



Safehold

SPECIAL RISK

February 15, 2023

Senate Committee on Judiciary
900 Court Street NW
Salem, OR 97301

RE: SB 754 Recreational Liability Reform

Chair Prozanski and Members of the Committee:

Safehold Special Risk manages a commercial insurance program specializing in ski resorts and ancillary recreational activities surrounding the core activity of skiing and riding. Our current list of clients in Oregon includes Mt. Hood Meadows, RLK Timberline, Anthony Lakes Ski Area, Willamette Pass Ski Area, Diamond Lake Resort, Wallowa Lake Tramway, and others.

In the last several years in Oregon we have seen a significant decrease in overall carrier underwriting appetite for all types of recreational risks in the state which has resulted in correlated increases to premium ratings. After the 2014 Bagley Supreme Court decision effectively eliminated the enforceability of Exculpatory Releases in the State, there has been a significant rise in General Liability and Excess rates.

Releases also serve as an important communication method for articulating the inherent risks of the activities provided by a given business. The ability to gain acknowledgement and acceptance of the inherent risks users voluntarily choose to engage in is critical to the fundamental notions of personal responsibility and awareness that should be foundational to outdoor recreation. Not recognizing the validity of a release of liability is a disservice to both the entity providing the activity and venue, but also the public who should be both made aware of those inherent risks and acknowledge them as well.

This deterioration in Oregon's insurance market was made worse by the 2022 decision and precedent set in the Owens v Mt. Hood Ski Bowl case. The effect of that trial result has been to greatly reduce carrier capacity for outdoor recreation in the State of Oregon. There are fewer and fewer insurance carriers willing to write General Liability coverage for outdoor recreation providing businesses given the legal climate in the state. We have been forced to make the difficult decision to no longer insure commercial snowmobile tours, as an example. Other activities such as mountain biking, even alpine skiing, are at risk of becoming uninsurable if the legal climate in the state does not restore the balance that existed prior to 2014.

I am submitting this testimony in support of the prompt passage of Senate Bill 754.