

# Chapter 737

## 1985 REPLACEMENT PART

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**737.005** [Amended by 1963 c 580 §92; repealed by 1967 c.359 §704]

**GENERAL PROVISIONS**

**Note:** Chapter 474, Oregon Laws 1981, provides:

**Sec. 1.** Section 1, chapter 798, Oregon Laws 1979, is amended to read:

**Sec. 1.** Section 2, chapter 798, Oregon Laws 1979, and section 3 of this 1981 Act are added to and made a part of the Insurance Code.

**Sec. 2.** Section 2, chapter 798, Oregon Laws 1979, is amended to read:

**Sec. 2.** (1) Notwithstanding ORS 737.346, an insurer may issue, with the prior approval of the commissioner under subsection (2) of this section, a policy insuring a public body as defined in ORS 30 260 (2), the prime contractor under a contract with the public body and contractors and subcontractors with whom the prime contractor contracts for the purpose of fulfilling the obligations of the prime contractor under its contract with the public body.

(2) The commissioner, upon application of the insurer, shall approve the issuance of a policy which covers any grouping of two or more of the persons described in subsection (1) of this section if:

(a) The grouping was formed for the purpose of performing a contract or a series of related contracts for the construction of a project of the public body and was not formed solely for the purpose of obtaining insurance;

(b) The total estimated cost of the construction project exceeds \$60 million or a higher amount, if any, set by rule of the commissioner,

(c) The formation and operation of the grouping will substantially improve accident prevention and claims handling, to the benefit of the public body;

(d) The established rating and auditing standards required by the Insurance Services Office and National Council on Compensation and their affiliates in this state are adhered to;

(e) Adequate protection is guaranteed by the insurer to any agent who demonstrates that, without such protection, the agent will suffer losses constituting a threat to the continuation of the business of the agent,

(f) It reasonably can be demonstrated by the public body that a substantial saving of public moneys will result from the grouping, and

(g) The insurer guarantees to provide insurance, of the classes covering the grouping, to any contractor who, because of participation in the grouping, has been unable to maintain the contractor's normal coverage for insurance of these classes. The insurer's obligation under this paragraph shall continue until 12 months after substantial completion of the contractor's work under the project.

**Sec. 3.** In addition to other rulemaking powers of the commissioner, the commissioner may make reasonable rules.

(1) Stating the necessary attributes that a construction project of a public body and the participants in the project must have in order to qualify for the grouping permitted under

section 2 of this 1981 Act. The rules may include but need not be limited to matters regarding the minimum total cost of the construction project; and

(2) Providing a procedure for reviewing a policy under section 2, chapter 798, Oregon Laws 1979, that enables the Public Contract Review Board or the local contract review board created under ORS 279.055, whichever board reviews the contracts of the public body obtaining the policy, to assist in the policy evaluation.

**Sec. 4.** Section 3, chapter 798, Oregon Laws 1979, is amended to read:

**Sec. 3.** The commissioner shall prepare for submission to the Sixty-second Legislative Assembly a written report containing the commissioner's findings of fact and analyses regarding the operation and administration of this Act. The report also shall contain the recommendations of the commissioner concerning issuance of insurance policies to combinations of persons similar to the grouping described in section 2 of this Act, and the conditions and requirements for such issuance

**Sec. 5.** Section 4, chapter 798, Oregon Laws 1979, is amended to read:

**Sec. 4.** Chapter 798, Oregon Laws 1979, expires and is repealed on July 1, 1987

**737.007 "Rating organization" defined.** (1) As used in this chapter, unless the context requires otherwise, "rating organization" means:

(a) Every person, other than an insurer, whether located within or outside this state who has as the person's object or purpose the making of rates, rating plans or rating systems; or

(b) Two or more insurers which act in concert for the purpose of making rates, rating plans or rating systems.

