

ORLRC

OREGON LIABILITY REFORM COALITION

TO: Chair Shields
Members of the Senate General Government, Consumer and Small
Business Protection Committee

FROM: Mike Dewey
Fawn Barrie
Oregon Liability Reform Coalition

RE: HB 3160

The Oregon Liability Reform Coalition is an organization made up of individuals, organizations and businesses that are focused on improving the fairness and certainty of the civil justice system. ORLRC is committed to working on policy that curbs lawsuit abuse and reduces the costs of lawsuits.

Oregon's Unlawful Trade Practices Act is intended to prevent and/or provide relief from factual misrepresentations about the characteristics of products or services at the time of the sale for those products or services by granting the Attorney General jurisdiction over such matters and creating a private cause of action. Expansion of the act to apply to insurance would result in lawsuits related to performance under the insurance contract. This is already satisfied by breach of contract laws.

Insurance was explicitly excluded from the UTPA when it was written. There are many reasons for this:

- There is a difference between insurance products and products you buy elsewhere. This helps explain why each form of commerce should be, and has been, regulated differently.
- The Oregon Insurance Division already has authority for comprehensive regulation of the insurance industry. They must first approve the actual wording of a policy before the product can even be sold in this state. There are a number of consumer protection provisions in current law that could be interfered with if this legislation is approved.
- Insurers are subject to extensive and specific trade practice laws within ORS 746, including a section entitled Unfair Claim Settlement Practices. This act protects consumers against misrepresentations, delays in processing claims fairly and the failure of insurers to respond promptly to communications related to claims.
- The Insurance Code and administrative rules give DCBS the authority to issue fines, cease and desist orders and to revoke the producer licenses of agents and insurance companies.

- HB 3160 would set up a second state regulator through the Attorney General for trade practice matters. This dual system of regulation would be costly and confusing for insurers, agents and their customers.
- Consumers also have the ability to file civil actions against insurance companies or agents under contract law for breach of contract. If the insurer or agent's actions were unconscionable, punitive damages can be assessed, in addition to the recovery of attorney fees and other damages.

The expansion of the UTPA to apply to insurance will only lead to more lawsuits, more litigation and ultimately, higher costs to consumers for their insurance. This hurts businesses and consumers in Oregon. The ORLRC opposes this unnecessary burden on Oregon's civil justice system as it increases insurers' claims settlement and litigation costs.

We strongly urge your opposition to HB 3160.