

# House Bill 2039

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of Governor Kate Brown for Department of Consumer and Business Services)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

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; creating new pro-  
3 visions; amending ORS 656.021, 656.455 and 731.475; and repealing ORS 656.750.

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

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

6 656.021. [*Notwithstanding ORS 656.029 (1), a person who is licensed pursuant to an application*  
7 *under ORS 701.046 and is acting under a contract to perform work described by ORS chapter 701 shall*  
8 *be considered the subject employer for all individuals employed by that person.*] **For purposes of de-**  
9 **termining whether a person that awards a contract to another person is responsible for**  
10 **providing workers' compensation coverage to individuals who perform labor under the con-**  
11 **tract, the provisions of ORS 656.029 do not apply if, before labor under the contract com-**  
12 **mences, the other person:**

13 (1) **Has a construction contractor license issued by the Construction Contractors Board**  
14 **and performing the work of the contract requires a construction contractor license under**  
15 **ORS chapter 701; or**

16 (2) **Has a landscape contracting business license issued by the State Landscape Contrac-**  
17 **tors Board and performing the work of the contract requires a landscape contracting busi-**  
18 **ness license under ORS 671.510 to 671.760.**

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

20 656.455. (1)(a) **Except as provided in paragraph (c) of this subsection**, every self-insured  
21 employer shall maintain a place of business in this state where the employer shall [*keep*] **process**  
22 **claims and make available** complete records of all claims for compensation made to the employer  
23 under this chapter. [*or*] **In lieu of maintaining a place of business in this state for the purpose**  
24 **of complying with this section**, a self-insured employer may, under the conditions prescribed by  
25 ORS 731.475 (3), [*keep*] **make such records available at places of business** in this state [*at places*]  
26 operated by service companies.

27 (b) The [*records shall be retained in, and may be removed from, this state or disposed of,*] **self-**  
28 **insured employer may dispose of the records described in paragraph (a) of this subsection**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **only** in accordance with *[the]* rules *[of]* the Director of the Department of Consumer and Business  
 2 Services adopted *[pursuant to]* **under** ORS 731.475. Such records *[shall]* **must** be available to the  
 3 director for examination and audit at all reasonable times upon notice by the director to the em-  
 4 ployer.

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

7 (2) With the permission of the director, a self-insured employer may *[keep all claims records*  
 8 *and]* process claims **and make available claims records** from a location outside of *[the]* **this** state.  
 9 The director shall by rule prescribe the conditions and procedure for obtaining permission of the  
 10 director. The director may revoke permission for failure of the employer to comply with the rules.  
 11 If the permission of an employer is revoked by the director, the employer *[shall be allowed]* **has** 60  
 12 days after the order of revocation becomes final to comply with subsection (1) of this section. The  
 13 **self-insured employer shall pay any** expenses *[of]* the director **incurs** to examine and audit the  
 14 records *[of a self-insured employer]* outside of this state *[shall be paid by the employer]*.

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

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

19 731.475. (1)(a) Every insurer authorized to issue workers' compensation coverage to subject  
 20 employers as required by ORS chapter 656 shall maintain a place of business in this state where the  
 21 insurer shall:

22 *[(a)]* **(A) Process[, and keep] claims and make available** complete records *of[,]* claims for com-  
 23 pensation made to the insurer under ORS chapter 656.

24 *[(b)]* **(B) Make available** upon request complete records, including all records submitted elec-  
 25 tronically, of all workers' compensation insurance policies issued as required by ORS chapter 656.

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

28 **(b) Notwithstanding the requirement in paragraph (a) of this subsection that an insurer**  
 29 **process claims at a place of business in this state, the Director of the Department of Con-**  
 30 **sumer and Business Services by rule may allow the insurer to process claims remotely from**  
 31 **a place of business in this state.**

32 (2) *[Claims records must be retained in, and may be removed from, this state or disposed of,]* **An**  
 33 **insurer may dispose of the records described in subsection (1) of this section only** in accord-  
 34 ance with the rules of the director *[of the Department of Consumer and Business Services]*. The re-  
 35 cords must be available to the Department of Consumer and Business Services for examination and  
 36 audit at all reasonable times upon notice by the department to the insurer.

37 (3) In lieu of *[establishing]* **maintaining** a place of business in this state for the purpose *[re-*  
 38 *quired by]* **of complying with** this section, an insurer may *[keep]* **make** such records **available at**  
 39 **places of business** in this state *[at places of business]* operated by service companies, if:

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

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

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

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

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

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

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

7 **SECTION 5. The amendments to ORS 656.021, 656.455 and 731.475 by sections 1 to 3 of this**  
8 **2021 Act and the repeal of ORS 656.750 by section 4 of this 2021 Act apply to contracts that**  
9 **become effective or that renew on or after the effective date of this 2021 Act.**

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