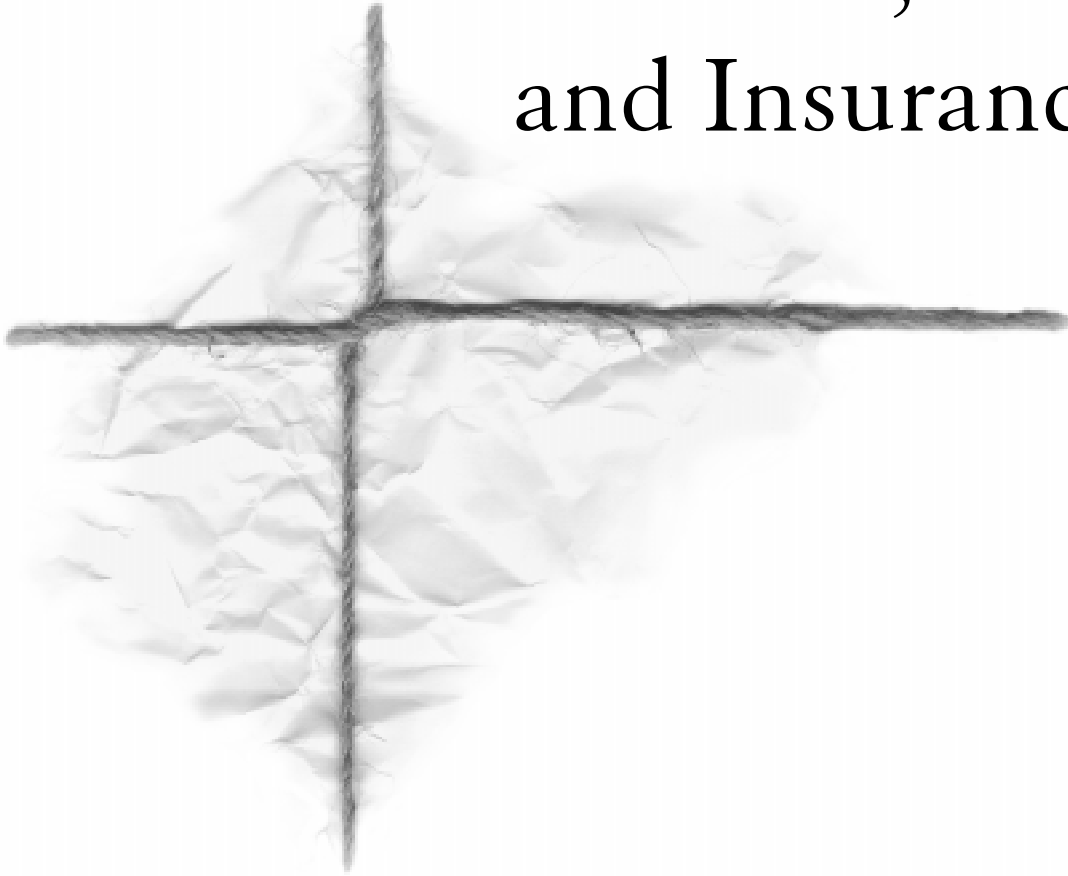


Business, Finance and Insurance



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Summary

of Major

Legislation

Senate Bill 92

Relating to the organizational structure of insurers.

SB 92 changes the procedures under which a domestic insurer organized as a mutual insurance company may convert to or reorganize as a stock company, or as a mutual or stock insurance holding company. This process is referred to as “demutualization”. Prior to enactment of SB 92, the only process available for a mutual insurance company to demutualize required the company to return all funds to the owners, in effect, liquidating the company. The measure provides an orderly conversion process that does not require liquidation of the company and that ensures fair equity for policy holders, including cash-out options. Any conversion or reorganization under this act will require the pre-approval of the Director of Department of Consumer and Business Services. The measure only affects Oregon-based domestic mutual insurance companies.

Effective Date: October 4, 1997

Senate Bill 125

Relating to banking.

SB 125 revises and reorganizes the state banking code. Banking practices, federal laws, and industry terminology have gone through significant changes since the 1973 revision of the Oregon Bank Act. In 1994, Congress passed the Riegle-Neal Interstate Banking and Branching Efficiency Act which defines the current relationship between state and federal bank laws. In 1995, the Oregon legislature authorized interstate banking through passage of SB 308. The intent of SB 125 is to bring Oregon’s code up-to-date and into conformity with current federal law and industry practices and standards. The measure streamlines the organizational structure of the banking statutes for easier reference. SB 125 will be implemented by the Division of Finance and Corporate Securities of the Department of Consumer and Business Services.

Effective Date: October 4, 1997

Senate Bill 126

Relating to regulation of securities.

