



DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

DATE: April 18, 2023

TO: Senator Floyd Prozanski, Chair
Senate Judiciary Committee

FROM: Kate Denison, Deputy Legislative Director
Oregon Department of Justice

SUBJECT: Consumer Protection and Insurance

This testimony is presented in support of House Bills 3242 and 3243.

Background

Attorney General Ellen Rosenblum and the Oregon Department of Justice support measures to increase consumer protections in insurance transactions.

The Oregon Department of Justice is committed to ensuring a safe and fair marketplace in Oregon. We help consumers with complaints, we prevent fraud, and we invest in consumer education. The Attorney General is also a primary enforcer of the Oregon Unlawful Trade Practices Act, Oregon's consumer protection statute. Oregon and every other state have one of these laws, referred to as Unfair and Deceptive Acts and Practices (or "UDAP") laws, which generally prohibit deceptive practices in consumer transactions.

The private right of action under Oregon's UTPA, found in ORS 646.608, is one tool consumers can use to recover damages that occur as a result of deceptive sales or business practices. Without this tool, consumers may have no right to redress, and businesses are incentivized to violate the law.

The UTPA extends to most consumer transactions, including real estate, loans and extensions of credit. Notably, Oregon and 21 other states currently exempt the insurance industry entirely from their UDAP statutes. The Department has received at least 550 complaints against insurance companies since 2018. These complaints were referred to the Department of Consumer and Business Services (DCBS) for further action.

Oregon's Insurance Code, enforced by DCBS, provides important protections for consumers in insurance transactions. Notably, the Unfair Claim Settlement Practices Act in ORS 746.230 prohibits certain conduct by insurance companies in the claims settlement process, such as

misrepresenting facts or policy provisions, failing to communicate and act promptly, attempting to settle claims for less than what is reasonable, refusing to pay, and other prohibited acts.

House Bill 3242 and 3243

The Oregon Court of Appeals recently found in [Moody v Oregon Community Credit Union et al.](#) that individuals have a private right of action under the Unfair Claim Settlement Practices Act. The Moody court opined that, in enacting the Insurance Code, the Oregon Legislature intended “that the insurance-buying public gets what it pays for, including the peace of mind that is a principal benefit of an insurance policy.” The Court found that, even if the Legislature did not expressly provide a private right of action under ORS 746.230, “it is hard to imagine that the legislature did not intend the law, at least in part, to prevent policyholders from being forced to experience the stress of dealing with unfair insurance claim settlement practices.” HB 3242 is intended to embody that principle in statute.

HB 3243 will allow the Attorney General, at the request of DCBS, to take action for violations of the Unfair Claim Settlement Practices Act. The bill is narrowly tailored to deter specific unfair practices outlined in ORS 746.230 and will provide meaningful UTPA enforcement by the Attorney General and consumers alike.

Contact

Kate Denison, Deputy Legislative Director, 971-599-9851, kate.e.denison@doj.state.or.us

Kimberly McCullough, Legislative Director, 503-931-0418, kimberly.mccullough@doj.state.or.us