

Dear Chair Prozanski,

My name is Steven Greenhut. I am the Western Region Director for the R Street Institute, which is a Washington, D.C.-based nonprofit, nonpartisan, public policy research organization. I handle our efforts in the Western states, including Oregon. Our mission is to engage in policy research and outreach to promote free markets and limited, effective government in many areas, including regulations involving insurance, which is why Senate Bill 728 is of special interest to us.

The legislation, which will be before the Senate Judiciary Committee on Tuesday, would create a direct cause of action for third parties to sue insurance companies for their claims settlement practices. Making this change in the law will grant plaintiffs the right to a "second lawsuit" against a defendant's insurance company. Given the potential to win punitive damages, attorneys will take on lawsuits over much smaller claims and insurers will be forced to settle many more of these cases quickly for the maximum policy limits.

California's experience with third-party bad-faith lawsuits in the 1980s, before the state Supreme Court overturned the practice, resulted in an explosion of litigation. The number of auto liability claim filings in California's superior courts increased by 82 percent and their severity grew by a factor of four in the years that such suits were allowed, driving up the cost of insurance coverage.

Insurance is well-regulated in Oregon. Regulators have the resources to resolve disputes that might arise. Adjusted for population, the number of consumer complaints Oregon insurance regulators receive every year is about average, as is the number of staff devoted to handle such complaints.

The experience of Oregon's neighbors of California and Washington demonstrate that permitting third-party bad-faith lawsuits invites litigation costs that inevitably threaten the availability and affordability of coverage. This would be an attractive proposition for the state's trial bar, but the prospects for the state's consumers are far less sanguine.

I've attached a brand new study on this issue by R Street's director of Finance, Insurance and Trade, R.J. Lehmann. If you have any questions, please feel free to contact me.

Best regards,

Steven Greenhut
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