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**SENATE COMMITTEE ON BUSINESS, LAW, AND GOVERNMENT**

**March 11, 1997 Hearing Room E**

**1:00pm Tapes 94 - 95**

**MEMBERS PRESENT:**

**Sen. Neil Bryant, Chair**

**Sen. Randy Miller, Vice-Chair**

**Sen. Kate Brown**

**Sen. Gene Derfler**

**Sen. Randy Leonard**

**Sen. David Nelson**

**MEMBER EXCUSED:**

**STAFF PRESENT:**

**David Amesbury, Counsel**

**Andrea Terry, Administrative Support**

**MEASURE/ISSUES HEARD:**

**SB 97**

SB 85

HB 2147

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>Tape/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>Tape 94, A</b>		
003	Chair Bryant	opens meeting at 1:08pm
<b><u>SB 97--PUBLIC HEARING AND WORK SESSION</u></b>		
005	Kerry Barnett	Director of the Department of Consumer and Business Services
007	Barnett	EXHIBIT A EXHIBIT B EXHIBIT C EXHIBIT D
036	Barnett	insurance fraud estimated at 100 billion dollars per year in the United States  Oregon is not a high fraud state relative to other states
053	Barnett	this bill would make insurance fraud would be class C felony
079	Barnett	what is motivating this bill are the organized fraud rings that are operating in this country
103	Sen. Leonard	are these explained in the -2 amendments or in the original bill
105	Barnett	these are in the original bill
112	Barnett	one area not covered in this bill: if an insurance company attempts to defraud an individual claimant as part of the claims process
126	Sen. Brown	was this included in last session's piece of legislation
130	Barnett	no, it is a gap in the legislation

138	Sen. Derfler	is this essential to the bill
140	Barnett	in my opinion it is not essential to have in the bill because of our existing regulatory authority to get at insurer's who engage in that activity
151	Barnett	this bill provides for restitution a court may order restitution for a person upon conviction of insurance fraud
156	Barnett	this bill also provides that if the person is licensed in the state that the DA's office must notify the licensing authority
160	Barnett	this bill provides immunity for any person providing information about insurance fraud
167	Bryant	is that section 7
170	Barnett	yes we think this is a good bill and will help protect consumers
177	Bryant	refers to EXHIBIT C
197	Joel Ario	Manager of Consumer Protection Section
198	Ario	clarifies EXHIBIT C
206	Bryant	goes over EXHIBIT C
260	Bryant	refers to EXHIBIT B
266	Brown	in section 2 are there criminal penalties
274	Barnett	under the Unfair Claims Settlement Practices Act civil penalties are attached and what we refer to as the "death penalty" (removing the companies certificate, putting them out of business)
279	Brown	why wouldn't the penalties be the same for the same crime
282	Barnett	this has been a matter of much discussion; we would have no particular objections to including that in the bill
291	Barnett	I still believe that the bill as written is a significant, positive step
310	Judith Fitzgerald	Director of Government Affairs; National Insurance Crime Bureau
311	Thomas Jacobs	Special Agent; National Insurance Crime Bureau
313	Fitzgerald	EXHIBIT E
383	Fitzgerald	still discussing EXHIBIT E
Tape 95,A		
004	Jacobs	current trends in Oregon --numbers of people coming into Oregon involved in fraudulent claims in other states, particularly impacts the elderly people ("swoop and swat")

016	Fitzgerald	there are a number of staged accident rings in Oregon
021	Sen. Leonard	would you oppose the amendment that would criminilize insurance fraud toward consumers
026	Fitzgerald	we support the Insurance Commissioner's position we fell that the Unclaimed Practices Act covers the penalties for insurance companies
045	Steven Piucci	here on behalf of the Oregon Trial Lawyers
052	Piucci	EXHIBIT F
077	Sen. Brown	if we were to level the playing field, would you prefer that it be a criminal penalty or a civil cause of action
082	Piucci	a civil cause of action would be far more reasonable
087	Richard Lane	OSB
093	Lane	our committee is concerned about the language: page 2 of the -2 amendments line 5-6 page 2 of the -2 amendment page 3 line 31 "presents" is somewhat ambiguous
133	Bryant	addresses Mr. Lanes concerns about the amendments
155	Chris Davie	represents SAIF corporation
156	Davie	EXHIBIT G
190	Davie	examples of insurance fraud
219	Davie	we recently had a case that a drywall contractor was not reporting the people on his payroll
229	Davie	discussing attempted fraud (see EXHIBIT)
261	Davie	the states around us have "beefed" up
273	Mike Ramsby	Sergeant, Oregon State Police Criminal Investigation Services Division
275	Ramsby	EXHIBIT H
319	Sen. Brown	from a law enforcement perspective why would you exempt an insurance company from this particular crime to commit insurance fraud
326	Ramsby	I realize you can't throw a company in jail, but you could go after the individual
353	Leonard	refers to section 2, line 12
360	Bryant	go down to line b on line 19
370	Bryant	clarification of this section

