



Department of Consumer and Business Services

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March 16, 2015

Senator Floyd Prozanski, Chair
Senator Jeff Kruse, Vice-Chair
Senate Committee on Judiciary
900 Court St. NE, Room 331
Salem, OR 97301

Dear Senators Prozanski and Kruse:

The 2015 Legislative Assembly is considering several bills this session that propose to enhance consumer protections for insurance products:

- **Senate Bill 313**, which gives consumers a private right of action for violations of the Insurance Code's Unfair Claims Settlement Act (ORS chapter 746.230) and adds insurance to the Unlawful Trade Practices Act for violations of the Unfair Claims Settlement Act.
- **Senate Bill 314**, which adds insurance to the Unlawful Trade Practices Act for violations of the Unfair Claims Settlement Act.
- **Senate Bill 510** and **House Bill 2257**, which create a private right of action for violations of the Unfair Claims Settlement Act.
- **House Bill 2248**, which adds insurance to the Unlawful Trade Practices Act and creates a private right of action for violations of the Unfair Claims Settlement Act.

These bills approach the topic in a variety of ways, and while the Department of Consumer and Business Services (DCBS) is neutral on all of the bills, I thought it would be useful to you and your committee members for us to provide some general observations about the differences between the proposals.

Legislation that establishes two tracks of similar, but not identical, regulatory structures creates multiple challenges and may dilute the current clear expectations and directives of insurance regulation in Oregon. For instance, DCBS and the Department of Justice having dual authority over Insurance Code violations could lead to disagreements between the two agencies with regard to initiating an investigation or the decision to take enforcement action against a carrier or producer. Dual jurisdiction may also create confusion for consumers in understanding which agency should receive and handle their complaints.

A key element of most of these bills is the ability for consumers to pursue remedies outside their contractual rights under their individual insurance policies and to recover attorneys' fees when they take such action. Attaching such rights to the Insurance Code may provide a more straightforward approach than adding them to a separate regulatory standard through the existing Unlawful Trade Practices Act.

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Finally, as drafted, many of the bills capture workers' compensation insurance within their provisions. I suspect this may not have been the proponents' intent, as workers' compensation has a separate, distinct, and robust regulatory structure. As drafted, these bills may also conflict with the existing statutory policy of exclusive remedy in worker injury cases. In any case, we are happy to work with proponents on amendments to address these issues.

Again, DCBS has no position on any of the proposed bills. We stand ready to work with the Committee or the proponents to answer questions or develop any amendment language deemed appropriate.

Sincerely,

A handwritten signature in blue ink, appearing to read "Allen", with a long horizontal flourish extending to the right.

Patrick M. Allen
Director