

Testimony for Public Hearing  
Oregon House Committee on Business and Labor  
March 10, 2021

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To: The Honorable Paul Holvey, Chair  
The Honorable Daniel Bonham, Vice Chair  
The Honorable Dacia Grayber, Vice Chair  
House Committee on Business and Labor

Re: **HB 3272**  
**FAIIR Coalition Position: OPPOSE**

Date: Wednesday, March 10, 2021, 3:35 p.m., Remote E

Chair Holvey and Members of the Committee:

I am a shareholder at the Betts, Patterson & Mines law firm in Portland, and my specialty is insurance coverage analysis, advice, and litigation. I have more than two decades of experience in the insurance coverage field in Oregon, Washington, Idaho, Montana, and many other states, and I am a frequent writer and speaker on insurance law topics nationwide. Besides my work as an advocate, I am the author of several scholarly analyses on insurance law that have been cited and adopted by courts across the country, and I am a contributing author to respected and influential insurance treatises. I represent the Fighting Against Increased Insurance Rates for Oregonians Coalition (FAIIR).

The FAIIR Coalition **is opposed to HB 3272**, which would promote crippling increases in insurance costs for Oregon homeowners and businessowners at a time when many household and business budgets are already under strain because of the economic effects of the COVID pandemic; would incentivize a flood of litigation in Oregon's already overwhelmed state and federal courts under ambiguously defined new legal standards; and would create new burdens for taxpayers to fund increased court and administrative costs.

**Oregonians are already protected by strong consumer laws, rigorous enforcement, and broad legal remedies.**

Oregon has one of the strongest consumer protection laws in the country. Insurance companies are already held accountable under rigorous oversight by the Oregon Department of Consumer and Business Services (DCBS). Insurers are required to treat their policyholders fairly and settle

covered claims in a timely manner. Should a problem arise, consumers can seek recourse in a court of law or through the Oregon Division of Insurance and can seek restitution through DCBS if an insurer violates the state Insurance Code. Oregon consumers think the DCBS does an excellent job of handling consumer complaints and that insurance companies adjust claims fairly. *In a recent poll, 91 percent of Oregon voters who have filed claims said their insurance company handled the claim fairly under current consumer protection laws. Further, 69 percent of Oregonians said that they feel adequately protected under current consumer protection laws, and 75 percent said they are unwilling to pay increased insurance rates for additional ways to sue their insurer.* Oregonians already have available a full range of legal remedies if they bring an action in court against an insurer, including the right to recoup their attorney fees if they sue an insurer and recover more than the amount tendered by the insurer. Oregonians have had this right since 1919 when the original version of ORS 742.061 was enacted by the Legislature in the post-World War I era.

**HB 3272 creates new legal causes of action for even minor or technical violations of the Oregon Insurance Code and will lead to a rash of lawsuits that will inundate Oregon courts.**

Instead of allowing the Department of Consumer and Business Services to enforce the Oregon Insurance Code, a system that is currently working well, HB 3272 turns every section of the code into grounds for a lawsuit over “unfair claim settlement practices” with undefined, ambiguous standards, such as what is “reasonable” or “unreasonable,” what is “just cause,” and what is “prompt” and timely. In addition to creating a multitude of new legal causes of action for supposed insurer bad faith, HB 3272 incentivizes litigation over minor or dubious matters by creating a right to recover punitive treble damages. The court system, which is already so overloaded that cases take years to litigate and resolve, is ill-equipped to handle this increase in litigation, and taxpayers are ill-equipped to fund the increased court costs that will ensue if HB 3272 becomes law.

In short, the FAIIR Coalition opposes HB 3272 because HB 3272 is unnecessary and would raise insurance costs to consumers and increase the load on taxpayers, which is undesirable at any time but particularly now during the COVID pandemic when the pocketbooks of homeowners and business owners are diminished and when the State of Oregon is facing grave budget challenges. We urge you to vote no on bad faith insurance bill HB 3272.