

CHAPTER 151

AN ACT

SB 251

Relating to insurance regulation by the Department of Consumer and Business Services; creating new provisions; amending ORS 446.676, 705.141, 731.509, 731.510, 731.511, 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.555, 744.605, 744.619, 744.621, 744.626, 744.631, 744.704, 746.275, 750.055, 750.333, 819.482, 822.015, 822.070 and 822.105; repealing ORS 744.001, 744.002, 744.003, 744.004, 744.007, 744.008, 744.009, 744.011, 744.013, 744.014, 744.018, 744.022, 744.024, 744.026, 744.028, 744.031, 744.033, 744.037 and 744.535; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 731.

SECTION 2. (1) A ceding insurer shall manage the ceding insurer's reinsurance recoverables in proportion to the ceding insurer's book of business. A domestic ceding insurer shall notify the Director of the Department of Consumer and Business Services within 30 days after reinsurance recoverables from any single assuming insurer or group of affiliated assuming insurers exceeds or is likely to exceed 50 percent of the domestic ceding insurer's surplus, as last reported to the ceding insurer's policyholders. In the notification, the domestic ceding insurer shall demonstrate that the domestic ceding insurer is safely managing the exposure.

(2) A ceding insurer shall diversify the ceding insurer's reinsurance program. A domestic ceding insurer shall notify the director within 30 days after ceding to any single assuming insurer or group of affiliated assuming insurers more than 20 percent of the ceding insurer's gross written premium in the previous calendar year or after determining that the ceded reinsurance will likely exceed this percentage. In the notification, the domestic ceding insurer shall demonstrate that the domestic ceding insurer is safely managing the exposure.

SECTION 3. Sections 4 to 10, 11 to 17 and 18 of this 2019 Act are added to and made a part of ORS chapter 744.

SECTION 4. As used in ORS 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.541, 744.555 and 744.575 and sections 4 to 10 of this 2019 Act:

(1) "Adjuster" means a person that receives a fee, a commission or other compensation to investigate, negotiate or settle first party or third party losses that arise as claims under the terms of an insurance contract that insures a domestic risk.

(2) "Business entity" means a corporation, limited liability company, partnership, limited liability partnership, association or other legal entity that is incorporated, organized or authorized to engage in business in this state.

(3) "Catastrophe" means an event that the Governor declares as having resulted, in a particular district, county, region or area of this state, in:

(a) A large number of injuries or deaths;

(b) Extensive damage to or destruction of facilities that provide for and sustain human needs;

(c) An overwhelming demand on state and local resources for meeting human needs, responding to injuries or deaths, repairing or reconstructing facilities or otherwise assisting victims of the event;

(d) A severe, long-term effect on general economic activity within this state; or

(e) A severe effect on state, local and private capabilities to respond to the event.

(4) "Designated home state" means a state, district or territory of the United States that a nonresident applicant designates as a home state and in which the nonresident applicant is licensed as if the nonresident applicant was a resident adjuster despite not residing in or maintaining a principal place of business in the state, district or territory.

(5) "Home state" means a state, district or territory of the United States in which an adjuster resides or a state, district or territory of the United States from which a person obtained a license to engage in business as an adjuster and in which the person maintains a principal place of business.

(6) "Licensee" means a person that holds a valid and unexpired license to engage in business as an adjuster that the person obtained under section 6 of this 2019 Act.

(7) "Person" means an individual or a business entity.

(8) "Resident" means a licensee that resides or maintains a principal place of business in this state.

SECTION 5. (1) An applicant for a license to engage in business as an adjuster shall submit to the Director of the Department of Consumer and Business Services, on a form, in a format and in the manner that the director specifies by rule, an application that:

(a) Lists the applicant's name, residence and business address, present occupation and occupation during the previous year and the names of the applicant's employers for the previous five years;

(b) Lists the street address of the applicant's principal place of business and of all other locations in which the applicant will engage in business as an adjuster;

(c) Lists any assumed business name under which the applicant intends to engage in business as an adjuster;

(d) Discloses whether the applicant:

(A) Is under indictment for, or has previously been convicted of, a crime;

(B) Is or was subject to a judgment for fraud;

(C) Owes a debt to any insurer or insurance producer, together with the nature and details of the indebtedness; and

(D) Has had any occupational or professional license the applicant holds or held in this or another state suspended or revoked or has had a renewal of the license denied;

(e) Includes the applicant's fingerprints, unless the applicant submitted the applicant's fingerprints to another state as part of a successful application for a license to engage in business as an adjuster in the other state;

(f) Identifies the class or classes of insurance that the applicant intends to transact in this state; and

(g) Includes any other information the director requires by rule.

(2) An applicant that is a business entity, in addition to providing the information specified in subsection (1) of this section in an application for a license to engage in business as an adjuster, shall:

(a) List the names and addresses of each director, member and officer, and any person that owns, directly or indirectly, more than 10 percent of any class of equity security of the business entity; and

(b) Designate each individual who is responsible for ensuring that the business entity complies with the Insurance Code and all administrative rules that regulate insurance in this state and who will otherwise exercise the powers that the license confers on the licensee.

(3) The applicant shall pay to the Director of the Department of Business Services as part of an application under this section a fee in an amount that the director specifies by rule. Unless the director by rule specifies otherwise, the fee is not refundable.

SECTION 6. (1) The Director of the Department of Consumer and Business Services may issue a license for a person to engage in business as an adjuster in this state if the director finds that the person:

(a) Submitted a complete and accurate application in accordance with section 5 of this 2019 Act;

(b) Paid all required fees to the director and to any other provider or entity the director specifies by rule;

(c) Met the qualifications set forth in ORS 744.525 or 744.528, as appropriate;

(d) Met the qualifications for each category of insurance business and class of insurance

that the license will authorize the applicant to adjust; and

(e) Has not engaged in conduct that would subject the person to discipline under section 10 of this 2019 Act.

(2)(a) The director may renew a license the director issues under this section if the licensee:

(A) Pays all fees the director by rule requires for the renewal;

(B) Demonstrates, if the licensee is an individual, that the licensee has satisfactorily completed a minimum of 24 hours of continuing education courses, including continuing education courses required for any other insurance license in this state, of which three hours must consist of instruction in ethics and three hours must consist of instruction in Oregon law or in continuing education subjects that the licensee's home state requires;

(C) Proves to the director that the licensee continues to hold a valid license or other evidence of an authorization to engage in each category of insurance business and class of insurance authorized in the license that the licensee intends to renew, if the licensee is not a resident;

(D) Has not engaged in any conduct that would subject the licensee to discipline under section 10 of this 2019 Act; and

(E) Satisfies any other requirement the director by rule establishes for renewing a license under this subsection.

(b) The director may renew a license that has expired within one year after the expiration date if:

(A) The director did not revoke the former licensee's license or did not refuse to renew the license for failing the condition stated in paragraph (a)(D) of this subsection;

(B) The director determines, by examination or otherwise, that the former licensee knows the portions of the Insurance Code that apply to a licensee;

(C) The former licensee pays double the amount of the fee the director has specified in accordance with paragraph (a)(A) of this subsection; and

(D) The former licensee otherwise satisfies all applicable requirements for renewal.

(c) A former licensee may renew a license that has expired during a period of suspension as provided in paragraph (b) of this subsection.

(d) A person that does not renew a license as provided in paragraph (a) or (b) of this subsection may obtain a license only as provided in subsection (1) of this section.

(3) The director may amend a license to add a category of insurance business or a class or classes of insurance if the licensee applies for the amendment in accordance with procedures the director specifies by rule. The director may require a licensee that applies for an amendment to the license to follow the application

procedures set forth in section 5 of this 2019 Act.

(4) A license that the director issues or renews under this section shall specify whether the licensee is a resident or a nonresident and the class or classes of insurance, as described in ORS 744.531, under which the licensee may engage in business as an adjuster.

(5)(a) A license that the director issues under subsection (1) of this section expires on the last day of the month in which the anniversary of the date on which the director issued the license occurs, unless the director specifies a different date by rule or order.

(b) A license that the director renews as provided in subsection (2) of this section expires two years after the renewal date, unless the director specifies a different date by rule or order.

(c) Adding a category of insurance business to a license under subsection (3) of this section does not change the expiration date for the license.

(6) The director may reinstate a licensee's license under the following circumstances:

(a) If the director revoked the license, removed a category of insurance business or removed a class of insurance, the director may reinstate the license, category or class if the licensee satisfies all of the conditions that the director prescribes for reinstatement; and

(b) If a licensee has voluntarily surrendered a license, the director may reinstate the license without requiring the former licensee to take an examination otherwise required for the license if the former licensee applies for the license as provided in section 5 of this 2019 Act within two years after surrendering the previous license and demonstrates that the former licensee has satisfied any continuing education requirements that would have applied had the former licensee renewed the previous license.

(7) If the director has suspended a license, the director may modify or lift the suspension at a time certain or upon the licensee's satisfying the conditions the director prescribes for modifying or lifting the suspension.

SECTION 7. (1) The Director of the Department of Consumer and Business Services may issue, renew or amend a business entity's license to engage in business as an adjuster under section 6 of this 2019 Act only if the director finds that, for each category of insurance business or class of insurance in which the business entity engages or intends to engage, the business entity employs and acts through an individual who has obtained a license under section 6 of this 2019 Act that authorizes the individual to engage in the same category of insurance business or class of insurance.

(2) An individual licensee that a business entity employs or engages by means of a contract may engage in business as an adjuster

only to the extent permitted under the individual licensee's license.

SECTION 8. (1)(a) A licensee that is a resident shall maintain a principal place of business in this state in which the licensee engages in business as an adjuster. The principal place of business may be the licensee's residence, but the principal place of business must be accessible to the public.

(b) If a licensee that is not a resident has a place of business in this state in which the licensee transacts insurance, the place of business is the licensee's principal place of business in this state.

(2) A licensee shall keep at the licensee's place of business all of the usual and customary records for the business in which the licensee engages and must make the records available to the Director of the Department of Consumer and Business Services for inspection during business hours. The licensee shall keep the records of each business transaction for three years after the conclusion of the transaction.

SECTION 9. (1)(a) A licensee shall notify the Director of the Department of Consumer and Business Services not later than 30 days after:

(A) The licensee opens or closes a place of business in this state or changes the location or contact information for the licensee's residence or any of the licensee's places of business in this state;

(B) The licensee begins or stops using or changes an assumed business name under which the licensee engages in business as an adjuster;

(C) A government agency or regulator in this or another state has taken a final action against the licensee;

(D) The licensee receives notice of an initiation or prosecution of criminal charges against the licensee in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust; or

(E) The licensee's authority to act for a business entity begins or terminates.

(b) In the notice a licensee submits under paragraph (a) of this subsection, the licensee shall:

(A) Update any information that has changed from the time the licensee submitted an application for a license or submitted a previous notice under this section; and

(B) Include any relevant documents that describe, support, are evidence of or otherwise illustrate the contents of the notice, including but not limited to copies of complaints, informations or indictments, motions, orders, consents and consent decrees, judgments and any other relevant records or legal documents.

(2) Not later than December 31 of each year, a licensee that is a business entity shall notify the director of any change during the previous

calendar year in the licensee's directors, members or officers, or other persons that own, directly or indirectly, more than 10 percent of any class of equity security of the licensee.

(3) The director by rule may establish a different period within which a licensee must notify the director under subsection (1) or (2) of this section.

SECTION 10. (1) A licensee or an applicant for a license to engage in business as an adjuster may not:

(a) Act in an incompetent or untrustworthy manner.

(b) Falsify or act dishonestly with respect to an application for a license or an amendment to the license or with respect to an examination related to obtaining, renewing or reinstating a license.

(c) Misappropriate, withhold illegally or convert to the applicant's or licensee's own use any money or property that belongs to or that the applicant or licensee receives from a policyholder, insurer, beneficiary or other person while the applicant or licensee engages in business as an adjuster or otherwise transacts insurance in this state.

(d) Commit an offense that results in a conviction in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust. For the purpose of this paragraph, the record of a conviction is conclusive evidence of the conviction.

(e) Materially misrepresent the terms of an insurance policy or proposed insurance policy.

(f) Engage in a fraudulent or dishonest practice in the course of transacting insurance or cause injury or loss to the public because the applicant or licensee is incompetent or untrustworthy.

(g) Fail to pay a fee or charge or a civil penalty that the Director of the Department of Consumer and Business Services has assessed and that has become final after appeal or by operation of law.

(h) Effect insurance on the applicant's or licensee's property or against the applicant's or licensee's liability.

(i) Commit an act that results in another jurisdiction's canceling, suspending, revoking or refusing to renew a license or other evidence of authority to act as an adjuster, an insurance consultant or an insurance producer. For the purpose of this paragraph, the record of the cancellation, suspension, revocation or refusal is conclusive evidence of the cancellation, suspension, revocation or refusal.

(j) Commit an act that results in a state or federal agency canceling, suspending, revoking or refusing to renew a license to practice law or a license that authorizes the applicant or licensee to engage in business under another regulatory authority if the cancellation, suspension,

revocation or refusal related to the business of an adjuster, insurance consultant or insurance producer or if the act involved dishonesty, fraud or deception. For the purpose of this paragraph, the record of the cancellation, suspension, revocation or refusal is conclusive evidence of the cancellation, suspension, revocation or refusal.

(k) Fail to comply with continuing education requirements that apply to the license or to a category of insurance business or class of insurance, unless the director has waived the requirements.

(L) Act dishonestly, fraudulently or deceptively in a business that is not related to engaging in business as an adjuster, an insurance consultant or an insurance producer.