(2) Subsection (1) of this section does not include, apply to or affect two or more insurers operating within the specific authorizations contained in ORS 737.275, 737.312, 737.365, 737.390 and 737.526. [1969 c 690 §14]

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

**737.012 "Advisory organization" defined.** As used in this chapter, unless the context requires otherwise, "advisory organization" means every group, association or other organization of insurers, whether located within or outside this state, which assists authorized insurers which make their own filings or licensed rating organizations in rate making, by the collection and furnishing of loss or expense statistics or by the submission of recommendations, but which does not make filings under this chapter. [1969 c.690 §15]

**737.015** [Repealed by 1967 c.359 §704]

**737.017 “Member”; “subscriber” defined.** As used in this chapter, unless the context requires otherwise:

(1) “Member” means an insurer who participates in or is entitled to participate in the management of a rating, advisory or other organization.

(2) “Subscriber” means an insurer which is furnished at its request:

(a) With rates and rating manuals by a rating organization of which it is not a member; or

(b) With advisory services by an advisory organization of which it is not a member. [1969 c.690 §16]

**737.020** [1967 c.359 §299, repealed by 1969 c.690 §29]

**737.025 Purpose, intent of chapter.** (1) The purpose of this chapter is to promote the public welfare by regulating insurance rates to the end that they shall not be excessive, inadequate or unfairly discriminatory and to authorize cooperation between insurers in rate making and other related matters.

(2) It is the express intent of this chapter to permit and encourage competition between insurers on a sound financial basis. [1969 c.690 §1]

**737.030** [1967 c.359 §300; repealed by 1969 c.690 §29]

**737.035 Application of chapter.** This chapter applies to all forms of insurance on risks or operations in this state, except:

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

(2) Insurance against loss of, or damage to, aircraft, including accessories and equipment, or against liability arising out of ownership, maintenance or use of aircraft;

(3) Wet marine and transportation insurance;

(4) Life insurance; or

(5) Health insurance. [1969 c.690 §2]

**737.040** [1967 c.359 §301; repealed by 1969 c.690 §29]

**737.045 Remedies of commissioner for violations of chapter.** If after a hearing held pursuant to ORS 737.215 or 737.340 the commissioner finds:

(1) That any rate, rating plan or rating system violates the provisions of this chapter, the commissioner may issue an order specifying in what respects such violation exists and stating when, within a reasonable period of time, the further use of such rate or rating system by the insurer, rating or advisory organization in policies of insurance made thereafter shall be prohibited.

(2) That an insurer, rating or advisory organization is in violation of any provision of this chapter other than the provisions dealing with rates, rating plans or rating systems, the commissioner may issue an order to such person which has been the subject of the hearing specifying in what respects such violation exists and requiring compliance within a reasonable time thereafter.

(3) That the violation of any of the provisions of this chapter applicable to it by any insurer or rating organization which has been the subject of hearing was wilful, the commissioner may suspend or revoke, the certificate of authority of such insurer or the license of such rating organization.

(4) That any rating organization has wilfully engaged in any fraudulent or dishonest act or practices, the commissioner may suspend or revoke the license of such organization. [1969 c.690 §10]

**737.050** [1967 c.359 §302; repealed by 1969 c.690 §29]

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

**737.110** [Repealed by 1967 c.359 §704]

**737.115** [Repealed by 1967 c.359 §704]

**737.120** [Repealed by 1967 c.359 §704]

**737.125** [Repealed by 1967 c.359 §704]

**737.130** [Repealed by 1967 c.359 §704]

**737.135** [Repealed by 1969 c.336 §21 and 1969 c.690 §29]

**737.140** [Repealed by 1967 c.359 §704]

**737.145** [Repealed by 1967 c.359 §704]

**737.150** [Repealed by 1967 c.359 §704]

**737.155** [Repealed by 1967 c.359 §704]

**737.160** [Repealed by 1967 c.359 §704]

**737.165** [Repealed by 1967 c.359 §704]

**737.170** [Repealed by 1967 c.359 §704]

**737.175** [Repealed by 1967 c.359 §704]

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

**737.185** [Repealed by 1967 c.359 §704]

## RATES AND RATE MAKING

**737.205 Filing rates, plans with commissioner; public inspection of filings; effect on workers' compensation filings.**

(1) Every insurer shall file with the commissioner copies of the rates, rating plans and rating systems used by it. Except as provided in ORS 737.320 (2), each filing shall become effective immediately on the date specified therein but not earlier than the date such filing is received by the

commissioner. This subsection does not apply to inland marine risks which by general custom of the business are not written according to manual rates or rating plans.

