HB 4098 opens the door to unprecedented litigation with zero guardrails, threatening insurance affordability for all Oregon consumers.

HB 4098 would allow parties to sue both policyholders and insurers, including third-party claimants. Unlike other states that have enacted safeguards to limit excessive litigation, HB 4098 includes no mechanisms to prevent the costliest forms of legal action. This risks destabilizing Oregon's insurance market at a time when Oregonians are saying affordability is their top concern.

The underlying statute was never designed for private litigation

HB 4098 would subject the Unfair Claims Settlement Practices Act, a regulatory tool for state oversight, to private lawsuits and class actions. The National Association of Insurance Commissioners, which developed the model act, explicitly warns: ***"A jurisdiction choosing to provide for a private cause of action should consider a different statutory scheme. This Act is inherently inconsistent with a private cause of action."***

The Act uses intentionally broad language to give regulators flexibility in investigating patterns of misconduct, terms like "reasonable," "promptly," and "duplicative" that were never meant for courtroom interpretation. Especially when tied to the Unlawful Trade Practices Act, which allows class-action lawsuits for minimal actual damages and one-way attorney fees.

These provisions were designed for regulatory oversight, not litigation.

HB 4098 lacks the guardrails other states use

States that permit bad-faith lawsuits typically allow the insured to sue their insurer for claims-handling (first-party) bad faith. The very few states that allow third-party bad faith at all include protections to prevent abuse… HB 4098 has none. Florida requires 60 days' notice before filing suit and prohibits class actions. Texas requires a 61-day notice period. Massachusetts mandates a 30-day demand letter and limits enhanced damages to cases of intentional misconduct. Washington and Connecticut cap damages or require proof of a pattern of bad behavior. Montana and Wyoming restrict third-party lawsuits until the underlying claim is resolved.

HB 4098 skips all of these safeguards: no notice requirements, no limits on class actions, no caps on damages, and no restrictions on third-party suits. Oregon would adopt the most aggressive insurance litigation framework in the country while rejecting every protective mechanism used by other states.

Strong consumer protections exist

Oregon consumers can already file lawsuits or complaints with the state insurance commissioner if treated unfairly. The Division of Financial Regulation can order insurers to pay claims, require restitution, and levy fines against bad actors. The Oregon Supreme Court's *Moody* decision also established a negligence standard under which insurers may be held liable for emotional distress in first-party claims.

Fbarrie@legadv.com (503) 580-5487

HB 4098 would add legal complexity and uncertainty to a market that is already struggling with rising costs.

Please reject HB 4098. When affordability is Oregonians' top concern, advancing a major cost-increasing bill ignores the realities families and businesses face.

OR LRC
Oregon Liability Reform Coalition

USAA

NW Insurance Council

NFIB

Oregon State Chamber of Commerce

The Surplus Line Association of Oregon
SLA
Since 1939

U.S. Chamber of Commerce
Institute for Legal Reform

WCCC
Washington County Chamber of Commerce

Portland Metro Chamber
Est. 1870

OHCA
Oregon Health Care Association

ORC
Oregon Retail Council

Oregon Business & Industry
OBI

Associated Oregon Loggers, Inc.

Oregon Farm Bureau

PacificSource

Oregon Association of Nurseries

Kaiser Permanente

OLTA
Oregon Land Title Association

ORLA
Oregon Restaurant & Lodging Association

OCAPA
Oregon Concrete & Aggregate Producers Association

Oregon Dairy Farmers Association
Est. 1892

Providence

moda health

Oregon Seed Council

Regence

Fbarrie@legadv.com (503) 580-5487