The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 PART A

Section 1. Chapter 18-A of the consolidated laws is added to read as follows:
CHAPTER 18-A OF THE CONSOLIDATED LAWS

FINANCIAL REGULATION AND PROTECTION LAW

ARTICLE I

GENERAL PROVISIONS

Section 101. Short title. This chapter shall be known and may be cited as the "financial regulation and protection law".

§ 102. Department of financial regulation. The legislature hereby declares that the purpose of this chapter is to consolidate financial regulation and consumer and investor protection, including enforcement of the insurance and banking laws, under the auspices of a single state agency to be known as the "department of financial regulation".

§ 103. Explanation of order of provisions. In this financial regulation law, the provisions have been divided in descending order of application, with illustrations, as follows:

Article 1

Section 101

Subsection (a)

Paragraph (1)

Subparagraph (A)

Item (i)

Clause (I)

Subitem (aa)

Subclause (aaa)
§ 104. Definitions. (a) In this chapter, unless the context otherwise requires:

(1) "Department" shall mean the department of financial regulation.

(2) "Derivative" shall mean a financial instrument that derives its value from other financial instruments, including traditional securities, assets or market indices.

(3) "Financial fraud" shall mean any fraud or intentional misrepresentation involving a financial product or service or involving any person offering to provide or providing financial products or services, including (A) any fraudulent insurance act or fraudulent life settlement act, as those terms are defined by the insurance law; (B) any fraud as that term is interpreted under the banking law; (C) any violation of state or federal fair debt collection practices; or (D) any act or omission in violation of federal or state fair lending laws.

(4) "Financial product or service" shall mean (A) any product or service offered or provided by any person regulated or required to be regulated by the superintendent pursuant to this chapter, the banking law or the insurance law, or otherwise subject to the investigatory or enforcement authority of the superintendent under this chapter, the insurance law or the banking law; and (B) any investment, credit, debt, lien, deposit, derivative or money management device.

(5) "Person" shall mean any individual, partnership, corporation, association or any other entity.

(6) "Regulated person" shall mean any person operating under a license, registration, certificate or authorization, or authorized, accredited, chartered or incorporated or possessing other similar status under the insurance law or the banking law.
(7) "Superintendent" shall mean the superintendent of financial regulation of this state.

(b) Acts or practices "involving" a financial product or service include acts or practices that relate to: (1) a consumer's financial obligations; (2) the balance of a consumer's account; (3) a consumer's credit; (4) the leasing or financing of a purchase by a consumer; (5) stored value cards and gift certificates; (6) rebates; (7) a consumer's financial and personally identifiable information and (8) sweepstakes.

(c) Whenever the terms "include", "including" or terms of similar import appear in this chapter, unless the context requires otherwise, such terms shall not be construed to imply the exclusion of any person, class or thing not specifically included.

(d) A reference in this chapter to any other law or statute of this state, or of any other jurisdiction, means such law or statute as amended to the effective date of this chapter, and unless the context otherwise requires, as amended thereafter.

ARTICLE II

ORGANIZATION OF THE DEPARTMENT OF FINANCIAL REGULATION

§ 201. Declaration of policy. (a) It is the intent of the legislature that the superintendent shall supervise the business of, and the persons providing, financial products and services, including any persons subject to the provisions of the insurance law and the banking law.
(b) The superintendent shall take such actions as the superintendent believes necessary to:

1. foster the growth of the financial industry in New York through judicious regulation and vigilant supervision;
2. ensure the continued safety, soundness and prudent conduct of the providers of financial products and services;
3. ensure fair, timely and equitable fulfillment of the financial obligations of such providers;
4. protect users of financial products and services from financially impaired or insolvent providers of such services;
5. encourage high standards of honesty, transparency, fair business practices and public responsibility;
6. eliminate financial fraud, other criminal abuse and unethical conduct in the industry; and
7. educate and protect users of financial products and services and ensure that users are provided with timely and understandable information to make responsible decisions about financial products and services.