Tape 94, B		
010	Captain Rich Hein	Captain Oregon State Police
013	Hein	wanted to echo support for SB 97
028	Bryant	close public hearing on SB 97
030	Bryant	open work session on SB 97
036	Barnett	add words to page 4 before line 3, new sub section 4
068	Barnett	the rationale here is that an attorney should still have a free hand in representing his/her client
082	Bryant	move an amendment to the -2 amendments (new sub section 4) no discussion, no objections
090	Brown	there are civil penalties for an unfair claims act, but not a civil cause of action against the insurance company
100	Barnett	correct standard of proof contained in this bill involves intent to defraud
110	Bryant	you can now sue an insurance company if you feel you have been misrepresented
120	Brown	how many licenses of insurance companies have you revoked since you have been in office
123	Barnett	as for the total number of licenses revoked it is a great many often we can settle the dispute with a couple of phone calls
142	Barnett	insurer's are criminally libel with this bill claimant's are criminally libel if they the specific intent to defraud the insurance company
163	Leonard	speaking to proposed amendment in sub section 2
170	Bryant	roll call on Sen. Leonard's proposed amendment voting yes--Brown, Leonard voting no--Derfler, Miller, Nelson, Chair Bryant
178	Sen. Derfler	<b>MOTION: Moves SB 97 to the floor with a DO PASS AS AMENDED recommendation.</b>
180	Brown	I will vote no on this
182	Leonard	I will vote no on this
184	Bryant	motion passes Bryant will carry SB 97

208	Bryant	close work session on SB 97, open public hearing on HB2147
<b><u>HB 2147--PUBLIC HEARING AND WORK SESSION</u></b>		
210	Lynn Schoessler	Deputy Director of Housing and Community Services Department
212	Schoessler	HB 2147 when looking into housing projects we look at the financing of these we are concerned that family records could be opened at anytime the Oregon Newspapers Association is on firm ground with this bill
265	Bryant	close public hearing on HB 2147 open work session on HB 2147
273	<b>Sen. Leonard</b>	<b>MOTION: Moves HB 2147A to the floor with a DO PASS recommendation.</b>
290	Bryant	no discussion; no objection Sen. Leonard will carry
295	Bryant	close work session on HB 2147; open work session on SB 85
<b><u>SB 85--WORK SESSION</u></b>		
329	Bryant	the hand engrossed bill includes the -5 and -6 amendments, but not the -4 amendments
340	David Amesbury	EXHIBIT I EXHIBIT J EXHIBIT K
350	Brian Glanville	Portland Appraiser
360	Glanville	if doing an appraisal that can hurt the consumer then it should be in writing EXHIBIT L
Tape 95, B		
003	Glanville	explanation of -4 amendments
021	Amesbury	-5 is a stand alone amendment and this reflects the committee's decision regarding the subpoena power

033	Amesbury	-6 amendments explanation and slight revision of these amendments
064	Bryant	move -6 amendments be amended at line 5 - line 12 as described by Mr. Amesbury no discussions, not objections
070	Amesbury	explanation of hand engrossed SB 85
100	Sen. Derfler	a realtor cannot give an appraisal unless a competitive market analysis has been done, correct
123	Scott Taylor	State Real Estate Commissioner
125	Taylor	our main concern is in a formal situation, but in an informal situation a realtor can make an appraisal (in most situations this will probably be substantiated at a later date)
138	Bryant	move -6 amendments--no discussion; no objections move -5 amendments--no discussion; no objections move amended -4 amendments--no discussion; no objections
150	Sen. Bryant	<b>MOTION: Moves SB 85 to the floor with a DO PASS AS AMENDED recommendation.</b>
152	Bryant	no discussion; no objections Sen. Derfler will carry SB 85
155	Bryant	adjourns meeting at 2:45pm

Submitted By, Reviewed By,

Andrea Terry, David Amesbury,

Administrative Support Counsel

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**EXHIBIT SUMMARY**

A - Testimony on SB 97 - introduced by Kerry Barnett - 2 pages

- B - Letter from Howard Goldblatt on SB 97 - introduced by Kerry Barnett - 2 pages**
- C - Summary of Amendments to SB 97 - introduced by Kerry Barnett - 1 page**
- D - -2 Amendments to SB 97 - introduced by Legislative Counsel - 14 pages**
- E - National Insurance Crime Bureau Testimony - introduced by Judith Fitzgerald - 4 pages**
- F - Testimony on SB 97 - introduced by Stephen Pucci - 2 pages**
- G - Testimony on SB 97 - introduced by Chris Davie - 2 pages**
- H - Testimony on SB 97 - introduced by Mike Ramsby - 2 pages**
- I - -4 Amendments to SB 85 - introduced by Legislative Counsel - 2 pages**
- J - -5 Amendments to SB 85 - introduced by Legislative Counsel - 1 page**
- K - -6 Amendments to SB 85 - introduced by Legislative Counsel - 5 pages**
- L - Testimony on SB 85 - introduced by Linda Riddell - 1 page**
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