Down-to-the-wire in Albany

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ALBANY — With about two weeks left in New York's legislative session, insurance lobbyists are cautiously optimistic that the issues they have been promoting will pass in the eleventh hour. With the budget debate eating up so much time, concern is that the Senate and Assembly won't agree on a number of workers compensation and auto insurance bills before the session ends.

"I think legislators are finally starting to see the problems and the need for legislation to be enacted, but whether they get these things done before summer remains to be seen," said Michael Barrett, legislative representative for the Independent Insurance Agents of New York.

Barrett said the issue that most concerns him is the package bill that includes New York's Fair Plan, flex rating for auto insurance and two percent non-renewal plans for auto insurance (S 3467 and A 4527). The Senate and Assembly's versions are different enough to cause friction over the issue in what is already a tense session.

Ellen Kiehl, assistant executive director of Professional Insurance Agents of New York, said she is exercising patience with the legislative tension. She is pleased with how the past years of lobbying by the insurance industry appears to be paying off this year, even if it is still only a first step.

"This year has been much different than prior years in that we were still educating people," she said. "This year no one is still in the dark that there is a problem, and everyone agrees that there is one and we have support from some of the major players in the Senate."

The issue Kiehl thinks needs change most urgently is the Labor Law regarding liability for property owners and general contractors (S 1710 and A 7213).

Currently under New York law contract liability is such that if a worker is hurt, no matter what the situation is, the contractor is responsible.

John Cucci, vice president of the Northeast region for the Alliance of American Insurers, illustrated what he thinks is absurd about the current law.

"Even if a worker brought his own ladder with broken rungs and put it on an icy slope the contractor is still liable if that worker is injured," he said.

He said although it is a great step that legislators know more about this issue, something needs to be done, and fast.

"This is almost at a crisis point now and it looks like nothing this session is going to be done about it to make it contributory negligence," he said. "It's a crisis that is now brewing that will be a super-crisis next year.

Cucci also expressed concern about auto insurance fraud bills. Last year the Senate and Assembly both passed anti-fraud bills but no final agreement was reached. Cucci said this issue is also coming to the 'super-crisis' level.

Cucci said the cost of fraud was $9 per vehicle in 1999, when the AAI began tracking it. In 2002 the cost of fraud was estimated as $124 per vehicle.

"By 2004 it will be $321 per vehicle," he said. "Something needs to happen with this. Last year the two houses couldn't agree. The Senate's version is good, but in the Assembly's version there were some poison pills."

The poison pills he referred to were consumer interest penalty provisions.

Cucci said he would be "pleasantly exhilarated" if any of the bills for which he is lobbying are passed. The only items he said he thinks have a chance are the changes to New York captive insurance law (S 2374) sought by Governor Pataki.

Kiehl said she's not so sure on that one.

"On the Assembly side there's a much simpler bill in that would do what needs to be done in New York City in the captive area," she said, "and the difference signals that there's a major difference between the two houses as far as what their preference would be."

Barrett said it's too soon to tell whether this session will end up favorably for the insurance industry.

"We think the auto issues and the workers comp issues are critical issues and we would like to see them done now," he said. "The longer you put them off, the more deterioration you're going to have in the marketplace." ❐