§ 202. Superintendent. (a) The head of the department shall be the superintendent of financial regulation, who shall be appointed by the governor, by and with the advice and consent of the senate, and who shall hold office until the end of the term of the governor by whom the superintendent was appointed and until the superintendent's successor is appointed and qualified. The superintendent shall possess the rights, powers, and duties, in connection with financial regulation and protection in this state, expressed or reasonably implied by this chapter or any other applicable law of this state.
(b) The superintendent may, in the superintendent's discretion, designate one of the superintendent's deputies to act as superintendent during the superintendent's absence or inability to act. If the office of superintendent is vacant, or if the superintendent's absence or inability to act continues for a period of more than thirty successive days, the governor may designate an individual to act as superintendent until the filling of the vacancy or the return or recovery of the superintendent.

(c) Whenever in this chapter, the banking law, the insurance law or any other law the superintendent is authorized but not required to take any action or the superintendent's approval is required as a condition precedent to the doing of any act, the taking of such action and the giving of such approval shall be within the superintendent's sound discretion. In taking any action with respect to any banking organization, and in approving or disapproving any application made by a banking organization, the superintendent shall give due consideration to the policy of the state of New York as set forth in section ten of the banking law.

§ 203. Deputies; employees. (a) The superintendent may appoint one or more first deputies and such other deputies as the superintendent deems necessary to fulfill the responsibilities of the department. The superintendent may remove at will any deputy appointed by the superintendent, except as may be otherwise provided by the civil service law.

(b) The superintendent may appoint and remove from time to time, in accordance with law and any applicable rules of the state civil service commission, such employees, under such titles as the superintendent may assign, as the superintendent may deem necessary for the efficient administration of the department. They shall perform such duties as the
superintendent shall assign to them. The compensation of such employees shall be determined by the superintendent in accordance with law.

(c) Any action that the superintendent is required or authorized hereinafter by this chapter, the banking law, the insurance law or other laws to take may be taken by a deputy or authorized employee to whom the duty of taking such action has been delegated or assigned by the superintendent.

§ 204. Offices of the department. Suitable offices for conducting the business of the department shall be located in the cities of Albany and New York, and such other cities as the superintendent deems necessary. Necessary additional office, filing and storage space that cannot be supplied by the state commissioner of general services may be leased by the superintendent, and rent or expenses incurred pursuant to any such lease shall, unless otherwise provided for, be paid on the certificate of the superintendent and the audit and warrant of the comptroller.

§ 205. Bureaus. The superintendent may establish such bureaus, divisions, and other units within the department as may be necessary for the administration and operation of the department and the proper exercise of its powers and the performance of its duties, under this chapter, and may, from time to time, consolidate or abolish such divisions, bureaus or other units within the department. Notwithstanding any inconsistent provision of law, the superintendent may determine the official functions of each division, bureau, or other unit within the department. There shall be a head of each bureau, division or other unit to be appointed by the superintendent, who shall serve at the pleasure of the superintendent, except as may be otherwise provided by the civil service law. The heads of bureaus, divisions or units in the banking and insurance departments who are in office when this chapter takes effect shall
continue in office at the pleasure of the superintendent, except as may be otherwise provided by the civil service law.

§ 206. Assessments to defray operating expenses of the department.

(a) For each fiscal year commencing on or after April first, two thousand twelve, assessments to defray operating expenses, including all direct and indirect costs, of the department shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of the insurance law and upon any regulated person under the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this section shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

(b) For each fiscal year commencing on or after April first, two thousand twelve, a partial payment shall be made by each entity subject to this section in a sum equal to twenty-five per centum, or such other per centum or per centums as the superintendent may prescribe, of the annual expenses assessed upon it for the fiscal year as estimated by the superintendent. Such payment shall be made on March tenth of the preceding fiscal year and on June tenth, September tenth and December tenth of each year, or at such other dates as the superintendent may prescribe.
The balance of assessments for the fiscal year shall be paid upon determination of the actual amount due in accordance with the provisions of this section. Any overpayment of annual assessment resulting from complying with the requirements of this subsection shall be applied against the next estimated quarterly assessment, if less than or equal to such amount, with any excess refunded to the assessed. As an alternative, if the estimated annual assessment for the fiscal year is equal to or less than the annual minimum assessment set by the superintendent, the superintendent may require full payment to be made on or before September thirtieth or such other date of the fiscal year as the superintendent may determine.

