

# OREGON LAW UPDATE

## SB 414 Signed Into Law, Allows State to Bring Claims on Behalf of Policyholders

case in point ...

**From the Desk of Jeff Eberhard:** The Oregon Senate recently passed Senate Bill 414, which permits the Director of Department of Consumer and Business Services to seek restitution on behalf of consumers that have suffered damages due to an insurer's violation of the Insurance Code or breach of an insurance policy. The bill also gives the Director the right to seek equitable relief that he or she deems appropriate. The bill becomes effective on January 1, 2014.

**Claims Pointer:** Oregon has enacted a bill which will allow the State to pursue claims on behalf of insureds against insurers. The new law gives insureds recourse for instances when an insurer has violated Oregon's Insurance Code, though in an indirect way.

Under the bill, an insured can file a complaint against an insurer with the Director of the Department of Consumer and Business Services. The Director must then investigate the complaint, and must make a determination whether there was a violation, and keep the insured informed of the process. However, it is unknown how the bill will change how complaints are currently processed.

S.B. 14, 77th Or. Leg. Assembly, 2013 Reg. Sess. (Or. 2013).

On July 3, 2013 Oregon Governor, John Kitzhaber, signed into law Senate Bill 414 ("SB 414"). The bill authorizes the Director of the Department of Consumer and Business Services ("DCBS") to seek restitution on behalf of insureds who have been harmed by an insurer's violation of the Insurance Code or breach of an insurance contract or policy, and to seek other equitable relief that the director deems appropriate. Under the new law, codified at ORS 731.256, the DCBS may "seek restitution on a consumer's behalf for actual damages the consumer suffers," as a result of an insurer violation of the Insurance Code, federal law, or breach of the insurance policy.

Under the law, a complaint against an insurer is confidential. However, the director can use the information to compile a public, statistical report regarding the number of complaints against a given insurer. Additionally, the complaint, or a record of the complaint, cannot be used in court, unless the director considers doing so necessary for prosecuting apparent violations of the insurance code.

The bill's sponsor, Senator Chip Shields (D-Portland), commented on the purpose of the bill, noting "Middle-class families and small businesses need more avenues to hold insurance companies accountable for their harmful violations of consumer protection laws." Insurers operating in Oregon are subject to the Oregon Insurance Code, a section of the Oregon Revised Statutes which regulates the insurance industry. Under the current system, there are a number of options available to the director of DCBS to hold insurers accountable for violations of the Insurance Code, including the ability to revoke an insurer's license to operate in Oregon.

The new law is significant not only because it authorizes the director to act to enforce consumer complaints against insurers, but because it grants wide discretion to the director to act on those complaints. It remains to be seen whether the state will have the resources available to file actions on behalf of insureds.



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