(m) Fail to comply with an administrative or court order that imposes a child support obligation.

(n) Fail to pay state income tax or to comply with an administrative or court order that directs the applicant or licensee to pay state income tax that remains unpaid.

(o) Evade a provision of ORS chapter 746 or violate or fail to comply with an applicable provision of the Insurance Code.

(2)(a) If a licensee or an applicant for a license to engage in business as an adjuster engages in an action or practice prohibited under subsection (1) of this section, the director by order or otherwise may:

(A) Refuse to issue a license to an applicant to engage in business as an adjuster;

(B) Suspend, revoke or refuse to renew a licensee's license;

(C) Suspend or revoke a licensee's authority to transact a category of insurance business or class of insurance; or

(D) Refuse to authorize an applicant or licensee to transact a category of insurance business or class of insurance.

(b) Before taking a disciplinary action against a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity to a hearing in accordance with ORS chapter 183.

(3) The Director of the Department of Consumer and Business Services may take a disciplinary action described in subsection (2) of this section if the director finds that:

(a) A director, member or officer of a licensee that is a business entity, or another person that directly or indirectly has the power to direct the management, control or activities of the business entity, engaged in an action prohibited under subsection (1) of this section; or

(b) The Director of the Department of Consumer and Business Services erred in approving, issuing, renewing or reinstating a license under section 6 of this 2019 Act.

(4)(a) For a violation of a prohibition described in subsection (1) of this section and in lieu of taking a disciplinary action against a li-

censee under subsection (2) of this section, the director may set a period of probation with respect to a license to engage in business as an adjuster or with respect to an authorization to engage in any category of insurance business or class of insurance. In setting the probationary period, the director shall specify conditions that a licensee must meet in order to end the probationary period.

(b) The director may set the probationary period to begin at the time the director issues, renews, amends or reinstates a license or adds a category of insurance business or class of insurance to the license.

(c) Before setting a period of probation for a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity for a hearing in accordance with ORS chapter 183.

(d) During any probationary period, the director may take any disciplinary action described in subsection (2) of this section.

SECTION 11. As used in ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665 and sections 11 to 17 of this 2019 Act:

(1) "Business entity" means a corporation, limited liability company, partnership, limited liability partnership, association or other legal entity that is incorporated, organized or authorized to engage in business in this state.

(2) "Insurance consultant" means a person that meets the description in ORS 744.605 of a person that engages in business as an insurance consultant.

(3) "Licensee" means a person that holds a valid and unexpired license to engage in business as an insurance consultant that the person obtained under section 13 of this 2019 Act.

(4) "Person" means an individual or a business entity.

(5) "Resident" means a licensee that resides or maintains a principal place of business in this state.

SECTION 12. (1) An applicant for a license to engage in business as an insurance consultant shall submit to the Director of the Department of Consumer and Business Services, on a form, in a format and in the manner that the director specifies by rule, an application that:

(a) Lists the applicant's name, residence and business address, previous experience transacting insurance, present occupation and occupation during the previous year and the names of the applicant's employers for the previous five years;

(b) Lists the street address of the applicant's principal place of business and of all other locations in which the applicant will engage in business as an insurance consultant;

(c) Lists any assumed business name under which the applicant intends to engage in business as an insurance consultant;

(d) Specifies the portion of the applicant's time that the applicant will devote to engaging in business as an insurance consultant;

(e) Discloses whether the applicant:

(A) Is under indictment for, or has previously been convicted of, a crime;

(B) Is or was subject to a judgment for fraud;

(C) Owes a debt to any insurer or insurance producer, together with the nature and details of the indebtedness; and

(D) Has had any occupational or professional license the applicant holds or held in this or another state suspended or revoked or has had a renewal of the license denied;

(f) Includes the applicant's fingerprints, unless the applicant submitted the applicant's fingerprints to another state as part of a successful application for a license to engage in business as an insurance consultant in the other state;

(g) Identifies the class or classes of insurance that the applicant intends to transact in this state; and

(h) Includes any other information the director requires by rule.

(2) An applicant that is a business entity, in addition to providing the information specified in subsection (1) of this section in an application for a license to engage in business as an insurance consultant, shall:

(a) List the names and addresses of each director, member and officer, and any person that owns, directly or indirectly, more than 10 percent of any class of equity security of the business entity; and

(b) Designate each individual who is responsible for ensuring that the business entity complies with the Insurance Code and all administrative rules that regulate insurance in this state and who will otherwise exercise the powers that the license confers on the licensee.

(3) The applicant shall pay to the Director of the Department of Consumer and Business Services as part of an application under this section a fee in an amount that the director specifies by rule. Unless the director by rule specifies otherwise, the fee is not refundable.

SECTION 13. (1) The Director of the Department of Consumer and Business Services may issue a license for a person to engage in business as an insurance consultant in this state if the director finds that the person:

(a) Submitted a complete and accurate application in accordance with section 12 of this 2019 Act;

(b) Paid all required fees to the director and to any other provider or entity the director specifies by rule;

(c) Met the qualifications set forth in ORS 744.619 or 744.621, as appropriate;

(d) Met the qualifications for each category of insurance business and class of insurance that the license will authorize the applicant to transact; and

(e) Has not engaged in conduct that would subject the person to discipline under section 17 of this 2019 Act.

(2)(a) The director may renew a license the director issues under this section if the licensee:

(A) Pays all fees the director by rule requires for the renewal;

(B) Demonstrates, if the licensee is an individual, that the licensee has satisfactorily completed the number of continuing education hours in subjects that the director specifies by rule;

(C) Proves to the director that the licensee continues to hold a valid license or other evidence of an authorization to engage in each category of insurance business and class of insurance authorized in the license that the licensee intends to renew, if the licensee is not a resident;

(D) Provides satisfactory evidence that the licensee has in effect the insurance required under ORS 744.635;

(E) Has not engaged in any conduct that would subject the licensee to discipline under section 17 of this 2019 Act; and

(F) Satisfies any other requirement the director by rule establishes for renewing a license under this subsection.

(b) The director may renew a license that has expired within one year after the expiration date if:

(A) The director did not revoke the former licensee's license or did not refuse to renew the license for failing the condition stated in paragraph (a)(E) of this subsection;

(B) The director determines, by examination or otherwise, that the former licensee knows the portions of the Insurance Code that apply to a licensee;

(C) The former licensee pays double the amount of the fee the director has specified in accordance with paragraph (a)(A) of this subsection; and

(D) The former licensee otherwise satisfies all applicable requirements for renewal.

(c) A former licensee may renew a license that has expired during a period of suspension as provided in paragraph (b) of this subsection.

(d) A person that does not renew a license as provided in paragraph (a) or (b) of this subsection may obtain a license only as provided in subsection (1) of this section.

(3) The director may amend a license to add a category of insurance business or a class or classes of insurance if the licensee applies for the amendment in accordance with procedures the director specifies by rule. The director may

require a licensee that applies for an amendment to the license to follow the application procedures set forth in section 12 of this 2019 Act.

(4) A license that the director issues or renews under this section shall specify whether the licensee is a resident or a nonresident and the class or classes of insurance, as described in ORS 744.626, under which the licensee may engage in business as an insurance consultant.

(5)(a) A license that the director issues under subsection (1) of this section expires on the last day of the month in which the anniversary of the date on which the director issued the license occurs, unless the director specifies a different date by rule or order.

(b) A license that the director renews as provided in subsection (2) of this section expires two years after the renewal date, unless the director specifies a different date by rule or order.

(c) Adding a category of insurance business to a license under subsection (3) of this section does not change the expiration date for the license.

(6) The director may reinstate a licensee's license under the following circumstances:

(a) If the director revoked the license, removed a class of insurance, the director may reinstate the license, category or class if the licensee satisfies all of the conditions that the director prescribes for reinstatement; and

(b) If a licensee has voluntarily surrendered a license, the director may reinstate the license without requiring the former licensee to take an examination otherwise required for the license if the former licensee applies for the license as provided in section 12 of this 2019 Act within two years after surrendering the previous license and demonstrates that the former licensee has satisfied any continuing education requirements that would have applied had the former licensee renewed the previous license.

(7) If the director has suspended a license, the director may modify or lift the suspension at a time certain or upon the licensee's satisfying the conditions the director prescribes for modifying or lifting the suspension.

SECTION 14. (1) The Director of the Department of Consumer and Business Services may issue, renew or amend a business entity's license to engage in business as an insurance consultant under section 13 of this 2019 Act only if the director finds that, for each category of insurance business or class of insurance in which the business entity engages or intends to engage, the business entity employs and acts through an individual who has obtained a license under section 13 of this 2019 Act that authorizes the individual to engage in the same category of insurance business or class of insurance.

(2) An individual licensee that a business entity employs or engages by means of a contract may engage in business as an insurance consultant only to the extent permitted under the individual licensee's license.

SECTION 15. (1)(a) A licensee that is a resident shall maintain a principal place of business in this state in which the licensee engages in business as an insurance consultant. The principal place of business may be the licensee's residence, but the principal place of business must be accessible to the public.

(b) If a licensee that is not a resident has a place of business in this state in which the licensee transacts insurance, the place of business is the licensee's principal place of business in this state.

(2) A licensee shall keep at the licensee's place of business all of the usual and customary records for the business in which the licensee engages and must make the records available to the Director of the Department of Consumer and Business Services for inspection during business hours. The licensee shall keep the records of each business transaction for three years after the conclusion of the transaction.

SECTION 16. (1)(a) A licensee shall notify the Director of the Department of Consumer and Business Services not later than 30 days after:

(A) The licensee opens or closes a place of business in this state or changes the location or contact information for the licensee's residence or any of the licensee's places of business in this state;

(B) The licensee begins or stops using or changes an assumed business name under which the licensee engages in business as an insurance consultant;

(C) A government agency or regulator in this or another state has taken a final action against the licensee;

(D) The licensee receives notice of an initiation or prosecution of criminal charges against the licensee in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust; or

(E) The licensee's authority to act for a business entity begins or terminates.

(b) In the notice a licensee submits under paragraph (a) of this subsection, the licensee shall:

(A) Update any information that has changed from the time the licensee submitted an application for a license or submitted a previous notice under this section; and

(B) Include any relevant documents that describe, support, are evidence of or otherwise illustrate the contents of the notice, including but not limited to copies of complaints, informations or indictments, motions, orders, consents and

consent decrees, judgments and any other relevant records or legal documents.

(2) Not later than December 31 of each year, a licensee that is a business entity shall notify the director of any change during the previous calendar year in the licensee's directors, members or officers, or other persons that own, directly or indirectly, more than 10 percent of any class of equity security of the licensee.

(3) The director by rule may establish a different period within which a licensee must notify the director under subsection (1) or (2) of this section.

SECTION 17. (1) A licensee or an applicant for a license to engage in business as an insurance consultant may not:

(a) Act in an incompetent or untrustworthy manner.

(b) Falsify or act dishonestly with respect to an application for a license or an amendment to the license or with respect to an examination related to obtaining, renewing or reinstating a license.

(c) Misappropriate, withhold illegally or convert to the applicant's or licensee's own use any money or property that belongs to or that the applicant or licensee receives from a policyholder, insurer, beneficiary or other person while the applicant or licensee engages in business as an insurance consultant or otherwise transacts insurance in this state.

(d) Commit an offense that results in a conviction in any United States jurisdiction for any felony or a misdemeanor that involves fraud, dishonesty or a breach of trust. For the purpose of this paragraph, the record of a conviction is conclusive evidence of the conviction.

(e) Materially misrepresent the terms of an insurance policy or proposed insurance policy.

(f) Engage in a fraudulent or dishonest practice in the course of transacting insurance or cause injury or loss to the public because the applicant or licensee is incompetent or untrustworthy.

(g) Fail to pay a fee or charge or a civil penalty that the Director of the Department of Consumer and Business Services has assessed and that has become final after appeal or by operation of law.

(h) Effect insurance on the applicant or licensee's property or against the applicant's or licensee's liability.

(i) Commit an act that results in another jurisdiction's canceling, suspending, revoking or refusing to renew a license or other evidence of authority to act as an adjuster, an insurance consultant or an insurance producer. For the purpose of this paragraph, the record of the cancellation, suspension, revocation or refusal is conclusive evidence of the cancellation, suspension, revocation or refusal.

(j) Commit an act that results in a state or federal agency canceling, suspending, revoking or refusing to renew a license to practice law or a license that authorizes the applicant or licensee to engage in business under another regulatory authority if the cancellation, suspension, revocation or refusal related to the business of an adjuster, insurance consultant or insurance producer or if the act involved dishonesty, fraud or deception. For the purpose of this paragraph, the record of the cancellation, suspension, revocation or refusal is conclusive evidence of the cancellation, suspension, revocation or refusal.

(k) Fail to comply with continuing education requirements that apply to the license or to a category of insurance business or class of insurance, unless the director has waived the requirements.

(L) Act dishonestly, fraudulently or deceptively in a business that is not related to engaging in business as an adjuster, an insurance consultant or an insurance producer.

(m) Fail to comply with an administrative or court order that imposes a child support obligation.

(n) Fail to pay state income tax or to comply with an administrative or court order that directs the applicant or licensee to pay state income tax that remains unpaid.

(o) Evade a provision of ORS chapter 746 or violate or fail to comply with an applicable provision of the Insurance Code.

(2)(a) If a licensee or an applicant for a license to engage in business as an insurance consultant engages in an action or practice prohibited under subsection (1) of this section, the director by order or otherwise may:

(A) Refuse to issue a license to an applicant to engage in business as an insurance consultant;

(B) Suspend, revoke or refuse to renew a licensee's license;

(C) Suspend or revoke a licensee's authority to transact a category of insurance business or class of insurance; or

(D) Refuse to authorize an applicant or licensee to transact a category of insurance business or class of insurance.

