanently disabled, as defined by the policy or supplemental policy. [Formerly 741.022]

743.405 General requirements, individual health insurance policies. A health insurance policy shall meet the following requirements:

(1) The entire money and other considerations therefor shall be expressed therein;

(2) The time at which the insurance takes effect and terminates shall be expressed therein;

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

(4) Except as provided in ORS 743.498, the style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text, and every printed portion of the text of the policy and of any indorsements or attached papers shall be plainly printed in lightfaced type of a style in general use, the size of which shall be uniform and not less than 10 point with a lower case

unspaced alphabet length not less than 120 point. Captions shall be printed in not less than 12-point type. The "text" shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions;

(5) The exceptions and reductions of indemnity shall be set forth in the policy and, except those which are set forth in ORS 743.411 to 743.480, shall be printed at the insurer's option either included with the benefit provision to which they apply or under an appropriate caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS, provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies;

(6) Each form constituting the policy, including riders and indorsements, shall be identified by a form number in the lower lefthand corner of the first page thereof; and

(7) It shall contain no provision purporting to make any portion of the charter, rules, constitution or bylaws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of or reference to a statement of rates or classification of risks, or short rate table filed with the commissioner. [Formerly 741.120]

743.408 Mandatory provisions, individual health insurance policies. Except as provided in ORS 743.051, a health insurance policy shall contain the provisions set forth in ORS 743.411 to 743.444. Such provisions shall be preceded individually by the caption appearing in such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve. [1967 c.359 §428]

743.411 Entire contract; changes. A health insurance policy shall contain a provision as follows: "ENTIRE CONTRACT; CHANGES: This policy, including the indorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be indorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions." [1967 c.359 §429]

743.412 Coverage for alcoholism treatment; conditions; limits. A health insurance policy providing coverage for hospital or medical expenses not limited to expenses from accidents or specified sicknesses shall provide, at the request of the applicant, coverage for expenses arising from treatment for alcoholism. The following conditions apply to the requirement for such coverage:

(1) The applicant shall be informed of his option to request this coverage.

(2) The inclusion of the coverage may be made subject to the insurer's usual underwriting requirements.

(3) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance.

(4) The policy may limit hospital expense coverage to treatment provided by:

(a) A health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.810 to 441.820, 441.990, 442.300, 442.320, 442.330 442.340 to 442.350 and 442.400 to 442.450 or accredited by the Joint Commission on Accreditation of Hospitals; or

(b) A rehabilitation clinic and agency established, maintained, contracted with or operated by the Mental Health Division under ORS 430.260.

(5) Except as permitted by subsection (3) of this section, the policy shall not limit payments thereunder for alcoholism to an amount less than $3,000 in any 24-consecutive month period. [1977 c.632 §2]

743.414 Time limit on certain defenses; incontestability. (1) A health insurance policy shall contain a provision as follows: "TIME LIMIT ON CERTAIN DEFENSES: After two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability, as defined in the policy, commencing after the expiration of that period."

(2) The policy provision set forth in subsection (1) of this section shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two-year period, or to limit the application of ORS 743.450 to 743.462 in

the event of misstatement with respect to age or occupation or other insurance.

(3) A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the provision set forth in subsection (1) of this section the following provision, from which the clause in parentheses may be omitted at the insurer's option: "INCONTESTABLE: After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application."

(4) The policy shall contain a provision as follows, which shall be a separate paragraph under the same caption as, and immediately following, the provision set forth in subsection (1) or (3) of this section: "No claim for loss incurred or disability, as defined in the policy, commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy." [1967 c.359 §430; 1969 c.159 §1]

743.417 Grace period. (1) A health insurance policy shall contain a provision as follows: "GRACE PERIOD: A grace period of —— (insert a number not less than '7' for weekly premium policies, '10' for monthly premium policies and '31' for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force."

(2) A policy which contains a cancellation provision may add the following clause at the end of the provision set forth in subsection (1) of this section: "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof."

(3) A policy in which the insurer reserves the right to refuse any renewal shall have the following clause at the beginning of the provision set forth in subsection (1) of this section: "Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted." [1967 c.359 §431]

743.420 Reinstatement. (1) A health insurance policy shall contain a provision as follows: "REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the 45th day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than 10 days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions indorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than 60 days prior to the date of reinstatement."

(2) The last sentence of the provision set forth in subsection (1) of this section may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue. [1967 c.359 §432]

743.423 Notice of claim. (1) A health insurance policy shall contain a provision as follows: "NOTICE OF CLAIM: Written notice of claim must be given to the insurer within 20 days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at ——— (insert the location of such office as the insurer may designate for the purpose), or to any

authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer."

(2) In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the provision set forth in subsection (1) of this section: "Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of such disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given." [1967 c.359 §433]

743.426 Claim forms. A health insurance policy shall contain a provision as follows: "CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proof of loss. If such forms are not furnished within 15 days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made." [1967 c.359 §434]

743.429 Proofs of loss. A health insurance policy shall contain a provision as follows: "PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its office in case of claim for loss for which this policy provides any periodic payment contingent upon continuing loss within 90 days after the termination of the period for which the insurer is liable and in case of claim for any other loss within 90 days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate or reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required." [1967 c.359 §435]

743.432 Time of payment of claims. A health insurance policy shall contain a provision as follows: "TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid ——— (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof." [1967 c.359 §436]

743.435 Payment of claims. (1) A health insurance policy shall contain a provision as follows: "PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured."

(2) The following provisions, or either of them, may be included with the provision set forth in subsection (1) of this section at the option of the insurer:

(a) "If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding $—— (insert an amount which shall not exceed $1,000), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment."

(b) "Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this

policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person." [1967 c.359 §437]

743.438 Physical examinations and autopsy. A health insurance policy shall contain a provision as follows: "PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law." [1967 c.359 §438]

743.441 Legal actions. A health insurance policy shall contain a provision as follows: "LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished." [1967 c.359 §439]

743.444 Change of beneficiary. (1) A health insurance policy shall contain a provision as follows: "CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries or to any other changes in this policy."

(2) The first clause of the provision set forth in subsection (1) of this section, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option. [1967 c.359 §440]

743.447 Optional provisions, individual health insurance. Except as provided in ORS 743.051, provisions in a health insurance policy respecting the matters set forth in ORS 743.450 to 743.480 shall be in the words which appear in such sections. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in such sections or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve. [1967 c.359 §441]

743.450 Change of occupation. A health insurance policy may contain a provision as follows: "CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation." [1967 c.359 §442]

743.453 Misstatement of age. A health insurance policy may contain a provision as follows: "MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age." [1967 c.359 §443]

743.456 Other insurance in same insurer. (1) A health insurance policy may contain a provision as follows: "OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith,

making the aggregate indemnity for ——— (insert type of coverage or coverages) in excess of $—— (insert maximum limit of indemnity or indemnities), the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate."

(2) In lieu of the provisions set forth in subsection (1) of this section, the policy may contain a provision as follows: "OTHER INSURANCE IN THIS INSURER: Insurance effective at any one time on the insured under a like policy or policies in this company is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premiums paid for all other such policies." [1967 c.359 §444]

743.459 Insurance with other insurers, expense incurred benefits. (1) A health insurance policy may contain a provision as follows: "INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the 'like amount' of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage."

(2) If the policy provision set forth in subsection (1) of this section is included in a policy which also contains the policy provision set forth in ORS 743.462, there shall be added to the caption of the provision set forth in subsection (1) of this section the phrase "EXPENSE INCURRED BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employe benefit organizations. For the purpose of applying the policy provision set forth in this section with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the policy provision set forth in this section no third party liability coverage shall be included as "other valid coverage." [1967 c.359 §445]

743.462 Insurance with other insurers, other than expense incurred benefits. (1) A health insurance policy may contain a provision as follows: "INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined."

(2) If the policy provision set forth in subsection (1) of this section is included in a policy which also contains the policy provision set forth in ORS 743.459, there shall be added to the caption of the provision set forth in subsection (1) of this section the phrase "OTHER BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided

by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employe benefit organizations. For the purpose of applying the policy provision set forth in this section with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), whether provided by a governmental agency or otherwise, shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the policy provision set forth in this section no third party liability coverage shall be included as "other valid coverage." [1967 c.359 §446]

743.465 Relation of earnings to insurance. (1) A health insurance policy may contain a provision as follows: "RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time."

(2) The policy provision set forth in subsection (1) of this section may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums until at least age 50 or, in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employe benefit organizations. [1967 c.359 §447]

743.468 Unpaid premium. A health insurance policy may contain a provision as follows: "UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom." [1967 c.359 §448]

743.471 Cancellation. A health insurance policy may contain a provision as follows: "CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation." [1967 c.359 §449]

743.474 Conformity with state statutes. A health insurance policy may contain a provision as follows: "CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date hereby is amended to conform to the minimum requirements of such statutes." [1967 c.359 §450]

743.477 Illegal occupation. A health insurance policy may contain a provision as follows: "ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation." [1967 c.359 §451]

743.480 Intoxicants and controlled substances. A health insurance policy may contain a provision as follows: "INTOXICANTS AND CONTROLLED SUBSTANCES: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any controlled substance unless administered on the advice of a physician." [1967 c.359 §452; 1979 c.744 §64]

743.483 Arrangement of provisions. The provisions of a health insurance policy which are the subject of ORS 743.408 to 743.480, or any corresponding provisions which are used in lieu thereof in accordance with the Insurance Code, shall be printed in the consecutive order of such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered or issued. [1967 c.359 §453]

743.486 Construction of term "insured" in statutory policy provisions. As used in ORS 743.402 to 743.498, the word "insured" shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein. [1967 c.359 §454]

743.489 Extension of coverage beyond policy period; effect of misstatement of age. If any health insurance policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy shall continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy. [Formerly 741.170]

743.492 Policy return and premium refund provision. Every health insurance policy except single premium nonrenewable policies shall have printed on its face or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within 10 days of its delivery to the purchaser and to have the premium paid refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or purchaser pursuant to such notice returns the policy to the insurer at its home or branch office or to the agent through whom it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued. [Formerly 741.180]

743.495 Use of unqualified terms "noncancelable" or "guaranteed renewable"; synonymous terms. (1) No health insurance policy shall contain the following unqualified terms except as provided in this subsection:

(a) The unqualified terms "noncancelable" or "noncancelable and guaranteed renewable" may be used only in a policy which the insured has the right to continue in force for life by the timely payment of premiums set forth in the policy, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force.

(b) The unqualified term "guaranteed renewable," except as provided in paragraph (a) of this subsection, may be used only in a policy which the insured has the right to continue in force for life by the timely payment of premiums, during which period the insurer has no right to make unilaterally any change in any provision of the policy while the policy is in force, except that the insurer may make changes in premium rates by classes.

(2) The limitations prescribed in subsection (1) of this section on the use of the term "noncancelable" shall also apply to any synonymous term such as "not cancelable" and such limitations on the use of the term "guaranteed renewable" shall also apply to any synonymous term such as "guaranteed continuable." [Formerly 741.190]

743.498 Statement in policy of cancelability or renewability. (1) A health insurance policy which is noncancelable or guaranteed renewable as those terms are used in ORS 743.495, except that the insured's right is for a limited period of more than one year rather than for life, shall contain the applicable one of the following statements, or such other statement which, in the opinion of the commissioner, is equally clear or more definite as to the subject matter:

(a) "THIS POLICY IS NONCANCELABLE ———" (designating the applicable period such as, for example, "to age —— (specify)," or "for the period of —— (specify) years from date of issuance") if the policy is noncancelable for such period.

