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Tougher insurer rules sought

Consumer group wants bill to force good-faith settlements

BY Shannon McCaffrey
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ALBANY - Failing to make insurers pay legal fees or punitive damages when they lose cases to policyholders is an incentive for the companies to delay settlements, a consumer group charges Tuesday.

"We basically buy insurance for peace of mind and protection, but we're buying an illusion," said Martin Goldstein, president of the Citizens Against Unfair Insurance Practices, a not-for-profit consumer group. "Insurers can deny all or part of a claim with impunity."

Goldstein wants lawmakers to pass a bill this session to require automobile and homeowner insurance carriers to pay legal fees, and in some cases punitive damages.

The sponsor of the measure in the Assembly, Democrat Daniel Feldman of Brooklyn, said it makes sense for insurance companies in some cases to drag their feet paying claims under the current law.

"The worst-case scenario is they pay what they should have paid in the first place," Feldman said. "The best for them is they pay a fraction of that."

Often, consumers do not have the money to go through with suing insurance carriers to collect. Goldstein said. Those that do often find themselves paying a good portion of their claim to their lawyer when they win their case, he added.

He cited the case of Mary and Daniel Franklin, of Chenango County, as an example. When the couple's South New Berlin home burned down and local firefighters ruled

the cause accidental, Nationwide Insurance refused to pay the Franklins' \$120,900 claim. The company said it was investigating the fire itself.

After months passed the couple hired an attorney. Nationwide offered to settle for \$71,729. Anxious to put the matter behind them, the Franklin family settled. After paying legal fees they were left with only \$47,090.

Charles Burhan, a spokesman for Columbus, Ohio-based Nationwide Insurance, said he did not know specifics about the Franklin case, but said providing for attorney fees could be an incentive for more people to file frivolous lawsuits.

Because insurance law does not specifically provide for the payment of legal fees to insurance carriers they do not need to be paid, said Russ Haven, legislative counsel for the, New York Public Interest Research Group.

The bill sponsored by Feldman and, in the Senate, by Republican John DeFrancisco of Syracuse, would; apply only to automobile and home insurers. Goldstein said he would like to see it extended to health insurers as well.

The bill has passed the Democratic-controlled Assembly for several years. Last year, DeFrancisco's bill failed to make it to the floor of the Senate for a vote, but it has the support of Insurance Committee Chairman Guy Velalla, who is co-sponsor.