

## BALLOT ISSUE DEBATE

### Referendum Measure 67

The legislature pass Engrossed Substitute Senate Bill 5726 concerning insurance fair conduct related to claims for coverage or benefits and voters have filed a sufficient referendum petition on this bill.

This bill would make it unlawful for insurers to unreasonably deny certain coverage claims, and permit treble damages plus attorney fees for that and other violations. Some health insurance carriers would be exempt.

### Law would punish only insurers that illegally delay, deny claims

**Y**ou buy insurance to protect yourself, your family, your home and your business. You pay your premiums on time and you expect your insurance company to honor its commitment in your darkest hour. But that doesn't always happen. Just ask Tara Sadler of Selah.

In 2004, Sadler was hurt when the car she was in had to stop abruptly to avoid colliding with a van driven by a criminal who was fleeing police. Her head whipped forward and then snapped back. Sadler wound up with a herniated disc that was pushing against her spinal cord. She had neck and shoulder pain on her right side and her arm went numb. Doctors said Sadler needed immediate surgery or she could become permanently disabled.

State Farm, her insurance company, said she would have to wait. They wanted her to see an insurance company-approved doctor.

It took six months before Sadler was able to see a State Farm-approved doctor. Even after the State Farm doctor recommended the same neck surgery as her own doctor, the insurance company stalled for two more weeks.

By the time Sadler had her surgery she could barely walk, she couldn't turn her head or even hold a pen. A second surgery a week later did not help. Sadler is now in a wheelchair.



**Terry Abeyta**

Sadler was a third-generation State Farm customer, but State Farm treated her like a second-class citizen.

Referendum 67 would make it illegal for an insurance company to delay or deny a legitimate claim like Sadler's. It would also create an incentive for insurance companies to treat people fairly and give good insurance companies an edge in the market place. Only companies engaged in unfair and illegal tactics would suffer court-approved penalties under the new law. Referendum 67 also covers all insurance except health insurance disputes, which are covered by the state's Patients' Bill of Rights. Referendum 67 will protect consumers who purchase disability insurance, auto insurance, life insurance, homeowner's insurance, property/casualty insurance, long-term care insurance and small business insurance.

The insurance industry plays with people's lives as they make profits off the claims they refuse to pay. The cost to consumers is huge, not just in cases such as Sadler's, but in lost wages, unpaid bills, destroyed credit, lost business and mortgages that go into default.

Every year in Washington more than 4,100 people file complaints with the Office of the Insurance Commissioner because their claims have been unfairly delayed or denied by insurance companies.

The Office of the Insurance Commissioner does oversee a taxpayer-funded fraud unit to investigate and prosecute all aspects of insurance fraud. Consumers, however, have few remedies outside of registering a complaint with OIC against the insurance company. The Insurance Commissioner has no legal authority to require an insurance company to pay individual claims.

Right now in the state of Washington there is no real penalty for insurance companies that wrongfully deny claims. Insurance companies know this and some routinely abuse the system. They play the game of delay and denial until the consumer is worn down and either gives up the fight or goes to court. Either way, the insurance company comes out ahead because they earn interest on the money they are not paying to consumers. Even if the consumer wins, the insurance company only pays the original amount of the claim. There is no penalty for their bad-faith behavior.

The industry trend to wrongfully delay and deny claims has been documented by independent investigations from news organizations like CNN, the New York Times, industry insiders and consumer groups across the nation.

Referendum 67 would allow the courts to assess triple the damages if a valid claim is unreasonably delayed or denied by an insurance company.

Listen to the rhetoric of the opponents of Referendum 67 and it's bound to be confusing. Out-of-state insurance companies have spent more than \$8 million to confuse voters on the merits of Referendum 67 with an onslaught of TV and radio advertising. They charge that our insurance rates will increase if we approve 67. The only way Referendum 67 will cost insurance companies a dime is if they actively engage in illegal behavior against consumers.

The majority of states in America have statutes creating penalties against insurance companies for first-party bad-faith actions, but Washington is among those states that do not.

This is why Referendum 67 has earned the support of Gov. Chris Gregoire, Insurance Commissioner Mike Kreidler and more than 35 organizations across the state, including seniors, consumers, veterans, firefighters and others. Approving Referendum 67 means insurance companies are required to stand by their commitment to policyholders. After all, people who paid their premiums should get what they paid for.

\* **Terry Abeyta** is an attorney representing consumers in the Yakima Valley. He is a former board member of the Washington State Trial Lawyers Association.