(c) The expenses incurred in making examinations of, or for special services performed on account of, any bank holding company, as that term is defined in the banking law, or any regulated person under the banking law, shall be assessed provided, however, that the superintendent, in the superintendent's sole discretion, may determine, with respect to expenses incurred in the making of any specific examination or investigation, or the performing of any special services, that any such expense shall be assessed against and paid by the bank holding company or any other regulated person under the banking law for which they were incurred or performed.

(d) The expenses incurred in making an examination of any affiliate of a banking organization pursuant to the banking law, and the expenses incurred in making an examination, pursuant to the banking law, of a non-banking subsidiary of a corporation or any other entity that is an affiliate of a banking organization, shall be assessed against and paid by such banking organization if the affiliate cannot be assessed pursuant to the provisions of the banking law.
(e) The superintendent may, in the superintendent's sole discretion, upon notice, suspend the license, registration, certificate or authority (for purposes of this section, a license) granted to any person pursuant to this chapter, the banking law or insurance law, upon the failure of such person to make any payment required by this section within thirty days after the due date. If the superintendent has suspended any such license, such license may be reinstated if the superintendent determines that such person has made any such payments within ninety days after the date of such notice of suspension. Otherwise, unless the superintendent, in the superintendent's sole discretion, has extended such suspension, the license of such person shall be deemed to be automatically terminated by operation of law at the close of business on such ninetieth day.

(f) (1) The expenses of every examination of the affairs of any regulated person subject to the insurance law, including an appraisal of such regulated person's real property or of any real property on which such regulated person holds a mortgage, made pursuant to the authority conferred by any provision of this chapter, the insurance law or the banking law, shall be borne and paid by the regulated person so examined, but the superintendent, with the approval of the comptroller, may in the superintendent's discretion for good cause shown remit such charges.

(2) (A) For any such examination by the superintendent or a deputy superintendent personally, the charge made shall be only for necessary traveling expenses and other actual expenses. In all other cases the expenses of examination shall also include reimbursement for the compensation paid for the services of persons employed by the superintendent
or by the superintendent's authority to make such examination or appraisal.

(B) Notwithstanding any provisions of this section to the contrary, in case of an examination or appraisal of a domestic insurer made within this state, the traveling and living expense of the person or persons making the examination shall be considered a cost of operation, as referred to in section three hundred thirty-two of the insurance law and not an expense of examination.

(3) All charges, including necessary traveling and other actual expenses, except as hereinabove provided, as audited by the comptroller and paid on the comptroller's warrant in the usual manner by the comptroller to the person or persons making the examination or appraisal, shall be presented to the insurer, or other person whose duty it is to pay the same, in the form of a copy of the itemized bill therefor as certified and approved by the superintendent or by any deputy superintendent or authorized employee of the department. Upon receiving such certified copy the insurer or other person whose duty it is to pay such charges shall pay the amount thereof to the superintendent, to be paid by the superintendent into the state treasury.

ARTICLE III

ADMINISTRATIVE AND PROCEDURAL PROVISIONS

Section 301. Powers of the superintendent.

302. Regulations by superintendent.

303. Orders of superintendent; when writing required.

304. Notice; how given.

305. Hearings; conduct; findings and report.

306. Attendance of witnesses; production of documents and records.
307. Intentionally omitted.

308. Judicial review of orders, regulations and decisions of superintendent.

309. Injunction to restrain violation of this chapter.

310. Certificates as evidence; affirmation of documents and testimony.

§ 301. Powers of the superintendent. (a) The superintendent shall have such powers as are conferred upon the superintendent by this chapter, the banking law, the insurance law or any other law of this state. The superintendent shall have the power to conduct investigations, research, studies and analyses of matters affecting the interests of consumers of financial products and services, including tracking and monitoring complaints.