(b) Before taking a disciplinary action against a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity for a hearing in accordance with ORS chapter 183.

(3) The Director of the Department of Consumer and Business Services may take a disciplinary action described in subsection (2) of this section if the director finds that:

(a) A director, member or officer of a licensee that is a business entity, or another person that directly or indirectly has the power to direct the management, control or activities of the business entity, engaged in an action prohibited under subsection (1) of this section; or

(b) The Director of the Department of Consumer and Business Services erred in approving, issuing, renewing or reinstating a license under section 13 of this 2019 Act.

(4)(a) For a violation of a prohibition described in subsection (1) of this section and in lieu of taking a disciplinary action against a licensee under subsection (2) of this section, the director may set a period of probation with respect to a license to engage in business as an insurance consultant or with respect to an authorization to engage in any category of insurance business or class of insurance. In setting the probationary period, the director shall specify conditions that a licensee must meet in order to end the probationary period.

(b) The director may set the probationary period to begin at the time the director issues, renews, amends or reinstates a license or adds a category of insurance business or class of insurance to the license.

(c) Before setting a period of probation for a licensee under paragraph (a) of this subsection, the director shall notify the licensee and offer the licensee an opportunity for a hearing in accordance with ORS chapter 183.

(d) During any probationary period, the director may take any disciplinary action described in subsection (2) of this section.

SECTION 18. (1) As used in this section:

(a) "Adjuster" has the meaning given that term in section 4 of this 2019 Act;

(b) "Insurance consultant" has the meaning given that term in section 11 of this 2019 Act; and

(c) "Licensee" means a person that has obtained a license to engage in business as an adjuster, an insurance consultant or an insurance producer.

(2) A license expiration or a licensee's voluntary surrender of a license does not prevent the Director of the Department of Consumer and Business Services from investigating or initiating disciplinary proceedings against a licensee. The director may also at any time revise or vacate an order to suspend or revoke a license.

SECTION 19. ORS 705.141 is amended to read:

705.141. For the purpose of requesting a state or nationwide criminal records check under ORS 181A.195, the Department of Consumer and Business Services may require the fingerprints of a person who is applying for a license, or *[renewal of]* **applying to renew** a license, under ORS *[744.001,]* 744.059 or 744.326 or **section 5 or 12 of this 2019 Act** or a person who:

(1)(a) Is employed or applying for employment by the department; or

(b) Provides services or seeks to provide services to the department as a contractor, vendor or volunteer; and

(2) Is, or will be, working or providing services in a position:

(a) In which the person is providing information technology services and has control over, or access to, information technology systems that would allow the person to harm the information technology systems or the information contained in the systems;

(b) In which the person has access to information that state or federal laws, rules or regulations prohibit disclosing or define as confidential;

(c) That has payroll functions or in which the person has responsibility for receiving, receipting or depositing money or negotiable instruments, for billing, collections or other financial transactions or for purchasing or selling property or has access to property held in trust or to private property in the temporary custody of the state;

(d) That has mailroom duties as a primary duty or job function;

(e) In which the person has responsibility for auditing the department;

(f) That has personnel or human resources functions as a primary responsibility;

(g) In which the person has access to Social Security numbers, dates of birth or criminal background information of employees or members of the public; or

(h) In which the person has access to tax or financial information about individuals or business entities.

SECTION 20. ORS 731.509 is amended to read:

731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and 731.516 is to protect the interests of insureds, claimants, ceding insurers, assuming insurers and the public generally. The Legislative Assembly declares that *[its]* **the intent of the Legislative Assembly** is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom *[they]* **insurers and reinsurers** owe obligations. In furtherance of that state interest, the Legislative Assembly mandates that upon the insolvency of an alien insurer or reinsurer that provides security to fund *[its]* **the alien insurer's or reinsurer's** United States obligations in accordance with ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the assets representing the security *[shall]* **must** be maintained in the United States and claims *[shall]* **must** be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets *[shall]* **must** be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurers. The Legislative Assembly declares that the laws contained in ORS 731.509, 731.510, 731.511, 731.512 and 731.516 are fundamental to the business of insurance in accordance with 15 U.S.C. 1011 and 1012.

(2) The Director of the Department of Consumer and Business Services *[shall]* **may** not allow credit for reinsurance to a domestic ceding insurer as either an asset or a reduction from liability on ac-

count of reinsurance ceded unless credit is allowed as provided under ORS 731.508 and unless the reinsurer meets the requirements of:

(a) Subsection *[(3)]* **(4)** of this section;

(b) Subsection *[(4)]* **(5)** of this section **and ORS 731.511 (1)**;

(c) *[Subsections (5) and (8)]* **Subsection (6)** of this section;

(d) Subsections *[(6)]* **(7)** and (8) of this section;

(e) *[Subsection (7) of this section]* **ORS 731.511**;

or

(f)(A) Subsection (9) of this section[.]; and (B) Additional requirements that the director specifies by rule, which may include:

(i) The valuation of assets or reserve credits;

(ii) The amount and forms of security that support reinsurance arrangements; and

(iii) The circumstances under which the director will reduce or eliminate credit.

(3) The director shall allow credit under subsection (4), (5) or (6) of this section or under ORS 731.511 only with respect to cessions of the kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in the state in which the assuming insurer is domiciled or, if the assuming insurer is an alien insurer, the state in which the assuming insurer is entered and is licensed or authorized to transact insurance or reinsurance. The director may allow credit under subsection (6) or (7) of this section only if the assuming insurer satisfies applicable requirements under subsection (10) of this section.

[(3)] (4) [Credit shall be allowed when] **The director shall allow credit if** the reinsurance is ceded to an authorized assuming insurer that accepts reinsurance of risks[,] and retains **the risk** *[thereon]* **of the reinsurance** within such limits[,] as the assuming insurer is otherwise authorized to insure in this state, as provided in ORS 731.508.

[(4)] (5) [Credit shall be allowed when] **The director shall allow credit if** the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state, as provided in ORS 731.511. The director *[shall]* **may** not allow credit to a domestic ceding insurer if the **director has revoked** accreditation of the assuming insurer *[has been revoked by the director]* after notice and opportunity for hearing.

[(5)] (6) [Credit shall be allowed when] **The director shall allow credit if** the reinsurance is ceded to a foreign assuming insurer or a United States branch of an alien assuming insurer meeting all of the following requirements:

(a) The foreign assuming insurer must be domiciled in a state employing standards regarding credit for reinsurance that equal or exceed the standards applicable under this section. The United States branch of an alien assuming insurer must be entered through a state employing such standards.

(b) The foreign assuming insurer or United States branch of an alien assuming insurer must maintain a combined capital and surplus in an

amount not less than \$20,000,000. The requirement of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(c) The foreign assuming insurer or United States branch of an alien assuming insurer must submit to the authority of the director to examine *[its]* **the foreign assuming insurer's or alien assuming insurer's** books and records.

[(6)] (7) [Credit shall be allowed when] **The director shall allow credit** if the reinsurance is ceded to an assuming insurer that maintains a trust fund meeting the requirements of this subsection **and subsection (8) of this section** and *[additionally]* **that also** complies with other requirements of this subsection **and subsection (8) of this section**. The trust fund must be maintained in a qualified United States financial institution, as defined in ORS 731.510 (1), for the payment of the valid claims of *[its]* **the assuming insurer's** United States policyholders and ceding insurers and *[their]* **the assigns and successors in interest of the policyholders and ceding insurers**. The assuming insurer must report annually to the director information **that is** substantially the same as *[that required to be reported]* **information authorized insurers must report** on the annual statement form *[by]* **under** ORS 731.574 *[by authorized insurers]*, in order to enable the director to determine the sufficiency of the trust fund. **The assuming insurer shall submit to the director's examination of the assuming insurer's books and records and shall pay to the director the expenses of the examination.**

(8) The following requirements apply to *[such a trust fund]* **the following categories of assuming insurers:**

(a)**(A)** *[In the case of]* **For** a single assuming insurer, the trust fund must consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers. In addition, **except as provided in subparagraph (B) of this paragraph**, the assuming insurer must maintain a trustee surplus of not less than \$20,000,000.

(B) **At any time after the assuming insurer permanently discontinues underwriting, for at least three full years, new business that the trust secures, the commissioner that has principal regulatory oversight over the trust may authorize a reduction in the required trustee surplus, but only after finding based on an assessment of the risk that the new required surplus level is adequate to protect United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors, including, if applicable, the lines of business involved, the stability of the incurred loss estimates and the**

effect of the surplus requirements on the assuming insurer's liquidity or solvency. The commissioner may not reduce the amount of the minimum required trustee surplus below 30 percent of the assuming insurer's liabilities that are attributable to reinsurance that United States ceding insurers covered by the trust have ceded.

(b) *[In the case of]* **For** a group *[including]* **that includes** incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, the trust *[shall]* **must** consist of a trustee account in an amount not less than the group's several liabilities attributable to business *[ceded by]* United States domiciled ceding insurers **have ceded** to any member of the group.

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the trust *[shall]* **must** consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States.

(C) In addition to the trusts described in subparagraphs (A) and (B) of this paragraph, the group shall maintain in trust a trustee surplus of which \$100,000,000 *[shall]* **must** be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(D) The incorporated members of the group *[shall not be engaged]* **may not engage** in any business other than underwriting as a member of the group and *[shall be]* **are** subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(E) Within 90 days after the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if certification is unavailable, financial statements of each underwriter member of the group prepared by independent certified public accountants.

(c) *[In the case of a]* **For the** group of incorporated insurers described in this paragraph, the trust must be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. This paragraph applies to a group of incorporated insurers under common administration that complies with the annual reporting requirements contained in *[this]* subsection **(7) of this section** and that has continuously transacted an insurance business outside the United States for

at least three years immediately [*prior to making application*] **before applying** for accreditation. Such a group must have an aggregate policyholders' surplus of \$10,000,000,000 and must submit to the authority of this state to examine [*its*] **the group's** books and records and bear the expense of the examination. The group shall also maintain a joint trusteed surplus of which \$100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities. Each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and [*its*] **the member's** independent certified public accountant.

(d) The form of the trust and any amendment to the trust [*shall have been*] **must be** approved by the insurance commissioner of the state in which the trust is domiciled or by the insurance commissioner of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(e) The form of the trust and any trust amendments also [*shall*] **must be** filed with the insurance commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims [*shall be*] **are** valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to [*its*] **the trust's** assets in [*its*] **the trust's** trustees for the benefit of the assuming insurer's United States ceding insurers and [*their*] **the** assigns and successors in interest **of the ceding insurers**. The trust and the assuming insurer are subject to examination as determined by the director. The trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(f) Not later than March 1 of each year, the trustees of each trust shall report to the director in writing the balance of the trust, [*and listing*] **list** the trust's investments at the preceding year end[,] and [*shall*] certify the date of termination of the trust, if [*so*] **a termination is** planned, or certify that the trust will not expire prior to the following December 31.

[(7)] (9) [*Credit shall be allowed when*] **The director shall allow credit if** the reinsurance is ceded to an assuming insurer [*not meeting*] **that does not meet** the requirements of subsection [(3), (4), (5) or (6)] (4), (5), (6) or (7) of this section **or ORS 731.511 (1) or (4)**, but only as to the insurance of risks located in jurisdictions in which the reinsurance is required by applicable law or regulation of that jurisdiction.

[(8)] (10) If the assuming insurer is not [*authorized*] **licensed, accredited or certified** to transact insurance **or reinsurance** in this state [*or accredited as a reinsurer in this state*], the director [*shall*] **may** not allow the credit permitted by subsections [(5) and] (6) **and** (7) of this section unless the assuming insurer agrees in the reinsurance agreement to the

provisions stated in this subsection. This subsection [*is not intended to*] **does not** conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate [*their*] **the parties'** disputes, if such an obligation is created in the agreement. The assuming insurer must agree in the reinsurance agreement:

(a) That [*in the event of the failure of*] **if** the assuming insurer **fails** to perform [*its*] **the assuming insurer's** obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

(b) To designate the director or a designated attorney as [*its*] **the assuming insurer's** true and lawful attorney upon whom any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company may be served.

[(9)] (11) [*Credit shall be allowed when*] **The director shall allow credit if** the reinsurance is ceded to the Oregon Reinsurance Program established in section 18, chapter 538, Oregon Laws 2017.

[(10)] (12) If the assuming insurer does not meet the requirements of subsection [(3), (4) or (5)] (4), (5) **or (6)** of this section **or ORS 731.511 (1) or (4)**, the **director may not allow the** credit permitted by subsection [(6)] (7) of this section [*shall not be allowed*] unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because [*it*] **the trust fund** contains an amount less than the applicable amount required by subsection [(6)(a)] (8)(a), (b) or (c) of this section, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of the grantor's state or country of domicile, the trustee shall comply with an order of the insurance commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the insurance commissioner with regulatory oversight all the assets of the trust fund.

(b) The assets [*shall*] **must be** distributed by and claims [*shall*] **must be** filed with and valued by the insurance commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that [*are applicable*] **apply** to the liquidation of domestic insurance companies.

(c) If the insurance commissioner with regulatory oversight determines that the assets of the trust fund or any part [*thereof are*] **of the assets is** not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the **insurance commissioner of the state in which the trust is domiciled shall return the** assets or part [*thereof shall be returned by the insurance commissioner according to*] **of the assets in accordance**

with the laws of *[that]* the state and *[according to]* the terms of the trust agreement *[not inconsistent]* that are consistent with the laws of *[that]* the state.