(2) An insurer may satisfy its obligation to make such filings by becoming a member of or a subscriber to a licensed rating organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf. Such insurer may so adopt the filings of a rating organization on part of the classes of risks insured by it and may make its own filings as to other classes which shall be uniform throughout the insurer's territorial classification. This subsection does not apply to workers' compensation insurance filings except to the extent that the rating organization filings of rating plans or systems under ORS 737.320 are complete and usable by an insurer without the addition of allowances for expenses, taxes or profit.

(3) A filing shall be open to public inspection immediately upon submission to the commissioner. [1969 c.690 §4; 1981 c.535 §16]

**737.215 Effect of noncompliance with rating regulation.** If the commissioner has reason to believe that noncompliance by an insurer with the requirements and standards of this chapter to be wilful, or if within the period prescribed by the commissioner in the notice required by ORS 737.336, the insurer, rating or advisory organization does not make such changes as may be necessary to correct the noncompliance specified by the commissioner or establish to the satisfaction of the commissioner that such specified noncompliance does not exist, then the commissioner may hold a hearing in connection therewith, provided that within a reasonable period of time which shall be not less than 10 days before the date of such hearing, the commissioner shall mail written notice to the insurer, rating or advisory organization involved specifying the matters to be considered at such hearing. [1969 c.690 §8]

**737.225 Rating records required generally; investment income records by workers' compensation insurers required; form; inspection; statistics.** (1) Every insurer, rating organization or advisory organization shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys or inspections made or used by it. An insurer providing

workers' compensation insurance shall maintain reasonable records showing investment income earned by the insurer.

(2) The maintenance of such records in the office of a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this section for any insurer maintaining membership or subscribership in such organization, to the extent that the insurer uses the rates, rating plans, rating systems or underwriting rules of such organization.

(3) Such records shall be available to the commissioner for examination and inspection at any time in order to determine whether the filings made pursuant to ORS 737.205 comply with this chapter.

(4) Each insurer shall maintain statistics under statistical plans compatible with the rating plans used. An insurer may report its statistics through a recognized agency or advisory organization, except that workers' compensation insurance statistics shall be reported to the workers' compensation rating organization of which the insurer is a member. The commissioner shall prescribe by rule the statistical plan for workers' compensation insurance. [1969 c.690 §11, 1981 c.535 §17; 1983 c.360 §2]

**737.230 Data must include certain information.** The data collected and maintained by each insurer, rating organization or advisory organization pursuant to ORS 737.225 shall be in sufficient detail to demonstrate the statistical significance of differences or correlations relevant to the rating plan definitions and rate differentials. [1979 c.870 §6]

**737.235 Examining rating systems of insurers; costs.** (1) The commissioner may make or cause to be made an examination of every insurer transacting any class of insurance to which the provisions of this chapter are applicable to ascertain whether such insurer and every rate and rating system used by it for every such class of insurance complies with the requirements and standards of this chapter.

(2) The officers, managers, agents and employes of any insurer, under examination, may be examined at any time under oath and shall exhibit all books, records, accounts, documents or agreements governing its method of operation, together with all data, statistics and information of every kind and character collected or considered by such insurer in the conduct of the operations to which such examination relates.

(3) The reasonable cost of any examination authorized by this section shall be paid by the

organization or insurer to be examined including actual necessary transportation and traveling expenses.