(b) "THIS POLICY IS GUARANTEED RENEWABLE ———" (designating the applicable period such as, for example, "to age —— (specify)," or "for the period of —— (specify) years from date of issuance") if the policy is guaranteed renewable for such period.

(2) Except for policies meeting the conditions specified in ORS 743.495 or subsection (1) of this section, and except as provided in subsection (3) of this section, a health insurance policy shall contain the applicable one of the following statements, or such other statement which, in the opinion of the commissioner, is equally clear or more definite as to the subject matter:

(a) "THIS POLICY MAY BE CANCELED BY THE INSURER" if the policy contains a provision for cancellation by the insurer.

(b) "THIS POLICY IS NOT RENEWABLE WITHOUT THE CONSENT OF THE INSURER" if the policy may be renewed only with the consent of the insurer.

(3) The limitations and requirements as to the use of terms contained in ORS 743.495 and this section shall not prohibit the use of other terms for policies having other guarantees of renewability, provided such terms, in the opinion of the commissioner are accurate, clear and not likely to be confused with the terms contained in ORS 743.495 and this section, and are incorporated in a concise statement relating to the guarantees of renewability.

(4) The statement required by this section shall be printed in a type not smaller than the type used for captions. It shall appear prominently on the first page of the policy and shall be a part of the brief description if the policy has a brief description on its first page. [Formerly 741.200]

FRANCHISE HEALTH INSURANCE

743.516 "Franchise health insurance" defined. (1) "Franchise health insurance" means that form of individual health insurance issued on a franchise plan to:

(a) Four or more employes of a corporation, partnership, individual employer, or of a governmental corporation or agency or department thereof; or

(b) Ten or more members, employes or employes of members of any trade or professional association or of a labor union or of any other association that has an active existence for at least two years, has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance.

(2) "Employes" as used in this section includes the officers, managers and employes and retired employes of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. [1967 c.359 §459]

743.519 Requirements for franchise health insurance. Franchise health insurance shall be sold only pursuant to a written agreement between the insurer and an employer, association or union. Franchise health insurance shall be issued only where the insureds, with or without their dependents, are each issued the same form of an individual

health insurance policy varying only as to amounts and kinds of coverage applied for by such persons. Franchise health insurance may be issued under an arrangement whereby the premiums on such policies are paid to the insurer periodically by the employer, with or without payroll deductions, by the association or union for its members or by some designated person acting on behalf of such employer or association or union. Franchise health insurance premiums may be paid directly by the covered person if a periodic certification is made by the employer, association or union that the person is entitled to such coverage. [1967 c.359 §460; 1971 c.231 §25]

743.520 Sale of union or association membership to qualify for franchise health insurance prohibited. No person soliciting or selling franchise health insurance may solicit or sell membership in any association or labor union for the purpose of qualifying an applicant for franchise health insurance. [1971 c.231 §4]

GROUP AND BLANKET HEALTH INSURANCE

743.522 "Group health insurance" defined. "Group health insurance" means that form of health insurance covering groups of persons as defined in this section, with or without one or more members of their families or one or more of their dependents, or covering one or more members of the families or one or more dependents of such groups of persons, and issued upon one of the following bases:

(1) Under a policy issued to an employer or trustees of a fund established by an employer, who shall be deemed the policyholder, insuring employes of such employer for the benefit of persons other than the employer. The term "employes" as used in this subsection shall be deemed to include the officers, managers, and employes of the employer, the individual proprietor or partners if the employer is an individual proprietor or partnership, the officers, managers, and employes of subsidiary or affiliated corporations, the individual proprietors, partners and employes of individuals and firms, if the business of the employer and such individual or firm is under common control through stock ownership, contract, or otherwise. The term "employes" as used in this subsection may include retired employes. A policy issued to insure employes of a public body may provide that the term "employes" shall include elected or appointed officials. The policy may provide that the term "employes" shall include the trustees or their employes, or both, if their duties are principally connected with such trusteeship.

(2) Under a policy issued to an association, including a labor union, which has an active existence for at least one year, which has a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, insuring members, employes, or employes of members of the association for the benefit of persons other than the association or its officers or trustees. The term "employes" as used in this subsection may include retired employes.

(3) Under a policy issued to the trustees of a fund established by two or more employers in the same or related industry or by one or more labor unions or by one or more employers and one or more labor unions or by an association as defined in subsection (2) of this section, which trustees shall be deemed the policyholder, insuring employes of the employers or members of the unions or of such association, or employes of members of such association for the benefit of persons other than the employers or the unions or such association. The term "employes" as used in this subsection may include the officers, managers and employes of the employer, and the individual proprietor or partners if the employer is an individual proprietor or partnership. The term "employes" as used in this subsection may include retired employes. The policy may provide that the term "employes" shall include the trustees or their employes, or both, if their duties are principally connected with such trusteeship.

(4) Under a policy issued to any person or organization to which a policy of group life insurance may be issued or delivered in this state, to insure any class or classes of individuals that could be insured under such group life policy.

(5) Under a policy issued to cover any other substantially similar group which, in the discretion of the commissioner, may be subject to the issuance of a group health insurance policy. [1967 c.359 §461; 1975 c.229 §1]

743.525 Continuation of benefits to family or dependents after death of group member. A group health insurance policy that contains provisions for the payment by

the insurer of benefits for expenses incurred on account of hospital, nursing, medical or surgical services for members of the family or dependents of a person in the insured group may provide for the continuation of such benefit provisions, or any part or parts thereof, after the death of the person in the insured group. [1967 c.359 §462]

743.527 Certain group health insurance policies to continue in effect upon payment of premium by insured individual; conditions for continued coverage; required provisions in policies. (1) Every group health insurance policy delivered or issued for delivery in this state shall contain in substance the following provisions:

(a) A provision that, when the premium for the policy or any part thereof is paid by an employer under the terms of a collective bargaining agreement, if there is a cessation of work by employes insured under the policy due to a strike or lockout, the policy, upon timely payment of the premium, will continue in effect with respect to those employes insured by the policy on the date of the cessation of work who continue to pay their individual contribution and who assume and pay the contribution due from the employer.

(b) A provision that, when an employe insured under the policy pays a contribution pursuant to paragraph (a) of this subsection, if the policyholder is not a trustee of a fund established or maintained in whole or in part by an employer, the employe's individual contribution shall be:

(A) The rate in the policy, on the date cessation of work occurs, applicable to an individual in the class to which the employe belongs as set forth in the policy; or

(B) If the policy does not provide for a rate applicable to individuals, an amount equal to the amount determined by dividing the total monthly premium in effect under the policy at the date of cessation of work by the total number of persons insured under the policy on such date.

(c) A provision that, when an employe insured under the policy pays a contribution pursuant to paragraph (a) of this subsection, if the policyholder is a trustee of a fund established or maintained in whole or in part by an employer, the employe's individual contribution shall be the amount which the employe and employer would have been required to contribute if the cessation of work had not occurred.

(2) Every group health insurance policy delivered or issued for delivery in this state may contain in substance the following provisions:

(a) A provision that, when employes insured under the policy pay contributions pursuant to paragraph (a) of subsection (1) of this section, the continuation of insurance under the policy is contingent upon the collection of individual contributions by the union representing the employes when the policyholder is not a trustee and by the policyholder or the policyholder's agent when the policyholder is a trustee.

(b) A provision that, when employes insured under the policy pay contributions pursuant to paragraph (a) of subsection (1) of this section, the continuation of insurance under the policy on each employe is contingent upon timely payment of contributions by the employes and timely payment of the premium by the entity responsible for collecting the individual contributions.

(c) A provision that, when employes insured under the policy pay contributions pursuant to paragraph (a) of subsection (1) of this section, each individual premium rate under the policy may be increased by not more than 20 percent, or by any higher percentage approved by the commissioner, during the period of cessation of work in order to provide sufficient compensation to the insurer for increased administrative costs and increased mortality and morbidity. If the policy contains the provision allowed under this paragraph, an employe's contribution paid under paragraph (a) of subsection (1) of this section shall be increased by the same percentage.

(d) A provision that, when the policy is a policy insuring employes and which may continue in effect as provided in paragraph (a) of subsection (1) of this section, if the premium is unpaid at the date of cessation of work and the premium became due prior to such cessation of work, the continuation of insurance is contingent upon payment of the premium prior to the date the next premium becomes due under the terms of the policy.

(e) Any provision with respect to the continuation of the policy as provided in paragraph (a) of subsection (1) of this section that the commissioner may approve.

(3) Nothing in this section shall be deemed to limit any right which the insurer may have in accordance with the terms of a policy to increase or decrease the premium rates before,

during or after a cessation of work by employes insured under the policy when the insurer had the right to increase the premium rates even if the cessation of work did not occur. If such a premium rate change is made, it shall be effective on such date as the insurer shall determine in accordance with the terms of the policy.

(4) Nothing in this section shall be deemed to require continuation of any coverage in a group health insurance policy insuring employes and which may continue in effect as provided in paragraph (a) of subsection (1) of this section for longer than:

(a) The time that 75 percent of insured employes continue such coverage;

(b) For an individual employe, the time at which the employe takes full-time employment with another employer; or

(c) Six months after cessation of work by the insured employes. [1979 c.797 §2]

743.528 Required provisions in group health insurance policies. A group health insurance policy shall contain in substance the following provisions:

(1) A provision that, in the absence of fraud, all statements made by applicants, the policyholder or an insured person shall be deemed representations and not warranties, and that no statement made for the purpose of effecting insurance shall avoid such insurance or reduce benefits unless contained in a written instrument signed by the policyholder or the insured person, a copy of which has been furnished to such policyholder or to such person or his beneficiary.

(2) A provision that the insurer will furnish to the policyholder for delivery to each employe or member of the insured group a statement in summary form of the essential features of the insurance coverage of such employe or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one statement need be issued for each family unit.

(3) A provision that to the group originally insured may be added from time to time eligible new employes or members or dependents, as the case may be, in accordance with the terms of the policy. [1967 c.359 §463]

743.529 Continuation of benefits after termination of group health insurance policy. Every group health insurance policy that provides coverage for hospital or medical services or expenses shall provide that the insurer shall continue its obligation for benefits under the policy for any person insured under the policy who is hospitalized on the date of termination if the policy is terminated and immediately replaced by a group health insurance policy issued by another insurer. Any payment required under this section is subject to all terms, limitations and conditions of the policy except those relating to termination of benefits. Any obligation by an insurer under this section continues until the hospital confinement ends or hospital benefits under the policy are exhausted, whichever is earlier. [1977 c.402 §5]

743.531 Direct payment of hospital and medical services. A group health insurance policy may on request by the group policyholder provide that all or any portion of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services; but the policy may not require that the service be rendered by a particular hospital or person. Payment so made shall discharge the insurer's obligation with respect to the amount of insurance so paid. [1967 c.359 §464]

743.534 "Blanket health insurance" defined. "Blanket health insurance" means that form of a health insurance covering groups of persons defined in this section and issued on one of the following bases:

(1) Under a policy issued to a common carrier or to an operator, owner or lessee of a means of transportation, who shall be deemed the policyholder, insuring a group of persons who may become passengers and which group is defined by reference to their travel status on such common carrier or means of transportation.