(b) The superintendent shall protect users of financial products and services, including:

(1) taking such actions as the superintendent deems necessary to educate and protect users of financial products and services;

(2) receiving complaints of consumers of financial products and services, and where appropriate (A) providing direct assistance to consumers and advocacy for consumer interests; (B) mediating the resolution of such complaints with providers of financial products and services; or (C) referring such complaints to the appropriate federal, state or local agency authorized by law for appropriate action on such complaints;

(3) studying the operation of laws and advising and making recommendations to the governor on matters affecting consumers of and investors in financial products and services and promoting and encouraging the
protection of the legitimate interests of users of such financial products and services;

(4) establishing, in consultation with the office of cyber security and critical infrastructure coordination, a process by which victims of frauds, including identity theft and security breaches of financial and other personally identifiable data shall receive assistance and information to resolve complaints; and, in that regard, acting as a liaison between any victim of frauds including identity theft and security breaches, and any state agency, public authority, or any municipal department or agency, the division of state police, and county or municipal police departments, and any non-governmental entity, including consumer credit reporting agencies, to facilitate the victim obtaining such assistance and data as shall enable the identity theft program to carry out its duties to help consumers resolve the problems that have resulted from the identity theft;

(5) cooperating with, assisting and, when appropriate, referring matters to the attorney general in the carrying out of the attorney general's legal enforcement responsibilities for the protection of consumers of and investors in financial products and services;

(6) initiating and encouraging consumer financial education programs, and disseminating materials to educate users of financial products and services; and

(7) cooperating with and assisting local governments and not-for-profits in the development of consumer protection measures with respect to financial products and services.

(c) The powers conferred upon the superintendent pursuant to this article with respect to financial products and services includes acts
and practices involving financial products and services, as defined in article one of this chapter.

§ 302. Regulations by superintendent. (a) The superintendent shall have the power to prescribe and from time to time withdraw or amend, in writing, rules and regulations and issue orders and guidance involving financial products and services, not inconsistent with the provisions of this chapter, the banking law, the insurance law and any other law in which the superintendent is given authority:

(1) effectuating any power, given to the superintendent under the provisions of this chapter, the insurance law, the banking law, or any other law to prescribe forms or make regulations;

(2) interpreting the provisions of this chapter, the insurance law, the banking law, or any other applicable law; and

(3) governing the procedures to be followed in the practice of the department.

(b) Notwithstanding subsection (a) of this section, no such rules or regulations shall be promulgated with respect to any financial product or service that is regulated under the exclusive jurisdiction of a federal agency or authority or substantially regulated by any other state agency or state public authority, or if such rules or regulations would be preempted by federal law.

(c) The superintendent may promulgate a list of financial products and services excluded from regulation by the superintendent, provided that such exclusion shall not limit in any way the ability of the superintendent to take any actions with respect to financial fraud provided for in this chapter, the insurance law, the banking law or any other applicable law.
§ 303. Orders of superintendent; when writing required. Whenever by any provision of this chapter, the insurance law, the banking law or any other applicable law the superintendent is authorized to grant any approval, authorization or permission or to make any other order or determination affecting any person subject to the provisions of this chapter, the insurance law, the banking law or any other law, such order or determination shall not be effective unless made in writing and signed by the superintendent or by the superintendent’s authority.

§ 304. Notice; how given. (a) (1) Whenever the provisions of this chapter, the insurance law, the banking law or any other law require the superintendent to give notice to any person of any action or proposed action, it shall be sufficient to give such notice in writing either by delivering it to such person or by depositing the same in the United States mail, postage prepaid, registered or certified, and addressed to the last known place of business of such person or if no such address is known to the superintendent, then to the residence address of such person. Notice to the public may be given with respect to any matter by providing such notice on the department’s website or in any bulletin of the department required to be published at least weekly and to be made publicly available.

(2) Such notice shall refer to the provisions of this chapter, the insurance law, the banking law or any other applicable law pursuant to which the action was taken or is proposed to be taken and the grounds therefor, but failure to make such reference shall not render the notice ineffective if the person to whom it is addressed is thereby or otherwise reasonably apprised of such grounds.

(3) If the person being notified is entitled to a hearing by the provisions of this chapter, the banking law, the insurance law or any
other law, the notice of proposed action may specify a date on which
such action will be taken unless such person shall notify the super-
intendent in writing that a hearing is demanded; in such case the super-
intendent shall give such person a further notice of the time and place
of such hearing in the manner stated above.

(b) Whenever the provisions of this chapter, the insurance law, the
banking law, or any other law require the superintendent to give to any
person a hearing on any proposed action, it shall be sufficient compli-
ance with such requirement if the superintendent gives to such person:
(1) notice of the time and the place at which an opportunity for hear-
ing will be afforded, and
(2) an opportunity for hearing, if the person appears at the time and
place specified in the notice.

