

HB 3243 A STAFF MEASURE SUMMARY

Carrier: Rep. Holvey

House Committee On Business and Labor**Action Date:** 03/22/23**Action:** Do pass with amendments. (Printed A-Eng.)**Vote:** 6-5-0-0**Yeas:** 6 - Grayber, Holvey, Hudson, Nelson, Nosse, Sosa**Nays:** 5 - Boshart Davis, Elmer, Osborne, Owens, Scharf**Fiscal:** Has minimal fiscal impact**Revenue:** No revenue impact**Prepared By:** Erin Seiler, LPRO Analyst**Meeting Dates:** 3/1, 3/22**WHAT THE MEASURE DOES:**

Makes unfair claim settlement practices unlawful trade practices under Unlawful Trade Practices Act (UTPA). Permits person to obtain, and court to award, appropriate equitable relief that it deems appropriate in addition to monetary damages under UTPA. Requires Director of Department of Consumer and Business Services to request action before Attorney General or a district attorney may take action under UTPA against person who engages in unfair claim settlement practices or practice related to insurance.

ISSUES DISCUSSED:

- Protections available to consumers against fraud, deception, and unfair practices
- Current claims settlement law
- Consumers experiences with unfair insurance claim settlements
- Increases in litigation and insurance premium
- Regulation of insurance by Department of Consumer and Business Services (DCBS)
- Ability of DCBS to investigate complaints and resolve claims with insurance companies

EFFECT OF AMENDMENT:

Clarifies that definition of goods or services does not include insurance except for unfair claims settlement practices. Permits person to obtain, and court to award, appropriate equitable relief that court deems appropriate.

BACKGROUND:

The Unlawful Trade Practices Act (UTPA) is one tool consumers can use to recover damages that occur because of deceptive sales or business practices. The UTPA provides individuals with a right to sue for deceptive practices with the sale of real estate, goods, or services. It prohibits both general and specific conduct. Generally, the UTPA says that a person engages in unlawful practices if, during business, the person: employs unconscionable tactics when selling, renting, or disposing of real estate, goods or services; and fails to deliver the goods or services, or refuses to refund money to the consumer for undelivered goods. An individual may bring an action for any of the specific acts prohibited by the UTPA but only a prosecuting attorney (District Attorney or Attorney General) may bring an action for the more general "unconscionable tactics" outlined in statute.

Currently, the law excludes insurance from the definition of "goods and services," so consumers cannot pursue civil actions against insurers, agents, etc. for these practices under the UTPA.

House Bill 3243 A makes unfair claims settlement practices subject to penalties for unlawful trade practices. ORS 746.230 forbids insurers from misrepresenting policy provisions, failing to act promptly upon communications relating to claims, and refusing to pay claims without conducting a reasonable investigation, among other things.