(2) Under a policy issued to an employer, who shall be deemed the policyholder, insuring any group of employes, dependents or guests, defined by reference to specified hazards incident to an activity or activities or operations of the policyholder.

(3) Under a policy issued to a college, school or other institution of learning, a school district or districts, or school jurisdictional unit, or to the head, principal or governing board of any such educational unit, who or which shall be deemed the policyholder, insuring students, teachers or employes.

(4) Under a policy issued to a religious, charitable, recreational, educational, or civic organization, or branch thereof, which shall be deemed the policyholder, insuring any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(5) Under a policy issued to a sports team, camp or sponsor thereof, who shall be deemed the policyholder, insuring members, campers, employes, officials or supervisors.

(6) Under a policy issued to a volunteer fire department, first aid, civil defense, or other such volunteer organization, which shall be deemed the policyholder, insuring any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(7) Under a policy issued to a newspaper or other publisher, which shall be deemed the policyholder, insuring its carriers.

(8) Under a policy issued to an association, including a labor union, which has a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, which shall be deemed the policyholder, insuring any group of members or participants defined by reference to specified hazards incident to an activity or activities or operations sponsored or supervised by such policyholder.

(9) Under a policy issued to cover any other risk or class of risks which, in the discretion of the commissioner, may be properly eligible for blanket health insurance. The discretion of the commissioner may be exercised on an individual risk basis or class of risks basis, or both. [1967 c.359 §465]

743.537 Required provisions, blanket health insurance policies. A blanket health insurance policy shall contain provisions which in the opinion of the commissioner are not less favorable to the policyholder and the individual insureds than the provisions described in ORS 743.411, 743.423, 743.426, 743.429, 743.432, 743.438 and 743.441. [1967 c.359 §466]

743.540 Application and certificates not required, blanket health insurance policies. An individual application need not be required from a person insured under a blanket health insurance policy, nor shall it be necessary for the insurer to furnish each person a certificate. [1967 c.359 §467]

743.543 Facility of payment, blanket health insurance policies. All benefits under a blanket health insurance policy shall be payable to the person insured, or to his designated beneficiary or beneficiaries, or to his estate, except that if the person insured is a minor or otherwise not competent to give a valid release, such benefits may be made payable to his parent, guardian or other person actually supporting him. However, the policy may provide that all or a portion of any indemnities provided by such policy on account of hospital, nursing, medical or surgical services may, at the option of the insurer and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but the policy may not require that the services be rendered by a particular hospital or person. Payment so made shall discharge the obligation of the insurer with respect to the amount of insurance so paid. [1967 c.359 §468]

743.546 Policy form approval, blanket health insurance. The commissioner may exempt from the policy form filing and approval requirements of ORS 743.006, for so long as he deems proper, any blanket health insurance policy to which in his opinion such requirements may not practicably be applied, or may dispense with such filing and approval whenever, in his opinion, it is not desirable or necessary for the protection of the public. [1967 c.359 §469]

743.549 Restriction on reduction of benefits provisions in group and blanket health policies. No group or blanket health insurance policy providing hospital, medical or surgical expense benefits, and which contains a provision for the reduction of benefits otherwise payable thereunder on the basis of other existing coverages, shall provide that such reduction will operate to reduce total benefits payable below an amount equal to 100 percent of total allowable expenses. [1973 c.143 §2]

743.552 Guidelines for application of ORS 743.549. The commissioner shall by rule establish guidelines for the application of ORS 743.549, including:

(1) The procedures by which persons insured under such policies are to be made aware of the existence of such a provision;

(2) The benefits which may be subject to such a provision;

(3) The effect of such a provision on the benefits provided;

(4) Establishment of the order of benefit determination; and

(5) Reasonable claim administration procedures to expedite claim payments under such a provision which shall include a time limit of 14 days beyond which the insurer shall not delay payment of a claim by reason of the application of coordination of benefits provision. [1973 c.143 §3]

743.555 Application of ORS 743.549 and 743.552. ORS 743.549 and 743.552 shall apply to any group or blanket health insurance policy containing a provision described in ORS 743.549 which is issued more than 90 days after June 26, 1973. Policies which are in existence 90 days after June 26, 1973, shall be brought into compliance on the next anniversary date, renewal date or the expiration date of the applicable collectively bargained contract, if any, whichever date is latest. [1973 c.143 §4]

743.557 Group health insurance coverage for alcoholism treatment. A group health insurance policy providing coverage for hospital or medical expenses shall provide coverage for expenses arising from treatment for alcoholism. The following conditions apply to the requirement for such coverage:

(1) The coverage may be made subject to provisions of the policy that apply to other benefits under the policy, including but not limited to provisions relating to deductibles and coinsurance.

(2) The policy may limit hospital expense coverage to treatment provided by:

(a) A health care facility licensed under ORS 441.015 to 441.087, 441.525 to 441.595, 441.810 to 441.820, 441.990, 442.300, 442.320, 442.330, 442.340 to 442.350 and 442.400 to 442.450 or accredited by the Joint Commission on Accreditation of Hospitals; or

(b) A rehabilitation clinic and agency established, maintained, contracted with or operated by the Mental Health Division under ORS 430.260.

(3) Except as permitted by subsection (1) of this section, the policy shall not limit payments thereunder for alcoholism to an amount less than $3,000 in any 24-consecutive month period. [1975 c.689 §2; 1977 c.632 §3]

743.558 Group health insurance coverage for mental or nervous conditions. Every insurer offering group health insurance benefits shall offer benefits for expense arising from mental or nervous conditions that meet the following requirements:

(1) In the case of benefits based upon confinement as an inpatient in a hospital, the period of confinement for which benefits are payable shall be at least 30 days in any calendar year.

(2) In the case of major medical expense coverage, benefits, after the applicable deductible, shall be at a 50 percent rate for covered expenses incurred by the insured while other than an inpatient in a hospital, and benefits shall be available for such expenses during any calendar year up to a maximum of $500. [1973 c.613 §2]

CREDIT LIFE AND CREDIT HEALTH INSURANCE

743.561 Definitions for credit life and credit health insurance provisions. (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) "Credit health insurance" means insurance on a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(3) "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.

(4) "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.

(5) "Indebtedness" means the total amount payable by a debtor to a creditor in connection with a loan or other credit transaction. [Formerly 739.565]

743.564 Applicability of credit life and credit health insurance provisions. All life or health insurance in connection with

loans or other credit transactions shall be subject to ORS 743.561 to 743.588, except:

(1) Insurance in connection with a loan or other credit transaction of more than 10 years' duration; or

(2) Insurance, the issuance of which is an isolated transaction on the part of the insurer not related to an agreement or a plan for insuring debtors of the creditor. [Formerly 739.570; 1969 c.336 §13]

743.567 Forms of credit life and credit health insurance. Credit life and credit health insurance shall be issued only in the following forms:

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

(2) Individual policies of health insurance issued to debtors on a term plan, or disability benefit provisions in individual policies of credit life insurance.

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

(4) Group policies of health insurance issued to creditors on a term plan insuring debtors, or disability benefit provisions in group credit life insurance policies. [Formerly 739.575]

743.570 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. [1967 c.359 §473]

743.573 Limit on amount of credit health insurance. The total amount of periodic indemnity payable by credit health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid instalments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic instalments. [Formerly 741.425]

743.576 Duration of credit life and credit health insurance. (1) The term of any credit life or credit health 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 insurer 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.

(2) The term of the 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.

(3) If the indebtedness is discharged because of 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.

(4) In all cases of termination of the insurance prior to the scheduled maturity date of the indebtedness, a refund shall be paid or credited as provided in ORS 743.582. [Formerly 739.585]

743.579 Credit life and credit health insurance policy or group certificate; contents; delivery of policy, certificate or copy of application. (1) All credit life or credit health 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 or credit health insurance, or both shall, in addition to other requirements of law, set forth:

(a) The name and home-office address of the insurer;

(b) 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;

(c) The premium or amount of payment by the debtor separately for credit life insurance and for credit health insurance;

(d) A description of the coverage including the amount and term thereof, and any exceptions, limitations and restrictions; and

(e) A statement 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 indebtedness, that any such excess shall be payable to a beneficiary, other than the creditor, named by the debtor or to his estate.

(3) Such individual policy or group certificate of insurance shall be delivered to the insured debtor at the time the indebtedness is incurred except as provided in subsection (4) of this section.

(4) If such 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 insurance 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 separately for credit life insurance and for credit health insurance, and the amount, term and a brief description of the coverage provided, shall be delivered to the debtor at the time the indebtedness is incurred. The copy of the application for insurance 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. The application for insurance or notice of proposed insurance shall state that upon acceptance by the insurer, the insurance shall become effective as provided in ORS 743.576.

(5) If an insurer other than the named insurer accepts the risk, then 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. [Formerly 739.590]

743.582 Charges and refunds to debtor, credit life and credit health insurance. (1) Each individual policy or group certificate of credit life or credit health insurance, or both, 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. However, 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.

(2) If a creditor requires a debtor to make any payment for credit life insurance or credit health 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.

(3) The amount charged to a debtor for credit life insurance and for credit health insurance shall not exceed the respective premiums charged by the insurer, as computed at the time the charge to the debtor is determined. [Formerly 739.600]

743.585 Status of remuneration to creditor. 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 and credit health insurance shall not be deemed interest or charges in connection with loans or credit transactions. [Formerly 739.603]

743.588 Claim report and payment, credit life and credit health insurance. (1) All claims under policies of credit life or credit health insurance, or both, 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 policy.

(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 is due pursuant to the policy provisions or, upon direction of such claimant, to the one specified. [Formerly 739.610]

FIRE INSURANCE

743.603 Fire insurance not to exceed value of property insured. (1) No insurer, agent or insured shall knowingly issue or procure any fire insurance policy upon property within this state for an amount which with any existing insurance exceeds the fair value of the risk insured or of the interest of the insured therein.

(2) This section does not apply to insurance on stocks of merchandise or property of fluctuating values where the reduced rate percentage value clause is made a part of the policy. [Formerly 744.070]

743.606 Standard fire insurance policy. Except as provided in ORS 743.607, no fire insurer, its officers or agents, shall use any fire insurance policy or renew any fire insurance policy on property in this state unless it contains the provisions set forth in ORS 743.609 to 743.663, which shall form a portion of the contract between the insurer and the insured. [1967 c.359 §481; 1967 c.453 §3]

743.607 Exceptions to standard fire insurance policy requirements. Any insurance policy that includes, either on an unspecified basis as to coverage or for a single premium, coverage against the peril of fire and substantial coverage against other perils need not comply with the provisions of ORS 743.606, if such policy:

(1) Affords coverage with respect to the peril of fire, not less than the substantial equivalent of the coverage afforded by the provisions of the standard fire insurance policy as required by ORS 743.606;

(2) Contains, without change, the provisions relating to mortgagee interests and obligations as required for the standard fire insurance policy by ORS 743.606; and

(3) Is complete as to all its terms without reference to the standard fire insurance policy or any other policy. [1967 c.453 §2]

743.609 Insuring agreement. A fire insurance policy shall contain provisions as follows: "In consideration of the provisions and stipulations herein or added hereto and of ——— dollars ($——) premium this company, for the term of ——— from the —— day of ———, 19—, to the —— day of ———, 19—, at 12:01 a.m., at location of property involved, to an amount not exceeding ——— dollars ($——), does insure ——— and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all direct loss by fire, lightning and by removal from premises endangered by the perils insured against in this policy, except as hereinafter provided, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

"Assignment of this policy shall not be valid except with the written consent of this company.

