

The Post Standard Syracuse, NY

Business

May 7, 1997

Insurer Lawsuit Bill Gets Support

Citizens Against Unfair Insurance Practices backs state Sen. John DeFrancisco's proposal to let plaintiffs recover lawyers' fees.

**By Erik Kriss
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ALBANY --- Accusing insurance company officials of misleading state lawmakers, a consumers group argued Tuesday in support of Sen. John DeFrancisco's bill to allow homeowners and car owners to recover lawyers' fees and damages when they successfully sue insurers.

DeFrancisco, R-Syracuse, appeared at the group's news conference Tuesday to argue that the insured often lose even when they win lawsuits, because a substantial chunk of the award goes to pay their lawyers.

His bill has repeatedly passed the Democratic-controlled State Assembly. But it has been blocked from coming to a full vote in the Republican-controlled Senate.

Insurance companies oppose the bill, arguing it would drive up the cost of insurance policies and discourage investigations of suspicious claims due to the fear of lawsuits. One lobbyist called it a "dream bill" for trial lawyers. DeFrancisco is a trial lawyer.

But DeFrancisco, the group Citizens Against Unfair Insurance Practices and several New Yorkers who saw their homes burn to the ground insisted insurance companies have no incentive to settle claims under current law.

"It's in the insurance company's interest not to pay us, because they don't lose anything," said Mary Franklin, who said Nationwide Insurance resisted paying her family after their

"dream home" burned in South New Berlin, Chenango County, year ago.

Franklin said local officials ruled the fire accidental, but Nationwide resisted paying her claim. She said her house was worth \$120,900, and only after she hired a lawyer did Nationwide offer to settle the claim for \$71,729. Franklin said she and her husband, Dan, who have four young children, reluctantly accepted. After paying their lawyer and other costs, they had \$47,090, she said.

DeFrancisco said stories like the Franklins' are "very, very prevalent." He said that, as a private lawyer, he has seen insurance companies offer to settle claims for less money than their own experts' damage estimates.

"There is no remedy right now for these types of abuses," DeFrancisco said. "The (State) Insurance Department doesn't have the manpower or the willingness to go after these abuses." The department and Nationwide dispute that.

"We handle 40,000 consumer cases a year," said department spokesman John Calagna. "We also fine insurance companies millions of dollars per year, and we take away the licenses of brokers who deceive the public.

"If an insurance company refuses to pay your claim, you don't have to go to a lawyer," He added. "You can come to us. We have an 800 number and field offices around the state. We have a good record of handling cases."

Nonetheless, Calagna said the department will review DeFrancisco's bill.

Charles Burhan, Nationwide's director of government relations, said he could not comment specifically on the Franklin case but said each claim is usually more complicated than the policy holder would make it seem.

He also said policyholders can explore many avenues, including the company's own ombudsman before suing. And he said a state Insurance Department review of Nationwide's homeowners policies "found no pattern of abuse."

Senate Majority Leader Joseph Bruno, R-Brunswick, has asked his staff to review the DeFrancisco bill, said spokesman Joseph Conway.