

[Keep the Faith New York!](#)

Much to our disappointment and not for lack of trying by a statewide alliance of dedicated advocates, the state legislature again recessed for the year without giving New York insurance consumers an important right that exists in most other states: The assurance that if a person has to hire a lawyer to collect policy benefits that are being unfairly withheld, they will be reimbursed for their lawyer's fees and won't have to pay those fees out of the withheld benefits. As things stand now, the law doesn't provide this assurance, so insurers have a giant advantage over their New York customers, and that's not a healthy economic equation.

Two bills that would have created a more balanced relationship between insurers and insureds in New York; [S4049](#) (Lanza) and [S29A](#) (DeFrancisco), made it farther toward passage than ever before. They passed the Assembly and were voted out of the Senate Insurance Committee, over the objection of the Committee Chair. But they did not make it to the Senate Floor for a vote before recess.

UP thanks the following Senators who voted YES to get the bills out of committee for a full vote: [Hon. John J. Flanagan](#), [Hon. John J. Bonacic](#), [Hon. David Carlucci](#), [Hon. John DeFrancisco](#), [Hon. William J. Larkin](#), [Hon. Kenneth P. LaValle](#), [Hon. Carl L. Marcellino](#), [Hon. Michael F. Nozzolio](#), [Hon. Dean G. Skelos](#), [Hon. David J. Valesky](#), [Hon. Andrea Stewart-Cousins](#), [Hon. Martin Malave Dilan](#), [Hon. Adriano Espaillat](#), [Hon. Ruth Hassell-Thompson](#), [Hon. Liz Krueger](#), [Hon. Velmanette Montgomery](#), [Hon. Betty Little](#), and [Hon. Michael Gianaris](#). The following voted NO: [Hon. Hugh T. Farley](#), [Hon. Kemp Hannon](#), [Hon. James L. Seward](#), [Hon. Catharine Young](#), and [Hon. Neil D. Breslin](#).

A historic coalition of Republican and Democrat New York residents and consumer advocates, led by United Policyholders, (UP), The New York Public Adjuster's Association, (NYPIA), and the [New York State Trial Lawyers Association, \(NYSTLA\)](#) worked long hours and weekends in the final weeks of the session to bring out key facts and information and counter a blizzard of industry lobbying. Sandy survivors from the boroughs and Long Island called and wrote to their legislators and participated in a news conference at Manhattan's City Hall. UP's Superstorm Sandy Long Term Recovery partners; Adopt a House, the Brooklyn Long Term Recovery Group, the Disaster Clinic at Touro Law School and NYLAG pitched in. Our

coalition partners share our frustration at the outcome and our dedication to try again next session.

[As we previously blogged](#), New York is one of a very small handful of states which does not recognize a private right of action for tortious breach of an insurance contract. In nearly every other state, when an insurance company delays, denies, or otherwise acts unreasonably in the adjusting of your insurance claim, you can hold the insurance company accountable and the law will require that your attorney's fees are paid by the insurance company, rather than coming out of your insurance money. Insurance industry lobbyists hauled out their well-honed tactics to kill the bills: Scaring lawmakers about rate increases and mischaracterizing the bills as [creating a windfall for trial lawyers](#).

The truth is...as Executive Director Bach [said on WCNY](#), "This is not about the lawyers, it's about the people." People who have paid good money for their insurance policies and simply need the basic right to use the legal system – if need be – to get an insurer to honor their obligations under those policies. Trust us, the last thing loss victims want is to have to initiate a lawsuit while they're trying to get back on their feet after a loss. And as long as insurers honor their promises, New Yorkers won't even need to exercise this basic right. But they deserve to have it, and the protection it provides in our profit-driven insurance system.

With our coalition partners, we will try again next session, and we intend to prevail.