"This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which hereby are made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

"In witness whereof, this company has executed and attested these presents.

———

Secretary.

———

President."

[1967 c.359 §482; 1971 c.231 §26]

743.612 Concealment, fraud. A fire insurance policy shall contain a provision as follows: "This entire policy shall be void if, whether before or after a loss, the insured has wilfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any

fraud or false swearing by the insured relating thereto." [1967 c.359 §483]

743.615 Uninsurable and excepted property. A fire insurance policy shall contain a provision as follows: "This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts." [1967 c.359 §484]

743.618 Perils not included. A fire insurance policy shall contain a provision as follows: "This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) Enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this company be liable for loss by theft." [1967 c.359 §485]

743.621 Other insurance. A fire insurance policy shall contain a provision as follows: "Other insurance may be prohibited or the amount of insurance may be limited by indorsement attached hereto." [1967 c.359 §486]

743.624 Conditions suspending insurance. A fire insurance policy shall contain a provision as follows: "Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

"(1) While the hazard is increased by any means within the control or knowledge of the insured; or

"(2) While a described building, whether intended for occupancy by owner or tenant, is vacated or unoccupied beyond a period of 60 consecutive days; or

"(3) As a result of explosion or riot, unless fire ensues, and in that event for loss by fire only." [1967 c.359 §487]

743.627 Additional perils insured. A fire insurance policy shall contain a provision as follows: "Any other peril to be insured against or subject of insurance to be covered in this policy shall be by indorsement in writing hereon or added hereto." [1967 c.359 §488]

743.630 Added provisions. A fire insurance policy shall contain a provision as follows: "The extent of the application of insurance under this policy and of the contribution to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change." [1967 c.359 §489]

743.633 Waiver provisions. A fire insurance policy shall contain a provision as follows: "No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this company relating to appraisal or to any examination provided for herein." [1967 c.359 §490]

743.636 Cancellation. A fire insurance policy shall contain a provision as follows: "This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured a five days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium, if not tendered, will be refunded on demand." [1967 c.359 §491]

743.639 Mortgagee interest and obligation of mortgagee. A fire insurance policy shall contain provisions as follows:

(1) "If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be canceled by giving to such mortgagee a 10 days' written notice of cancellation."

(2) "If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within 60 days thereafter and shall be subject to the provisions hereof relating to appraisal and

time of payment and of bringing suit. If this company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing." [1967 c.359 §492]

743.642 Pro rata liability of insurer. A fire insurance policy shall contain a provision as follows: "This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not." [1967 c.359 §493]

743.645 Requirements in case loss occurs. A fire insurance policy shall contain a provision as follows: "The insured shall give immediate written notice to this company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within 60 days after the loss, unless such time is extended in writing by this company, the insured shall render to this company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made." [1967 c.359 §494]

743.648 Appraisal. A fire insurance policy shall contain a provision as follows: "In case the insured and this company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then, on request of the insured or this company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally." [1967 c.359 §495]

743.651 Insurer's options. A fire insurance policy shall contain a provision as follows: "It shall be optional with this company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required." [1967 c.359 §496]

743.654 Abandonment. A fire insurance policy shall contain a provision as follows: "There can be no abandonment to this company of any property." [1967 c.359 §497]

743.657 When loss payable. A fire insurance policy shall contain a provision as follows: "The amount of loss for which this

company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided." [1967 c.359 §498]

743.660 Suit on policy. A fire insurance policy shall contain a provision as follows: "No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after inception of the loss." [1967 c.359 §499]

743.663 Subrogation. A fire insurance policy shall contain a provision as follows: "This company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company." [1967 c.359 §500]

743.666 Coverage for loss from nuclear reaction or radiation. Insurers issuing the standard fire insurance policy pursuant to ORS 743.606 are authorized to affix thereto or include therein a written statement that the policy does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy. However, nothing contained in this section shall be construed to prohibit the attachment to any such policy of an indorsement or indorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination. [Formerly 744.125]

743.669 Other fire insurance policy provisions permitted. (1) A fire insurer may add, to the provisions required by ORS 743.606, other conditions, provisions, and agreements not in conflict with law or contrary to public policy.

(2) Any provision restricting or abridging the rights of the insured under the policy must be preceded by a sufficiently explanatory title printed or written in type not smaller than eight-point capital letters. [Formerly 744.130]

743.672 Mutual insurers policyholders' liability; nonassessable policies. (1) Each person accepting a policy in a mutual fire insurer thereby becomes a member of the insurer and liable for his proportionate share of losses and operating expenses.

(2) Any person or persons holding property in trust may insure the same in a mutual fire insurer, and as such trustee assume the liabilities and be entitled to the rights of a member, but shall not be personally liable upon such insurance policy.

(3) A mutual fire insurer may fix the contingent and mutual liability of its members for payment of losses and expenses by a uniform rule set forth in its bylaws and policies. Such mutual liability shall not be less than twice the amount of the usual advance assessment written in the policy.

(4) A mutual fire insurer that received a certificate of authority prior to September 2, 1963, and has accumulated in the regular course of business assets of not less than $200,000, of which not less than $100,000 is surplus determined as provided in the Insurance Code, may while in that condition and subject to the approval of the commissioner adopt bylaws limiting the liability of its policyholders to the premium specified in its policies. The power to issue policies with such limitation of liability continues only during the time the insurer is in such financial condition.

(5) A mutual fire insurer that received a certificate of authority after September 2, 1963, and has $500,000 in surplus determined as provided in the Insurance Code, may while in that condition and subject to the approval of the commissioner adopt bylaws limiting the liability of its policyholders to the premium specified in its policies. The power to issue policies with such limitation of liability continues only during the time the insurer is in such financial condition.

(6) Every mutual fire insurer which has not limited the liability of its policyholders in accordance with subsections (4) and (5) of this section must print upon its policies such bylaws as will define the liability of a policyholder in addition to the statement required by ORS 743.066. [Formerly 744.430]

743.675 Mutual insurer's action to recover assessment. An action may be brought against any member of a mutual fire insurer who neglects or refuses to pay any assessment levied by the insurer to recover the whole amount of contingent liability with costs of the action. Execution shall issue on a

judgment recovered in such an action for assessments and costs only as they accrue. [Formerly 744.440]

743.678 Mutual fire insurers, withdrawal of members. Any member of a mutual fire insurer may withdraw at any time by surrendering his policy to the insurer, giving written notice to the secretary of his intention to withdraw and paying his share of all losses which have accrued and all assessments then due, accrued or pending. [Formerly 744.450]

743.681 Mutual fire insurance policy cancellation. (1) A mutual fire insurer may cancel or terminate any fire insurance policy by giving the insured five days' written notice and returning to the insured any unearned assessment computed pro rata.

(2) A mutual fire insurer shall use and issue only the standard form of policy required by ORS 743.606, except that:

(a) It is not required upon cancellation of the insurance policy or certificate of membership to return any part of any policy, certificate, membership or inspection fee that may have been charged.

(b) Where a definite part of the amount charged has been collected for and designated as an expense assessment, it may by bylaw determine the amount of refund that shall be made from such expense assessment.

(c) If it is on an assessment basis, levying assessments at such times and in such amounts as are necessary to defray its losses and expenses, it may provide by bylaw that no part of the assessments shall be returned.

(d) If it is organized for the insurance of a single class of risks and the assessment charged in a flat sum, it may provide in the insurance policy that no return assessment shall be paid upon cancellation. [Formerly 744.460]

MORTGAGE INSURANCE

743.702 [Formerly 746.010; repealed by 1969 c.692 §11]

743.705 Limitations on issuance of mortgage insurance. (1) No mortgage insurer shall provide insurance with respect to an obligation which:

(a) Is not a first lien upon a marketable title to the securing property; or

(b) Exceeds 90 percent of the fair market value of the securing property, or such higher percentage not exceeding 95 percent as may be authorized by the commissioner and permitted by the insurer's domicile.

(2) A mortgage insurer at its option may limit its insurance to 25 percent of the amount of the obligation insured. In such event, it may, in lieu of acquiring title to the property securing the obligation and paying the entire obligation, elect to pay 25 percent of the obligation. In computing the aggregate amount of insured obligations under ORS 731.516, where the insurer has such an option only 25 percent of the balance due on the insured obligation shall be included in the aggregate amount.

(3) No mortgage insurer shall issue a policy of lease insurance with respect to real property not improved by a building or buildings designed to be occupied for industrial or commercial purposes. [Formerly 746.030; 1969 c.692 §9; 1973 c.179 §1]

743.708 Insured obligations as legal investments and securities for deposit. (1) Obligations insured by mortgage insurance policies issued in conformity with the Insurance Code shall be legal investments for all trust funds held by any executor, administrator, conservator, trustee or other person or corporation holding trust funds, and also for the funds of banks, banking institutions and trust companies, and shall be accepted by this state and its officers and officials as securities constituting any part of any fund or deposit required by law to be made with this state, or any officer or official thereof, by any trust company doing business in this state. All premiums required to be paid according to the terms of any such mortgage insurance policy may be charged to or paid out of the income from the obligations covered thereby. In the case of such fund or deposit required by law, such obligations must constitute a first lien on real property that is worth at least double the amount of such lien.

(2) The provisions of subsection (1) of this section with respect to legal investments for funds shall also apply to obligations not so insured if:

(a) The obligation constitutes a first lien upon a marketable title to real property;

(b) There exists a lease insurance policy covering the property securing the obligation, issued in conformity with the Insurance Code;

(c) The aggregate lease payments so insured exceeds the amount of the obligation; and

(d) The insurer is legally bound to remit all lease insurance proceeds directly to the owner of the obligation. [Formerly 746.080; 1969 c.692 §10; 1973 c.823 §150]

PRODUCT LIABILITY INSURANCE

743.720 Definition for ORS 743.723. As used in ORS 743.723, "product liability policy" means:

(1) Any policy of insurance insuring only the insured's legal obligation arising from the product liability exposure of the insured;

(2) Any other policy of liability insurance in which the premium computation includes a specific premium charge for product liability exposures of the insured; and

(3) Any other insurance policy designated by the commissioner as providing product liability insurance. [1979 c.866 §4]

Note: See note under 743.723.

743.723 Product liability insurers to submit annual reports to commissioner; contents of reports; availability to public. (1) Every insurer authorized to transact business in this state and providing product liability insurance shall, on the first day of January of each year or within 60 days thereafter, file with the commissioner a report containing the information specified in this section. Such report shall be made upon forms provided by the commissioner and shall contain the name of the insurance company and the name of all other companies associated with the company submitting the report, either as a holding company, parent company, wholly owned subsidiary, division or through interlocking directorates.