(d) The grantor shall waive any right otherwise available to *[it]* the grantor under United States law that is inconsistent with this subsection.

SECTION 21. ORS 731.509, as amended by section 25, chapter 538, Oregon Laws 2017, is amended to read:

731.509. (1) The purpose of ORS 731.509, 731.510, 731.511, 731.512 and 731.516 is to protect the interests of insureds, claimants, ceding insurers, assuming insurers and the public generally. The Legislative Assembly declares that *[its]* the intent of the Legislative Assembly is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom *[they]* insurers and reinsurers owe obligations. In furtherance of that state interest, the Legislative Assembly mandates that upon the insolvency of an alien insurer or reinsurer that provides security to fund *[its]* the alien insurer's or reinsurer's United States obligations in accordance with ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the assets representing the security *[shall]* must be maintained in the United States and claims *[shall]* must be filed with and valued by the state insurance commissioner with regulatory oversight, and the assets *[shall]* must be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic United States insurers. The Legislative Assembly declares that the laws contained in ORS 731.509, 731.510, 731.511, 731.512 and 731.516 are fundamental to the business of insurance in accordance with 15 U.S.C. 1011 and 1012.

(2) The Director of the Department of Consumer and Business Services *[shall]* may not allow credit for reinsurance to a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded unless credit is allowed as provided under ORS 731.508 and unless the reinsurer meets the requirements of:

- (a) Subsection *[(3)]* (4) of this section;
- (b) Subsection *[(4)]* (5) of this section and ORS 731.511 (1);
- (c) *[Subsections (5) and (8)]* Subsection (6) of this section;
- (d) Subsections *[(6)]* (7) and (8) of this section;
- [or]*
- (e) *[Subsection (7) of this section.]* ORS 731.511; or
- (f)(A) Subsection (9) of this section; and
- (B) Additional requirements that the director specifies by rule, which may include:
 - (i) The valuation of assets or reserve credits;
 - (ii) The amount and forms of security that support reinsurance arrangements; and
 - (iii) The circumstances under which the director will reduce or eliminate credit.

(3) The director shall allow credit under subsection (4), (5) or (6) of this section or under ORS 731.511 only with respect to cessions of the kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in the state in which the assuming insurer is domiciled or, if the assuming insurer is an alien insurer, the state in which the assuming insurer is entered and is licensed or authorized to transact insurance or reinsurance. The director may allow credit under subsection (6) or (7) of this section only if the assuming insurer satisfies applicable requirements under subsection (10) of this section.

[(3)] (4) *[Credit shall be allowed when]* The director shall allow credit if the reinsurance is ceded to an authorized assuming insurer that accepts reinsurance of risks[,] and retains the risk *[thereon]* of the reinsurance within such limits[,] as the assuming insurer is otherwise authorized to insure in this state, as provided in ORS 731.508.

[(4)] (5) *[Credit shall be allowed when]* The director shall allow credit if the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state as provided in ORS 731.511. The director *[shall]* may not allow credit to a domestic ceding insurer if the director has revoked accreditation of the assuming insurer *[has been revoked by the director]* after notice and opportunity for hearing.

[(5)] (6) *[Credit shall be allowed when]* The director shall allow credit if the reinsurance is ceded to a foreign assuming insurer or a United States branch of an alien assuming insurer meeting all of the following requirements:

(a) The foreign assuming insurer must be domiciled in a state employing standards regarding credit for reinsurance that equal or exceed the standards applicable under this section. The United States branch of an alien assuming insurer must be entered through a state employing such standards.

(b) The foreign assuming insurer or United States branch of an alien assuming insurer must maintain a combined capital and surplus in an amount not less than \$20,000,000. The requirement of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(c) The foreign assuming insurer or United States branch of an alien assuming insurer must submit to the authority of the director to examine *[its]* the foreign assuming insurer's or the alien assuming insurer's books and records.

[(6)] (7) *[Credit shall be allowed when]* The director shall allow credit if the reinsurance is ceded to an assuming insurer that maintains a trust fund meeting the requirements of this subsection and subsection (8) of this section and *[additionally]* that also complies with other requirements of this subsection and subsection (8) of this section. The trust fund must be maintained in a qualified United States financial institution, as

defined in ORS 731.510 (1), for the payment of the valid claims of *[its]* **the assuming insurer's** United States policyholders and ceding insurers and *[their]* **the assigns and successors in interest of the policyholders and ceding insurers.** The assuming insurer must report annually to the director information **that is** substantially the same as *[that required to be reported]* **information authorized insurers must report** on the annual statement form *[by]* **under** ORS 731.574 *[by authorized insurers]*, in order to enable the director to determine the sufficiency of the trust fund. **The assuming insurer shall submit to the director's examination of the assuming insurer's books and records and shall pay to the director the expenses of the examination.**

(8) The following requirements apply to *[such a trust fund]* **the following categories of assuming insurers:**

(a)(A) *[In the case of]* **For** a single assuming insurer, the trust fund must consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers. In addition, **except as provided in subparagraph (B) of this paragraph,** the assuming insurer must maintain a trustee surplus of not less than \$20,000,000.

(B) **At any time after the assuming insurer permanently discontinues underwriting, for at least three full years, new business that the trust secures, the commissioner that has principal regulatory oversight over the trust may authorize a reduction in the required trustee surplus, but only after finding based on an assessment of the risk that the new required surplus level is adequate to protect United States ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and must consider all material risk factors including, if applicable, the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The commissioner may not reduce the amount of the minimum required trustee surplus below 30 percent of the assuming insurer's liabilities that are attributable to reinsurance that United States ceding insurers covered by the trust have ceded.**

(b) *[In the case of]* **For** a group *[including]* **that includes** incorporated and individual unincorporated underwriters:

(A) For reinsurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after August 1, 1995, the trust *[shall]* **must** consist of a trustee account in an amount not less than the group's several liabilities attributable to business *[ceded by]* United States domiciled ceding insurers **have ceded** to any member of the group.

(B) For reinsurance ceded under reinsurance agreements with an inception date on or before July 31, 1995, and not amended or renewed after that date, notwithstanding the other provisions of ORS 731.509, 731.510, 731.511, 731.512 and 731.516, the trust *[shall]* **must** consist of a trustee account in an amount not less than the group's several insurance and reinsurance liabilities attributable to business written in the United States.

(C) In addition to the trusts described in subparagraphs (A) and (B) of this paragraph, the group shall maintain in trust a trustee surplus of which \$100,000,000 *[shall]* **must** be held jointly for the benefit of the United States domiciled ceding insurers of any member of the group for all years of account.

(D) The incorporated members of the group *[shall not be engaged]* **may not engage** in any business other than underwriting as a member of the group and *[shall be]* **are** subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members.

(E) Within 90 days after the group's financial statements are due to be filed with the group's domiciliary regulator, the group shall provide to the director an annual certification by the group's domiciliary regulator of the solvency of each underwriter member or, if certification is unavailable, financial statements of each underwriter member of the group prepared by independent certified public accountants.

(c) *[In the case of a]* **For the** group of incorporated insurers described in this paragraph, the trust must be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. This paragraph applies to a group of incorporated insurers under common administration that complies with the annual reporting requirements contained in *[this]* subsection (7) of **this section** and that has continuously transacted an insurance business outside the United States for at least three years immediately *[prior to making application]* **before applying** for accreditation. Such a group must have an aggregate policyholders' surplus of \$10,000,000,000 and must submit to the authority of this state to examine *[its]* **the group's** books and records and bear the expense of the examination. The group shall also maintain a joint trustee surplus of which \$100,000,000 must be held jointly for the benefit of United States ceding insurers of any member of the group as additional security for any such liabilities. Each member of the group shall make available to the director an annual certification of the member's solvency by the member's domiciliary regulator and *[its]* **the member's** independent certified public accountant.

(d) The form of the trust and any amendment to the trust *[shall have been]* **must be** approved by the insurance commissioner of the state in which the trust is domiciled or by the insurance commissioner

of another state who, pursuant to the terms of the trust instrument, has accepted principal regulatory oversight of the trust.

(e) The form of the trust and any trust amendments also *[shall]* **must** be filed with the insurance commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument must provide that contested claims *[shall be]* **are** valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust must vest legal title to *[its]* **the trust's** assets in *[its]* **the trust's** trustees for the benefit of the assuming insurer's United States ceding insurers and *[their]* **the** assigns and successors in interest **of the ceding insurers**. The trust and the assuming insurer are subject to examination as determined by the director. The trust must remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(f) Not later than March 1 of each year, the trustees of each trust shall report to the director in writing the balance of the trust, *[and listing]* **list** the trust's investments at the preceding year end[,] and *[shall]* certify the date of termination of the trust, if *[so]* **a termination is** planned, or certify that the trust will not expire prior to the following December 31.

[(7)] (9) [Credit shall be allowed when] The director shall allow credit if the reinsurance is ceded to an assuming insurer *[not meeting]* **that does not meet** the requirements of subsection *[(3), (4), (5) or (6)] (4), (5), (6) or (7)* of this section **or ORS 731.511 (1) or (4)**, but only as to the insurance of risks located in jurisdictions in which the reinsurance is required by applicable law or regulation of that jurisdiction.

[(8)] (10) If the assuming insurer is not *[authorized]* **licensed, accredited or certified** to transact insurance **or reinsurance** in this state *[or accredited as a reinsurer in this state]*, the director *[shall]* **may** not allow the credit permitted by subsections *[(5) and] (6) and (7)* of this section unless the assuming insurer agrees in the reinsurance agreement to the provisions stated in this subsection. This subsection *[is not intended to]* **does not** conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate *[their]* **the parties'** disputes, if such an obligation is created in the agreement. The assuming insurer must agree in the reinsurance agreement:

(a) That *[in the event of the failure of]* **if** the assuming insurer **fails** to perform *[its]* **the assuming insurer's** obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give the court jurisdiction and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

(b) To designate the director or a designated attorney as *[its]* **the assuming insurer's** true and

lawful attorney upon whom any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding company may be served.

[(9)] (11) If the assuming insurer does not meet the requirements of subsection *[(3), (4) or (5)] (4), (5) or (6)* of this section **or ORS 731.511 (1) or (4)**, the **director may not allow** the credit permitted by subsection *[(6)] (7)* of this section *[shall not be allowed]* unless the assuming insurer agrees in the trust agreements to the following conditions:

(a) Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because *[it]* **the trust fund** contains an amount less than the applicable amount required by subsection *[(6)(a)] (8)(a)*, (b) or (c) of this section, or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of the grantor's state or country of domicile, the trustee shall comply with an order of the insurance commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the insurance commissioner with regulatory oversight all the assets of the trust fund.

(b) The assets *[shall]* **must** be distributed by and claims *[shall]* **must** be filed with and valued by the insurance commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that *[are applicable]* **apply** to the liquidation of domestic insurance companies.

(c) If the insurance commissioner with regulatory oversight determines that the assets of the trust fund or any part *[thereof are]* **of the assets is** not necessary to satisfy the claims of the United States ceding insurers of the grantor of the trust, the **insurance commissioner of the state in which the trust is domiciled shall return** the assets or part *[thereof shall be returned by the insurance commissioner according to]* **of the assets in accordance with** the laws of *[that]* **the** state and *[according to]* the terms of the trust agreement *[not inconsistent]* **that are consistent** with the laws of *[that]* **the** state.

(d) The grantor shall waive any right otherwise available to *[it]* **the grantor** under United States law that is inconsistent with this subsection.

SECTION 22. ORS 731.510 is amended to read:

731.510. (1) Subject to the provisions of ORS 731.508 relating to allowance of credit for reinsurance, the Director of the Department of Consumer and Business Services shall allow a reduction from liability for the reinsurance *[ceded by]* a domestic insurer **cedes** to a reinsurer *[not meeting]* **that does not meet** the requirements of ORS 731.509 in an amount *[not exceeding]* **that does not exceed** the liabilities *[carried by]* the ceding insurer **carries**, as provided in this section. The reduction *[shall]* **must** be in the amount of funds held by or on behalf of the ceding insurer, including funds **a reinsurer holds** *[held]* in trust for the ceding insurer[,] **as security for payment of obligations** under a reinsurance

contract with the reinsurer [as security for the payment of obligations thereunder], if the security:

(a) Is held in the United States subject to withdrawal solely by and under the exclusive control of the ceding insurer; or

(b) In the case of a trust, is held in a qualified United States financial institution. For purposes of this paragraph, a qualified United States financial institution is an institution that:

(A) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, is licensed, under the laws of the United States or any state [thereof] and has been granted authority to operate with fiduciary powers; and

(B) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(2) The security for purposes of subsection (1) of this section may be in any of the following forms:

(a) Cash.

(b) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as allowed assets.

(c) Clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified United States financial institution, effective not later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding company on or before the filing date of [its] **the ceding company's** annual statement. Letters of credit issued or confirmed by an institution meeting applicable standards of issuer acceptability as of the dates of [their] issuance or confirmation **of the letters of credit [shall continue to be] are** acceptable as security, notwithstanding the subsequent failure of the issuing or confirming institution to meet applicable standards of issuer acceptability, until [their expiration, extension, renewal, modification or amendment] **the letters of credit expire or are extended, renewed, modified or amended**, whichever occurs first. For purposes of this paragraph, a qualified United States financial institution is an institution that:

(A) Is organized or, in the case of a United States office of a foreign banking organization, is licensed, under the laws of the United States or any state [thereof];

(B) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(C) Has been determined by the director to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the director. For the purpose of making a determination under this subparagraph, the director shall consider and may accept determinations made by the Securities Valuation Office of the National Association of Insurance Commissioners as to whether a financial institution

meets [its] **the office's** standards of financial conditions and standing.

