



Lloyd Bernstein
Portland, Shareholder

Direct Dial: 503.499.4586
Fax: 503.295.0915
Email Attorney



Jacqueline Mitchson
Portland, Associate

Direct Dial: 503.499.4511
Fax: 503.295.0915
Email Attorney

Historic 2020 Wildfires Spark Proposed Insurance Coverage and Bad Faith Legislation in Oregon

By Lloyd Bernstein, Jacqueline Mitchson

The wildfires that ripped through Oregon in September of 2020 caused unprecedented damage, and sparked legislation that would expand property coverage and look to create a bad faith cause of action in Oregon.

HB 3272 seeks to amend ORS 742.230 to require several changes to property coverage provided in homeowner policies - if passed, among other things, the bill would:

- Require insurers that provide replacement cost coverage to allow insured not less than 24 months of additional living expenses and not less than 24 months within which to repair, rebuild or replace damaged or lost property. However, if the damage results from an emergency or major disaster, those time periods could increase to 36 months.
- Allow insured to combine all available limits to rebuild or replace if the limits for the dwelling are insufficient.
- Prohibit insurers from limiting or denying payment of replacement or building code upgrade coverage on the basis that the insured has decided to rebuild or purchase an existing structure in a new location.
- Require insurers to provide the insured with an estimate of the cost to rebuild or replace damaged or lost property every other year at the renewal of the policy.

If passed, the Act becomes effective immediately. However, the requirements described above are not retroactive. Instead, the new requirements apply to policies issued or renewed on or after the date the Bill passes.

In addition to these requirements, the bill created a cause of action that would allow an insured to recover actual damages that result from an unfair claim settlement practice together with the costs of the action, including reasonable attorney fees and costs, and the court may award treble damages if it determines that the insurer acted unreasonably. The good news for insurers is the bad faith section has recently been removed from the bill.

HB 3171 is a standalone bill that expands the Unfair Trade Practices Act to include unfair claims settlement practices, and was more recently amended to include the private cause of action and remedies removed from HB 3272. The good news for insurers is that this bill has now died in committee.

So while the potential for legislative mandates on the timing of and certain requirements for replacement cost and additional living expenses coverages continue forward in the Oregon legislature, the proposed bad faith legislation, at least in its current form, has been defeated.

Stay tuned for updates and feel free call us with questions.