Please Oppose HB 2858

HB 2858 is excessive and overbroad; increases costs for insurance consumers & taxpayers

Oregon has strong insurance regulation and consumer protection laws. HB 2858 undermines Oregon's existing fair, affordable remedy/restitution process. It will clog the courts with two lawsuits for every claim, leading to higher settlements.

HB 2858 impacts all lines of insurance including personal lines, health and workers' compensation. It creates a covert system of administrative "litigation" outside the protection of the court system and will "weaponize" the Department of Consumer and Business Affairs. It creates expansive and overreaching administrative procedures for trial lawyers to file claims and engage in civil discovery that is far beyond what is allowed by Oregon courts.

In the vast majority of insurance cases, Oregon courts do not allow trial lawyers to harass insurers with depositions of adjusters and other personnel, nor allow them to force discovery of insurer claims files, proprietary information or attorney client privileged communications between insurers and lawyers.

HB 2858 would dramatically change the landscape and allow all these things in administrative proceedings, totally without the involvement or supervision of the courts. Taxpayers and insurance consumers will pay for it. The bill makes minor and technical violations of the insurance code the source of new causes of action and will overwhelm already overburdened courts with new lawsuits.

- Creates new causes of action in state and federal courts, including minor and technical violations of the insurance code. Uses the power of government to force higher settlements, regardless of merit.
- Creates a contentious, cumbersome process that requires DCBS to investigate all insurance complaints – *including allegations that a claimant believes a violation "is about to occur."*
- Shifts the cost of "discovery" from attorneys for plaintiffs and defendants to Oregon taxpayers, by imposing new disclosure requirements on DCBS in claims disputes.
- Allows lawyers to file **two lawsuits on a single insurance claim** – one against the defendant for damages, and one against the defendant's insurance company for claims handling procedures.
- Adds anti-competitive disclosure requirements, exposing trade secrets currently protected.
- Expands workload requiring staffing and budget increases at DCBS.
- Disrupts a competitive insurance market that today offers consumers and small businesses some of the lowest auto & property insurance rates in the nation.

CALIFORNIA: *A California court decision allowed the doctrine of "two-lawsuits-per-claim" starting in 1979. Another court struck down the doctrine in 1988. During that decade, litigation, the number of claims and the cost of handling claims skyrocketed, increasing insurance premiums for bodily injury up to 53 percent. After the repeal, the spike in lawsuits, premiums and claims costs declined dramatically. Source: RAND Institute for Civil Justice 2001*

FLORIDA: *The average bodily injury claim payment per insured vehicle grew 68 percent between 1995 and 2013 – when Florida also experimented with the "two-lawsuits-per-claim" doctrine. Source: Insurance Research Council, 2014*

WEST VIRGINIA: A 2011 study showed that within five years after reforms were adopted by the West Virginia Legislature to eliminate the "two-lawsuits-per-claim" doctrine, insurance claims costs in that state were reduced by $200 million.
Source: Insurance Research Council, 2011

WASHINGTON: After adjusting for inflation, losses have increased 20 percent in Washington for the major property lines of insurance following passage of a law allowing plaintiffs to file additional lawsuits against their own insurance companies for claims procedures. Source: SNL Financial, 2007-2015; inflation adjusted by PCI

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