

Statement of Opposition to Section 3 of HB 4075

One of the broad societal goals of HB 4075 is to increase money available to victims of crime. This, of course, is a noble goal and the opposition raised in this statement is limited only to the unfair revenue raising method found in Section 3 of the bill (Page 3 Lines 16-18).

Section 3 proposes that anytime a court orders restitution in a criminal case to an insurance company, 50% of that restitution ordered by the court does not go to the intended victim (in this case an insurance company and their policyholders), but rather to the state run Criminal Injuries Compensation Account.

(1) Section 3 singles out one industry and its customers to fund an unrelated societal cause

It is important to note that the only time an insurance company would receive court ordered restitution in a criminal case is when an insurance company is a victim of a crime.

The proposed law would create an inequity. Every other victim in a criminal matter – be it a business or individual – would receive 100% of the court ordered restitution, but an insurance company and its policyholder would not. It is simply unfair and without a rational basis that only insurance companies and their policyholders are singled out and penalized at a 50% clip with the funds being directed to an account that has no direct relationship or benefit to insurers or their policyholders.

(2) Section 3 may be a tax or a taking

There is a good argument that Section 3 creates a new tax. Section 3 imposes an assessment of 50% of court ordered restitution imposed by government upon insurers that is not used for the regulation or benefit of the parties upon whom the assessment is being imposed.

(3) Section 3 may violate the Oregon Constitution's Uniformity of Taxation Clause¹

Article 1 Section 32 of the Oregon Constitution clearly states that “all taxation shall be uniform on the same class of subjects...”. In this instance, the class of subjects are victims of crime who receive court ordered restitution. And pursuant to Section 3 of HB 4075 insurance companies would be assessed 50% of the court ordered restitution while every other victim would face no assessment. It is difficult to think of any rational basis for this lack of uniformity.

(4) Section 3 may decrease General Fund revenue and impose new taxes on Oregon headquartered insurers in other states

¹ **Section 32. Taxes and duties; uniformity of taxation.** No tax or duty shall be imposed without the consent of the people or their representatives in the Legislative Assembly; and all taxation shall be uniform on the same class of subjects within the territorial limits of the authority levying the tax. [Constitution of 1859; Amendment proposed by H.J.R. 16, 1917, and adopted by the people June 4, 1917]

Any new taxes, fees or other financial obligations imposed on insurers in Oregon may have a direct negative impact on the state's general fund as well as how other states tax Oregon headquartered insurance companies. Oregon and all other states have insurance retaliatory tax provisions in their tax codes. New taxes, fees and other financial obligations imposed on insurers often trigger these retaliatory tax provisions. So a new tax or assessment on insurers in Oregon may have the effect of decreasing the amount of retaliatory tax insurers headquartered outside of Oregon pay in retaliatory taxes to the state's general fund. At the same time, other states may retaliate against Oregon headquartered insurance companies by taxing them more in those other states.

For these reasons, it would be better public policy to add funds to benefit crime victims through the general fund or some other mechanism and not put it only on insurers and their policyholders.

Thank you for your consideration,

John C. Powell
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On behalf of State Farm