(d) Any other form of security acceptable to the director.

(3) The director by rule may specify additional requirements for:

(a) Valuing assets or reserve credits;

(b) Setting the amount and forms of security to support reinsurance arrangements; and

(c) The circumstances under which the director will reduce or eliminate credit.

(4) In addition to the authority of the director described in subsection (3) of this section, the director by rule may adopt guidelines, rules, regulations or interpretive letters from the National Association of Insurance Commissioners that apply to reinsurance collateral requirements for alien reinsurers.

SECTION 23. ORS 731.511 is amended to read:

731.511. (1) For purposes of allowing credit to a ceding domestic insurer under ORS 731.509 [when] **if** the reinsurance is ceded to an assuming insurer that is accredited as a reinsurer in this state, an insurer may be accredited as a reinsurer in this state if the insurer:

(a) Files and maintains with the Director of the Department of Consumer and Business Services evidence of [its] **the insurer's** submission to the jurisdiction of this state;

(b) Submits to the authority of the director to examine [its] **the insurer's** books and records;

(c) Is authorized or licensed to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through and authorized or licensed to transact insurance or reinsurance in at least one state;

(d) Files annually with the director a copy of [its] **the insurer's** annual statement filed with the insurance department of [its] **the insurer's** state of domicile and a copy of [its] **the insurer's** most recent audited financial statement; and

(e) Satisfies either of the following requirements:

(A) Maintains combined capital and surplus in an amount that is not less than \$20,000,000. An application for accreditation by an insurer who maintains the amount of combined capital and surplus specified in this subparagraph is [considered to be] approved if the application is not disapproved on or before the 90th day after the application is complete and is filed with the director.

(B) Maintains combined capital and surplus in an amount less than \$20,000,000. An insurer applying for accreditation who maintains the amount of combined capital and surplus specified in this subparagraph is not accredited until the application for accreditation is approved by the director.

(2) An insurer that is accredited as a reinsurer in this state may accept reinsurance only of those risks and retain the risk [thereon] **of the reinsurance** within such limits as the accredited reinsurer is otherwise authorized to insure directly in a state

in which the accredited reinsurer is authorized or licensed to transact insurance.

(3) The director may revoke the accreditation of an assuming insurer if the director determines that the assuming insurer has failed to continue to meet any of the requirements of subsection (1) of this section.

(4)(a) The director shall allow credit if the reinsurance is ceded to an assuming insurer that the director certifies has:

(A) Maintained a minimum amount of capital and a surplus, or the equivalent, in an amount the director specifies by rule;

(B) Maintained a financial strength rating from two or more rating agencies that the director by rule deems acceptable for this purpose;

(C) Agreed to submit to the jurisdiction of the state, to appoint the director as the assuming insurer's agent for the service of process in this state and to provide security for 100 percent of the assuming insurer's liabilities that are attributable to reinsurance that ceding insurers have ceded, if the assuming insurer resists enforcement of a United States judgment;

(D) Agreed to meet applicable information filing requirements that the director specifies by rule;

(E) Included a covenant in the language of any trust the assuming insurer maintains to secure the assuming insurer's obligations under ORS 731.509 (8), and in the language of an agreement between the assuming insurer and the commissioner with principal regulatory authority over the assuming insurer, that requires the assuming insurer to fund out of the remaining surplus of the trust any deficiency in a trust account that terminates; and

(F) Satisfied any other requirements that the director specifies for certification.

(b) The director may accredit an association as a reinsurer, including an incorporated underwriter or individual unincorporated underwriters, if the association, the incorporated underwriter or the individual unincorporated underwriter, as appropriate, meets the requirements set forth in paragraph (a) of this subsection and, in addition:

(A) Satisfies minimum capital and surplus requirements by means of the capital and surplus equivalents, net of liabilities, of the association and the association's members, which must include a joint central fund with an amount that the director determines is adequate to satisfy any unsatisfied obligation of the association or a member of the association;

(B) Does not engage, as an incorporated member of the association, in any business other than underwriting and is subject to the same level of regulation and solvency control as the association's unincorporated members are under the association's domiciliary regulator; and

(C) Provides to the director each year, within 90 days after the association must file financial statements with the association's domiciliary regulator, a certification from the association's domiciliary regulator as to the solvency of each underwriting member of the association or, if a certification is not available, financial statements of each underwriting member of the association that certified public accounts have prepared.

(5)(a) The director shall publish a list of jurisdictions that the director considers qualified for the purpose of accrediting as a reinsurer an assuming insurer that is licensed and domiciled in the jurisdiction.

(b) To determine whether a domiciliary jurisdiction outside the United States is qualified for the purpose described in paragraph (a) of this subsection, the director shall:

(A) Evaluate and monitor how appropriate and effective the jurisdiction's insurance supervisory system is and the extent to which the jurisdiction affords reinsurers that are licensed and domiciled in the United States rights, benefits and reciprocal recognition;

(B) Require that the jurisdiction share information and cooperate with the director in any matter that concerns a reinsurer that the director accredits and that is domiciled within the jurisdiction;

(C) Refuse to accredit a jurisdiction if the jurisdiction does not promptly and adequately enforce final United States judgments and arbitration awards; and

(D) Consider other criteria the director deems appropriate.

(c) To determine whether a domiciliary jurisdiction inside the United States is qualified for the purpose described in paragraph (a) of this subsection, the director shall:

(A) Consider the list of qualified jurisdictions that the National Association of Insurance Commissioners publishes and, if the director accredits a jurisdiction that does not appear on the National Association of Insurance Commissioners' list, justify the director's accreditation with appropriate documentation in accordance with rules the director adopts for this purpose; and

(B) Accredite United States jurisdictions that meet the requirements of the National Association of Insurance Commissioners' financial standards and accreditation program.

(d) If an assuming insurer's domiciliary jurisdiction ceases to qualify under paragraph (b) or (c) of this subsection, the director may suspend indefinitely the assuming insurer's accreditation as a reinsurer.

(6)(a) The director by rule shall designate rating agencies upon which the director will rely for financial strength ratings for accredited reinsurers and shall give appropriate consideration to the rating agencies' financial strength

ratings in assigning ratings to each accredited reinsurer. The director shall publish a list of the accredited reinsurers together with the director's corresponding rating for each.

(b) An accredited reinsurer shall secure obligations the accredited reinsurer assumes from ceding insurers at a level that is consistent with the rating the director assigns and in accordance with rules the director adopts.

(7)(a) In order for a ceding domestic insurer to qualify for full financial statement credit for reinsurance that the ceding domestic insurer cedes to an accredited reinsurer, the accredited reinsurer must maintain security in a form that is acceptable to the director and that is consistent with the requirements of ORS 731.510 or maintain security in a trust fund in accordance with ORS 731.509 (8), except as otherwise provided in this section.

(b) If an accredited reinsurer maintains a trust fund to fully secure the accredited reinsurer's obligations under ORS 731.509 (8) and the trust fund is a multibeneficiary trust, the accredited reinsurer shall maintain separate trust accounts for the obligations the accredited reinsurer incurs under reinsurance agreements the accredited reinsurer issued or renewed as an accredited reinsurer with reduced security, as provided under this section or under comparable laws of other United States jurisdictions, and for obligations the accredited reinsurer incurs that are subject to ORS 731.509 (8).

(c) The minimum trustee surplus requirements under ORS 731.509 (8) do not apply to an accredited reinsurer that maintains a multibeneficiary trust for the purpose of securing obligations under this subsection, except that the trust must maintain a minimum trustee surplus of \$100,000,000.

(8) The director shall reduce the allowable credit for ceding insurers by an amount that is proportionate to any deficiency in the security required for an accredited reinsurer under this section. The director may also reduce the allowable credit further if the director finds that a material risk exists that the accredited reinsurer will not pay the accredited reinsurer's obligations in full when due.

(9)(a) Except as provided in paragraph (b) of this subsection, the director shall require an accredited reinsurer that has become inactive or has voluntarily surrendered accreditation as an accredited reinsurer, or for which the director has revoked or suspended accreditation, to secure 100 percent of the reinsurer's obligations.

(b) The security requirement described in paragraph (a) of this subsection does not apply to an accredited reinsurer that is inactive, or for which the director has suspended accreditation, if the director maintains a high rating for the reinsurer under subsection (6) of this section.

(10) The director may accredit an assuming insurer as a reinsurer in this state if a jurisdic-

tion that the National Association of Insurance Commissioners has qualified as meeting the association's financial standards and accreditation has certified the assuming insurer as a reinsurer. The director may also assign to the accredited reinsurer the rating that the qualifying jurisdiction assigned to the accredited reinsurer.

(11) An accredited reinsurer that ceases to assume new business in this state may apply to the director to become inactive and to qualify for a reduction in security for the business the accredited reinsurer maintains. An inactive accredited reinsurer shall comply with all other applicable requirements of this section and the director shall assign a rating to the accredited reinsurer that accounts for the reasons that the accredited reinsurer is not assuming new business, if the reasons are relevant to the rating.

(12)(a) The director may suspend or revoke an assuming insurer's accreditation as a reinsurer in this state if the assuming insurer fails to meet applicable requirements for accreditation.

(b) The director shall give an accredited reinsurer notice and an opportunity for a hearing before taking action under paragraph (a) of this subsection and a suspension or revocation is not effective until after the director's final order unless:

(A) The accredited reinsurer waives the opportunity for a hearing;

(B) The director bases the final order on regulatory action by the accredited reinsurer's domiciliary jurisdiction or on the accredited reinsurer's having voluntarily surrendered or terminated the accredited reinsurer's authorization to transact insurance or reinsurance in the domiciliary jurisdiction or in a jurisdiction whose certification of the reinsurer formed the basis upon which the director accredited the reinsurer in this state under subsection (10) of this section; or

(C) The director finds that an emergency requires immediate action and a court does not stay the director's action.

(13) A reinsurance contract issued or renewed after the director suspends an accredited reinsurer's certification does not qualify for credit unless the reinsurer secures the reinsurer's obligations in accordance with ORS 731.510. The director may not grant credit for reinsurance after the effective date of the director's revocation of accreditation unless the reinsurer secures the reinsurer's obligations in accordance with subsections (6), (7) and (9) of this section or ORS 731.510.

(14) The director may adopt rules to implement the provisions of this section including, but not limited to, rules that adopt guidelines, rules, regulations or interpretive letters from the National Association of Insurance Commis-

sioners that apply to reinsurance collateral requirements for alien reinsurers.

SECTION 24. ORS 744.505 is amended to read: 744.505. [(1)] Except as provided in ORS 744.515, a person [shall] **may** not [act or attempt to act as an adjuster of losses claimed under insurance policies, whether acting for the insurer or the insured, unless the person holds a valid license issued by the Director of the Department of Consumer and Business Services that authorizes the person to act as an adjuster. A license under this section authorizes an adjuster to adjust losses for or against authorized insurers or insurers with which policies were placed under a surplus line insurance license as provided in ORS 735.400 to 735.495] **engage in business as an adjuster unless the person has obtained a license to engage in business as an adjuster under section 6 of this 2019 Act.**

[(2) A license under this section does not authorize a person to act as an adjuster for any person other than the insurer or insured.]

SECTION 25. ORS 744.515 is amended to read: 744.515. [(1) A licensed resident insurance producer or salaried employee or officer of an authorized insurer may adjust and settle losses for the insurer that the insurance producer, employee or officer represents, without obtaining an adjuster's license.]

[(2) A person may make one adjustment before obtaining an adjuster's license if the person applies for the license within two days after entering upon the adjustment, and in all other respects complies with the provisions of this chapter governing adjusters.]

[(3) A person holding a temporary permit under ORS 744.555 may perform acts authorized under ORS 744.555 without obtaining an adjuster's license.]

[(4) Any average adjuster or adjuster of maritime losses may adjust maritime losses without obtaining an adjuster's license.]

[(5) A person may perform or provide repair or replacement service under home protection insurance without obtaining an adjuster's license.]

[(6)(a) An individual may act as an adjuster without obtaining an adjuster's license if the individual:]

[(A) Collects claim information from, or furnishes claim information to, insureds or claimants, and conducts data entry, including entry of data into an automated claims adjudication system; and]

[(B) Is an employee of a licensed adjuster, or its affiliate, where no more than 25 such individuals are under the supervision of one licensed adjuster or one licensed insurance producer.]

[(b) A licensed insurance producer acting as a supervisor as described in paragraph (a) of this subsection is not required to obtain an adjuster's license.]

[(7) As used in this section:]

[(a) "Automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation and final

resolution of portable electronics insurance claims that:]

[(A) Is utilized only by a licensed adjuster, licensed insurance producer or individuals supervised by a licensed adjuster or licensed insurance producer; and]

[(B) Is compliant with all requirements of the Insurance Code.]

[(b) "Portable electronics" means an electronics device that is portable and includes accessories and services related to the use of the device.]

[(c) "Portable electronics insurance" means insurance that provides coverage for the repair or replacement of portable electronics in the event of loss, theft, mechanical failure, malfunction, damage or need for repair or replacement as a result of some other covered source of peril but does not include:]

[(A) A service contract as described in ORS 646A.154 that is subject to the provisions of ORS 646A.150 to 646A.172;]

[(B) A warranty;]

[(C) A maintenance agreement as defined in ORS 646A.152; or]

[(D) A policy of insurance covering the obligations of a vendor or of a portable electronics manufacturer under a warranty.]

