

HB 3242 A STAFF MEASURE SUMMARY

Senate Committee On Judiciary

Prepared By: Lucy Ohlsen, LPRO Analyst

Meeting Dates: 4/18

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.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

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.

House Bill 3242 A allows 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 the Department of Consumer and Business Services (DCBS) or a court. If the insured prevailed, they would be entitled to up to three times 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.