(c) Any hearing of which such notice is given may be adjourned from
time to time without other notice than the announcement thereof at such
hearing.

(d) Whenever any person is entitled to a hearing by the provisions of
this chapter, the insurance law, the banking law, or any other law
before any proposed action is taken, the notice of such proposed action
may, if the superintendent deems it expedient, be in the form of a
notice to show cause stating that such proposed action may be taken
unless such person shows cause at a hearing to be held at a time and
place specified in such notice, why such proposed action should not be
taken.

(e) The statement of any regular salaried employee of the department
of financial regulation, subscribed and affirmed by such employee as
true under the penalties of perjury, stating facts which show that any
notice referred to in this section has been delivered or mailed as
hereinbefore provided, shall be presumptive evidence that such notice has been duly delivered or mailed, as the case may be.

§ 305. Hearings; conduct; findings and report. (a) Unless otherwise provided in this chapter, the banking law, the insurance law or any other law, any hearing pursuant to any such law may be held before the superintendent, any deputy superintendent, or any designated salaried employee of the department authorized by the superintendent for such purpose.

(b) The person conducting such hearing shall have power to administer oaths, examine and cross-examine witnesses and receive documentary evidence, and shall report his findings, orally or in writing, to the superintendent with or without recommendation. Such report, if adopted by the superintendent may be the basis of any determination made by the superintendent. One hundred twenty days after the effective date of a determination of liability for a civil penalty pursuant to section four hundred eight of this chapter or one thousand one hundred two, two thousand one hundred seventeen, two thousand one hundred thirty-three or seven thousand eight hundred sixteen of the insurance law, such determination of liability for a civil penalty may be entered as a judgment and enforced, without court proceedings, in the same manner as the enforcement of a money judgment in civil actions in any court of competent jurisdiction or any other place provided for the entry of civil judgment within this state.

(c) Every such hearing shall be open to the public unless the superintendent or the person authorized by the superintendent to conduct such hearing, shall determine that a private hearing would be in the public interest, in which case the hearing shall be private.
(d) Every person affected shall be allowed to be present during the giving of all the testimony, and shall be allowed a reasonable opportunity to inspect all adverse documentary proof, to examine and cross-examine witnesses, and to present proof in support of the person's interest.

(e) Nothing herein contained shall require the observance at any such hearing of formal rules of pleading or evidence.

§ 306. Attendance of witnesses; production of documents and records.

(a) The superintendent or the person authorized by the superintendent to conduct a hearing or investigation shall have power to subpoena witnesses, compel the attendance of witnesses, administer oaths, examine any person under oath, and to compel any person to subscribe to his or her testimony after it has been correctly reduced to writing, and in connection therewith to require the production of any books, papers, records, correspondence or other documents which the superintendent deems relevant to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules.

(b) No person subject to the provisions of this chapter, the insurance law or the banking law whose conduct, condition or practices are being investigated, and no officer, director or employee of any such person, shall be entitled to witness or mileage fees.

(c) In addition to the liabilities and punishment prescribed by the civil practice law and rules, any person who, without just cause fails or refuses to attend and testify or to answer any lawful inquiry or to produce any books, papers or records in obedience to a subpoena issued by the superintendent shall be guilty of a misdemeanor.

(d) Every regulated person under this chapter, the insurance law or the banking law who is given a notice of hearing pursuant to this chap-
§ 307. Intentionally omitted.

§ 308. Judicial review of orders, regulations and decisions of superintendent. (a) Notwithstanding the specific enumerations of the right to judicial review in this chapter, the insurance law or the banking law, any order, regulation or decision of the superintendent is declared to be subject to judicial review in a proceeding under article seventy-eight of the civil practice law and rules, provided that nothing in this section or article seventy-eight of the civil practice law and rules shall affect the time period provided in the banking law or the insurance law for commencing such proceeding.

(b) Except as provided in section two thousand one hundred twenty-four of the insurance law, the commencement of such proceeding shall not affect the enforcement or validity of the superintendent's order, regulation or decision under review unless the court shall determine, after a preliminary hearing of which the superintendent is notified at least forty-eight hours in advance, that a stay of enforcement pending the proceeding or until further direction of the court will not unduly injure the interests of the people of the state, in which case a stay of execution may be granted.