SB 126 conforms Oregon securities law to federal statutes. The measure prohibits the state from requiring registration of certain securities offerings, including offerings by mutual fund companies and private placements limited to sophisticated investors. Persons cov-

ered by federal licensure and registration laws are exempted from certain requirements of the state law. The measure limits state licensing of investment advisors and their salespersons who are covered by federal registration laws. SB 126 requires the filing of notice and payment of a fee before federal covered securities are sold in state.

SB 126 requires state licensure of an investment adviser representative who is employed by federal covered investment adviser with a place of business in the state. Only natural persons are permitted to be licensed as investment adviser representatives. SB 126 prohibits a salesperson or investment adviser from being employed by more than one federal covered securities entity, except as provided by rule or order of the director of the Department of Consumer and Business Services. The measure requires applicants for licensure as a broker-dealer or state investment advisor to post a security in favor of the state in an amount not exceeding \$100,000.

In 1996 the Federal Government enacted the National Securities Markets Improvement Act which preempted state securities laws in certain areas. While preserving the state’s authority to require certain filings and the payment of certain fees, the Act prohibits the state from requiring registration of certain types of securities offerings. The Act also limits the power of the state to license certain members of the securities profession, such as brokers, dealers and investment advisers. SB 126 was drafted with the assistance of a task force which included local and national securities dealers organizations

Effective Date: October 4, 1997

Senate Bill 128

Relating to sellers of travel.

SB 128 removes the statutory registration requirements of sellers of travel and creates a work group to develop and propose new legislation for regulation of the travel industry. In 1993, the owner of Milestone Travel, a large out-of-state tour operator based in Massachusetts, withdrew all funds from its bank accounts and fled the country leaving customers, including some students in Oregon, with no financial recourse. Oregon’s statutes covering regulation of the travel industry were amended in 1993 and 1995 to attempt to provide consumer protection against similar situations through requiring registration of sellers of travel. However, both the Department of Consumer and Business Services (DCBS)

and the travel industry have determined that these registration requirements did not add significant protection against problems with out-of-state sellers, who were identified as the source of the problem. The registration process, however, resulted in increased financial and administrative burdens for Oregon based travel agents, with no increased benefits to consumers.

The work group, to be co-chaired by representatives from DCBS and the Department of Justice, will include representatives of the travel industry and consumers and will report back to the Standing Committee on Business, Law, and Government by August 1, 1998. Remaining statutes continue to provide basic protections, including financial security, for consumers. SB 128 also specifies when a seller of travel can collect commissions from a trust account.

Effective Date: October 4, 1997

Senate Bill 645

Relating to insurance.

SB 645 deletes mandatory arbitration provisions from automobile insurance statutes. The measure provides that automobile insurance policies may include provisions for resolution of disputes through arbitration, with consent of the parties. SB 645 provides that the benefits of uninsured and underinsured motorist insurance policies shall be determined according to the amounts actually received by or on behalf of injured person from a tortfeasor. The tortfeasor's liability limits must be exhausted by payment of the judgment or settlement, or allowance of full credit for tortfeasor's automobile insurance liability limit by the insured, before underinsured motorist benefits become payable. SB 645 allows the insurer reasonable time to decide whether to consent to the proposed settlement between the insured and tortfeasor. The insured is required to provide certain information upon request by insurer. Insurance policies may contain time limitations for commencement of action against an insurer.

Under *Vega v. Farmers Ins. Co.*, 323 Or 291 (1996), it is possible for an insured party who is injured in an automobile accident to proceed directly against his own underinsured motorist insurance carrier instead of first having to sue the tortfeasor. Current statutes subject automobile insurance disputes to mandatory arbitration. Recent case law suggests that such a statutory provision may be unenforceable. Statutes currently treat underinsured motorist coverage differently from uninsured motorist coverage in calculating offsets.

SB 645 provides that, in calculating the offset for Personal Injury Protection insurance benefits received by an insured under underinsured motorist coverage, the amount of benefits must be subtracted from damages rather than policy limits. The measure provides that the amount recoverable under underinsured motorist insurance shall be calculated by subtracting the amount actually recovered by the insured from the tortfeasor's liability insurance from the policy limit of the insured's underinsured motorist coverage.

Effective Date: October 4, 1997

Senate Bill 656

Relating to pawnbrokers.

SB 656 revises the application process and fees required for obtaining a pawnbroker license, eliminates the need for multi-unit licenses, increases the initial application fee, and makes the application fee non-refundable. SB 656 allows pawnbrokers to charge storage fees and for any holding or transfer fees charged by a government agency to be passed through to the pledgor or customer.