(2) When filing the report required under subsection (1) of this section, each insurer shall provide, for the period January 1 to December 31 of the year next preceding the filing of the report, information relating to any claim or action for damages for personal injury, death or property damage claimed to have been caused by a defect in an insured's product under a product liability policy, if the claim resulted in a final judgment in any amount, a settlement in any amount or a final disposition not resulting in payment on behalf of the insured. Every insurer authorized to transact business in this state shall be subject to the provisions of this subsection in regard to claims adjudicated, settled or disposition made pursuant to the laws of this state.

(3) When a claim described in subsection (2) of this section has been made against an insurer, the report of that insurer required under subsection (1) of this section shall contain:

(a) The name and address of the insured or the insurer's claim number or file number;

(b) The type of product;

(c) Rating classification code of products liability coverage;

(d) The date of occurrence which created the claim, including the state or other jurisdiction under whose jurisdiction the claim was adjudicated, settled or disposition made;

(e) Date of suit, if filed;

(f) Date and amount of judgment or settlement, if any, and the number of parties involved in the distribution of such judgment or settlement and the amount received by each;

(g) Date and reason for final disposition if no judgment or settlement;

(h) A summary of the occurrence which created the claim;

(i) Total number of claims;

(j) Total claims closed without payment;

(k) Total claims closed with payment;

(L) Total number of payments;

(m) Total number of suits filed;

(n) Total number of verdicts or judgments for defendants;

(o) Total number of verdicts or judgments for plaintiffs;

(p) Total amounts for plaintiffs; and

(q) Such other information as the commissioner may require.

(4) With respect to amounts paid in claims for the year next preceding the filing of each annual report required under subsection (1) of this section, each shall provide the following information:

(a) Total amounts reserved with respect to those claims;

(b) The year in which the reserves were set; and

(c) The amounts set in each year.

(5) Any published annual reports to shareholders or policyholders shall be submitted with the report required under subsection (1) of this section.

(6) There shall be no liability on the part of, and no cause of action of any nature shall arise against, any insurer reporting under ORS 30.115, 30.920, 30.925, 743.720 and this section, its agents or employes, the commissioner or the commissioner's employes for any action taken under ORS 30.115, 30.920, 30.925, 743.720 and this section.

(7) The commissioner shall make the reports required under ORS 30.115, 30.920, 30.925, 743.720 and this section available to the public in a manner which will not reveal the names of any person, manufacturer or seller involved.

(8) The reports required by this section shall not be admissible in evidence in any trial of a products liability civil action. [1979 c.866 §5]

Note: Section 6, chapter 866, Oregon Laws 1979, provides:

Sec. 6. The reports required under subsection (1) of section 5 of this Act shall first be submitted on January 1, 1980, or within 60 days thereafter.

Note: 743.720 and 743.723 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 743 or any series therein by legislative action. See the Preface to Oregon Revised Statutes for further explanation.

SURETY INSURANCE

743.732 Bonds, undertakings and other obligations required by law may be executed by surety insurers. (1) Whenever any bond, undertaking, recognizance, or other obligation is by law or the charter, ordinance, rules or regulations of any municipality, board, body, organization, court, judge or public officer required or permitted to be made, given, tendered or filed with surety or sureties, and whenever the performance of any act, duty or obligation, or the refraining from any act is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guaranty may be executed by an authorized surety insurer.

(2) The execution by such an insurer of any such obligation is in all respects a full and complete compliance with every requirement that it be executed by one surety, or by one or more sureties, or that such sureties be residents or householders, or freeholders, or either or both, or possess any other qualification.

(3) A surety insurer may be required to justify as surety. It shall be sufficient justification for such surety insurer when examined as to its qualifications to exhibit the certificate of authority issued to it by the commissioner or a certified copy thereof. [Formerly 747.080]

743.735 Reimbursement of private persons required to give bond. Any receiver, assignee, guardian, conservator, trustee, executor, administrator or other fiduciary, required by law or the order of any court or judge to give a bond or other obligation as such, may include as a part of the lawful expense of executing his trust, such reasonable sum paid an insurer for becoming his surety on the bond as may be allowed by the court in which, or judge before whom, he is required to account. Such sum shall not exceed one percent per annum of the amount of the bond. [Formerly 747.100; 1973 c.823 §151]

743.738 Reimbursement of public officials required to give bond. Any state, county or municipal officer or officer of any school district, public board or public commission within this state, or any deputy employed in the office of any such official, who is required by law, ordinance, regulation or public policy to give a bond for the faithful performance of his duties, shall be allowed a reasonable sum paid a surety insurer for becoming surety on his bond. Such sum shall not exceed one-half of one percent per annum of the amount of the bond. Such premium shall be paid out of the proper state, county, municipal, district, board or commission funds. [Formerly 747.110]

743.741 Surety insurer may take measures to reduce risk of loss. (1) Any surety insurer may contract for and receive and hold on deposit and in trust property of any kind as collateral security on any policy of guaranty or suretyship executed by it. The insurer may manage, realize on and dispose of the property so received and held on deposit as may be agreed to between it and the person making the deposit.

(2) Any receiver, assignee, guardian, conservator, trustee, executor, administrator or other fiduciary or party from whom a policy of guaranty or suretyship is by law required or permitted may agree and arrange with the surety insurer for the deposit for safekeeping of any or all moneys, assets and other property for which he is or may be responsible in a bank, savings bank, safe deposit or trust company authorized by law to do business as such, in such manner as to prevent the withdrawal

or alienation of such money, assets or other property, or any part thereof, without the written consent of the surety insurer or an order of a court of competent jurisdiction or a judge thereof made on such notice to the surety insurer as the court or judge may direct.

(3) Generally, it shall be lawful for a surety insurer to enter into any contract of indemnity or security with any person if such contract is not otherwise prohibited by law or against public policy. [Formerly 747.130]

743.744 Release of surety on official bonds by action of obligee. (1) Any official whose duty it is to approve any bond or undertaking given in favor of the state or any county, city, school district, drainage or irrigation district, board or commission within the state may cancel the bond or undertaking by serving written notice of its election so to do upon the principal and surety or sureties on such bond or undertaking 10 days before it desires the cancellation of the obligation to take effect.

(2) The official at the time of serving such notice shall also file with the officer or official occupying the position of secretary or clerk of the state, county, city, school district, drainage or irrigation district, board or commission, as the case may be, at the regular place of business of such secretary or clerk, a certified copy of such notice. At the expiration of 10 days from the filing of such notice, the surety or sureties upon such bond or undertaking shall be discharged from further liability thereon. [Formerly 747.140]

743.747 Release of surety on bond of public official by action of surety. (1) The surety or sureties on the bond of any public official in this state shall be released from any future liability thereon upon giving notice of election to be released as provided in this section.

(2) A surety desiring to be released from liability on the bond of any state officer may file with the Governor or Secretary of State 30 days before he desires the release to take effect, a notice in writing, duly subscribed by himself or someone in his behalf, setting forth the name and office of the person for whom he is surety, the amount for which he is liable as such, and his desire to be released from further liability on account thereof. A duplicate of such notice shall also be served personally on the officer unless he has left this state, in which case it may be served by publication for 20 days in some newspaper printed at the seat of government, or if none is printed there, then in such newspaper as shall be designated by the Governor or Secretary of State.

(3) A surety desiring to be released from liability on the bond of any county officer may file and serve a similar notice. The notice, except when it concerns the county clerk personally, shall be filed with the county clerk. When the county clerk is personally concerned the notice shall be filed with the county treasurer.

(4) A surety desiring to be released from liability on the bond of any city officer may file and serve a similar notice with the city clerk or mayor.

(5) A surety desiring to be released from any other official bond or undertaking shall file and serve a similar notice with the officer, person or authority whose duty it is to approve such bonds.

(6) A notice which under this section may be served by publication may be published in a newspaper in the same county or, if no newspaper is published therein, then in an adjoining or other county, without any order from any court or other authority. In all cases for which publication is provided, a printed or written notice posted in at least three conspicuous places in the county for the time specified shall be deemed legal notice thereof. [Formerly 747.150]

743.750 Release of surety on depository bond; provision required in such bonds. (1) A surety wishing to terminate the liability undertaken upon any bank depository bond or undertaking given to guarantee the safekeeping and return of any public moneys deposited in the bank may do so by giving notice of election so to do to the principal and to the official whose duty it is to approve such bond or undertaking. A surety is released from any future liability upon any such depository bond or undertaking at the expiration of 30 days after the giving of such notice.

(2) Where the form of depository bond or undertaking given to protect any public moneys is prescribed by statute or regulation the right to cancel such bond or undertaking shall be expressed in such bonds or undertakings by adding a paragraph to the prescribed form in substantially the following form: "The above-named surety shall have the right to terminate any future liability hereunder by serving written notice of election so to do upon the principal and (here insert the official title of the state or county treasurer, or other officials

whose duty it is to approve such bond), and thereupon the said surety shall be discharged from any future liability hereunder for any default of the said principal occurring after the expiration of 30 days from and after the service of such notice." The purpose of such cancellation privilege is to afford the surety a means of obtaining definite release from its liability.

(3) Any official or officials whose duty it is to approve any bank depository bond given to protect the deposits of any official moneys, on his own motion or upon written request from any bank in whose behalf such a bond is issued, may terminate the future liability on the bond by giving notice to the surety of elections so to do. Thereupon the surety shall be discharged from any future liability upon any such depository bond for any default of the principal occurring after the expiration of 30 days from and after the service of such notice. [1967 c.359 §516]

743.753 Fixing amount of new bond after release from original. Whenever a notice is filed, or filed and served, as provided in ORS 743.744, 743.747 and 743.750, or received after mailed as provided in ORS 743.755, the proper authority shall prescribe the penalty or amount in which a new or additional bond or undertaking shall be filed. If no such order is made the new or additional bond or undertaking shall be executed for the same amount as the original. [Formerly 747.170; 1969 c.526 §2]

743.755 Cancellation of bond by surety. (1) As used in this section:

(a) "Bond" means any undertaking, recognizance or other obligation required by statute, ordinance or regulation to be executed by a surety and given to a public body by any person as a condition to the granting of a permit, license or franchise by a public body.

(b) "Public body" means the state and any department, agency, board or commission of the state, any city, county, school district or other political subdivision or municipal or public corporation, any instrumentality thereof and any court.

(2) The surety may cancel a bond by sending notice of cancellation by registered or certified mail to the public body with which the bond is filed and to the principal at his address of record with the surety. Such cancellation takes effect on the date specified in the notice but not earlier than the 30th day after the date of mailing. The surety shall have no liability under the bond for an act or default occurring after the effective date of such cancellation.

