

The Reporter District

Gannett Suburban Newspapers

May 30, 1996

Business

Bill would help consumers with insurer lawsuits

By Barbara Woller
Staff Writer

New York consumers came one step closer this week to be able to more easily sue their insurance company if it shows "bad faith" in settling a claim when the State Senate Insurance Committee approved a bill to give them that right.

But the bill must still clear some significant hurdles before - and if - it becomes law.

The measure now goes before the Senate Rules Committee, which will decide whether it will come to the Senate floor for a vote before the Legislature plans to adjourn on June 14. The Assembly passed a virtually identical bill last March.

In addition, the bill faces fierce strong opposition from the insurance industry.

"We are adamantly opposed to this bill," said Bernard Bourdeau, president of the New York State Insurance Association, adding that passage of the measure would primarily benefit personal injury lawyers. "New York law gives policyholders plenty of opportunity to have a bad faith action when it constitutes a general business practice and that's sufficient."

A "bad faith" case occurs when a policyholder says an insurance company unreasonably denies a claim.

New York law now permits individuals to sue an insurer for bad faith. But attorney Jonathan Wilkofsky - who has argued bad faith cases for policyholders - says few people have the time, money or fortitude to pursue such action because they must show that the carrier has a pattern of unreasonably denying claims and that the pattern affects them.

The bill passed earlier this week by the Senate committee, however, would provide for a "private right of action" whereby policyholders could sue their insurers for the amount of their coverage plus attorney fees, other expenses and in some cases

punitive damages, if they can prove bad faith without having to show a pattern or such behavior.

State Sen. Guy Velella, R-Bronx, who also represents parts of southern Westchester, is chairman of the Senate Insurance Committee and has said that he favors its passage.

Martin Goldstein of Mount Kisco, founded Citizens Against Unfair insurance Practices, a consumer lobbying group, specifically to help pass the bill. Goldstein said yesterday that in addition to heading the insurance committee. Velella is also a member of the Senate Rules Committee, and because of those two positions has the power to bring the measure to the floor for a vote.

"If he wants that bill out he has enough political position to do so, Goldstein said. "(And) if the bill gets on the Senate floor I'm confident it will pass."