



WESTERN REGION

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To: The Honorable Paul Holvey, Chair, House Committee On Business and Labor
The Honorable Greg Barreto, Vice-Chair, House Committee On Business and Labor
Members of the House Committee On Business and Labor

From: Katherine Pettibone, Vice President, American Insurance Association

Re: HB 2858 As Introduced

Position: Oppose

The American Insurance Association must respectfully oppose HB 2858, a bill that would authorize “third party” lawsuits against insurers and impose a number of new onerous and ambiguous requirements on the Department of Consumer and Business Services (DCBS). The bill would encourage unnecessary litigation and would impact all lines of insurance including personal lines, health and workers compensation to the detriment of all Oregonians.

Celebrating its 150th year in 2016, AIA is the leading property-casualty insurance trade organization, representing approximately 325 insurers that write more than \$127 billion in premiums each year. AIA member companies offer all types of property - casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

Oregon’s existing law under the Unfair Claim Settlement Practices Act already provides fair and efficient regulatory protections to insurance consumers. Additionally, under existing liability policies, insurers have contractual duties to their policyholder and policyholders have recourses to pursue from the result from the breach of the insurance contract, for example the defense costs the policyholder paid for when the insurer did not take on the defense. Moreover, DCBS is authorized to investigate consumers’ complaint and provide relief, including restitution, when warranted. HB 2858 departs from this fair regulatory system and instead would incentivize new and duplicative lawsuits for even technical violations under the code. The bill would encourage costly and needless litigation, driving up costs in the system that only benefit attorneys. Trial lawyers will use the threat of lawsuits for huge punitive damages to drive settlements irrespective of merit or suspicion of fraud.

Other states' experience of such measures should be illustrative of the harm to consumers. In the 1980s, when California permitted these type of lawsuits by third parties against insurers, the number of lawsuits nearly doubled and auto insurance rates skyrocketed. After the California Supreme Court invalidated these law suits, insurance rates dropped markedly. California voters – realizing the huge costs involved - wisely rejected reinstating third party lawsuits. A recent study in West Virginia indicates that third party litigation reforms adopted by the state legislature in 2005 was a major factor in lowering insurance costs. And Washington state has seen losses on all major lines of insurance increase 20%, adjusted for inflation, since 2007, when these lawsuits were permitted.

Consumers in Oregon have a fair, efficient regulatory system that this bill would upend. Such a dramatic shift is not only unwarranted, it is ill-advised. For these reasons, we oppose HB 2858 and urge your opposition.