

June 12, 2025

Senate Committee on Finance and Revenue
Oregon State Capital
900 Court St. NE, Room 160
Salem, OR 97301

RE: Senate Bill 1196-1

Chair Meek and Members of the Committee:

I am the claims and loss control manager of Safehold Special Risk (Safehold). Safehold manages a commercial insurance program specializing in ski resorts and ancillary recreational activities surrounding the core activity of skiing and riding. Our current list of clients in Oregon includes Mt. Hood Meadows, RLK Timberline, Mountain Capital Partners, and others.

In the last several years in Oregon we have seen a significant decrease in overall carrier underwriting appetite for all types of recreational risks in the state which has resulted in correlated increases to premium ratings. After the 2014 *Bagley* Supreme Court decision effectively eliminated the enforceability of Exculpatory Releases in the State, there has been a significant rise in General Liability and Excess rates.

Releases also serve as an important communication method for articulating the inherent risks of the activities provided by a given business. The ability to gain acknowledgement and acceptance of the inherent risks users voluntarily choose to engage in is critical to the fundamental notions of personal responsibility and awareness that should be foundational to outdoor recreation. Not recognizing the validity of a release of liability is a disservice to both the entity providing the activity and venue, but also the public who benefit from being made aware of those inherent risks and acknowledging them.

This deterioration in Oregon's insurance market was made worse by the 2022 decision and precedent set in the *Owens v. Mt. Hood Ski Bowl* case, in which a very experienced mountain biker was injured riding the most difficult terrain at Ski Bowl and obtained a verdict of over \$10 million. The effect of that trial result has been to greatly reduce carrier capacity for outdoor recreation in the State of Oregon.

There are fewer and fewer insurance carriers willing to write General Liability coverage for outdoor recreation businesses in Oregon given the legal climate in the state. In fact, just a few weeks ago, **Safehold made the difficult decision to stop offering outdoor recreation coverage in Oregon**, which means that a number of outdoor recreation providers, including large ski areas, are now forced to find alternative coverage.

Our historical results from Oregon since 2015 have had a profoundly negative impact on our program's ability to meet fundamental financial models required to underwrite general liability insurance for ski resorts in Oregon. For our general liability insurance product to exist there must be a recognition of two fundamental legislative principles that: 1) Enforcement of the Inherent Risk Doctrine for recreation liability, and 2)

Enforceable liability waivers except in cases of gross negligence. The inability to defend these two principles has fractured the fundamental economics of the general liability insurance product for ski resorts, and likely other recreation activities, in Oregon. These principles are in place and remain intact in all other western states with ski resorts and significant recreation offerings. We write insurance for ski resorts in 37 states across the US. Over a ten-year period of claims results, Oregon is an extreme outlier. For our primary insurance line, which covers losses up to \$1 million, Oregon accounts for 20% of our nationwide losses. For our excess insurance line, which covers losses between \$1 million and \$10 million, Oregon accounts for an astronomic 50% of our losses. ***One state out of 37 states accounts for half of our excess losses.*** This more than anything else is due to the inability to enforce voluntary waivers in Oregon.

The numbers cited from Mr. Hinkle's "research" (provided on the record for the June 11 hearing on SB 1196-1) are not in any way a clear representation of the insurance environment in this state. Insurance products are regulated at the state level, and all insurers look at their results at the state level, making his analysis totally irrelevant and factually misleading.

Simply put, if the financial numbers Mr. Hinkle cited were in fact an accurate representation of our results in Oregon, I assure you we would continue to procure insurance for our clients in Oregon.

I am submitting this testimony in support of the prompt passage of House Senate Bill 1196-1

Sincerely,

Eric Morgan