

HB 3242 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Erin Seiler, LPRO Analyst

Meeting Dates: 3/1, 3/22

WHAT THE MEASURE DOES:

Establishes a private right of action for insured to recover actual damages, attorney fees, and litigation costs, resulting from insurer's unfair claims settlement practice. Establishes that licensed insurance producer owes duty of reasonable care to any person to which producer solicits, negotiates, or sells insurance.

ISSUES DISCUSSED:

- Protections available to consumers against fraud, deception, and unfair practices
- Current claims settlement law
- Consumers experiences with unfair insurance claim settlements
- Increases in litigation and insurance premium
- Regulation of insurance by Department of Consumer and Business Services (DCBS)
- Ability of DCBS to investigate complaints and resolve claims with insurance companies

EFFECT OF AMENDMENT:

-1 Insured may not bring individual action in circuit court for practice related to settling workers' compensation claim. Removes insurance producer.

BACKGROUND:

ORS 746.230 prohibits insurers from engaging in unfair claim settlement practices. Unfair claim settlement practices under the statute include misrepresenting policy provisions, failing to act promptly upon communications relating to claims, and refusing to pay claims without conducting a reasonable investigation, among other things.

HB 3242 would allow an insured to bring a civil action against an insurer for unfair claim settlement practices, including practices that are not described in current law but that are deemed unfair by the Director of Department of Consumer and Business Services (DCBS) or a court. If the insured prevailed, they would be entitled to up to three times its actual damages as well as attorney fees.

Before bringing the action, the insured must give written notice to the insurer and DCBS not less than 20 days before commencing an action, and may only proceed to bring the action if the insurer does not resolve the claim within 20 days of providing written notice. An action must be brought within two years of the date of the violation or the date on which the violation is or should have been discovered. The measure authorizes punitive damages, allowing a court to triple an award of actual damages with the finding the defendant acted unreasonably.