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Testimony of Arthur Towers
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In Support of House Bill 3271 and 3272

Before the House Business and Labor Committee

March 10, 2021

Chair Holvey, Vice-Chairs Bonham and Grayber, thank you for the opportunity to testify on the most important consumer protection legislation under consideration this session.

The two bills under consideration provide tools to consumers to fight back against illegal insurance practices that disrupt consumers' lives and deny them the benefits they have paid for with their premium dollars. We have seen challenges for consumers in many lines of insurance.

Both bills have merit but I want to focus on HB 3272, which would enhance enforcement of existing law (for individuals and for businesses that purchase insurance) – the Unfair Claims Settlement Practices Act. HB 3272 is unusual in that the important language is not in the new language but in the existing language in Section (4) at the bottom of page 2 and on page 3 in the introduced bill:

746.230. (1) An insurer or other person may not commit or perform any of the following unfair claim settlement practices:

- (a) Misrepresenting facts or policy provisions in settling claims;**
- (b) Failing to acknowledge and act promptly upon communications relating to claims;**
- (c) Failing to adopt and implement reasonable standards for the prompt investigation of claims;**
- (d) Refusing to pay claims without conducting a reasonable investigation based on all available information;**
- (e) Failing to affirm or deny coverage of claims within a reasonable time after completed proof of loss statements have been submitted;**
- (f) Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear;**
- (g) Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants;**
- (h) Attempting to settle claims for less than the amount to which a reasonable person would believe a reasonable person was entitled after referring to written or printed advertising material accompanying or made part of an application;**
- (i) Attempting to settle claims on the basis of an application altered without notice to or consent of the applicant;**

- (j) Failing, after payment of a claim, to inform insureds or beneficiaries, [upon request by them] at the insureds' or beneficiaries' request, of the coverage under which payment has been made;**
- (k) Delaying investigation or payment of claims by requiring a claimant or the claimant's physician, naturopathic physician, physician assistant or nurse practitioner to submit a preliminary claim report and then requiring subsequent submission of loss forms when both require essentially the same information;**
- (L) Failing to promptly settle claims under one coverage of a policy where liability has become reasonably clear in order to influence settlements under other coverages of the policy;**
- (m) Failing to promptly provide the proper explanation of the basis relied on in the insurance policy in relation to the facts or applicable law for the denial of a claim;**

The core of HB 3272 is to enhance enforcement of the above violations for all insurance policies. Currently, consumers are reliant on the state to enforce these provisions. That enforcement has not proven to be a deterrent to low-road insurers who engage in these practices. These provisions of HB 3272 simply allows consumers to fight for themselves in a court of law to recover damages caused by these practices, and not rely on government intervention.

Violations of existing law have a disproportionate impact on non-English speakers and on those who don't have trust or faith that the government will act on their behalf, since the current enforcement mechanism requires contact a government agency.

HB 3272 have several other key provisions. Section 6 requires insurance agents who work for one insurance company to have the same duty of care to customers as an insurance broker who sells policies from multiple companies. This bill levels the playing field so that a customer who does not know the difference between an insurance agent and an insurance broker gets treated equally no matter who they purchase insurance from.

Sections 2 and 3 contain provisions to help property owners, particularly after natural disasters. These are common-sense improvements to homeowners and property insurance policies.

Taken as a whole, Oregonians need these bills now. The tragic losses we saw from last year's wildfires are not the only challenges we will face. It is easy to foresee more destructive fire seasons, floods, earthquakes, and tsunamis. We do not want the misery from those future challenges compounded by repeats of what we have seen here today.

For our state to bounce back after these tragedies, we need not just an infusion of public funds, but also the speedy infusion of insurance money that is owed so that families and communities can get back on their feet.

Finally, it is very important to note that many insurers step up to make sure consumers get what they need. We have heard some amazing anecdotes about responsive insurance companies. Sadly, stronger enforcement is needed for low-road insurers.

We urge a Do Pass recommendation on HB 3171 and HB 3172.