

HB 3171 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 3/10, 4/7, 4/12

WHAT THE MEASURE DOES:

Includes insurance in the definition of "real estate, goods or services" for purposes of the Unfair Trade Practices Act and specifies that insurance is not limited for personal, family, or household use. Specifies that an unfair claim settlement practice (ORS 746.230) is a unlawful practice under the UTPA. Specifies that the Attorney General (AG) may not adopt a rule under the UTPA with respect to conduct that is subject to the Insurance Code unless the proposed rule was submitted to the Director of the Department of Consumer and Business Services (DCBS) for review and approval. Directs AG to provide Director of DCBS with copy of complaint or initial pleading, and any judgment, that the AG receives in connection with an action related to insurance. Prohibits prosecuting attorney from taking action under UTPA if the act or practice is subject to the Insurance Code unless the Director of DCBS first requests the action be taken. Applies to proceedings that begin on or after the effective date. Declares an emergency, effective on passage.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 Clarifies that definition of goods or services does not include insurance except for unfair claims settlement practices.

Restores meaning of willful violation.

Deletes provision prohibiting Attorney General (AG) from adopting rule under the UTPA with respect to conduct that is subject to the Insurance Code unless the proposed rule was submitted to the Director of the Department of Consumer and Business Services (DCBS) for review and approval.

Restores definition of real estate to exclude conduct covered by ORS Chapter 90 (Residential Landlord and Tenant).

Deletes provision directing AG to provide Director of DCBS with copy of complaint or initial pleading, and any judgment, that the AG receives in connection with an action related to insurance.

Prohibits prosecuting attorney from taking action under UTPA if the act or practice is declared unlawful violation of the Unfair Claim Settlement Practices Act unless the Director of DCBS first requests the action be taken.

Modifies application to acts that occur on or after the effective date.

BACKGROUND:

Oregon's Unlawful Trade Practices Act (UTPA) provides individuals with the right to sue for deceptive practices regarding the sale of real estate, goods, and services. Additional recovery powers are given to the Attorney General and district attorneys. Sales between businesses are not covered under the UTPA as the Act is limited to consumer purchases that are for the primary purpose of personal, family, or household use. In addition, the UTPA does not include landlord/tenant disputes or insurance-related matters. Within a private right of action, any consumer who suffers an ascertainable loss of money or property may recover actual damages or \$200, whichever amount is greater. The court may award punitive damages when warranted. The court may also award attorney fees to the prevailing plaintiff. The court is limited in awarding attorney fees to the prevailing defendant

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only if the court finds there was no reasonable basis for bringing the action. The court may provide equitable relief the court considers necessary or proper. The Attorney General or District Attorney may issue investigative demands and bring a suit to stop alleged misconduct. Actions under the UTPA may also be made as a class action.

PRELIMINARY