

HB 3243 -1 STAFF MEASURE SUMMARY

House Committee On Business and Labor

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Meeting Dates: 3/1, 3/22

WHAT THE MEASURE DOES:

Includes insurance in definition of real estate, goods and services that are subject to penalties for unlawful trade practices. Permits person to obtain, and court to award, appropriate equitable relief in addition to monetary damages under Unlawful Trade Practices Act. Requires Director of Department of Consumer and Business Services to request action before Attorney General or a district attorney may take action under Unlawful Trade Practices Act against person who engages in unfair claim settlement practices or practice related to 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 Clarifies that definition of goods or services does not include insurance except for unfair claims settlement practices.

Permits person to obtain, and court to award, appropriate equitable relief that court deems appropriate.

Requires Director of Department of Consumer and Business Services to request action before prosecuting attorney may take action under Unlawful Trade Practices Act against act or practice related to insurance.

BACKGROUND:

The Unlawful Trade Practices Act (UTPA) is one tool consumers can use to recover damages that occur because of deceptive sales or business practices. The UTPA provides individuals with a right to sue for deceptive practices with the sale of real estate, goods, or services. It prohibits both general and specific conduct. Generally, the UTPA says that a person engages in unlawful practices if, during business, the person: employs unconscionable tactics when selling, renting, or disposing of real estate, goods or services; and fails to deliver the goods or services, or refuses to refund money to the consumer for undelivered goods. An individual may bring an action for any of the specific acts prohibited by the UTPA but only a prosecuting attorney (District Attorney or Attorney General) may bring an action for the more general “unconscionable tactics” outlined in statute.

Currently, the law excludes insurance from the definition of ‘goods and services,’ so consumers cannot pursue civil actions against insurers, agents, etc. for these practices under the UTPA. House Bill 3243 would remove this exclusion.

The measure also defines unfair claim settlement practices under ORS 746.230 as unlawful trade practices. ORS 746.230 forbids insurers from 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. By making unfair claim settlement practices unlawful trade practices under UTPA, the measure establishes a private cause of action for claimants to sue their insurers for these practices.

PRELIMINARY