(3) Notwithstanding subsection (2) of this section, a statute, ordinance, regulation or the provisions of a bond may provide procedures for release of surety on a bond. [1969 c.526 §1]

743.756 Surety insurer may not deny power to execute bond; construction of policies. A surety insurer executing any bond or undertaking under the provisions of the Insurance Code is estopped in any proceeding, to deny its corporate power to execute such bond or undertaking or to assume such liability, and all such bonds or undertakings shall in any action be construed by the rules applicable to insurance policies and indemnity contracts. [Formerly 747.180]

743.759 Bond construed as including omitted statutory provisions. Whenever any person is required by the provisions of any statute to give a bond to this state or any of its political subdivisions and the statute requires to be included therein any specific provisions, the bond shall have the same legal effect as though such provisions were included therein, although such provisions were omitted. [Formerly 747.190]

743.762 Guaranteed arrest bond certificate. As used in ORS 743.762, 743.765 and 743.768, "guaranteed arrest bond certificate" means any printed certificate which:

(1) Is issued by an automobile club or automobile association to any of its members;

(2) Is signed by the member to whom it is issued; and

(3) Contains a printed statement that the automobile club or automobile association and a named surety insurer guarantee the appearance of the member whose signature appears on the certificate and that, if the member does not make the appearance in court to guarantee which the certificate is posted, they will pay in an amount not to exceed $200 any fine or forfeiture imposed against the individual. [Formerly 747.082]

743.765 Surety may issue guaranteed arrest bond certificate not to exceed $200. Upon compliance with ORS 743.768, any authorized domestic or foreign surety insurer may become surety in an amount not to exceed $200 with respect to any unexpired guar-

anteed arrest bond certificate that is issued by an automobile club or association. [Formerly 747.084]

743.768 Requirements to issue guaranteed arrest bond certificate. To become surety under ORS 743.765 with respect to an unexpired guaranteed arrest bond certificate that is accepted during any year under ORS 484.140, the surety insurer shall file with the commissioner on a form prescribed by him an undertaking so to become surety for that year. The undertaking shall state:

(1) The name and address of each automobile club or automobile association with respect to any guaranteed arrest bond certificate of which the surety insurer undertakes to be surety; and

(2) The unqualified obligation of the surety insurer to pay the fine or forfeiture in an amount not to exceed $200 with respect to any individual who:

(a) Posts an unexpired guaranteed arrest bond certificate with respect to which under this section the surety insurer has undertaken to be surety; and

(b) Fails to make the appearance in court to guarantee which the guaranteed arrest bond certificate was posted. [Formerly 747 086]

CASUALTY INSURANCE

743.780 Insurers to report malpractice claims to Board of Medical Examiners. (1) Any insurer or self-insurance association approved by the commissioner that issues or underwrites professional liability insurance in this state to any physician licensed to practice medicine by the Board of Medical Examiners for the State of Oregon shall report any claim against the insured for alleged professional negligence to the Board of Medical Examiners for the State of Oregon within 30 days after receiving notice of the claim from the insured or any other person.

(2) The report required by subsection (1) of this section shall include the name of the insured, the name of the person making the claim and the reason or reasons for which the claim is made.

(3) Any insurer or approved self-insurance association required to report to the board under this section shall also be required to advise the board of any settlements, awards or judgments against a physician upon receipt of a written request from the board.

(4) The board shall provide the commissioner copies of all reports required by subsections (1) and (3) of this section.

(5) The commissioner shall send, at least once every month, copies of all reports filed with him under subsection (4) of this section for the preceding month to the Board of Medical Examiners for the State of Oregon. [1975 c.796 §10; 1977 c.448 §12]

743.783 Bankruptcy clause required in certain liability policies. A policy of insurance against loss or damage resulting from accident to or injury suffered by an employe or other person and for which the person insured is liable, or against loss or damage to property caused by horses or by any vehicle drawn, propelled or operated by any motive power, and for which loss or damage the person insured is liable, shall contain within such policy a provision substantially as follows: "Bankruptcy or insolvency of the insured shall not relieve the insurer of any of its obligations hereunder. If any person or his legal representative shall obtain final judgment against the insured because of any such injuries, and execution thereon is returned unsatisfied by reason of bankruptcy, insolvency or any other cause, or if such judgment is not satisfied within 30 days after it is rendered, then such person or his legal representatives may proceed against the insurer to recover the amount of such judgment, either at law or in equity, but not exceeding the limit of this policy applicable thereto." [Formerly 736.320]

MOTOR VEHICLE LIABILITY INSURANCE

743.786 Definitions for ORS 743.786 to 743.795. As used in ORS 743.786 to 743.795:

(1) "Uninsured motorist coverage" means coverage within the terms and conditions specified in ORS 743.792 insuring the insured, his heirs or his legal representative for all sums which he or they shall be legally entitled to recover as damages for bodily injury or death caused by accident and arising out of the ownership, maintenance or use of an uninsured motor vehicle in amounts or limits not less than the amounts or limits prescribed for bodily injury or death for a policy of insurance meeting the requirements of ORS chapter 486.

(2) "Motor vehicle" means every self-propelled device in, upon or by which any

person or property is or may be transported or drawn upon a public highway, but does not include:

(a) Devices used exclusively upon stationary rails or tracks;

(b) Motor trucks as defined in ORS 481.035, when the insured has employes who operate such trucks and such employes are covered by any workers' compensation law, disability benefits law or any similar law; or

(c) Farm-type tractors or self-propelled equipment designed for use principally off public highways. [1967 c.482 §1; 1971 c.523 §11; 1979 c.842 §7]

743.789 Motor vehicle liability policies to provide uninsured motorist coverage. (1) Every motor vehicle liability policy insuring against loss suffered by any natural person resulting from liability imposed by law for bodily injury or death arising out of the ownership, maintenance or use of a motor vehicle shall provide uninsured motorist coverage therein or by indorsement thereon when such policy is either:

(a) Issued for delivery in this state; or

(b) Issued or delivered by an insurer doing business in this state with respect to any motor vehicle then principally used or principally garaged in this state.

(2) The insurer issuing such policy shall offer one or more options of uninsured motorist coverage larger than the amounts prescribed to meet the requirements of ORS chapter 486, up to the limits provided under the policy for motor vehicle bodily injury liability insurance. [1967 c.482 §2; 1975 c.390 §1]

743.792 Requirements of uninsured motorist coverage. Every policy required to provide the coverage specified in ORS 743.789 shall provide uninsured motorist coverage which in each instance is no less favorable in any respect to the insured or the beneficiary than if the following provisions were set forth in the policy. However, nothing contained in this section shall require the insurer to reproduce in such policy the particular language of any of the following provisions:

(1) (a) The insurer will pay all sums which the insured, his heirs or his legal representative shall be legally entitled to recover as general and special damages from the owner or operator of an uninsured vehicle because of bodily injury sustained by the insured caused by accident and arising out of the ownership, maintenance or use of such uninsured vehicle. Determination as to whether the insured, his heirs or his legal representative is legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement between the insured and the insurer, or, in the event of disagreement, by arbitration.

(b) No judgment against any person or organization alleged to be legally responsible for bodily injury, except for proceedings instituted against the insurer as provided in this policy, shall be conclusive, as between the insured and the insurer, on the issues of liability of such person or organization or of the amount of damages to which the insured is legally entitled.

(2) As used in this policy:

(a) "Insured," when unqualified, means when applied to uninsured motorist coverage:

(A) The named insured as stated in the policy and any person designated as named insured in the schedule and, while residents of the same household, the spouse of any such named insured and relatives of either; provided, neither such relative nor spouse is the owner of a vehicle not described in the policy; and provided further, if the named insured as stated in the policy is other than an individual or husband and wife who are residents of the same household, the named insured shall be only a person so designated in the schedule; and

(B) Any other person while occupying an insured vehicle provided the actual use thereof is with the permission of the named insured.

(b) "Insured vehicle," except as provided in paragraph (c) of this provision, means:

(A) The vehicle described in the policy or a newly acquired or substitute vehicle, as each of those terms is defined in the public liability coverage of the policy, insured under the public liability provisions of the policy; or

(B) A nonowned vehicle operated by the named insured or spouse if a resident of the same household; provided the actual use thereof is with the permission of the owner of such vehicle and such vehicle is not owned by nor furnished for the regular or frequent use of the insured or any member of the same household.

(c) "Insured vehicle" does not include a trailer of any type unless such trailer is a described vehicle in the policy.

(d) "Uninsured vehicle," except as provided in paragraph (e) of this provision, means:

(A) A vehicle with respect to the ownership, maintenance or use of which there is no collectible automobile bodily injury liability insurance or bond, in at least the amounts or limits prescribed for bodily injury or death for a policy of insurance meeting the requirements of ORS chapter 486, applicable at the time of the accident with respect to any person or organization legally responsible for the use of such vehicle, or with respect to which there is such collectible bodily injury liability insurance or bond applicable at the time of the accident but the insurance company writing the same denies coverage thereunder or, within two years of the date of the accident, such company writing the same becomes voluntarily or involuntarily declared bankrupt or for which a receiver is appointed or becomes insolvent. It shall be a disputable presumption that a vehicle is uninsured in the event the insured and the insurer, after reasonable efforts, fail to discover within 90 days from the date of the accident, the existence of a valid and collectible automobile bodily injury liability insurance or bond applicable at the time of the accident; or

(B) A hit-and-run vehicle as defined in paragraph (f) of this provision.

(C) A phantom vehicle as defined in paragraph (g) of this provision.

(e) "Uninsured vehicle" does not include:

(A) An insured vehicle;

(B) A vehicle which is owned or operated by a self-insurer within the meaning of any motor vehicle financial responsibility law, motor carrier law or any similar law;

(C) A vehicle which is owned by the United States of America, Canada, a state, a political subdivision of any such government or an agency of any of the foregoing;

(D) A land motor vehicle or trailer, if operated on rails or crawler-treads or while located for use as a residence or premises and not as a vehicle;

(E) A farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads; or

(F) A vehicle owned by or furnished for the regular or frequent use of the insured or any member of his household.

(f) "Hit-and-run vehicle" means a vehicle which causes bodily injury to an insured arising out of physical contact of such vehicle with the insured or with a vehicle which the insured is occupying at the time of the accident, provided:

(A) There cannot be ascertained the identity of either the operator or the owner of such hit-and-run vehicle;

(B) The insured or someone on his behalf shall have reported the accident within 72 hours to a police, peace or judicial officer, to the Motor Vehicles Division of the Department of Transportation of the State of Oregon or to the equivalent department in the state where the accident occurred, and shall have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof; and

(C) At the insurer's request, the insured or his legal representative makes available for inspection the vehicle which the insured was occupying at the time of the accident.

(g) "Phantom vehicle" means a vehicle which causes bodily injury to an insured arising out of a motor vehicle accident which is caused by an automobile which has no physical contact with the insured or the vehicle which the insured is occupying at the time of the accident, provided:

(A) There cannot be ascertained the identity of either the operator or the owner of such phantom vehicle;

(B) The facts of such accident can be corroborated by competent evidence other than the testimony of the insured or any person having an uninsured motorist claim resulting from the accident; and

(C) The insured or someone on his behalf shall have reported the accident within 72 hours to a police, peace or judicial officer, to the Motor Vehicles Division of the Department of Transportation of the State of Oregon or to the equivalent department in the state where the accident occurred, and shall have filed with the insurer within 30 days thereafter a statement under oath that the insured or his legal representative has a cause or causes of action arising out of such accident for damages against a person or persons whose identity is unascertainable, and setting forth the facts in support thereof.

(h) "Bodily injury" means bodily injury, sickness or disease, including death resulting therefrom.

(i) "Occupying" means in or upon or entering into or alighting from.