(4) Notwithstanding any other provision of law, all reimbursable expenses collected by the commissioner under subsection (3) of this section shall be deposited by the commissioner in the State Treasury revolving account for the payment of expenses further incurred by the commissioner in conducting the examinations authorized by this section. The account shall be continuously appropriated for such purpose. [1969 c 690 §12]

**737.245 Collusive ratings prohibited; liability for damages.** In the event any insurer shall in collusion with any other insurer conspire to fix, set or adhere to insurance rates except as expressly sanctioned by the Insurance Code, such insurer shall be liable to any person damaged thereby for an amount equal to three times the amount of such damage together with the damaged party's attorney fees. [1969 c 690 §13]

**737.255 Authority for cooperative ratings and systems.** Subject to and in compliance with the provisions of this chapter authorizing insurers to be members or subscribers of rating or advisory organizations or to engage in joint underwriting or joint reinsurance, two or more insurers may act in concert with each other and with others with respect to any matters pertaining to the making of rates or rating systems, the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data or carrying on of research. [1969 c.690 §17]

**737.265 Unauthorized adherence to rates, rating systems prohibited; workers' compensation rating organizations.** (1) Members and subscribers of rating or advisory organizations may use the rates, rating systems, underwriting rules or policy or bond forms of such organizations, either consistently or intermittently, but, except as provided in ORS 737.275, 737.312, 737.365, 737.390, 737.526 and subsection (2) of this section, shall not agree with each other or rating organizations or others to adhere thereto. The fact that two or more authorized insurers, whether or not members or subscribers of a rating or advisory organization, use, either consistently or intermittently, the rates or rating systems made or adopted by a rating organization, or the underwriting rules or policy or bond forms prepared by a rating or advisory organization, shall not be sufficient in itself to support a finding that an agreement to so adhere exists, and

may be used only for the purpose of supplementing or explaining any competent evidence of the existence of any such agreement.

(2) All insurers required by ORS 737.560 (2) to be members of a workers' compensation rating organization shall adhere to the policy forms filed by the rating organization. [1969 c.690 §19; 1971 c.385 §4; 1977 c 333 §1, 1981 c.535 §18]

**737.275 Preparation of rates, rating systems and other administrative matters by insurers under common ownership.**

With respect to any matters pertaining to the making of rates or rating systems, the preparation or making of insurance policy or bond forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss or expense statistics or other information and data, or carrying on of research, two or more admitted insurers having a common ownership or operating in this state under common management or control are hereby authorized to act in concert between or among themselves the same as if they constituted a single insurer, and to the extent that such matters relate to co-surety bonds, two or more admitted insurers executing such bonds are hereby authorized to act in concert between or among themselves the same as if they constituted a single insurer. [1969 c.690 §21]

**737.280** [Formerly 737.010; repealed by 1969 c 690 §29]

**737.290** [1967 c 359 §305; repealed by 1969 c.690 §29]

**737.300** [1967 c 359 §306; repealed by 1969 c.690 §29]

**737.305** [Repealed by 1967 c.359 §704]

**737.310 Method of rate making; factors considered.** The following standards shall apply to the making and use of rates:

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

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

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

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

(B) A reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.

(b) No rate shall be held inadequate unless:

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

(B) Continued use of such rate endangers the solvency of the insurer; or unless

(C) Such rate is unreasonably low for the insurance provided and the use of such rate by the insurer has, or if continued will have, the effect of destroying competition or creating a monopoly.

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

(4) In addition to subsection (3) of this section, rates for home protection insurance may include provision for unreimbursed costs of risk inspection and for loss costs under policies which are terminated without premium because the related home sale is not made.

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

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

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

(8) Due consideration shall be given, in the making and use of rates for workers' compensation insurance, to investment income earned by the insurer.

