

House Bill 3084

Sponsored by COMMITTEE ON CONSUMER PROTECTION

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**.

Increases to \$10,000 maximum amount plaintiff may claim in certain tort actions for which court must award attorney fees if plaintiff prevails.

Deletes provision allowing award of attorney fees to defendant if defendant makes counterclaim of \$5,500 or less and prevails in action.

Requires plaintiff, in written demand for payment of claim, to include documentation of injury or damages being claimed.

A BILL FOR AN ACT

1
2 Relating to attorney fees for tort claims of specified amount; creating new provisions; and amending
3 ORS 20.080.

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

5 **SECTION 1.** ORS 20.080 is amended to read:

6 20.080. (1) In any action for damages for an injury or wrong to the person or property, or both,
7 of another where the amount pleaded is [~~\$5,500~~] **\$10,000** or less, and the plaintiff prevails in the
8 action, there shall be taxed and allowed to the plaintiff, at trial and on appeal, a reasonable amount
9 to be fixed by the court as attorney fees for the prosecution of the action, if the court finds that
10 [*written demand for the payment of such claim was made on the defendant not less than 10 days*]
11 **written demand for the payment of the claim for damages was made on the defendant or, if**
12 **known to the plaintiff, the issuer of the defendant's liability insurance policy in effect at the**
13 **time of the injury or wrong not less than 10 days** before the commencement of the action or the
14 filing of a formal complaint under ORS 46.465, or not more than 10 days after the transfer of the
15 action under ORS 46.461. However, no attorney fees shall be allowed to the plaintiff if the court
16 finds that the defendant tendered to the plaintiff, prior to the commencement of the action or the
17 filing of a formal complaint under ORS 46.465, or not more than 10 days after the transfer of the
18 action under ORS 46.461, an amount not less than the damages awarded to the plaintiff.

19 [*(2) If the defendant pleads a counterclaim, not to exceed \$5,500, and the defendant prevails in the*
20 *action, there shall be taxed and allowed to the defendant, at trial and on appeal, a reasonable amount*
21 *to be fixed by the court as attorney fees for the prosecution of the counterclaim.*]

22 [~~(3)~~] (2) The provisions of this section do not apply to any action based on contract.

23 (3) **For the purposes of this section, a written demand for the payment of the claim for**
24 **damages shall include the following, if in the plaintiff's possession or reasonably available to**
25 **the plaintiff at the time of the written demand:**

26 (a) **In an action for damages for an injury or wrong to a person, a copy of medical re-**
27 **ords and bills for medical treatment sufficient to reasonably apprise the person receiving**
28 **the written demand of the nature and scope of the injuries claimed; and**

29 (b) **In an action for damages for an injury or wrong to property, documentation of the**

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 repair of the property or a written estimate for the repair of the property or of the differ-
2 ence in the value of the property prior to the injury or wrong and the value of the property
3 after the injury or wrong for which the plaintiff is seeking recovery.

4 SECTION 2. The amendments to ORS 20.080 by section 1 of this 2007 Act apply to causes
5 of action subject to ORS 20.080 that are commenced on or after the effective date of this 2007
6 Act.

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