

Please VOTE NO on HB 2525, Unlawful Insurance Practices, if you don't want to see Oregon become a state plagued by costly, contentious, and frivolous litigation

Summary of bill:

HB 2525 would amend the Oregon Trade Practices Act (ORS Chapter 746) to allow for class action lawsuits, an award of one-sided attorney's fees and punitive damages against insurance companies (health insurers are excluded) for any nominal violation of the extensive list of prohibited trade practices in the OTPA. The bill allows for a private right of action for any "ascertainable loss", and creates statutory damages of \$200, when there are no actual damages.

Reasons to VOTE NO on HB 2525:

- **The proposed legislation is unnecessary and excessive** – There is *no evidence* to support the contention that there is a problem, let alone a wide-spread problem, in how insurers settle their claims with policyholders or claimants to support a bill that authorizes class action lawsuits, punitive damages, and one-sided attorney's fees awards. HB 2525 is really just a trial lawyer "show me the money" bill, not a necessary and legitimate consumer protection bill.
- **HB 2525 will encourage and facilitate the filing of frivolous lawsuits** –The proposed legislation allows a party to file a lawsuit for an award of punitive damages and attorney's fees in cases where there is any "ascertainable loss of money or property" by the party. The bill is even drafted so as to encourage the filing of frivolous lawsuits, by creating a statutory damage of \$200 if the party doesn't have any actual damages. Consequently, a mere alleged nominal loss of money by a party, even one resulting from an inconsequential mistake or omission by the insurer in the claims adjusting process or in a general business practice could trigger civil liability exposure for the insurer to punitive damages and attorney's fees. This type of provision is neither rational nor appropriate.
- **The proposed legislation is likely to have an adverse impact upon the affordability of insurance for consumers** - It is an irrefutable fact that litigation is expensive and that it drives-up the cost of *all* business products and services. HB 2525 will force insurance companies to have to use financial resources, which should be used to pay insurance claims and develop new insurance products, on extensive attorney's fees to defend against baseless legal claims over an alleged unlawful insurance practice. HB 2525 will turn every insurance claim into a possible 1st or 3rd party bad faith claim and/or class action lawsuit, which insurance consumers will ultimately be forced to pay for, via higher insurance rates and/or reduced insurance consumer services.
- **The Oregon Department of Insurance (ODI) presently possesses all the regulatory authority it needs to effectively investigate, regulate, and sanction any insurance company that fails to comply with the insurance code and state insurance law** - There is no evidence to support the contention that the ODI has failed to properly and thoroughly perform its regulatory responsibilities, or that HB 2525 is necessary to ensure that insurance carriers adjust and settle claims in a fair, equitable, and timely manner.
- **The supporters of HB 2525 are "spinning" this bill as a way to arm consumers with necessary legal protections, but the fact of the matter is that the bill really just arms trial attorneys with the ability to financially coerce insurers into paying unfair and excessive settlements** - HB 2525 will provide plaintiff attorneys with the weapon of being able to threaten insurers with costly punitive damages and attorney's fees claims as leverage to secure a settlement that is higher than what the consumer is legally entitled to. Plaintiff attorneys know that insurers will have to factor in to their valuation of the claim (especially nominal damages claims) the high cost of defending against an alleged unlawful insurance practice claim, so this will allow attorneys to coerce insurers into paying excessive settlements. In the end, insurance consumers will have to pay for these unreasonable and inequitable settlements.

Please VOTE NO on HB 2525, and protect your constituents from this anti-insurance consumer, pro-trial litigation abuse legislation!

Prepared by: Christian J. Rataj of the National Association of Mutual Insurance Companies (NAMIC) as written testimony for committee hearing. NAMIC is the largest and most diverse property/casualty trade association in the country, with 1,400 regional and local mutual insurance member companies serving more than 135 million auto, home, and business policyholders and writing in excess of \$196 billion in annual premiums that account for 50 percent of the automobile/ homeowners market and 31 percent of the business insurance market. More than 200,000 people are employed by NAMIC member companies. NAMIC has 143 members who write P. & C. Insurance in the State of Oregon, which represents 45% of the marketplace.