



TheStandard®

## Vote 'No' On House Bill 3160 – Standard Insurance Company

Penalizes Oregon's Traded-Sector Insurers, Makes Insurance in Oregon More Litigious and More Expensive

**HB 3160 will disproportionately impact Oregon-headquartered insurers.** While proposed to protect Oregon consumers, a significant impact of HB 3160 will be to encourage plaintiffs' lawyers from other states to file suit in Oregon to seek the enhanced damages offered by this bill. The only insurance companies susceptible to suit in Oregon by residents of other states are traded sector companies headquartered here, like The Standard. This bill serves as a disincentive to insurers from making Oregon their headquarters, and will place existing Oregon-based insurers at a competitive disadvantage.

**This bill will lead to more frequent, more expensive litigation in Oregon aimed at extracting outsized settlements beyond the insurance coverage purchased.** At a time when the State is focused on driving down health insurance costs, these new incentives for litigation will cause more lawsuits and premature litigation. In 2005, the West Virginia Insurance Commissioner conducted a comprehensive study on just one provision of HB3160 – lawsuits by third parties – and how such a law had impacted the West Virginia insurance market. The Commissioner concluded that West Virginia's injury auto claims were 41.7 percent higher per car, per year than any of the surrounding states which lacked third party liability. Calling for repeal of the law, the Commissioner concluded that the result of laws like HB3160 *"is an insurance climate that is overly litigious and premium rates that are higher because of it."*

**HB 3160 does NOT simply bring Oregon into line with surrounding states.** No Western state allows a similar range of first and third party lawsuits, unlimited and punitive damages, and plaintiffs-only attorney's fees. This bill is extreme.

**Who's on first? HB 3160 would create an Oregon insurance marketplace with two regulators.** By adding the Attorney General into the insurance regulatory framework, HB 3160 would create an inefficient and duplicative layer of regulation on Oregon's insurance industry at a time when our efforts are focused on streamlining the healthcare cost structure. Oregon's existing insurance regulatory framework is robust, and there has been no case made for this novelty.

**Oregon's existing Insurance Trade Practices Act is based on a national model which explicitly and deliberately excluded these types of remedies.** The Oregon Insurance Code is a regulatory framework for an executive-branch agency, the Oregon Insurance Division, and grants broad authority to oversee insurer conduct, assist consumers, conduct audits, and penalize bad actors in the marketplace. Oregon's law, which already prohibits bad faith conduct by insurers, is based on the National Association of Insurance Commissioners (NAIC) model Claims Settlement Practices Act. That model act deliberately rejected the private causes of action sought by HB 3160 as inconsistent with the framework.

**HB 3160 sets up inconsistent remedies based on how you purchase your insurance.** The Employee Retirement Income Security Act ("ERISA") pre-empts state remedies for consumers who obtain insurance through a private employer, which is how most people obtain health insurance. As such, the new remedies and causes of action sought by these bills – and corresponding cost increases – would disproportionately impact individual purchasers, and government and religious employers who are not governed by ERISA.

**This bill has been recognized by at least three prior Oregon legislative bodies as bad policy. If Oregon consumer protection is indeed the sponsors' goal, there is a better option on the table. SB 414, presently before the Rules Committee, would grant Oregon's insurance regulators authority to order insurers to pay restitution to consumers. This is a much more appropriate, better tailored remedy to achieve the sponsors' stated goals.**

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