

March 7, 2025

Sen. Floyd Prozanski, Chair
Sen. Kim Thatcher, Vice Chair
Members of the Senate Judiciary Committee

RE: SB 174 – Unlawful Trade Practices Act/Insurance

Dear Chair Prozanski, Vice Chair Thatcher and Members of the Committee,

The **Northwest Insurance Council** (NWIC), the **American Property Casualty Insurance Association** (APCIA) and the **National Association of Mutual Insurance Companies** (NAMIC) – “the P&C trades” – whose members collectively underwrite the vast majority of personal lines property, vehicle and liability insurance policies in force in Oregon today, wish to share the following comments in opposition to proposed **SB 174** – adding insurance business under the Oregon Unlawful Trade Practices Act.

Here are some things we ask you to consider as you weigh the potential impacts of SB 174:

1. **Today, many Oregon homeowners are losing their insurance coverage in real time. SB 174 will not prevent cancellations, nonrenewals or premium increases. Instead, it could make the property insurance market worse for Oregonians.**

Right now, due to increasing risk of catastrophic wildfires and winter storms, coupled with dramatic increases in the cost to repair/replace structures (construction cost inflation over the past five years has been four times Consumer Price Index), insurers have been reducing their risk exposure in areas of Oregon (and other Western states).

For homeowners, this has meant receiving notice that their insurance company will no longer insure their homes at the end of the policy period. According the data provided by DCBS last month, there are more than 100 insurers writing property insurance in Oregon, but many of them aren’t available in every county in the state. Nonrenewals increased by 11 percent from 2018-23. Cancellations for non-payment of premium increased by 22 percent.

This is a frustrating – and in some cases, terrifying – situation for a homeowner. Some have “pieced together” multiple policies from various companies, sought more expensive coverage in the surplus lines market or bought a limited coverage policy through the Oregon FAIR Plan (the state’s insurer of last resort). FAIR Plan policies written jumped nearly 47 percent in 2023 alone, adding 740 new policyholders.

Unfortunately, SB 174 does **NOT** address problems with the property insurance market in Oregon – instead, it further **erodes** the climate for insurers doing business here.

SB 174 threatens additional – needless – regulatory enforcement by the Department of Justice, on top of an already-robust regulatory framework enforced by the Division of Financial Regulation (within DCBS). And proponents of SB 174 admit it is specifically intended to provide a new avenue for additional lawsuits – first party, third party and class

action – alleging bad faith actions against insurers. We know from experience that states that have added these provisions, by statute, rule or case law, have seen lawsuits and costs climb – as much as 53 percent in California alone (until their “third party bad faith” doctrine was overturned by voter initiative).

2. SB 174 could add 7-16% to the cost of insurance in Oregon, Milliman study shows.

The most recent study conducted by the actuarial research and consulting firm [Milliman](#) states that the estimated increase in loss and Loss Adjustment Expenses (LAE) could result in a corresponding increase in annual premium charged to property casualty insurance policyholders in Oregon of between **\$0.6 billion and \$1.4 billion, or 7% to 16%** of the estimated current annual premium paid by Oregon residents and businesses.

3. Existing Oregon law provides a unique and cost-effective restitution remedy for consumers that other states do not have.

[ORS 731.256](#) grants broad and unique authority to the Director of DCBS/Insurance Commissioner to enforce the Oregon insurance code – including the authority to: “(a) Seek restitution on a consumer’s behalf for actual damages the consumer suffers as a result of the insurer’s violation of a provision of the Insurance Code or applicable federal law or the insurer’s breach of an insurance contract or policy the insurer has with the consumer; and (b) Seek other equitable relief the director deems appropriate under the circumstances.

In 2024, DCBS reported recovering \$9 million in penalties against insurers and restitution for policyholders. There is no direct cost to consumers or taxpayers for these services – DFR’s budget is funded entirely by taxes paid by insurance companies.

The program is attracting positive attention, as the new elected Insurance Commissioner in Washington State has requested that the state Legislature there enact restitution provisions that are nearly identical to Oregon. [SB 5331](#) recently passed the Washington Senate, 30-19.

4. SB 174 will make Oregon a “bad faith” liability outlier among US states.

Only 10 states have combined their Unfair Claims Settlement Practices (UCSP) statute into their Unlawful Trade Practices Acts (UTPA). Five of those states do not allow private rights of action. And the UTPA statutes of only 2 states, (FL, MA), allow both first *and* third parties to sue insurers for alleged violations.

But SB 174 is even more extreme than remedies in those high-cost insurance states, providing unrestrained first- and third-party private rights of action, with no required notice to cure, while imposing punitive damages, one-way attorney fees and class actions, and allowing individuals to act as “private regulators” of insurers.

5. SB 174 conflicts with other high priority goals set by the Governor and the Legislature, like addressing the state’s housing crisis and improving access to childcare.

Two of the areas most impacted by the current “hard market” for property insurance are affordable/low-income housing projects and childcare centers. Insurance for these much-needed services is already very difficult to obtain and extremely costly. Adding the burden of additional lawsuits and regulations that worsen the insurance climate in Oregon is in direct conflict with the state’s goal of improving access to housing and childcare.

In conclusion, we urge you to vote no – do not pass - on SB 174.

A healthy, competitive insurance market is one where risk is predictable, regulations are fair, and the legal environment is balanced. Where these factors are present, insurers have confidence in their ability to predict and price risk affordably and to actively compete for policyholders’ business.

SB 174 takes Oregon further in the wrong direction from those standards. The bill threatens additional instability in Oregon’s property insurance market. On top of legislation and regulations enacted or adopted over the past four years, plus the potentially far-reaching consequences of the Supreme Court’s 2023 ruling in the *Moody v. Oregon Community Credit Union* [case](#) (establishing the right to pursue first-party bad faith claims against insurers), SB 174 adds greater uncertainty to the Oregon legislative, regulatory and legal climate for the Property & Casualty insurance industry.

That is not what Oregon homeowners need today. Please vote no on SB 174.

Respectfully submitted,

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