(j) "State" includes the District of Columbia, a territory or possession of the United States and a province of Canada.

(k) "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, but does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(3) This coverage applies only to accidents which occur on and after the effective date of the policy, during the policy period and within the United States of America, its territories or possessions, or Canada.

(4) (a) This coverage does not apply to bodily injury of an insured with respect to which such insured or his legal representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person or organization who may be legally liable therefor.

(b) This coverage does not apply to bodily injury to an insured while occupying a vehicle (other than an insured vehicle) owned by, or furnished for the regular use of, the named insured or any relative resident in the same household, or through being struck by such a vehicle.

(c) This coverage does not apply so as to inure directly or indirectly to the benefit of any workers' compensation carrier, any person or organization qualifying as a self-insurer under any workers' compensation or disability benefits law or any similar law or the State Accident Insurance Fund Corporation.

(5) (a) As soon as practicable, the insured or other person making claim shall give to the insurer written proof of claim, under oath if required, including full particulars of the nature and extent of the injuries, treatment and other details entering into the determination of the amount payable hereunder. The insured and every other person making claim hereunder shall submit to examinations under oath by any person named by the insurer and subscribe the same, as often as may reasonably be required. Proof of claim shall be made upon forms furnished by the insurer unless the insurer shall have failed to furnish such forms within 15 days after receiving notice of claim.

(b) Upon reasonable request of and at the expense of the insurer, the injured person shall submit to physical examinations by physicians selected by the insurer and shall, upon each request from the insurer, execute authorization to enable the insurer to obtain medical reports and copies of records.

(6) If, before the insurer makes payment of loss hereunder, the insured or his legal representative shall institute any legal action for bodily injury against any person or organization legally responsible for the use of a vehicle involved in the accident, a copy of the summons and complaint or other process served in connection with such legal action shall be forwarded immediately to the insurer by the insured or his legal representative.

(7) (a) The limit of liability stated in the declarations as applicable to "each person" is the limit of the insurer's liability for all damages because of bodily injury sustained by one person as the result of any one accident and, subject to the above provision respecting each person, the limit of liability stated in the declarations as applicable to "each accident" is the total limit of the company's liability for all damages because of bodily injury sustained by two or more persons as the result of any one accident.

(b) Any payment made under this coverage to or for an insured shall be applied in reduction of any amount which he may be entitled to recover from any person who is an insured under the bodily injury liability coverage of this policy; and

(c) Any amount payable under the terms of this coverage because of bodily injury sustained in an accident by a person who is an insured under this coverage shall be reduced by:

(A) All sums paid on account of such bodily injury by or on behalf of the owner or operator of the uninsured vehicle and by or on behalf of any other person or organization jointly or severally liable together with such owner or operator for such bodily injury including all sums paid under the bodily injury liability coverage of the policy; and

(B) The amount paid and the present value of all amounts payable on account of such bodily injury under any workers' compensation law, disability benefits law or any similar law.

(8) No action shall lie against the insurer unless, as a condition precedent thereto, the insured or his legal representative has fully complied with all the terms of this policy.

(9) (a) Except as provided in paragraph (c) of this subsection, with respect to bodily injury to an insured while occupying a vehicle not owned by a named insured under this coverage, the insurance under this coverage shall apply only as excess insurance over any other insurance available to such occupant which is similar to this coverage, and this insurance shall then apply only in the amount by which the applicable limit of liability of this coverage exceeds the sum of the applicable limits of liability of all such other insurance.

(b) With respect to bodily injury to an insured while occupying or through being struck by an uninsured vehicle, if such insured is an insured under other insurance available to him which is similar to this coverage, then the damages shall be deemed not to exceed the higher of the applicable limits of liability of this insurance or such other insurance, and the insurer shall not be liable under this coverage for a greater proportion of the damages than the applicable limit of liability of this coverage bears to the sum of the applicable limits of liability of this insurance and such other insurance.

(c) With respect to bodily injury to an insured while occupying any motor vehicle used as a public or livery conveyance, the insurance under this coverage shall apply only as excess insurance over any other insurance available to the insured which is similar to this coverage, and this insurance shall then apply only in the amount by which the applicable limit of liability of this coverage exceeds the sum of the applicable limits of liability of all such other insurance.

(10) If any person making claim hereunder and the insurer do not agree that such person is legally entitled to recover damages from the owner or operator of an uninsured vehicle because of bodily injury to the insured, or do not agree as to the amount of payment which may be owing under this coverage, then, in the event the insured or the insurer elects to settle the matter by arbitration, the arbitration shall take place under the arbitration laws of the State of Oregon and any judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof provided, however, the costs to the insured of the arbitration proceeding shall not exceed $100 and that all other costs of arbitration shall be borne by the insurer. "Costs" as used in this provision shall not include attorney fees or expenses incurred in the production of evidence or witnesses or the making of transcripts of the arbitration proceedings. Such person and the insurer each agree to consider themselves bound and to be bound by any award made by the arbitrators pursuant to this coverage in the event of such election. At the election of the insured, such arbitration shall be held:

(a) In the county and state of residence of the insured;

(b) In the county and state where the insured's cause of action against the uninsured motorist arose; or

(c) At any other place mutually agreed upon by the insured and the insurer.

(11) In the event of payment to any person under this coverage:

(a) The insurer shall be entitled to the extent of such payment to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of such person against any uninsured motorist legally responsible for the bodily injury because of which such payment is made;

(b) Such person shall hold in trust for the benefit of the insurer all rights of recovery which he shall have against such other uninsured person or organization because of the damages which are the subject of claim made under this coverage, but only to the extent that such claim is made or paid herein;

(c) If the insured is injured by the joint or concurrent act or acts of two or more persons, one or more of whom is uninsured, the insured shall have the election to receive from the insurer any payment to which he would be entitled under this coverage by reason of the act or acts of the uninsured motorist, or the insured may, with the written consent of the insurer, proceed with legal action against any or all persons claimed to be liable to the insured for such injuries. If the insured elects to receive payment from the insurer under this coverage, then the insured shall hold in trust for the benefit of the insurer all rights of recovery the insured shall have against any other person, firm or organization because of the damages which are the subject of claim made under this coverage, but only to the extent of the actual payment made by the insurer;

(d) Such person shall do whatever is proper to secure and shall do nothing after loss to prejudice such rights;

(e) If requested in writing by the insurer, such person shall take, through any representative not in conflict in interest with such person, designated by the insurer, such action as may be necessary or appropriate to recover such payment as damages from such other uninsured person or organization, such action to be taken in the name of such person, but only to the extent of the payment made hereunder. In the event of a recovery, the insurer shall be reimbursed out of such recovery for expenses, costs and attorney fees incurred by it in connection therewith; and

(f) Such person shall execute and deliver to the insurer such instruments and papers as may be appropriate to secure the rights and obligations of such person and the insurer established by this provision.

(12) The parties to this coverage agree that no cause of action shall accrue to the insured under this coverage unless within two years from the date of the accident:

(a) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction;

(b) Agreement as to the amount due under the policy has been concluded; or

(c) The insured or the insurer has formally instituted arbitration proceedings. [1967 c.482 §3; 1977 c.600 §3; 1979 c.842 §8]

743.795 Allocation of responsibility among insurers. Notwithstanding the contrary provisions of any policy, the provisions of paragraphs (a) to (c) of subsection (9) of ORS 743.792 shall control allocation of responsibility between insurers, except that if all policies potentially involved expressly allocate responsibility between insurers, or self-insurers, without repugnancy, then the terms of the policies shall control. [1979 c.842 §10]

743.800 Hospital, medical, disability and funeral benefits required for motor vehicle liability policies; definitions for ORS 743.800 to 743.835. Every motor vehicle liability policy issued for delivery in this state that covers any private passenger motor vehicle other than a moped or motorcycle shall provide to the person insured thereunder and members of that person's family residing in the same household injured in a motor vehicle accident, passengers injured while occupying the insured motor vehicle and pedestrians struck by the insured motor vehicle, the following hospital, medical, disability and funeral benefits for each accident:

(1) All reasonable and necessary expenses for medical, hospital, dental, surgical, ambulance and prosthetic services incurred within one year after the date of the accident, in the amount of $5,000 per person; and

(2) All reasonable and necessary funeral expenses incurred within one year after the date of the accident, in the amount of $1,000 per person; and

(3) If the injured person is usually engaged in a remunerative occupation, 70 percent of the loss of income from work during the period of disability if the disability continues for at least 14 days and ending on the date the injured person is able to return to the person's usual occupation; or

(4) If the injured person is not usually engaged in a remunerative occupation, the expenses reasonably incurred for essential services in lieu of those the injured person would have performed without income during the period of disability if the disability continues for at least 14 days and ending on the date the injured person is reasonably able to perform such essential services.

(5) As used in ORS 743.800 to 743.835:

(a) "Income" includes, but is not limited to, salary, wages, tips, commissions, professional fees, and profits from an individually owned business or farm.

(b) "Motor vehicle" means a self-propelled land motor vehicle or trailer, other than:

(A) A farm type tractor or other self-propelled equipment designed for use principally off public roads, while not upon public roads;

(B) A vehicle operated on rails or crawler-treads; or

(C) A vehicle located for use as a residence or premises.

(c) "Occupying" means in, or upon, or entering into or alighting from.

(d) "Pedestrian" means a person while not occupying a self-propelled vehicle.

(e) "Personal injury protection benefits" means the benefits required by this section and ORS 743.805.

(f) "Private passenger motor vehicle" means a four-wheel passenger or station wagon type motor vehicle not used as a public or

livery conveyance, and includes any other four-wheel motor vehicle of the utility, pickup body, sedan delivery or panel truck type not used for wholesale or retail delivery other than farming, a self-propelled mobile home, and a farm truck. [1971 c.523 §2; 1973 c.551 §1; 1975 c.784 §1; 1979 c.871 §45]

743.805 Alternative forms of coverage; limitation on benefits; requirements relating to personal injury protection benefits. (1) Notwithstanding ORS 743.800:

(a) With respect to the insured and members of his family residing in the same household, an insurer may offer forms of coverage for the benefits required by subsections (1), (3) and (4) of ORS 743.800 with deductibles of up to $250.

(b) The benefits referred to in subsection (3) of ORS 743.800 need not exceed $750 per month or be paid for a period exceeding 52 weeks.

(c) The benefits referred to in subsection (4) of ORS 743.800 need not exceed $18 per day or be paid for a period exceeding 52 weeks.

(2) All personal injury protection benefits shall be paid promptly after proof of loss has been submitted to the insurer.

(3) The potential existence of a cause of action in tort that arises out of an accident does not relieve an insurer of the duty to pay the personal injury protection benefits to the injured person.

(4) Disputes between insurers and beneficiaries as to the amount of the personal injury protection benefits shall be decided by arbitration. [1971 c.523 §3; 1973 c.551 §2; 1975 c.784 §2]

743.810 Primary nature of benefits. (1) The personal injury protection benefits with respect to:

(a) The insured and members of his family residing in the same household injured while occupying the insured motor vehicle shall be primary.

(b) Passengers injured while occupying the insured motor vehicle shall be primary.

(c) The insured and members of his family residing in the same household injured as pedestrians shall be primary.

(d) The insured and members of his family residing in the same household injured while occupying a motor vehicle not insured under the policy shall be excess.