SB 656 increases both the interest rates and fees pawnbrokers may charge to pledgors. It also increases the maximum amount chargeable for loan set-up. The measure also decreases the minimum loan period for pawnbroker pledge loans. It also increases the minimum amount of a pledge loan requiring certified notification of pledgor of forfeiture of the pledge.

Effective Date: August 13, 1997

House Bill 2236

Relating to private security service providers.

HB 2236 excludes from the definition of private security officer an employee of a financial institution who is designated as a security officer. Consequently, the designated security officer will not have to be certified by the Board of Public Safety Standards and Training.

HB 2236 defines contract security services as performance of at least one of the following: (a) the observation and reporting of any unlawful activity; (b) the prevention of theft or misappropriation of any goods, money, or other items of value; (c) the protection of individuals or property, including, but not limited to, proprietary information, from harm or misappropriation; (d) the control or access to premises being protected; (e) the secure movement of prisoners; (f) the maintenance of order and safety at athletic, entertainment, or public activities; (g) providing canine services

for guarding premises or for detection of unlawful devices or substances.

The measure defines proprietary security services as the performance of at least one of the activities set forth in the definition of contract security services and the person performing the activity: (a) wears a uniform readily identifiable as one worn by a private security officer; (b) wears clothing that bears such words as security; (c) carries a dangerous or deadly weapon, a stun gun, pepper mace, or a nightstick; or (d) takes enforcement action, by detaining person or placing persons under arrest, under ORS 133.225.

The measure allows a person to challenge the required eight-hour classroom instruction required for private security officers by taking a written examination if the person has had two or more years of experience in the field of law enforcement, military police, private security, or has received private security or law enforcement training. If the person fails the examination, he or she must take eight hours of basic classroom instruction and then take the examination. The measure prohibits certification of those individuals convicted of a person felony, other than second or third-degree assault.

HB 2236 applies the provisions of ORS 181.870 to 181.889 to persons providing proprietary security services on or after September 30, 1997. The measure specifies all certificates, issued pursuant to the time extensions expire June 30, 1999. The measure requires the Board on Public Safety Standards and Training to allow for a temporary private security officer certification, for not longer than 120 days, while the application for the certification being processed. HB 2236 requires the board to establish procedures, for a temporary assignment of person performing security services during the period of time the application is being processed. The board must submit a written report, to the Seventieth Legislative Assembly, that shall include a summary of the board's licensing and certification processes, fees the board charges, and a summary of recommendations made by the Advisory Committee on Private Security Services.

Effective Date: October 4, 1997

House Bill 2298

Relating to simulated invoices.

HB 2298 prohibits the sending of a simulated invoice if the recipient could mistake the simulated invoice for an actual invoice, or if the sender knows or should reasonably know that a recipient could mistake the simu-

lated invoice for an actual invoice. The measure specifies that damages shall be assessed at the greater of three times the amount stated in the invoice or \$500. Under the measure, both the recipient of a simulated invoice who suffers ascertainable damages or the Attorney General can file suit against the sender. HB 2298 authorizes prevailing party attorney fees.

Currently, many Oregon businesses are subject to the scam of "simulated" or "phony" invoices. The perpetrator of this scam sends the business a document that looks like an invoice and appears to demand payment for previously ordered goods. Instead of being an invoice, the document is actually an offer to sell goods or services. Proponents assert that the existing laws were inadequate to protect against this type of fraudulent action.

Effective Date: October 4, 1997

House Bill 2461

Relating to Seismic Safety Policy Advisory Commission.

HB 2461 changes membership and narrows the focus of the Seismic Safety Policy Advisory Commission.

The Oregon Seismic Safety Policy Advisory Commission was created by the 1991 legislature. The 1995 Legislature expanded commission membership to include one representative each from the public-at-large, the commercial building industry, and the Metropolitan Service District. Under HB 2461, eleven specific membership categories are eliminated and replaced with six members representing the public interest and six members representing industries or stakeholders, all of whom are appointed by the Governor.

The mission of the commission is to reduce exposure to earthquake hazards in Oregon. The commission's statutory duties, as modified by HB 2461, are to develop and influence policy, improve public understanding support research and studies, and utilize and influence existing agencies and institutions. The commission will support appropriate mitigation, response and recovery. It is also required to review and advise the Governor and the Legislative Assembly concerning all plans and proposals addressing seismic hazards in the areas of legislative proposals, plans with statewide impact, lists of recommendations for actions and administrative rule changes.

Effective Date: October 4, 1997

Major Legislation

Summary of Major Legislation

Not Enacted

Senate Bill 391

Relating to credit union membership.

SB 391 would have expanded those eligible to join credit unions. The measure was introduced in response to the ruling in *First City Bank v. National Credit Union Association*, 111 F. 3D 433 (1997), a case currently before the United States Supreme Court.

