



To: The Honorable Jeff Barker, Chair
The Honorable Greg Barreto, Vice Chair
House Committee on Business and Labor

From: David Rossmiller, Shareholder at Betts, Patterson & Mines P.S.

Re: **HB 2965** - Department of Consumer and Business Services Study
FAIIR Coalition Position: OPPOSE

Date: Monday, June 3, 2019, 8:00 a.m., Room HRE

Chair Barker and Members of the Committee:

The Fighting Against Increased Insurance Rates for Oregonians Coalition (FAIIR) Coalition **is opposed to HB 2965**, which would direct the Department of Consumer and Business Services to enter into an ambiguously defined process of study and require inappropriate disclosure of consumer complaint data. I am a shareholder at the Betts, Patterson & Mines law firm in Portland, and my specialty is insurance coverage analysis, advice and litigation. I have two decades of experience in the insurance coverage field in Oregon, Washington, Idaho, Montana and many other states, and I am a frequent writer and speaker on insurance law topics nationwide. Besides my work as an advocate, I am the author of a number of scholarly analyses on insurance law that have been cited and adopted by courts across the country, and I am a contributing author to respected and influential insurance treatises. I represent the Fighting Against Increased Insurance Rates for Oregonians Coalition (FAIIR).

Oregon has one of the strongest consumer protection laws in the country. Insurance companies are already held accountable under rigorous oversight by the Oregon Department of Consumer and Business Services (DCBS). Insurers are required to treat their policyholders fairly and settle covered claims in a timely manner. Should a problem arise, consumers can seek recourse in a court of law or through the Oregon Division of Insurance and can seek restitution through DCBS if an insurer violates the state Insurance Code. Oregon consumers think the DCBS does an excellent job handling consumer companies. ***In a recent poll, 69 percent of Oregon voters feel adequately protected under current consumer protection laws.***

H.B. 2956 would direct the Department of Consumer and Business Services to enter into an unnecessary and ambiguously defined process of study regarding identifying “the need for . . . changes in the Insurance Code.” H.B. 2956’s proposed amendments to ORS 731.236 and ORS 731.264, which would create this open-ended process, are silent as to the reasons why such a

process is supposedly needed. In addition, there is no funding mechanism in the bill to account for the increased cost to the Department of such a review, nor does H.B. 2956 provide any parameters or guidance concerning the scope or method of this proposed rulemaking, except that the Department is supposed to report “findings and recommendations” concerning this vague mandate “to an interim committee of the Legislative Assembly related to insurance” no later than September 15, 2020. Thus, H.B. 2956 not only creates a directive to the Department that is ill-defined, it also appears to mandate the creation of an interim legislative committee. Again, why any of this should be taking place, or how this will be paid for, is not explained in the text of H.B. 2956.

In addition, the amendments to H.B. 2956 appear to create a pseudo-court to investigate claims, complete with procedures resembling a court, including the taking of evidence, awarding of damages and injunctions, and rights of appeal. How this “court” would work, how it would be paid for, and how the Department is to ensure that it doesn’t conflict with the procedures and remedies already available, are not explained.

This vaguely defined mandate to create administrative study groups for vaguely defined purposes to report to a new interim legislative committee, and to create new, unfunded, administrative processes and alternative court-like structures that are also unfunded, bears the hallmarks of a thinly veiled attempt to create a new administrative entity within the Department that would be subject to pressure and manipulation by special interests with minimal public and legislative oversight of this process. At the very least, H.B. 2956 creates a substantial danger of the new process and procedures being co-opted by narrow special interests.

In short, H.B. 2956 is unnecessary and would create a great deal of unnecessary ambiguity, would burden the Department, would create unfunded costs, and would create a sort of vaguely defined administrative litigation procedure that resembles, but is, potentially an alternative to and in conflict with existing courts and due process rights. Further, H.B. 2956 would create the opportunity for mischief through special interests potentially “capturing” this mandated rulemaking and court-like process for their own narrow interests. There is no good reason to take a risk on this ambiguously worded bill – it presents many actual or potential hazards and no discernable benefit to the general public.