SB 174 allows for costly lawsuits that could dramatically impact insurance rates

SB 174 - Negatively impacts consumers purchasing all lines of insurance
SB 174 would impact all lines of insurance including health insurance, property and casualty insurance and medical malpractice insurance and could negatively impact insurance customers by allowing an aggrieved party to sue both the insured and the insurer. Allowing this type of third-party lawsuit threatens to upend the insurance market in Oregon at a time when Oregonians can least afford it.

Oregon currently has a strong system in place for consumers to bring a lawsuit or file a complaint with the state's insurance commissioner if they feel they have been treated unfairly. Oregon's insurance division can order insurers to pay claims, as well as require restitution and levy fines against insurers that act in bad faith. Additionally, the Oregon Supreme Court in the *Moody* decision created a new negligence standard of care that allows insurance companies to be held liable for emotional distress under a first party claim. This legislation would add a new layer of legal complexity and uncertainty for the insurance market in a time when Oregonians are already concerned about paying more for insurance. States have proactively passed legislation to avoid the third party litigation allowed by SB 174.

Allows litigation based on administrative functions
SB 174 subjects statutes meant to allow market conduct surveillance by regulatory bodies to statutes that allow for a private right of action and class action lawsuits. The Unfair Claims Settlement Practices Act is based on a model act developed by the National Association of Insurance Commissioners that specifically includes a note from NAIC that says: **"A jurisdiction choosing to provide for a private cause of action should consider a different statutory scheme. This Act is inherently inconsistent with a private cause of action."**

The Unfair Claims Settlement Practices Act includes broad language to provide flexibility to state insurance commissioners to pursue investigations about whether there is a pattern of violating this statute and is not meant to be litigated. A few examples of provisions that would be subject to a lawsuit and court interpretation include:

- Failing to adopt reasonable standards for prompt investigation
- Failing to acknowledge or act promptly on communications
- Failing to pay claims without conducting a "reasonable" investigation based on "all available information"
- Promptly and equitably settling claims when "liability has become clear"
- Requesting duplicative information
- Failing to promptly provide an explanation of benefits
- Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants

These provisions should not be used in litigation, especially by third parties. Subjecting consumers seeking protection from their insurer to litigation that allows the person suing them to also sue their insurer will only increase the number of lawsuits and increase the cost of insurance.

Oppose SB 174 – Oregonians need access to affordable insurance, not more lawsuits