(9) The Insurance Commissioner, by rule, shall prescribe the conditions under which a division of payroll between different manual clas-

sifications is permitted for purposes of computing workers' compensation premiums. [Amended by 1967 c.359 §307; 1969 c.690 §3; 1981 c.247 §15, 1981 c.535 §19, 1981 c.874 §19; 1983 c.360 §1]

**737.312 Agreements among insurers for assignment of risks; rate modifications.**

Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to such insurance but who are unable to procure such insurance through ordinary methods. Such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner. [Formerly 737.180]

**737.315** [Amended by 1967 c.359 §309, 1967 c.366 §1, repealed by 1969 c.690 §29]

**737.316 Combining experience of employers for workers' compensation insurance; conditions.** Notwithstanding ORS 737.346, but subject to all other rate filing requirements of ORS chapter 737, an insurer may combine for rating purposes the experience of a group of employers covered for workers' compensation insurance by the insurer, subject to applicable rules adopted by the commissioner, if:

(1) All the employers in the group are members of an organization.

(2) The occupations of all the employers in the organization are substantially similar, taking into consideration the nature of the services being performed by workers of such employers.

(3) The employers in the group constitute at least 50 percent of the employers in the organization, unless the number of covered workers in the group exceeds 500, in which case the employers in the group must constitute at least 25 percent of the employers in the organization.

(4) The grouping of employers is likely to substantially improve accident prevention, claims handling for the employers and reduce expenses. [1983 c.706 §6]

**737.320 Review of certain filings; effective date of filings; investigation and evaluation of workers' compensation rate filings.**

(1) The commissioner shall review title insurance filings, and each workers' compensation insurance filing that does not come within the provisions of subsection (4) of this section, as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

(2) The effective date of each title and workers' compensation insurance filing shall be the

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

(3) Filings of workers' compensation rates, rating plans and rating systems by a workers' compensation rating organization shall be limited to provisions for claim payment, and shall not include allowances for or recognition of expenses, taxes or profit. A workers' compensation rating organization shall make such filings with the commissioner, which filings shall be subject to this section. The organization shall also file the workers' compensation policy forms to be used by its members. The filing shall include a report of investment income.

(4) If each rate in a schedule of workers' compensation rates for specific classifications of risks filed by an insurer is not lower than the rate provisions for claim payment for each such respective classification, filed by a rating organization in accordance with subsection (3) of this section and approved by the commissioner, then the schedule of rates filed by the insurer shall not be subject to subsection (2) of this section but shall become effective as provided in ORS 737.205.

(5) The commissioner shall investigate and evaluate all workers' compensation filings to determine whether the filings meet the requirements of this chapter. The commissioner shall employ such experts and other personnel as may be reasonably necessary to make such investigation and evaluation, the cost of which shall be paid out of the Administrative Fund created under ORS 656.612.

(6) Notwithstanding the provisions of ORS 737.205 (1), the commissioner may require any person to comply with the requirements of subsection (2) of this section if the commissioner has

good cause to believe that a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable. [Amended by 1967 c 359 §310, 1969 c 690 §5; 1973 c.353 §1; 1981 c.535 §20; 1981 c.874 §20, 1985 c.706 §5]

**737.325 Suspension or modification of filing requirement; excess rates for specific risks.** (1) Under such rules and regulations as the commissioner adopts, the commissioner, by written order, may suspend or modify the requirement of filing as to any class of insurance, or subdivision or combination thereof, or as to classes of risks, for which the rates cannot practically be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as the commissioner deems advisable to ascertain whether any rates affected by such order meet the standards set forth in ORS 737.310.

