

HB 3243 A STAFF MEASURE SUMMARY

Carrier: Sen. Prozanski

Senate Committee On Judiciary

Action Date: 05/17/23
Action: Do pass the A-Eng bill.
Vote: 3-1-0-1
Yeas: 3 - Gelser Blouin, Manning Jr, Prozanski
Nays: 1 - Thatcher
Abs: 1 - Linthicum
Fiscal: Has minimal fiscal impact
Revenue: No revenue impact
Prepared By: Lucy Ohlsen, LPRO Analyst
Meeting Dates: 4/18, 4/19, 5/17

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:

- Recent relevant court of appeals ruling
- Current regulatory scheme related to insurer settlement practices
- Exclusion of workers' compensation claims
- Consumer experiences with insurance settlement practices
- Other states with similar provisions

EFFECT OF AMENDMENT:

No amendment.

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.