



Lloyd Bernstein
Portland, Shareholder

Direct Dial: 503.499.4586
Fax: 503.295.0915
Email Attorney

Proposed Oregon Insurance "Bad Faith" Legislation is Dead!

By Lloyd Bernstein

Well another (full – every two years) Oregon legislative session is in full-throttle, and once again policyholder advocates have failed to advance any meaningful insurance "bad faith" legislation. As you are probably aware, Oregon is the only remaining state out West that does not have statutory or tort based extra-contractual causes of action against insurers. In Oregon, recoverable damages in an insurance dispute are generally limited to contract damages and attorney fees incurred in establishing coverage.

The various bills introduced this session (almost identical to the bills introduced last session) can be summarized, as follows:

- **HB 2248/SB 314** – would have included insurance in the definition of services subject to Unlawful Trade Practices and allows for the recovery of actual damages, punitive damages and attorney fees.
- **HB 2257/SB 510** – would have permitted a person to bring an action against an insurer for committing or performing Unfair Claim Settlement Practice and allows for the recovery of actual damages, punitive damages and attorney fees.
- **SB 313** – would have permitted a person to bring an action against an insurer that commits "unlawful insurance practice" and allows for the recovery of actual damages, punitive damages and attorney fees.

While the House bills died early, all of the Senate bills eventually consolidated before the Senate Committee on Judiciary. After a contentious public hearing, where both sides came armed for battle, the Judiciary Committee fortunately did not advance any of the bills to the Senate Floor for a vote before the April 21 deadline, nor did they send the bills over to the Rules Committee in an attempt to keep the bills alive through the end of session. As a result, the legislation is now dead, and the concern that any one of the bills could be used as a bargaining chip in the final throws of the session (as was attempted last session) has been eliminated accordingly.

We fully expect to see similar legislation proposed in the 2017 session. But for now, insurers in Oregon continue to not be subject to the added burden and expense of extra-contractual/ bad faith litigation. And there is also the added benefit of the bills' defeat of not bogging down Oregon courts with the significant increase in lawsuits that would inevitably result from the passage of this type of legislation.

Contact Lloyd Bernstein at lloyd.bernstein@bullivant.com for more information on insurance coverage and bad faith litigation.