

LC 556

2021 Regular Session

44000-001

8/24/20 (TSB/ps)

D R A F T

SUMMARY

Provides that insurer and self-insured employer may keep records of workers' compensation claims at location outside this state if insurer or self-insured employer makes records available to Department of Consumer and Business Services at location inside this state.

Provides that person that awards contract to another person is not responsible for providing workers' compensation insurance coverage for individuals who perform labor under contract if other person is licensed as construction contractor or landscape contracting business.

A BILL FOR AN ACT

1
2 Relating to responsibilities associated with workers' compensation coverage;
3 creating new provisions; amending ORS 656.021, 656.455 and 731.475; and
4 repealing ORS 656.750.

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

6 **SECTION 1.** ORS 656.021 is amended to read:

7 656.021. [*Notwithstanding ORS 656.029 (1), a person who is licensed pur-*
8 *suant to an application under ORS 701.046 and is acting under a contract to*
9 *perform work described by ORS chapter 701 shall be considered the subject*
10 *employer for all individuals employed by that person.*] **For purposes of de-**
11 **termining whether a person that awards a contract to another person**
12 **is responsible for providing workers' compensation coverage to indi-**
13 **viduals who perform labor under the contract, the provisions of ORS**
14 **656.029 do not apply if, before labor under the contract commences, the**
15 **other person:**

16 **(1) Has a construction contractor license issued by the Construction**

1 **Contractors Board and performing the work of the contract requires**
2 **a construction contractor license under ORS chapter 701; or**

3 **(2) Has a landscape contracting business license issued by the State**
4 **Landscape Contractors Board and performing the work of the contract**
5 **requires a landscape contracting business license under ORS 671.510**
6 **to 671.760.**

7 **SECTION 2.** ORS 656.455 is amended to read:

8 656.455. (1)(a) **Except as provided in paragraph (c) of this subsection,**
9 every self-insured employer shall maintain a place of business in this state
10 where the employer shall *[keep]* **process claims and make available** com-
11 plete records of all claims for compensation made to the employer under this
12 chapter. *[or]* **In lieu of maintaining a place of business in this state for**
13 **the purpose of complying with this section,** a self-insured employer may,
14 under the conditions prescribed by ORS 731.475 (3), *[keep]* **make** such records
15 **available at places of business** in this state *[at places]* operated by service
16 companies.

17 **(b)** The *[records shall be retained in, and may be removed from, this state*
18 *or disposed of,]* **self-insured employer may dispose of the records de-**
19 **scribed in paragraph (a) of this subsection only** in accordance with
20 *[the]* rules *[of]* the Director of the Department of Consumer and Business
21 Services adopted *[pursuant to]* **under** ORS 731.475. Such records *[shall]* **must**
22 be available to the director for examination and audit at all reasonable times
23 upon notice by the director to the employer.

24 **(c) A self-insured employer may process claims remotely from a**
25 **place of business in this state in accordance with rules adopted under**
26 **ORS 731.475.**

27 (2) With the permission of the director, a self-insured employer may *[keep*
28 *all claims records and]* **process claims and make available claims records**
29 from a location outside of *[the]* **this** state. The director shall by rule pre-
30 scribe the conditions and procedure for obtaining permission of the director.
31 The director may revoke permission for failure of the employer to comply

1 with the rules. If the permission of an employer is revoked by the director,
2 the employer *[shall be allowed]* **has** 60 days after the order of revocation
3 becomes final to comply with subsection (1) of this section. The **self-insured**
4 **employer shall pay any** expenses *[of]* the director **incurs** to examine and
5 audit the records *[of a self-insured employer]* outside of this state *[shall be*
6 *paid by the employer]*.

7 (3) Notwithstanding subsection (1) of this section, a self-insured employer
8 may not **process claims or maintain claims records at more than three**
9 **locations at any one time** *[have at any one time more than three locations*
10 *where claims are processed or records are maintained]*.

11 **SECTION 3.** ORS 731.475 is amended to read:

12 731.475. (1)(a) Every insurer authorized to issue workers' compensation
13 coverage to subject employers as required by ORS chapter 656 shall maintain
14 a place of business in this state where the insurer shall:

15 *[(a)]* (A) Process~~], and keep~~ **claims and make available** complete re-
16 cords of~~],~~ claims for compensation made to the insurer under ORS chapter
17 656.

18 *[(b)]* (B) Make available upon request complete records, including all re-
19 cords submitted electronically, of all workers' compensation insurance poli-
20 cies issued as required by ORS chapter 656.

21 *[(c)]* (C) ~~*[Keep]*~~ **Make available** records identifying the specific persons
22 covered by an employer electing coverage pursuant to ORS 656.039.

23 (b) **Notwithstanding the requirement in paragraph (a) of this sub-**
24 **section that an insurer process claims at a place of business in this**
25 **state, the Director of the Department of Consumer and Business Ser-**
26 **vices by rule may allow the insurer to process claims remotely from**
27 **a place of business in this state.**

28 (2) *[Claims records must be retained in, and may be removed from, this*
29 *state or disposed of,]* **An insurer may dispose of the records described in**
30 **subsection (1) of this section only** in accordance with the rules of the di-
31 rector *[of the Department of Consumer and Business Services]*. The records

1 must be available to the Department of Consumer and Business Services for
2 examination and audit at all reasonable times upon notice by the department
3 to the insurer.

4 (3) In lieu of [*establishing*] **maintaining** a place of business in this state
5 for the purpose [*required by*] **of complying with** this section, an insurer may
6 [*keep*] **make** such records **available at places of business** in this state [*at*
7 *places of business*] operated by service companies, if:

8 (a) Each service company is incorporated in or authorized to do business
9 in this state;

10 (b) [*The*] **An** agreement [*entered into*] between the insurer and the service
11 company grants each service company a power of attorney to act for the
12 insurer in workers' compensation coverage and claims proceedings under
13 ORS chapter 656; and

14 (c) The agreement [*entered into*] between the insurer and each service
15 company is approved by the director.

16 (4) Notwithstanding subsection (3) of this section, an insurer may not:

17 (a) Enter into a service agreement contract with one of [*its*] **the insurer's**
18 insureds unless the insured has service contracts with other insurers; or

19 (b) [*Have*] **Process claims or maintain claims records at** more than
20 eight locations at any one time [*where claims are processed or records are*
21 *maintained*].

22 **SECTION 4. ORS 656.750 is repealed.**

23 **SECTION 5. The amendments to ORS 656.021, 656.455 and 731.475 by**
24 **sections 1 to 3 of this 2021 Act and the repeal of ORS 656.750 by section**
25 **4 of this 2021 Act apply to contracts that become effective or that re-**
26 **new on or after the effective date of this 2021 Act.**

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