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Denial of claims spurs bill for tougher controls

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STEPHENTOWN -- When Thomas and Bonnie Cameron's storage shed burned down two years ago, they thought their insurance policy would cover the losses.

A few months before the fire, the Stephentown couple was issued a \$125,000 insurance policy by a Sand Lake company. As a result, the Camerons assumed they were protected. The loss from the October fire was \$52,049.

But seventeen months later, Capital Mutual Insurance Co. rejected the Camerons' claim. The insurer said the policy was void from the beginning because the Camerons didn't tell the insurance company of prior losses and that they had been canceled or non-renewed by a previous insurer.

The Camerons dispute Capital Mutual's position. They admit mistakes were made on the policy form, but they didn't know about the mistakes until they filed a claim.

"They went over it with a fine-tooth comb. It wasn't arson," said Bonnie Cameron. "So what's the problem? There is no reason why they should not pay our claim."

Cases like the Camerons are becoming more common. Industry experts say insurance companies are taking a closer look at claims to fight fraud and to protect profits.

This change in attitude is upsetting policyholders whose claims have been challenged. Last year, state regulators handled 33,754 complaints against insurance companies, up 13 percent from 1993. The vast majority of complaints went in favor of the insurance companies, but consumers won 6,174 complaints in 1995, eight times as many as in 1993.

The increase in consumer complaints is sparking demands for action.

"There is nothing to stop an insurance company from doing what it wants," said industry critic Martin Goldstein, founder of Citizens Against Unfair Insurance

Practices. "Insurance companies have the right to deny claims they don't want to pay.

Goldstein has crusaded against insurers since his home was destroyed by fire in 1994. After his insurance company denied his claim, Goldstein fought back. He sued the insurer and created the Bedford based consumer group to lobby for changes.

Some political leaders have now taken up his call. Legislation has been proposed that would give consumers the right to recover damages when an insurance company refuses to pay a claim without justification.

The bill passed the Democratic-controlled Assembly, but it has been stalled in the Republican-controlled Senate. The measure includes provisions for policyholders to rely on if they believe the insurance company is not justified when refusing to pay a claim or is offering an amount well below the loss's value.

After months of trying, Senate supporters and public demands convinced Senate Republican Guy J. Velella of the Bronx, insurance committee chairman, to place the bill on the agenda for Tuesday's committee meeting.

"This is a bill people have been really calling about," said Velella counsel Stephen Casscles.

Senate Republican John DeFrancisco of Syracuse, one of the bill's sponsors, said delays in claims are to the economic advantage of the insurance.

"If you got your house burned down, you can't afford to wait a year and a half," he said, "More and more insurance companies are doing this."

DeFrancisco said consumers can end up losers even if they win because the maximum that can be recovered is the policy's maximum.

There is no provision for legal fees," he said. "It's a remedy that's a reasonable one."

The Camerons are among those who would benefit from the proposed legislation. Angered by the rejection, the Camerons are suing. The Camerons hope the court will order Capital Mutual to pay the \$7,000 they are spending in legal fees.

In the past few months, more than a dozen Capital Region consumers have filed suits against insurance companies for failing to pay claims.

Thomas J. O'Connor of Albany firm Bouck Holloway, Kiernan and Casey, which specializes in defending insurance companies, disagreed with the notion that insurance companies are unfair. O'Connor's firm is representing Capital Mutual in the Cameron case.

"The industry doesn't reject claims in an arbitrary manner," he said, "The industry attempts to pay legitimate claims. Generally speaking, people get what they are entitled to."

O'Connor declined to comment on the Cameron dispute.

Bernard Bourdeau, president of New York State Insurance Association, said DeFrancisco's bill would result in higher insurance costs being passed along to the consumers.

"Companies are taking a much closer look at the validity of claims and unfortunately, that slows down the process," said Bourdeau. "There is increasing pressure to ferret out fraud. Occasionally we see a rise in consumer complaints, but that doesn't mean the claim is valid."

Bourdeau questioned whether the issues being raised warrant new legislation. He also questioned the ultimate beneficiaries of the legislation.

"The bills are all proposed by trial lawyers," he said "This is just another attempt by the plaintiff lawyer industry to tip the scales in their favor. If the insured plaintiff's attorneys are going to bill the insurance company, you are talking about a lot of money. Who is going to pay for all of this?"

Ronald Kermani, spokesman for New York State Trial Lawyers Association, said the proposed legislation will help consumers, not enrich lawyers.

"This bill is to protect consumers from insurance companies, which all too frequently want to turn their backs on policyholders," he said. "It is too bad consumers have to resort to the courts to get insurance companies to pay claims. Insurance companies want to pay as few claims as possible, to as few people as possible.

The state Insurance Department hasn't taken a position on the proposed legislation. It maintains current rules and regulations provide the agency with teeth.

"If there is a trend, we will do a market conduct survey," said spokesman John Calagna. "The fines could be severe."

Goldstein said regulators aren't doing enough to protect consumers.

"New York State will allow insurance companies to abuse 10 percent of their customers before they will conduct a survey," he said. "It's crazy."

As the debate on insurance companies and claims settlements continues, the Camerons are paying the legal fees to fight their insurance company. Their storage shed remains unbuilt.