§ 309. Injunction to restrain violation of this chapter. (a) In addition to such other remedies that are provided under this chapter, the superintendent may maintain and prosecute, in the name of the people of the state, an action against any person subject to this chapter, the
insurance law or the banking law, or the person's officers, directors, trustees or agents or against any person subject to the provisions of this chapter, the insurance law or the banking law, for the purpose of obtaining an injunction restraining such person or persons from doing any acts in violation of the provisions of this chapter, the insurance law or the banking law.

(b) In such action if the court finds that a defendant is threatening or is likely to do any act in violation of this chapter, and that such violation will cause irreparable injury to the interests of the people of this state, the court may grant an injunction restraining such violation. The court may on motion and affidavits grant a preliminary injunction and interlocutory injunction, upon such terms as may be just; but the people of the state shall not be required to give security before the issuance of any such injunction.

§ 310. Certificates as evidence; affirmation of documents and testimony. (a) Every certificate, assignment, conveyance or other paper executed by the superintendent or one of the superintendent's deputies pursuant to law and sealed with the official seal of the department shall be received as evidence in any judicial or other proceeding and may be recorded in the proper recording offices.

(b) Any charter, or any certificate or other instrument supplemental to or amendatory of the charter, of any regulated person filed in the office of the superintendent and containing statements of fact required or permitted by law to be contained therein, shall be received in all courts, public offices and official bodies as prima facie evidence of such facts and of the execution of such instrument.

(c) Whenever by the laws of any jurisdiction other than this state, any certificate by any officer in such jurisdiction or a copy of any
instruments certified or exemplified by any such officer, may be received as prima facie evidence of the incorporation, existence or capacity of any corporation incorporated in such jurisdiction, or claiming so to be, such certificate when exemplified, or such copy of such instrument when exemplified shall be received in all courts, public offices and official bodies of this state, as prima facie evidence with the same force as in such jurisdiction. Such certificate or certified copy of such instrument shall be so received, without being exemplified, if it is certified by the secretary of state, or official performing the equivalent function as to corporate records of such jurisdiction.

(d) Notwithstanding any provision of this chapter, the insurance law or the banking law requiring an oath as to the proof of a document or the truth of testimony, the affiant may, if the affiant's religious beliefs cause the affiant to object to giving an oath, affirm the document or the affiant's testimony.

ARTICLE IV
FINANCIAL FRAUDS PREVENTION

Section 401. Short title.

402. Legislative declaration.

403. Financial frauds and consumer protection unit.

404. Powers of the financial frauds and consumer protection unit.

405. Immunity.

406. Other law enforcement authority, powers and duties not affected or impaired.


408. Civil penalty.

409. Reports.
§ 401. Short title. This article shall be known and may be cited as the "financial frauds prevention act."

§ 402. Legislative declaration. The legislature hereby finds and declares that financial frauds take many forms across multiple industries. The legislature further finds that financial frauds are detrimental to the social and economic well-being of the citizens of this state. In order to more thoroughly uncover, investigate and eliminate the myriad financial frauds that may be perpetrated in, and may involve the people of, New York state, the legislature finds that it is appropriate that the responsibilities of the insurance frauds bureau and the criminal investigations bureau that were administered by the department of insurance and the department of banking, respectively, prior to the enactment of this article, along with the consumer financial protection activities of the consumer protection board be consolidated into a new financial frauds and consumer protection unit under the supervision of the superintendent.

§ 403. Financial frauds and consumer protection unit. (a) The superintendent shall establish a financial frauds and consumer protection unit in the department of financial regulation.

(b) The financial frauds and consumer protection unit shall be a qualified agency, as defined in section eight hundred thirty-five of the executive law, to enforce the provisions of this article and article four of the insurance law.

(c) The superintendent shall have the power to designate employees of the unit as peace officers as defined in section 2.10 of the criminal procedure law. Any such designations made by the superintendent of insurance or the superintendent of banks, as they relate to peace officers within the insurance frauds bureau and the criminal investigations
bureau, made prior to the effective date of this chapter, shall be
deemed continued and will remain effective subject to the discretion of
the superintendent.
(d) The superintendent is authorized to establish within the financial
frauds and consumer protection unit one or more units designated for the
purpose of investigating and preventing fraud in certain specified areas
of the banking, finance and insurance industries.

