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He's taking on the insurance industry

Man hopes to change state law that's hurt some Central New Yorkers.

By Dan Kane
Staff Writer

Insurance companies have plenty of help bending the ears of state legislators: 123 lobbyists represent the industry.

Those lobbyists aren't going to work for the policyholders who believe the Insurance companies aren't working for them. Until this year, no lobbyist would.

Martin Goldstein of the Westchester County town of Pound Ridge says he's changing that. This year, he started Citizens Against Unfair Insurance Practices. The title spells out what his grass-roots organization hopes to prevent.

Goldstein is upset that insurance companies can deny paying claims, or settle them for far less than what they are worth, with impunity. That's because state law doesn't allow policyholders to win legal costs and punitive damages against companies that operate in bad faith in an individual case, he said.

That's happened to several Central New York homeowners. In 1994, for example, William and Matilda Zelickman of Manlius spent more than $20,000 in legal fees to win the $170,000 their insurer didn't pay when their restaurant burned down in 1992. Others spoke of similar experiences with their insurance companies in a Herald American/Herald-Journal series in October 1993.

Goldstein says he, too knows about the issue first hand. Fire destroyed his family home and all its contents on Dec.28, 1994. His insurance company, Allstate, is refusing to pay for the loss, claiming the fire may have been deliberately set.

No one has been charged with arson, however, and the district attorney has informed the state Insurance Department that it closed its file on the case. The lawyer representing Allstate declined to comment.

Since Allstate won't pay the $497,000 Goldstein says he's entitled to under his insurance (the company has reimbursed him $15,000 in living expenses), he has to

sue it, forcing him to spend thousands in legal fees that he can't recover, at a time when he's suffered a devastating loss.

"There's nothing out there that stops these companies from treating policy holders unfairly," Goldstein said. " If I'm successful (with the lobbying), everyone's rights are protected."

State Sen. John DeFrancisco. R-Syracuse, is among a growing number of state legislators who agree with Goldstein that insurance laws aren't going far enough to protect consumers. Following the Assembly's lead, DeFrancisco has introduced a bill that allows for legal fees and punitive damages to be paid by insurance companies when they lose a bad faith claim.

But while the Assembly has consistently passed the legislation, DeFrancisco has been unable to get his bill out of the Senate Insurance Committee.

"Whether it's the Insurance lobby that's holding this down or lack of support for the concept, I don't know," DeFrancisco said. "It's probably the former, so any grass-roots support is welcome."

Insurance companies say the legislation isn't necessary. They say state regulations protect consumers adequately, and giving policyholders more clout in the courts will only drive up legal costs, which could raise premiums.

State regulations only allow penalties against insurance companies when they've violated a specific regulation in at least 10 percent of their claims. It used to be 20 percent, until the Herald-Journal series focused attention on it.

What that means to policyholders: even if they can prove an insurance company wrongly refused to pay, they must prove many others received the same treatment. Another point of contention is the penalty - the state Insurance Department's maximum fine per violation is $500.

Goldstein says insurance companies which treat their customers fairly have nothing to worry about.

"They are not hurt by the legislation as long as they do things right in the first place." he said.

Goldstein is trying to drum up support by writing letters to legislators and visiting them, talking to civic organizations, producing a cable television show and seeking $25 per family donations. He's registered his organization with the state Temporary Commission on Lobbying.

For a pamphlet on Citizens Against Unfair Insurance Practices, write to 16 Mianus Drive, Bedford, NY 10506. The phone number is (914) 769-3213.