

1                   **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
2                                   **INSURANCE DIVISION**

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4                                   **DIVISION 050**

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6                                   **GENERAL PROVISIONS**

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8                                   **Emergency Authority**

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11                   **836-050-0300**

12                   **Purpose, Authority, Application**

13                   (1) OAR 836-050-0300 and 836-050-0305 are adopted to implement section 2, chapter  
14 22, Oregon Laws 2008 (Enrolled HB 3605), which requires the Director to adopt rules  
15 establishing general criteria for orders that the Director is authorized to issue when the Governor  
16 declares a state of emergency under ORS 401.055.

17                   (2) OAR 836-050-0300 and 836-050-0305 apply to a state of emergency declared by the  
18 Governor when the conditions leading to the declaration substantially interfere with the public's  
19 ability to carry on its normal business affairs.

20 Stat. Auth.: ORS 731.244 and section 2, chapter 22, Oregon Laws 2008

21 Stats. Implemented: Section 2, chapter 22, Oregon Laws 2008

22  
23                   **836-050-0305**

24                   **Criteria for orders**

25                   (1) An order issued pursuant to section 2, chapter 22, Oregon Laws 2008 (Enrolled HB  
26 3605):

27                   (a) Must include the items required in that section to be specified by line of insurance;  
28 and

29                   (b) Must make a statement of general findings that refers to the specific declaration of a  
30 state of emergency upon which the order is based, describes the need for the order and declares  
31 the harm to be prevented or mitigated by the order.

32                   (2) If the Director determines that an order under this rule must address reporting  
33 requirements for claims, the Director shall consider to what extent the circumstances of the  
34 declared state of emergency prevent policyholders from using normal methods of reporting  
35 claims and shall determine what methods of reporting remain available to consumers in the  
36 affected areas. The Director shall prepare the order accordingly. The Director may direct  
37 insurers to accept alternative methods of reporting as may be available to policyholders and may  
38 extend the reporting period as appropriate, subject to limitations of section 2, chapter 22, Oregon  
39 Laws 2008.

40                   (3) If the Director determines that an order under this rule must address grace periods for  
41 payment of insurance premiums and performance of other duties by insureds, the Director shall  
42 consider the extent to which the circumstances of the declared state of emergency prevent the  
43 payment and performance and shall prepare the order accordingly. The Director may direct  
44 insurers to extend the grace periods as appropriate, subject to limitations of section 2, chapter 2,  
45 Oregon Laws 2008.

1 (4) If the Director determines that an order under this rule must temporarily postpone  
2 policy cancellations and nonrenewals, the Director shall consider the extent to which the  
3 declared state of emergency prevents communication of notices of cancellation or nonrenewal  
4 from policyholders to their insurers and the extent to which communication is prevented from  
5 insurers to their policyholders. The Director shall prepare the order accordingly. The Director  
6 may direct insurers to accept alternative methods of communication of the notices and may  
7 postpone cancellations and nonrenewals as appropriate, subject to limitations of section 2,  
8 chapter 22, Oregon Laws 2008. An order including a temporary postponement under this section  
9 must include the following:

10 (a) The period for which an extension of policy coverage will apply and the method for  
11 determining premium for the extended term of coverage, and whether notices of cancellation or  
12 nonrenewals must be withdrawn and reissued;

13 (b) When and how an insurer that was unable to cancel or nonrenew a policy owing to an  
14 order may cancel or nonrenew the policy following the period to which the order applies, and the  
15 date on which the cancellation or nonrenewal may become effective; and

16 (c) That an insurer may not cancel or nonrenew a policy solely because of a claim  
17 resulting from the circumstances on which the emergency order is based, except that the Director  
18 may allow cancellation or nonrenewal of a policy under specific fact circumstances, including  
19 but not limited to fraud or material misrepresentation affecting the policy or in the presentation  
20 of a claim under the policy, upon application by an insurer.

21 (5) An order of the Director under this rule must establish at least the following matters,  
22 as appropriate:

23 (a) Whether the order applies to authorized insurers only or to other insurers as well;

24 (b) The classes and categories of insurance policies to which the order applies, whether  
25 by specific inclusion or exclusion;

26 (c) The categories of insureds and insured property to which the order applies.

27 (d) Whether an insurer who receives a claim from an insured owing premium may offset  
28 the premium due from any claim payment made under the policy;

29 (e) Whether a free look period in a variable life insurance policy or variable annuity  
30 contact is extended by the order; and

31 (f) Procedures to be followed by premium finance companies with respect to cancellation  
32 of policies, including notice, proof of notice and treatment of refunds.

33 (6) An extension of time by the Director under this rule does not relieve a policyholder  
34 who has a claim resulting from the state of emergency from compliance with the policyholder's  
35 obligations to provide information and cooperate in the claim adjustment process relative to the  
36 claim.

37 Stat. Auth.: ORS 731.244 and section 2, chapter 22, Oregon Laws 2008

38 Stats. Implemented: Section 2, chapter 22, Oregon Laws 2008

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