(2) Upon the written application of the insured, stating the reasons therefor, filed with the commissioner and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk. [Amended by 1967 c 359 §311]

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

(2) This section does not apply to policies for inland marine risks as to which filings are not required. [Amended by 1967 c.359 §312, 1969 c 690 §6]

**737.335** [Repealed by 1967 c 359 §704]

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

(2) If the commissioner has reason to believe that an insurer, rating or advisory organization, or any rate, rating plan or rating system made or used by the insurer, rating or advisory organization, does not comply with the requirements and standards of this chapter, the commissioner shall, unless the commissioner has reason to believe such noncompliance is wilful, give notice in writ-

ing to such insurer, rating or advisory organization stating in what manner such noncompliance is alleged to exist and specifying a reasonable time, not less than 10 days after the date of mailing, in which such noncompliance may be corrected. [1967 c.359 §313; 1969 c.690 §7]

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

(2) If the commissioner finds that the application is made in good faith, that the applicant would be so aggrieved if the grounds are established, and that such grounds otherwise justify holding such a hearing, the commissioner shall hold a hearing, within 30 days after receipt of such application, at a place designated by the commissioner and upon not less than 10 days' written notice to the applicant and to the insurer or rating organization which made such filing. [Amended by 1967 c 359 §314; 1969 c.690 §9]

**737.342 Hearing and order procedure.**

Conduct of the hearing, issuance of orders pursuant thereto and judicial review of orders shall be as provided in ORS 183.310 to 183.550. [1971 c.734 §181]

**737.345** [Amended by 1967 c 359 §315; repealed by 1969 c.690 §29]

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

(2) No insurer shall:

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

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

policy, or the rates therefor, that would constitute a violation of paragraph (a) of this subsection.

(3) Nothing in this section applies:

(a) To policies of life or health insurance;

(b) To insurance for public bodies as defined in ORS 30.260;

(c) To insurance for employers subject to ORS 656.001 to 656.794 who are primarily engaged in farming. Any contract negotiated by an exempt farming group, including the rate, shall be restricted to members of the group; or

(d) To property and casualty insurance policies for personal, family or household purposes, and not for commercial or business purposes, under the following conditions:

(A) If the policies are offered to members of an association, including a labor union, which has had an active existence for at least one year, has a constitution and bylaws and is maintained in good faith for purposes other than that of obtaining insurance;

(B) If the policies are based on premiums that are adequate to support coverage of the group without subsidy by other rate payers; and

(C) If the insurer does not unfairly discriminate against holders of other insurance policies.

(e) To liability and property insurance required under ORS 767.195 for persons who apply for or who have received authority issued by the Public Utility Commissioner under ORS chapter 767 to transport logs, poles or pilings or any of the products described in ORS 767.145 (1)(a), (b) or (i).

(4) Under ORS 731.244, the commissioner shall make rules necessary for implementation of this section. [Formerly 737 512; 1977 c.428 §5; 1979 c.850 §4; 1983 c.754 §1, 1985 c 484 §1]

**737.348** [Formerly 736.170; 1975 c.556 §50; repealed by 1977 c 405 §6]

## RATING ORGANIZATIONS

**737.350 Application for license by rating organization.** No rating organization shall conduct its operations in this state without first filing with the commissioner a written application for a license as a rating organization for such classes of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file therewith:

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

(2) A list of its members and subscribers.

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

(4) A statement of its qualifications as a rating organization. This statement shall be on forms prescribed and furnished by the commissioner and shall include:

(a) In the case of a fire insurance rating organization, a showing as to its facilities for inspecting and surveying the various municipalities and fire risks in this state and for inspecting and surveying in this state the facilities for the preventing, confining and extinguishing of fires and such other information as the commissioner may require; and

(b) In the case of a title insurance rating organization, a showing that adequate representation, as determined by the commissioner, is provided for title insurance agents. [Amended by 1967 c.359 §318; 1969 c.690 §18; 1979 c.501 §2]

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

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

(3) Every rating organization shall notify the commissioner promptly of every change regarding matters listed in ORS 737.350 (1), (2) and (3). [Amended by 1967 c 359 §319; 1971 c.385 §5]

**737.360 Rating organization to accept insurers as subscribers; rules of organiza-**

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

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

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

(4) No rating organization shall adopt any rule, the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers. [Amended by 1967 c.359 §320]

**737.365 Cooperative activities among rating organizations and insurers.** (1) Cooperation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of this chapter hereby is authorized, provided the

filings resulting from such cooperation are subject to and consistent with those sections which are applicable to filings generally.