(e) Pedestrians injured by the insured motor vehicle, other than the insured and members of his family residing in the same household, shall be excess over any other collateral benefits to which the injured person is entitled, including but not limited to insurance benefits, governmental benefits or gratuitous benefits.

(2) The personal injury protection benefits may be reduced or eliminated, if it is so provided in the policy, when the injured person is entitled to receive, under the laws of this state or any other state or the United States, workers' compensation benefits or any other similar medical or disability benefits. [1971 c.523 §4; 1973 c.551 §4; 1975 c.784 §3]

743.815 Exclusions from coverage. (1) The insurer may exclude from the coverage for personal injury protection benefits any injured person:

(a) Who intentionally causes injury to himself; or

(b) Who is participating in any prearranged or organized racing or speed contest or in practice or preparation for any such contest.

(2) The insurer may exclude from the coverage for the benefits required by subsections (3) and (4) of ORS 743.800 any person injured as a pedestrian in an accident outside this state, other than the insured or a member of his family residing in the same household. [1971 c.523 §5; 1973 c.551 §3; 1975 c.784 §4]

743.820 Benefits may be more favorable than those required by ORS 743.800 and 743.805. Nothing in ORS 731.418, 743.786 to 743.795 and 743.800 to 743.835 is intended to prevent an insurer from providing more favorable benefits than those required by ORS 743.800 and 743.805. [1971 c.523 §6; 1975 c.784 §5]

743.825 Reimbursement of other insurers paying benefits; arbitrating issues of liability and amount of reimbursement. (1) Every authorized motor vehicle liability insurer whose insured is or would be held legally liable for damages for injuries sustained in a motor vehicle accident by a person for whom personal injury protection benefits have been furnished by another such insurer, or for whom benefits have been furnished by an authorized health insurer, shall reimburse such other insurer for the benefits it has so furnished if it has requested such reimbursement, has not given notice as provided in ORS

743.828 that it elects recovery by lien in accordance with that section and is entitled to reimbursement under this section by the terms of its policy.

(2) In calculating such reimbursement, the amount of benefits so furnished shall be diminished in proportion to the amount of negligence attributable to the person for whom benefits have been so furnished, and the reimbursement shall not exceed the amount of damages legally recoverable by him.

(3) Disputes between insurers as to such issues of liability and the amount of reimbursement required by this section shall be decided by arbitration.

(4) Findings and awards made in such an arbitration proceeding are not admissible in any action at law or suit in equity. [1971 c.523 §7; 1975 c.784 §6]

743.828 Notice of claim or legal action to insurer; insurer to elect manner of recovery of benefits furnished; lien of insurer. (1) When an authorized motor vehicle liability insurer has furnished personal injury protection benefits, or an authorized health insurer has furnished benefits, for a person injured in a motor vehicle accident, if such injured person makes claim, or institutes legal action, for damages for such injuries against any person, such injured person shall give notice of such claim or legal action to the insurer by personal service or by registered or certified mail. Service of a copy of the summons and complaint or copy of other process served in connection with such a legal action shall be sufficient notice to the insurer, in which case a return showing service of such notice shall be filed with the clerk of the court but shall not be a part of the record except to give notice.

(2) The insurer may elect to seek reimbursement as provided in this section for benefits it has so furnished, out of any recovery under such claim or legal action, if the insurer has not been a party to an interinsurer reimbursement proceeding with respect to such benefits under ORS 743.825 and is entitled by the terms of its policy to the benefit of this section. The insurer shall give written notice of such election within 30 days from the receipt of notice or knowledge of such claim or legal action to the person making claim or instituting legal action and to the person against whom claim is made or legal action instituted, by personal service or by registered or certified mail. In the case of a legal action, a return showing service of such notice of election shall be filed with the clerk of the court but shall not be a part of the record except to give notice to the claimant and the defendant of the lien of the insurer.

(3) If the insurer so serves such written notice of election and, where applicable, such return is so filed:

(a) The insurer has a lien against such cause of action for benefits it has so furnished, less the proportion, not to exceed 100 percent, of expenses, costs and attorney fees incurred by the injured person in connection with the recovery that the amount of the lien before such reduction bears to the amount of the recovery.

(b) The injured person shall include as damages in such claim or legal action the benefits so furnished by the insurer.

(c) In the case of a legal action, the action shall be taken in the name of the injured person.

(4) As used in this section, "makes claim" or "claim" refers to a written demand made and delivered for a specific amount of damages and which meets other requirements reasonably established by the commissioner's rule. [1975 c.784 §8]

743.830 Subrogation rights of insurers to certain amounts received by claimant; recovery actions against persons causing injury. If a motor vehicle liability insurer has furnished personal injury protection benefits, or a health insurer has furnished benefits, for a person injured in a motor vehicle accident, and the interinsurer reimbursement benefit of ORS 743.825 is not available under the terms of that section, and the insurer has not elected recovery by lien as provided in ORS 743.828, and is entitled by the terms of its policy to the benefit of this section:

(1) The insurer is entitled to the proceeds of any settlement or judgment that may result from the exercise of any rights of recovery of the injured person against any person legally responsible for the accident, to the extent of such benefits furnished by the insurer less the insurer's share of expenses, costs and attorney fees incurred by the injured person in connection with such recovery.

(2) The injured person shall hold in trust for the benefit of the insurer all such rights of recovery which he has, but only to the extent of such benefits furnished.

(3) The injured person shall do whatever is proper to secure, and shall do nothing after loss to prejudice, such rights.

(4) If requested in writing by the insurer, the injured person shall take, through any representative not in conflict in interest with him designated by the insurer, such action as may be necessary or appropriate to recover such benefits furnished as damages from such responsible person, such action to be taken in the name of the injured person, but only to the extent of the benefits furnished by the insurer. In the event of a recovery, the insurer shall also be reimbursed out of such recovery for the injured person's share of expenses, costs and attorney fees incurred by the insurer in connection with the recovery.

(5) In calculating respective shares of expenses, costs and attorney fees under this section, the basis of allocation shall be the respective proportions borne to the total recovery by:

(a) Such benefits furnished by the insurer; and

(b) The total recovery less (a).

(6) The injured person shall execute and deliver to the insurer such instruments and papers as may be appropriate to secure the rights and obligations of the insurer and him as established by this section.

(7) Any provisions in a motor vehicle liability insurance policy or health insurance policy giving rights to the insurer relating to subrogation or the subject matter of this section shall be construed and applied in accordance with the provisions of this section. [1971 c.523 §8; 1975 c.784 §9]

743.833 Rules. The commissioner shall have authority to issue such rules as are reasonably necessary to carry out the purposes of ORS 743.800 to 743.835. [1975 c.784 §12]

743.835 Effect of personal injury protection benefits paid. Payment by a motor vehicle liability insurer of personal injury protection benefits for its own insured shall be applied in reduction of the amount of damage that the insured may be entitled to recover from his insurer under uninsured motorist coverage for the same accident. [1971 c.523 §9; 1975 c.784 §10]

CANCELLATION OF AUTOMOBILE LIABILITY POLICIES

743.900 Definitions for ORS 743.900 to 743.930. As used in ORS 743.900 to 743.930:

(1) "Policy" means any insurance policy which provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on individually owned private passenger vehicles including pickup and panel trucks and station wagons, which are not used as a public or livery conveyance for passengers, nor rented to others; provided, however, that ORS 743.900 to 743.930 shall not apply to any policy:

(a) Issued under an automobile assigned risk plan;

(b) Insuring more than four automobiles;

(c) Covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards; or

(d) Issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance or use of a motor vehicle on the premises of such insured or on the ways immediately adjoining such premises.

(2) "Renewal" or "to renew" means to continue coverage for an additional policy period upon expiration of the current policy period of a policy. Any policy with a policy period or term of less than six months shall for the purpose of ORS 743.900 to 743.930 be considered as if written for a policy period or term of six months. Any policy written for a term longer than one year or any policy with no fixed expiration date shall for the purpose of ORS 743.900 to 743.930 be considered as if written for successive policy periods or terms of one year but not extending beyond the actual term for which the policy was written.

(3) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on the policy, or any instalment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(4) "Cancellation" means termination of coverage by an insurer, other than termination at the request of the insured, during a policy period.

(5) "Nonrenewal" means a notice by an insurer to the named insured that the insurer is unwilling to renew a policy.

(6) "Expiration" means termination of coverage by reason of the policy having reached the end of the term for which it was issued or the end of the period for which a premium has been paid. [1971 c.476 §2; 1975 c 570 §1]

743.905 Grounds for cancellation of policies; notice required; applicability. (1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:

(a) Nonpayment of premium;

(b) Fraud or material misrepresentation affecting the policy or in the presentation of a claim thereunder, or violation of any of the terms or conditions of the policy; or

(c) The named insured or any operator either resident in the same household or who customarily operates an automobile insured under the policy has had his driver's license suspended or revoked pursuant to law during the policy period, or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date.

(2) This section shall not apply to any policy or coverage which has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(3) This section shall not apply to nonrenewal. [1971 c.476 §3]

743.910 Manner of giving cancellation notice. (1) No notice of cancellation of a policy to which ORS 743.905 applies shall be effective unless mailed or delivered by the insurer to the named insured at least 20 days prior to the effective date of cancellation and accompanied by a statement of the reason or reasons for cancellation, provided, however, that where cancellation is for nonpayment of premium at least 10 days' notice of cancellation accompanied by the reason therefor shall be given.

(2) This section shall not apply to nonrenewal. [1971 c.476 §4; 1977 c.600 §7]

743.915 [1971 c.476 §5; repealed by 1975 c.570 §2 (743 916 enacted in lieu of 743.915)]

743.916 Renewal of policies; requirements for refusal to renew. (1) An insurer shall offer renewal of a policy, contingent upon payment of premium as stated in the offer, to an insured unless the insurer mails or delivers to the named insured, at the address shown in the policy, at least 20 days' advance notice of nonrenewal. Such notice shall contain or be accompanied by a statement of the reason or reasons for nonrenewal.

(2) The insurer shall not be required to notify the named insured or any other insured of nonrenewal of the policy if the insurer has mailed or delivered a notice of expiration or cancellation on or prior to the 20th day preceding expiration of the policy period.

(3) Notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any replacement or succeeding automobile insurance policy, with respect to any automobile designated in both policies. [1975 c.570 §3 (enacted in lieu of 743.915); 1977 c 600 §8]

743.920 Proof of cancellation or nonrenewal notice. Proof of mailing notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy, shall be sufficient proof of notice. [1971 c.476 §6]

743.925 Notifying insured under canceled or unrenewed policy of eligibility for participation in insurance pool. When automobile bodily injury and property damage liability coverage is canceled, other than for nonpayment of premium, or in the event of failure to renew automobile bodily injury and property damage liability coverage to which ORS 743.916 applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through any insurance pool or facility operating in this state, whether voluntarily or under statute or rule. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. [1971 c.476 §7]

743.930 Immunity from liability of persons furnishing information regarding cancellation or nonrenewal of policies. There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employes, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancella-

tion or nonrenewal, or providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith. [1971 c.476 §8; 1977 c.600 §4]

CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, 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,
October 1, 1979.

Thomas G. Clifford
Legislative Counsel