

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

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| Action: | Do Pass as Amended and Be Printed Engrossed |
| Vote: | 10 - 0 - 0 |
| Yeas: | Barton, Cameron, Garrett, Krieger, Olson, Shields, Smith J., Stiegler, Whisnant, Barker |
| Nays: | 0 |
| Exc.: | 0 |
| Prepared By: | Anna Braun, Counsel |
| Meeting Dates: | 3/30, 4/13 |

WHAT THE MEASURE DOES: Changes award of attorney fees from prevailing party to prevailing plaintiff. Allows defendant to recover attorney fees if a court finds there was no objectively reasonable basis for bringing the lawsuit.

ISSUES DISCUSSED:

- Language of statute before 1995
- Balance of high standard of proof for the plaintiff
- Oregon Rules of Civil Procedure definition of frivolous

EFFECT OF COMMITTEE AMENDMENT: Restores the minimum damage amount of \$200, deletes the reference to frivolous lawsuits and allows defendant to recover attorney fees if a court finds there was no objectively reasonable basis for bringing the lawsuit.

BACKGROUND: Under the Unlawful Trade Practices Act, the Oregon Attorney General has broad powers to bring a lawsuit for actions such as employing unconscionable tactics in connection with the sale, rental or other disposition of real estate, goods or services, or collection or enforcement of an obligation failing to deliver all or any portion of real estate, goods or services as promised. Private parties can sue for only the many actions listed in ORS 646.608 such as passing off real estate, goods or services as those of another. Current law states that a court may award reasonable attorney fees to the prevailing party. HB 3111 A limits the attorney fee award to the prevailing plaintiff unless the court finds that there was no objectively reasonable basis for bringing the action.

4/17/2009 5:11:00 PM

This summary has not been adopted or officially endorsed by action of the committee.