(1) As used in this section:

(a) "Automated claims adjudication system" means a preprogrammed computer system that a licensee or licensed insurance producer, or a person under a licensee's or licensed insurance producer's supervision, uses to collect, enter data concerning, calculate and finally resolve a portable electronics insurance claim and that complies with all requirements of the Insurance Code.

(b)(A) "Portable electronics insurance" means insurance that covers repairing or replacing a portable electronic device or accessories and services related to using a portable electronic device upon a loss, theft, mechanical failure, malfunction, damage or other peril.

(B) "Portable electronics insurance" does not include:

(i) A service contract, as described in ORS 646A.154, that is subject to the provisions of ORS 646A.150 to 646A.172;

(ii) A warranty;

(iii) A maintenance agreement, as defined in ORS 646A.152; or

(iv) Insurance that covers a vendor's or manufacturer's obligations under a warranty.

(2) The requirement under ORS 744.505 to obtain a license to engage in business as an adjuster does not apply:

(a) To a licensed resident insurance producer or a person that an authorized insurer employs and authorizes in writing to adjust losses under the insurer's policies that insure domestic risks;

(b) For a period during which a person adjusts one loss before obtaining the license, if the person applies for the license within two days after beginning the adjustment and in all other

respects complies with the provisions of this chapter that govern adjusters;

(c) To a person that obtains and holds a temporary permit under ORS 744.555, if the person obtains the permit within five days after a deployment to adjust claims that arise from a declared catastrophe and the person performs only actions that are authorized under ORS 744.555;

(d) To an average adjuster or adjuster of maritime losses when adjusting maritime losses;

(e) To an individual who performs or provides repair or replacement services under home protection insurance;

(f) To an individual who collects or provides claim information from or to an insured or claimant and who enters data into an automated claims adjudication system, if a licensee or an affiliate of a licensee employs the individual and does not supervise or allow an insurance producer to supervise more than 25 individuals who collect or provide claim information and enter data into an automated claims adjudication system;

(g) To an insurance producer during a period in which the insurance producer supervises an individual described in paragraph (f) of this subsection;

(h) To a person that provides, without compensation, an estimate, investigation or report by or on behalf of a principal;

(i) To a person that provides to an insurer or an insured a valuation or estimate that is not connected to a claim;

(j) To a person that provides, without compensation, an estimate for repairs that the person will perform, even if the person receives compensation for the repairs under the claim; or

(k) To an attorney-at-law that renders services while performing duties as an attorney-at-law.

SECTION 26. ORS 744.525 is amended to read:
744.525. *[An applicant for a license as a resident adjuster shall apply for the license as provided in ORS 744.001 and must meet the following requirements:]*

[(1) If the applicant is an individual, the applicant must establish a residence or place of transacting insurance business in this state prior to filing an application. If the applicant is a firm or corporation, the applicant must establish an office in this state that employs an individual licensed under ORS 744.002 as an adjuster.]

[(2) If the applicant is an individual, the applicant must pass any examination required by ORS 744.535.]

[(3) The applicant must satisfy all other requirements established by the Director of the Department of Consumer and Business Services by rule.]

(1) An individual who applies for a license to engage in business as a resident adjuster must:

(a) Establish a residence or place of business in which the applicant intends to transact insurance in this state before submitting an application;

(b) Pass an examination that the Director of the Department of Consumer and Business Services by rule recognizes as adequately testing the applicant's qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant's knowledge of an adjuster's duties and responsibilities under the Insurance Code and other laws of this state;

(c) Be trustworthy and reliable and have a good reputation, evidence of which the director will evaluate; and

(d) Be 18 years of age or older at the time the applicant becomes a licensee.

(2) A business entity that applies for a license to engage in business as a resident adjuster must:

(a) Establish an office in this state that employs a licensee; and

(b) Employ or act under the direction of owners or officers who are trustworthy and reliable and have good reputations, evidence of which the director will evaluate.

(3) In addition to the requirements set forth in subsection (1) or (2) of this section, as appropriate, an applicant must satisfy any other requirement the director specifies by rule.

(4) The director may agree or contract with another jurisdiction, regulatory body, private vendor or other person to administer any required examinations and to collect fingerprints, documentation and any fees that an applicant or licensee submits under section 5 or 6 of this 2019 Act and that the director by rule specifies that the jurisdiction, regulatory body, vendor or person may collect.

SECTION 27. ORS 744.528 is amended to read:

744.528. **(1) The Director of the Department of Consumer and Business Services may issue a license to engage in business as an adjuster in this state to a person who resides in another state or a province of Canada and is licensed [in that state or province] as an adjuster in the state or province or in a designated home state [may be licensed to act as a nonresident adjuster in this state as provided in this section] if the state, [or] province or designated home state in which the person [resides] is licensed gives the same privilege to a resident adjuster [of this state].**

(2) An applicant for a license to [act] engage in business as a nonresident adjuster must [do the following]:

(a) Apply for the license [on forms designed and furnished by the Director of the Department of Consumer and Business Services as provided in ORS 744.001.] as provided in section 5 of this 2019 Act; and

[(b) If the applicant is an individual, pass an examination required by ORS 744.535.]

(b) Pass an examination that the director by rule recognizes as adequately testing the applicant's qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant's knowledge of an adjuster's duties and responsibilities under the Insurance Code and other laws of this state, if the applicant is an individual and has not passed an examination with respect to a category of insurance business or class of insurance that the applicant intends to transact in this state.

SECTION 28. ORS 744.531 is amended to read:

744.531. *[When the Director of the Department of Consumer and Business Services issues a license authorizing a person to act as an adjuster, the director shall indorse on the license the class or classes of insurance described in this section with respect to which the person is authorized to adjust losses. The classes of insurance are as follows:]* **The classes of insurance that the Director of the Department of Consumer and Business Services may authorize a licensee to transact under a license to engage in business as an adjuster are:**

(1) Property and casualty insurance. Under this class, in addition to property and casualty insurance, an adjuster may also adjust losses with respect to marine and transportation and surety insurance.

(2) Health insurance, whether provided by an insurer or a health care service contractor, as defined in ORS 750.005.

(3) Any class of insurance *[designated by]* the director **specifies** by rule.

SECTION 29. ORS 744.538 is amended to read:

744.538. (1) A nonresident adjuster *[shall not act as]* **may not engage in business as an adjuster** in this state *[when]* **if** the adjuster no longer holds a valid license as an adjuster in the state, *[or]* province **or designated home state** in which the adjuster *[resides]* **was licensed**. If the **adjuster's license** *[of the adjuster]* in the state, **province or designated home state** in which the adjuster *[resides]* **was licensed** is reinstated **and has not expired**, *[and if the nonresident adjuster's license has not expired,]* the adjuster may apply to the Director of the Department of Consumer and Business Services for reinstatement *[of the nonresident license]* **as a licensee**.

(2) A nonresident adjuster who establishes residence in this state *[shall]* **may not transact business as an adjuster** in this state under *[the]* **a nonresident license** *[following the 30th]* **after the 90th day** after the adjuster establishes the residence. An adjuster *[under this subsection may thereafter act as an adjuster in this state only under a license to act as a resident adjuster]* **who is a resident may thereafter engage in business as an adjuster in this state only after becoming a resident licensee**.

(3) A nonresident adjuster who changes residence to another state *[other than this state]* or to a province *[must apply to the director for a license as a nonresident adjuster as if the adjuster were initially applying for such a license]* **shall notify the director not later than 30 days after the change**.

SECTION 30. ORS 744.555 is amended to read:

744.555. (1)(a) To facilitate the settlement of claims under insurance policies when there is widespread property loss in this state arising out of a catastrophe, the Director of the Department of Consumer and Business Services may issue a temporary permit to **engage in business as an adjuster in this state** to any person authorized in another state to adjust losses claimed under insurance policies *[to act as an adjuster]* in the catastrophe area for or against an authorized insurer. A temporary permit *[issued pursuant to]* **the director issues under** this section *[shall be]* **is effective for 90 days or for such additional time as the director determines is necessary.** *[and shall be]* **A person may engage in business as an adjuster under the permit** in lieu of the license and fee requirements otherwise applicable.

(b) The director may also issue a temporary permit to a person that is licensed or otherwise authorized to engage in business as an adjuster in the person's home state or designated home state and that an authorized insurer or insured sends to this state to investigate or adjust a particular loss claimed under an insurance policy.

(2) *[A temporary permit may be obtained by filing with the director a written application therefor in the form prescribed by the director. The application shall contain the name and address of the applicant, the name of the state in which the applicant is authorized to adjust losses claimed under insurance policies and any other information the director may require.]* **A person may apply for a temporary permit by submitting an application to the director on a form, in a format and in the manner the director specifies by rule. The application, at a minimum, must list the applicant's name and address and the state in which the applicant is licensed or otherwise authorized to engage in business as an adjuster.**

[(3) Such a permit may also be issued in respect to any adjuster who is licensed or permitted to act as such in the state of domicile of the adjuster and who is sent into this state on behalf of an authorized insurer or insured for the purpose of investigating or making adjustment of a particular loss under policies of insurance.]

SECTION 31. ORS 744.605 is amended to read:

744.605. (1) A person *[shall not act]* **may not engage in business** as an insurance consultant unless the person holds a valid license *[issued by]* the Director of the Department of Consumer and Business Services **issues under section 13 of this 2019 Act** that authorizes the person to *[act]* **engage in**

business as an insurance consultant. For purposes of this section, a person *[acts]* **engages in business** as an insurance consultant if:

(a) The person purports or offers to engage in any of the activities described in paragraph (b) of this subsection by using, in conjunction with the person's name, the title or designation of insurance planner, consultant, adviser or counselor, or financial and insurance planner, consultant, adviser or counselor, or any similar title or designation; or

(b) The person, for compensation other than commission from the sale of insurance, engages, attempts to engage or offers to engage in any of the following activities:

(A) Acting as a consultant regarding insurance.

(B) Giving advice, counsel, opinion or service with respect to the benefits, advantages or disadvantages of insurance that may be issued in this state.

(C) In any other manner providing information about insurance.

(2) For the purposes of subsection (1)(b) of this section, compensation includes consideration paid for financial and other related services *[provided by]* the person **provides** in connection with services referred to in subsection (1)(b) of this section.

SECTION 32. ORS 744.619 is amended to read:

744.619. *[An applicant for a license as a resident insurance consultant shall apply for the license as provided in ORS 744.001 and must meet the following requirements:]*

[(1) The applicant must provide satisfactory evidence to the Director of the Department of Consumer and Business Services that the insurance required under ORS 744.635 has been procured and is in effect.]

[(2) The applicant, if an individual, must establish a residence or place of transacting insurance business in this state prior to filing an application. If the application is a firm or corporation, the applicant must establish an office in this state that is managed by an individual licensed as an insurance consultant.]

[(3) The applicant, if an individual, must have had at least five years' experience in the insurance business relating to the class or classes of insurance for which the applicant is applying to be an insurance consultant or have equivalent educational qualifications as prescribed by the director.]

[(4) The applicant, if an individual, must pass a written examination given by the director. The examination requirement does not apply to an applicant who is licensed as a resident insurance producer to transact the class or classes of insurance for which the applicant is applying to be an insurance consultant.]

[(5) The applicant must satisfy any other requirements established by the director by rule.]

(1) An individual who applies for a license to engage in business as a resident insurance consultant must:

(a) Establish a residence or place of business in which the applicant intends to transact in-

surance in this state before submitting an application;

(b) Have at least five years' experience in the insurance business that relates to the categories of insurance business or classes of insurance that the applicant intends to transact under the license or have equivalent education or qualifications that the Director of the Department of Consumer and Business Services specifies by rule;

(c) Provide satisfactory evidence to the director that the applicant has procured and has in effect the insurance required under ORS 744.635; and

(d) Pass an examination that the director by rule recognizes as adequately testing the applicant's qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant's knowledge of an insurance consultant's duties and responsibilities under the Insurance Code and other laws of this state. The requirement in this paragraph does not apply to an insurance producer who holds a license to transact the categories of insurance business or classes of insurance that the insurance producer intends to transact as an insurance consultant.

(2) A business entity that applies for a license to engage in business as a resident insurance consultant must establish an office in this state that is managed by an individual who is licensed as an insurance consultant.

(3) In addition to the requirements set forth in subsection (1) or (2) of this section, as appropriate, an applicant must satisfy any other requirement the director specifies by rule.

(4) The director may agree or contract with another jurisdiction, regulatory body, private vendor or other person to administer any required examinations and to collect fingerprints, documentation and any fees that an applicant or licensee submits under section 12 or 13 of this 2019 Act and that the director by rule specifies that the jurisdiction, regulatory body, vendor or person may collect.

SECTION 33. ORS 744.621 is amended to read:

744.621. **(1) The Director of the Department of Consumer and Business Services may issue a license to engage in business as an insurance consultant to a person who resides in another state or province of Canada and is licensed in that state or province as an insurance consultant or is registered under a regulatory program of the other state or province that the director determines is similar to the regulatory program for insurance consultants under this chapter, *[as determined by the Director of the Department of Consumer and Business Services, may be licensed to act as a nonresident insurance consultant in this state as provided in this section]* if the state or province in which the person resides**

gives the same privilege to a resident insurance consultant *[of this state]*.