(2) The commissioner may review such cooperative activities and practices and if, after a hearing, the commissioner finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with this chapter, the commissioner may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with those sections and requiring the discontinuance of such activity or practice. [Amended by 1967 c.359 §321; 1969 c.690 §20]

**737.370** [Amended by 1967 c 359 §322; repealed by 1969 c.690 §29]

**737.375** [Amended by 1967 c.359 §323; repealed by 1969 c.690 §29]

**737.380** [Amended by 1967 c 359 §324, repealed by 1969 c.690 §29]

**737.385** [Repealed by 1967 c 359 §704]

**737.386** [1967 c.359 §325; repealed by 1969 c.690 §29]

**737.390 Regulation of joint underwriting and joint reinsurance.** No group, association or other organization of insurers which engages in joint underwriting or joint reinsurance shall engage in any activity which is unfair, unreasonable or otherwise inconsistent with the provisions of this chapter. [Amended by 1967 c.359 §326; 1969 c.690 §22]

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

(2) Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by the authorized representative, on written request by the person or authorized representative to review the manner in which such rating system has been applied in connection with the insurance afforded the person. If the rating organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if the application had been rejected.

(3) Any party affected by the action of such rating organization or such insurer on such

request, within 30 days after written notice of such action, may appeal to the commissioner, who, after a hearing held at a place designated by the commissioner upon not less than 10 days' written notice to the appellant and to such rating organization or insurer, shall affirm or reverse such action. [Amended by 1967 c.359 §327]

**737.510 Advisory organizations; registration; jurisdiction of commissioner to restrict unfair practices.** (1) Every advisory organization shall file with the commissioner:

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

(b) A list of its members.

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

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

(2) Any insurer which makes its own filings or any rating organization may support its filings by statistics or adopt rate-making recommendations furnished to it by an advisory organization which has complied with this section. If, after a hearing, the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with this chapter, the commissioner may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with this chapter. If the act or practice thus specified is not modified to comply with such order, the commissioner may issue an order requiring any insurer which makes its own filings or any rating organization to discontinue the use of the statistics or rate-making recommendations furnished to it by such advisory organization. [Amended by 1967 c.359 §328; 1969 c.690 §23]

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

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

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

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

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

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

(4) In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state. [Amended by 1967 c.359 §329]

**737.520** [Amended by 1967 c.359 §330, repealed by 1969 c.690 §29]

**737.525** [Repealed by 1967 c.359 §704]

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

(2) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult and cooperate with them with respect to rate making and the application of rating systems. [1967 c.359 §331]

**737.530** [Repealed by 1967 c.359 §704]

**737.535 Withholding or giving false information prohibited.** No person shall wilfully withhold information from or knowingly give false or misleading information to the commissioner, to any statistical agency designated by the commissioner, to any rating organization, or to any insurer, which will affect the rates or

premiums chargeable under this chapter. [Amended by 1967 c.359 §332; 1969 c.690 §24]

**737.540** [Repealed by 1967 c.359 §704]

**737.545 Procedure for suspension of rating organization license.** The commissioner may suspend the license of any rating organization which fails to comply with an order of the commissioner within the time limited by such order, or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization for failure to comply with an order until the time prescribed for an appeal therefrom has expired or, if an appeal has been taken, until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective, and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded or reversed. [Amended by 1967 c.359 §333]

**737.547** [1971 c.734 §183; repealed by 1975 c.769 §10]

**737.550** [Repealed by 1967 c.359 §704]

**737.555** [Repealed by 1967 c.359 §704]

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

(2) Every workers' compensation insurer, including the State Accident Insurance Fund Corporation, shall be a member of a workers' compensation rating organization. The State Accident Insurance Fund Corporation is entitled without election to membership on any committee thereof established in connection with the operation of the rating organization in this state. [Amended by 1967 c.359 §334; 1969 c.690 §25; 1981 c.535 §21]