§ 404. Powers of the financial frauds and consumer protection unit.
(a) The superintendent has authority under this article, the banking
law, the insurance law and other applicable laws to investigate activ-
ities that may constitute financial fraud and to develop evidence there-
on.
(b) If the financial frauds and consumer protection unit has a reason-
able suspicion that a person or entity has engaged, or is engaging, in a
financial fraud or misconduct, then the superintendent, in the enforce-
ment of relevant statutes, may undertake an investigation thereon,
provided, however, that the scope of authority set forth in this section
shall not be deemed to otherwise limit or impair the ability of the
superintendent to assist any other entity in an investigation involving
a violation of law, and provided further that the responsibility and
power to investigate any specific financial frauds or misconduct enumer-
ated in this chapter, the banking law and insurance law shall be
included under the jurisdiction of the financial frauds and consumer
protection unit.

§ 405. Immunity. In the absence of fraud or bad faith, no person shall
be subject to civil liability, and no civil cause of action of any
nature shall arise against such person for any: (a) information
furnished to law enforcement officials, their agents and employees; (b)
information furnished to other persons subject to the provisions of this chapter; and (c) information furnished in reports to the financial frauds and consumer protection unit, its agents or employees or any state agency investigating fraud or misconduct relating to financial fraud, its agents or employees. The superintendent or any employee of the financial frauds and consumer protection unit, in the absence of fraud or bad faith, shall not be subject to civil liability and no civil cause of action of any nature shall arise against the superintendent or any such employee by virtue of the publication of any report or bulletin related to the official activities of the financial frauds and consumer protection unit. Nothing herein is intended to abrogate or modify in any way any common law privilege or immunity heretofore enjoyed by any person.

§ 406. Other law enforcement authority, powers and duties not affected or impaired. This article shall not:

(a) Preempt the authority or relieve the duty of other law enforcement agencies to investigate and prosecute suspected violations of law;

(b) Prevent or prohibit a person from voluntarily disclosing any information concerning violations of this article to any law enforcement agency; or

(c) Limit any of the powers granted elsewhere in the banking law or insurance law or other laws to the superintendent or the department to investigate possible violations of law and take appropriate remedial action.

§ 407. Financial fraud. No person shall commit or attempt to commit financial fraud in this state.

§ 408. Civil penalty. In addition to any civil or criminal liability arising under the provisions of this article, the banking law, the
insurance law or the penal law, the superintendent may collect restitution on behalf of any person suffering economic harm arising from financial fraud and may levy a civil penalty not exceeding five thousand dollars for each violation upon any person, including any regulated person under the banking law or the insurance law and any such regulated person's employees, who is found, after notice and hearing, to have committed a financial fraud or otherwise violated the provisions of this chapter or the regulations thereunder. Nothing in this section shall preclude the superintendent from imposing any disciplinary action against any person, including any regulated person under the banking law or the insurance law and any such regulated person's employees. The term violation shall have the same meaning as that term is interpreted under section three hundred fifty-d of the general business law.

§ 409. Reports. (a) Whenever the superintendent is satisfied that a material financial fraud has been committed or attempted, the superintendent shall report any such violation of law, as the superintendent deems appropriate, to the appropriate licensing agency, the district attorney of the county in which such acts were committed, when authorized by law, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

(b) No later than March fifteenth of each year, beginning in two thousand twelve, the superintendent shall furnish to the governor, the speaker of the assembly and the temporary president of the senate a report describing the activities of the financial fraud and consumer
protection unit. Such report shall describe (1) the unit's efforts with respect to (A) frauds against entities regulated under the banking and insurance laws; and (B) frauds against consumers; (2) the unit's activities to address consumer complaints; and (3) any recommendations of the superintendent with respect to changes of law that are desirable to address gaps in protection. The report may address such other matters relating to the activities of the financial fraud and consumer protection unit as the superintendent believes will be useful to the governor or the legislature.

(c) No later than March fifteenth of each year beginning in the year two thousand twelve, the superintendent shall submit to the governor, the state comptroller, the attorney general, the temporary president of the senate, the speaker of the assembly, the chairpersons of the senate finance and health committees, and the assembly ways and means and health committees, a report summarizing the department's activities to investigate and combat health insurance fraud including information regarding referrals received, investigations initiated, investigations completed, and any other material necessary or desirable to evaluate the department's efforts.