(2) An applicant for a license to *[act]* **engage in business** as a nonresident insurance consultant shall apply for the license as provided in *[ORS 744.001]* **section 12 of this 2019 Act** and must *[meet the following requirements]*:

[(a) The applicant must provide satisfactory evidence to the director that the insurance required under ORS 744.635 has been procured and is in effect.]

[(b) If the applicant is an individual, the applicant must have had at least five years' experience in the insurance business relating to the class or classes of insurance for which the applicant is applying to be an insurance consultant or have equivalent educational qualifications as prescribed by the director.]

[(c) If the applicant is an individual, the applicant must take and pass a written examination given by the director, unless the state or province in which the applicant resides licenses or registers insurance consultants of this state without examination. The examination requirement does not apply to an applicant who is licensed as a nonresident insurance producer to transact the class or classes of insurance for which the applicant is applying to be an insurance consultant.]

[(d) The applicant must satisfy any other requirements established by the director by rule.]

(a) Have at least five years' experience in the insurance business that relates to the categories of insurance business or classes of insurance that the applicant intends to transact under the license or have equivalent education or qualifications that the director specifies by rule;

(b) Provide satisfactory evidence to the director that the applicant has procured and has in effect the insurance required under ORS 744.635; and

(c) Pass an examination that the director by rule recognizes as adequately testing the applicant's qualifications, competence and knowledge of the categories of insurance business and classes of insurance that the applicant intends to transact under a license and the applicant's knowledge of an insurance consultant's duties and responsibilities under the Insurance Code and other laws of this state. The requirement in this paragraph does not apply to an insurance producer who holds a license to transact the categories of insurance business or classes of insurance that the insurance producer intends to transact as an insurance consultant.

(3) In addition to the requirements set forth in subsection (2) of this section, an applicant must satisfy any other requirement the director specifies by rule.

SECTION 34. ORS 744.626 is amended to read:

744.626. *[When the Director of the Department of Consumer and Business Services issues a license authorizing a person to act as an insurance consultant, the director shall indorse on the license the class or*

classes of insurance described in this section with respect to which the person is authorized to act as an insurance consultant. The classes of insurance are as follows:] **The classes of insurance that the Director of the Department of Consumer and Business Services may authorize a licensee to transact under a license to engage in business as an insurance consultant are:**

(1) Life insurance.

(2) Health insurance.

(3) Property and casualty insurance. Under this class, in addition to property and casualty insurance, an insurance consultant may also *[act as]* **engage in business as an insurance consultant** with respect to marine and transportation and surety insurance.

(4) Any class of insurance *[designated by]* the director **specifies** by rule.

SECTION 35. ORS 744.631 is amended to read:

744.631. (1) A nonresident insurance consultant *[shall not act]* **may not engage in business** as an insurance consultant in this state *[when]* **if** the insurance consultant no longer holds a valid license as an insurance consultant in the state or province in which the insurance consultant resides. If the **insurance consultant's** license *[of the insurance consultant]* in the state in which the insurance consultant resides is reinstated and *[if the nonresident license]* has not expired, the insurance consultant may apply to the Director of the Department of Consumer and Business Services for reinstatement *[of the nonresident license]* **as a licensee.**

(2) A nonresident insurance consultant who establishes residence in this state *[shall not transact]* **may not engage in** business as an insurance consultant in this state under *[the]* a nonresident license *[following]* **after** the 30th day after the insurance consultant establishes the residence. An insurance consultant *[under this paragraph may act as a resident insurance consultant in this state if the insurance consultant obtains the appropriate license]* **who is a resident may thereafter engage in business as an insurance consultant in this state only after becoming a resident licensee.**

(3) A nonresident insurance consultant who changes residence to another state *[other than this state]* or to a province *[must apply to the director for a license as a nonresident insurance consultant as if the insurance consultant were initially applying for such a license]* **shall notify the director not later than 30 days after the change.**

SECTION 36. ORS 744.704 is amended to read:

744.704. (1) The following persons are exempt from the licensing requirement for third party administrators in ORS 744.702 and from all other provisions of ORS 744.700 to 744.740 applicable to third party administrators:

(a) A person licensed under *[ORS 744.002 as]* **section 6 of this 2019 Act to engage in business** as an adjuster, whose activities are limited to adjustment of claims and whose activities do not include the activities of a third party administrator.

(b) A person licensed as an insurance producer as required by ORS 744.053 and authorized to transact life or health insurance in this state, whose activities are limited exclusively to the sale of insurance and whose activities do not include the activities of a third party administrator.

(c) An employer acting as a third party administrator on behalf of:

(A) *[Its]* **The employer's** employees;

(B) The employees of one or more subsidiary or affiliated corporations of the employer; or

(C) The employees of one or more persons with a dealership, franchise, distributorship or other similar arrangement with the employers.

(d) A union, or an affiliate thereof, acting as a third party administrator on behalf of *[its]* **the union's or the affiliate's** members.

(e) An insurer that is authorized to transact insurance in this state with respect to a policy issued and delivered in and pursuant to the laws of this state or another state.

(f) A creditor acting on behalf of *[its]* **the creditor's** debtors with respect to insurance covering a debt between the creditor and *[its]* **the creditor's** debtors.

(g) A trust and the trustees, agents and employees of the trust, when acting pursuant to the trust, if the trust is established in conformity with 29 U.S.C. 186.

(h) A trust exempt from taxation under section 501(a) of the Internal Revenue Code, *[its]* **the trust's** trustees and employees acting pursuant to the trust, or a voluntary employees beneficiary association described in section 501(c) of the Internal Revenue Code, *[its]* **the association's** agents and employees and a custodian and the custodian's agents and employees acting pursuant to a custodian account meeting the requirements of section 401(f) of the Internal Revenue Code.

(i) A financial institution that is subject to supervision or examination by federal or state financial institution regulatory authorities, or a mortgage lender, to the extent the financial institution or mortgage lender collects and remits premiums to licensed insurance producers or authorized insurers in connection with loan payments.

(j) A company that issues credit cards and advances for and collects premiums or charges from *[its]* **the company's** credit card holders who have authorized collection. The exemption under this paragraph applies only if the company does not adjust or settle claims.

(k) A person who adjusts or settles claims in the normal course of practice or employment as an attorney at law. The exemption under this subsection applies only if the person does not collect charges or premiums in connection with life insurance or health insurance coverage.

(L) A person who acts solely as an administrator of one or more bona fide employee benefit plans established by an employer or an employee organization, or both, for which the Insurance Code is

preempted pursuant to the Employee Retirement Income Security Act of 1974. A person to whom this paragraph applies must comply with the requirements of ORS 744.714.

(m) An entity or association owned by or composed of like employers who administer partially or fully self-insured plans for employees of the employers or association members.

(n) A trust established by a cooperative body formed between cities, counties, districts or other political subdivisions of this state, or between any combination of such entities, and the trustees, agents and employees acting pursuant to the trust.

(o) Any person designated by the Director of the Department of Consumer and Business Services by rule.

(2) A third party administrator is not required to be licensed as a third party administrator in this state if the following conditions are met:

(a) The third party administrator has its principal place of business in another state;

(b) The third party administrator is not soliciting business as a third party administrator in this state; and

(c) In the case of any group policy or plan of insurance serviced by the third party administrator, the lesser of five percent or 100 certificate holders reside in this state.

SECTION 37. ORS 750.055, as amended by section 9, chapter 7, Oregon Laws 2018, is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 735.600 to 735.650.

(g) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(h) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

(i) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260 and section 2, chapter 771, Oregon Laws 2013.

(j) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 and section 5, chapter 7, Oregon Laws 2018.

(k) The following provisions of ORS chapter 744:

(A) ORS [744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037,] 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665 **and sections 11 to 17 of this 2019 Act**, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor's classification as a domestic insurance company under paragraph (a) of this subsection does not subject the

health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

SECTION 38. ORS 750.055, as amended by section 21, chapter 771, Oregon Laws 2013, section 7, chapter 25, Oregon Laws 2014, section 82, chapter 45, Oregon Laws 2014, section 9, chapter 59, Oregon Laws 2015, section 7, chapter 100, Oregon Laws 2015, section 7, chapter 224, Oregon Laws 2015, section 11, chapter 362, Oregon Laws 2015, section 10, chapter 470, Oregon Laws 2015, section 30, chapter 515, Oregon Laws 2015, section 10, chapter 206, Oregon Laws 2017, section 6, chapter 417, Oregon Laws 2017, section 22, chapter 479, Oregon Laws 2017, and section 10, chapter 7, Oregon Laws 2018, is amended to read:

750.055. (1) The following provisions apply to health care service contractors to the extent not inconsistent with the express provisions of ORS 750.005 to 750.095:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.362, 731.382, 731.385, 731.386, 731.390, 731.398 to 731.430, 731.428, 731.450, 731.454, 731.485, as provided in subsection (2) of this section, ORS 731.488, 731.504, 731.508, 731.509, 731.510, 731.511, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.730, 731.731, 731.735, 731.737, 731.750, 731.752, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 732.215, 732.220, 732.230, 732.245, 732.250, 732.320, 732.325 and 732.517 to 732.596, not including ORS 732.582.

(d) ORS 733.010 to 733.050, 733.080, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(e) ORS 734.014 to 734.440.

(f) ORS 735.600 to 735.650.

(g) ORS 742.001 to 742.009, 742.013, 742.016, 742.061, 742.065, 742.150 to 742.162 and 742.518 to 742.542.

(h) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.019, 743.020, 743.022, 743.023, 743.028, 743.029, 743.038, 743.040, 743.044, 743.050, 743.100 to 743.109, 743.402, 743.405, 743.406, 743.417, 743.472, 743.492, 743.495, 743.498, 743.522, 743.523, 743.524, 743.526, 743.535, 743.550, 743.650 to 743.656, 743.680 to 743.689, 743.788 and 743.790.

(i) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.034, 743A.036, 743A.040, 743A.044, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

(j) ORS 743B.001, 743B.003 to 743B.127, 743B.128, 743B.130, 743B.195 to 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.280 to 743B.285, 743B.287, 743B.300, 743B.310, 743B.320, 743B.323, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343 to 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.450, 743B.451, 743B.452, 743B.453, 743B.470, 743B.475, 743B.505, 743B.550, 743B.555, 743B.601, 743B.602 and 743B.800 and section 5, chapter 7, Oregon Laws 2018.

(k) The following provisions of ORS chapter 744:

(A) ORS [744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037,] 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665 **and sections 11 to 17 of this 2019 Act**, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(L) ORS 746.005 to 746.140, 746.160, 746.220 to 746.370, 746.600, 746.605, 746.607, 746.608, 746.610, 746.615, 746.625, 746.635, 746.650, 746.655, 746.660, 746.668, 746.670, 746.675, 746.680 and 746.690.

(2) The following provisions of the Insurance Code apply to health care service contractors except in the case of group practice health maintenance organizations that are federally qualified pursuant to Title XIII of the Public Health Service Act:

(a) ORS 731.485, if the group practice health maintenance organization wholly owns and operates an in-house drug outlet.

(b) ORS 743A.024, unless the patient is referred by a physician, physician assistant or nurse practitioner associated with a group practice health maintenance organization.

(3) For the purposes of this section, health care service contractors are insurers.

(4) Any for-profit health care service contractor organized under the laws of any other state that is not governed by the insurance laws of the other state is subject to all requirements of ORS chapter 732.

(5)(a) A health care service contractor is a domestic insurance company for the purpose of determining whether the health care service contractor is a debtor, as defined in 11 U.S.C. 109.

(b) A health care service contractor's classification as a domestic insurance company under paragraph (a) of this subsection does not subject the health care service contractor to ORS 734.510 to 734.710.

(6) The Director of the Department of Consumer and Business Services may, after notice and hearing, adopt reasonable rules not inconsistent with this section and ORS 750.003, 750.005, 750.025 and 750.045 that are necessary for the proper administration of these provisions.

SECTION 39. ORS 750.333 is amended to read:

750.333. (1) The following provisions apply to trusts carrying out a multiple employer welfare arrangement:

(a) ORS 705.137, 705.138 and 705.139.

(b) ORS 731.004 to 731.150, 731.162, 731.216 to 731.268, 731.296 to 731.316, 731.324, 731.328, 731.378, 731.386, 731.390, 731.398, 731.406, 731.410, 731.414, 731.418 to 731.434, 731.454, 731.484, 731.486, 731.488, 731.512, 731.574 to 731.620, 731.640 to 731.652, 731.804, 731.808 and 731.844 to 731.992.

(c) ORS 733.010 to 733.050, 733.140 to 733.170, 733.210, 733.510 to 733.680 and 733.695 to 733.780.

(d) ORS 734.014 to 734.440.

(e) ORS 742.001 to 742.009, 742.013, 742.016, 742.061 and 742.065.

(f) ORS 743.004, 743.005, 743.007, 743.008, 743.010, 743.018, 743.020, 743.023, 743.028, 743.029, 743.053, 743.405, 743.406, 743.524, 743.526 and 743.535.

(g) ORS 743A.010, 743A.012, 743A.014, 743A.020, 743A.024, 743A.034, 743A.036, 743A.040, 743A.048, 743A.051, 743A.052, 743A.058, 743A.060, 743A.062, 743A.063, 743A.064, 743A.065, 743A.066, 743A.068, 743A.070, 743A.080, 743A.082, 743A.084, 743A.088, 743A.090, 743A.100, 743A.104, 743A.105, 743A.108, 743A.110, 743A.124, 743A.140, 743A.141, 743A.148, 743A.150, 743A.160, 743A.168, 743A.170, 743A.175, 743A.180, 743A.185, 743A.188, 743A.190, 743A.192, 743A.250, 743A.252 and 743A.260.

