



Providing information about auto, home and business insurance for consumers, media and policymakers in Washington, Oregon and Idaho

March 10, 2021

Rep. Paul Holvey, Chair
House Business & Labor Committee
Oregon House of Representatives
RE: Please OPPOSE HB 3171 & HB 3172 PRA provisions

Dear Chair Holvey and Members of the House Business & Labor Committee,

The Northwest Insurance Council is a non-profit, insurer-supported organization providing information about auto, home and business (P&C) insurance to consumers, the media and public policymakers in Oregon, Washington and Idaho. I write today to offer some additional thoughts on proposed HB 3171/3172 in the wake of the March 10 hearing.

Committee members were told that HB 3171 & HB 3172 are needed to “go after bad actors” in the insurance industry. And the insurers who follow the rules and serve their policyholders well would likely agree. Unfortunately, they do not exclusively target “bad actors.” Rather, the bills propose to “experiment” with the entire regulatory and civil justice framework that governs insurance. We believe that will have unintended impacts including claims delays, increased litigation and higher claims costs (which inevitably contribute to premium increases), as we have seen in other states. In our view, the appropriate and most effective remedy for times when an insurer “gets it wrong” lies with Oregon’s insurance regulator, who has the authority and tools to do just that, rather than by expanding private litigation.

The Unfair Claims Practices Act (UCPA) was national model from the nation’s insurance regulators (NAIC), and it specifically noted that it was to empower regulators, and not intended to create a private right of action. A regulator can address a specific problem with a particular insurer with precision and without negatively impacting the rest of the insurance mechanism. And as you know, since the 2013 enactment of SB 414, Oregon’s Insurance Commissioner has even broader authority than other states, including the power to order insurers to pay restitution to insureds when state regulations or laws are violated in the claims process. According to the most recent data from DCBS, the department recovered *nearly \$3 million* for consumers who filed complaints with the Division of Financial Regulation in 2020.

A regulator’s duty is to all consumers – and to protect the insurance market to make sure insurance remains available to all consumers. Private attorneys, no matter how pure their intentions, have an obligation to represent their clients and to maximize the recovery for them. They also have an individual financial motive that coincides with that obligation to their client. Unfortunately, the impact is not just on the “bad acting insurer” or one that mishandles a claim. Cases affect case law, which over time, affects litigation, courts, suits and settlements.

How do we know this? Because it was tried for a decade in the 1980’s in California. The CA Supreme Court created just such a right of action under the UCPA in *Royal Globe v. Superior Court*, and it resulted in a dramatic increase in claims and litigation costs, overburdened courts, and skyrocketing insurance rates. It wasn’t until the Court reversed itself ten years later in *Moradi-Shalal v. Fireman’s Fund Ins. Companies* that things returned to some sense of normalcy. California conducted this very experiment, and the result is a warning to Oregon. **We urge a NO vote on HB 3171 & HB 3172.**

Warm Regards,

A handwritten signature in black ink that reads "Kenton Brine".

Kenton Brine
President, NW Insurance Council