(h) ORS 743B.001, 743B.003 to 743B.127 (except 743B.125 to 743B.127), 743B.195 to 743B.204, 743B.220, 743B.222, 743B.225, 743B.227, 743B.250, 743B.252, 743B.253, 743B.254, 743B.255, 743B.256, 743B.257, 743B.258, 743B.310, 743B.320, 743B.321, 743B.330, 743B.340, 743B.341, 743B.342, 743B.343, 743B.344, 743B.345, 743B.347, 743B.400, 743B.403, 743B.407, 743B.420, 743B.423, 743B.451, 743B.453, 743B.470, 743B.505, 743B.550, 743B.555 and 743B.601.

(i) The following provisions of ORS chapter 744:

(A) ORS [744.001 to 744.009, 744.011, 744.013, 744.014, 744.018, 744.022 to 744.033, 744.037,] 744.052 to 744.089, 744.091 and 744.093, relating to the regulation of insurance producers;

(B) ORS 744.605, 744.609, 744.619, 744.621, 744.626, 744.631, 744.635, 744.650, 744.655 and 744.665 **and sections 11 to 17 of this 2019 Act**, relating to the regulation of insurance consultants; and

(C) ORS 744.700 to 744.740, relating to the regulation of third party administrators.

(j) ORS 746.005 to 746.140, 746.160 and 746.220 to 746.370.

(2) For the purposes of this section:

(a) A trust carrying out a multiple employer welfare arrangement [*shall be considered*] **is** an insurer.

(b) References to certificates of authority [*shall be considered*] **are** references to certificates of multiple employer welfare arrangement.

(c) Contributions [*shall be considered*] **are** premiums.

(3) The provision of health benefits under ORS 750.301 to 750.341 [*shall be considered to be*] **is** the transaction of health insurance.

(4) The Department of Consumer and Business Services may adopt rules that are necessary to implement the provisions of ORS 750.301 to 750.341.

SECTION 40. ORS 446.676 is amended to read: 446.676. ORS 446.671 does not apply to the following manufactured structures or persons:

(1) A unit of government or a public or private utility.

(2) The owner of a manufactured structure, as shown by a document evidencing ownership issued by any jurisdiction if the person owned the manufactured structure for personal, family or household purposes. If the person sells, trades, displays or offers for sale, trade or exchange two or more manufactured structures during a calendar year, the person has the burden of proving that the person owned the structures primarily for personal, family or household purposes.

(3) A conservator, receiver, trustee, personal representative or public officer while performing any official duties. The exemption provided by this subsection applies to actions taken for the purposes of winding up the affairs of a manufactured structure dealer or dealership and not to the continuing operation of a dealership.

(4) A real estate licensee representing a buyer or seller in a transaction involving real property under ORS 308.875 or a manufactured structure that is recorded in the deed records of a county.

(5) An escrow agent making an application for an ownership document as described under ORS 446.591 (5).

(6) The security interest holder of a manufactured structure as shown by a document evidencing ownership issued by any jurisdiction.

(7) The sale of a manufactured structure by the manufacturer to a manufactured structure dealer. However, a manufacturer must obtain a manufactured structure dealer license under ORS 446.691 in order to sell manufactured structures to retail customers.

(8) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 **or section 6 of this 2019 Act** who is disposing of a manufactured structure for salvage.

(9) A person who sells or trades or offers to sell or trade a manufactured structure that has been used in the operation of the person's business unless the person's business is the buying, selling, brokering, trading or exchanging of manufactured structures, displaying new or used manufactured structures for sale or acting as agent for an owner selling a manufactured structure or for a person interested in buying a manufactured structure.

(10) A person who is licensed as a manufactured structure dealer in another jurisdiction and is participating in a temporary exhibition of manufactured structures, if the exhibition includes at least two other manufactured structure dealers licensed in this state or another jurisdiction, lasts 10 days or less and charges admission to the public. An exemption may be claimed under this subsection for a

total of not more than 10 days during a calendar year.

(11) A person who receives no money, goods or services, either directly or indirectly, for displaying a manufactured structure or acting as an agent in the selling or buying of a manufactured structure.

(12) A manufactured dwelling park or mobile home park owner that consigns a manufactured structure for sale by a licensed manufactured structure dealer.

(13) The sale of an abandoned manufactured dwelling by a manufactured dwelling park owner pursuant to ORS 90.675 (10) if the park owner makes a reasonable effort to transfer the title for the manufactured dwelling to the purchaser.

(14) A licensed real estate broker acting in the employ of, on behalf of or under the supervision of an individual who is both a licensed principal real estate broker and a licensed manufactured structure dealer.

(15) A financial institution or trust company acting as attorney in fact under a duly executed power of attorney from the owner or purchaser authorizing the selling, leasing or exchanging of the owner's or purchaser's assets. As used in this subsection, "financial institution" and "trust company" have the meanings given those terms in ORS 706.008.

SECTION 41. ORS 746.275 is amended to read: 746.275. As used in ORS 746.275 to 746.300:

(1) "Adjuster" means a person authorized to do business under ORS [744.505 or] 744.515 **or section 6 of this 2019 Act**.

(2) "Motor vehicle liability insurance policy" means an insurance policy which provides automobile liability coverage, uninsured motorist coverage, automobile medical payments coverage or automobile physical damage coverage on motor vehicles, but does not include any insurance policy:

(a) Covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards; or

(b) 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.

(3) "Motor vehicle body and frame repair shop" means a business or a division of a business organized for the purpose of effecting repairs to motor vehicles which have been physically damaged.

SECTION 42. ORS 819.482 is amended to read: 819.482. (1) A person commits the offense of acting as a vehicle appraiser without a certificate if the person does not hold a vehicle appraiser certificate issued under ORS 819.480 and the person, for consideration, issues an opinion as to the value of a vehicle.

(2) This section does not apply to:

(a) A person who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040 and who appraises vehicles in the operation of the vehicle dealer's business;

(b) A person from another jurisdiction who holds a vehicle appraiser certificate requiring qualifications substantially similar to qualifications required for the certification of a vehicle appraiser in this state;

(c) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 **or section 6 of this 2019 Act**; or

(d) A person licensed or certified to appraise real estate under ORS 674.310 and who appraises the value of manufactured structures.

(3) The offense described in this section, acting as a vehicle appraiser without a certificate, is a Class A violation.

SECTION 43. ORS 822.015 is amended to read:

822.015. (1) In addition to any exemptions from the vehicle code under ORS 801.026, ORS 822.005 does not apply to the following vehicles or persons:

(a) Road rollers, farm tractors, farm trailers, trolleys, implements of husbandry, emergency vehicles, well-drilling machinery and boat or utility trailers with a gross weight of 1,800 pounds or less.

(b) The owner of a vehicle as shown by the vehicle title issued by any jurisdiction if the person owned the vehicle primarily for personal, family or household purposes. If the person has sold, traded, displayed or offered for sale, trade or exchange more than five vehicles in one calendar year, the person shall have the burden of proving that the person owned the vehicles primarily for personal, family or household purposes or for other purposes that the Department of Transportation, by rule, defines as constituting an exemption under this section.

(c) A receiver, trustee, personal representative or public officer while performing any official duties.

(d) The lessor or security interest holder of a vehicle as shown by the vehicle title issued by any jurisdiction.

(e) Except as otherwise provided in this paragraph, a manufacturer who sells vehicles the manufacturer has manufactured in Oregon. Nothing in this paragraph prevents any manufacturer from obtaining a vehicle dealer certificate under ORS 822.020. This paragraph does not exempt a manufacturer who sells or trades campers or travel trailers.

(f) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 **or section 6 of this 2019 Act** who is disposing of vehicles for salvage.

(g) Except as otherwise provided in this paragraph, a person who sells or trades or offers to sell or trade a vehicle that has been used in the operation of the person's business. This paragraph does not exempt a person who is in the business of selling, trading, displaying, rebuilding, renting or leasing vehicles from any requirement to obtain a certificate for dealing in those vehicles.

(h) A person who receives no money, goods or services, either directly or indirectly, for displaying a vehicle or acting as an agent in the buying or selling of a vehicle.

(i) A person who collects, purchases, acquires, trades or disposes of vehicles and vehicle parts for the person's own use in order to preserve, restore and maintain vehicles for the person's own use or for hobby or historical purposes.

(j) A manufactured structure dealer subject to the licensing requirement of ORS 446.671 or a person exempt from licensing under ORS 446.676 when selling a vehicle, trailer or semitrailer accepted in trade as part of a manufactured structure transaction. A manufactured structure dealership or exempt person may not directly sell more than three vehicles per calendar year under authority of this paragraph, but by consignment with a dealer certified under ORS 822.020 or 822.040 may sell an unlimited number of vehicles acquired as described in this paragraph.

(k) A lien claimant who sells vehicles in order to foreclose possessory liens.

(L) A lien claimant who, in a 12-month period, sells 12 or fewer vehicles that the lien claimant acquired through possessory liens if the vehicles are sold at the business location of the lien claimant.

(m) Electric personal assistive mobility devices.

(n) A tower that received title for a vehicle under ORS 822.235.

(2) Notwithstanding ORS 822.005, the following may participate with other dealers in a display of vehicles, including but not limited to an auto show, if the display is an event that lasts for 10 days or less and is an event for which the public is charged admission:

(a) A person who is licensed as a vehicle dealer in another jurisdiction; or

(b) Any employee of a person who is licensed as a vehicle dealer in another jurisdiction.

(3) Notwithstanding ORS 822.005, a person who is licensed as a vehicle dealer in another jurisdiction or an employee of a person who is certified or licensed as a vehicle dealer may participate in a vehicle auction if the vehicle auction is:

(a) Conducted by a vehicle dealer who holds a vehicle dealer certificate issued or renewed under ORS 822.020 or 822.040; and

(b) Open only to certified or licensed vehicle dealers or their employees.

(4) The department shall adopt rules to carry out the provisions of this section, including but not limited to specifying which dealers may take vehicles on consignment from other jurisdictions.

SECTION 44. ORS 822.070 is amended to read:

822.070. (1) A person commits the offense of conducting an illegal vehicle rebuilding business if the person is not the holder of a valid current dealer certificate issued under ORS 822.020 and the person does any of the following as part of a business:

(a) Buys, sells or deals in assembled, reconstructed or substantially altered motor vehicles.

(b) Engages in making assembled, reconstructed or substantially altered vehicles from motor vehicle components.

(2) This section does not apply to the following persons or vehicles:

(a) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 or section 6 of this 2019 Act who is disposing of vehicles for salvage.

(b) Vehicles or persons exempt from the vehicle dealer certificate requirements by ORS 822.015 (1)(a) or (i).

(c) Motor vehicles that are not of a type required to be registered under the vehicle code.

(d) The holder of a dismantler certificate issued under ORS 822.110.

(3) The offense described in this section, conducting an illegal vehicle rebuilding business, is a Class A misdemeanor.

SECTION 45. ORS 822.105 is amended to read:

822.105. In addition to exemptions from the vehicle code under ORS 801.026, ORS 822.100 does not apply to the following:

(1) An insurance adjuster authorized to do business under ORS [744.505 or] 744.515 or section 6 of this 2019 Act who is disposing of vehicles for salvage.

(2) Road rollers, farm tractors, trolleys or traction engines.

(3) Implements of husbandry, well-drilling machinery and wheelchairs.

(4) Golf carts.

SECTION 46. ORS 744.001, 744.002, 744.003, 744.004, 744.007, 744.008, 744.009, 744.011, 744.013, 744.014, 744.018, 744.022, 744.024, 744.026, 744.028, 744.031, 744.033, 744.037 and 744.535 are repealed.

SECTION 47. Section 2 of this 2019 Act and the amendments to ORS 731.509, 731.510 and 731.511 by sections 20 to 23 of this 2019 Act apply to all cessions that occur after the operative

date specified in section 48 of this 2019 Act under reinsurance agreements that have an inception, anniversary or renewal date that occurs not less than six months after the operative date specified in section 48 of this 2019 Act.

SECTION 48. (1) Sections 2, 3, 4 to 10, 11 to 17 and 18 of this 2019 Act, the amendments to ORS 446.676, 705.141, 731.509, 731.510, 731.511, 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.555, 744.605, 744.619, 744.621, 744.626, 744.631, 744.704, 746.275, 750.055, 750.333, 819.482, 822.015, 822.070 and 822.105 by sections 19 to 45 of this 2019 Act and the repeal of ORS 744.001, 744.002, 744.003, 744.004, 744.007, 744.008, 744.009, 744.011, 744.013, 744.014, 744.018, 744.022, 744.024, 744.026, 744.028, 744.031, 744.033, 744.037 and 744.535 by section 46 of this 2019 Act become operative on January 1, 2020.

(2) The Director of the Department of Consumer and Business Services may adopt rules and take any other action before the operative date specified in subsection (1) of this section that is necessary to enable the director, on and after the operative date specified in subsection (1) of this section, to exercise all of the duties, functions and powers conferred on the director by sections 2, 3, 4 to 10, 11 to 17 and 18 of this 2019 Act and the amendments to ORS 446.676, 705.141, 731.509, 731.510, 731.511, 744.505, 744.515, 744.525, 744.528, 744.531, 744.538, 744.555, 744.605, 744.619, 744.621, 744.626, 744.631, 744.704, 746.275, 750.055, 750.333, 819.482, 822.015, 822.070 and 822.105 by sections 19 to 45 of this 2019 Act.

SECTION 49. This 2019 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect on its passage.

Approved by the Governor May 22, 2019

Filed in the office of Secretary of State May 23, 2019

Effective date May 22, 2019