ARTICLE V

RESTRICTIONS ON OFFICERS AND EMPLOYEES OF THE DEPARTMENT

Section 501. Restrictions on officers and employees of the department; penalty.

§ 501. Restrictions on officers and employees of the department; penalty. (a) No officer or employee of the department shall obtain a loan or extension of credit from any regulated person or be interested in any such regulated person as a director, partner, officer, attorney, agent, trustee or employee, or own or deal in, either directly or indi-
rectly, the stocks or obligations of any such regulated person. A violation of the provisions of this section by any officer or employee shall constitute sufficient grounds for his or her removal by the superintendent.

(b) Nothing in this section shall be construed to prohibit any officer or employee from obtaining financing upon his or her primary or secondary residence, provided that the premises securing such loan are occupied by such employee, and further provided that such loan is reported to the department, which shall keep a record thereof. The term "residence," for the purposes of this section, shall mean a single family or two family residence, condominium apartment or cooperative apartment, occupied in whole or in part, by the officer or employee. The term "cooperative apartment" means a residence where ownership is evidenced by certificates of stock or other evidence of an ownership interest in, and a proprietary lease from, a corporation or partnership formed for the purpose of the cooperative ownership of real estate.

(c) Nothing in this section shall be construed to prohibit any officer or employee from: (1) obtaining a loan secured by an assignment of his or her deposit in a banking organization, or an assignment or pledge of his or her shares in a savings and loan association or credit union; (2) accepting financing of an automobile, truck or other personal property from a banking organization or a sales finance company; (3) entering into a premium finance agreement with a premium finance agency; or (4) owning shares of an investment company (mutual fund) that may incidentally invest in the securities of any entity licensed or regulated by the department, provided that the purpose of the investment portfolio of such investment company may not be to invest primarily or exclusively in the securities of banking or insurance entities. For purposes of this
section, investment companies include open-end and closed-end investment
companies and unit investment trusts as those terms are defined in an
Act of Congress entitled "The Investment Company Act of 1940," as
amended.

(d) Nothing in this section shall be construed to prevent any officer
or employee from becoming a policyholder of any insurer or from taking
out a loan under the officer's or employee's insurance policy, or
prevent or impair the ability of the superintendent to act as a liquida-
tor, rehabilitator, or conservator pursuant to article seventy-four of
the insurance law or article thirteen of the banking law.

(e) The superintendent may promulgate policies and procedures for
exempting particular employees, or classes of employees, from investment
restrictions in subsection (a) of this section as to regulated persons
with which such employee or class of employees has no authority or
involvement.

(f) This section shall not apply to investments held in a blind trust
approved by the superintendent or the superintendent's designee.

§ 2. Article 2-B of the banking law is REPEALED.

§ 3. Section 401 of the insurance law is amended to read as follows:
§ 401. Title; legislative declaration and purpose. This article shall
be known and may be cited as the "insurance frauds prevention act".

(a) The legislature finds and declares that the business of insurance
directly and indirectly affects all sectors of the public, business and
government. It further finds that the business of insurance, including
organization and licensing, the issuance of policies, and the adjustment
and payment of claims and losses, involve many transactions which have
potential for abuse and illegal activities.
(b) The superintendent and the department have broad authority under this chapter to investigate activities which may be fraudulent and to develop evidence thereon. This article is intended to permit the full utilization of the expertise of the superintendent and the department so that they may more effectively investigate and discover insurance frauds, halt fraudulent activities and assist and receive assistance from federal and state law enforcement agencies in the prosecution of persons who are parties to insurance frauds.

(c) Arson for insurance fraud is a particularly damaging crime against society, destroying lives, property and neighborhoods. Insurance losses resulting from arson are reflected in higher premiums charged to residents of this state.

[(d)] This article establishes a framework within which the superintendent and the department can more effectively assist in the elimination of arson for insurance fraud. That increased capacity, together with a more effective monitoring of fire loss claims and payments by the insurance industry through centralized reporting and oversight, is intended to make it more difficult to perpetrate the crime of insurance fraud by arson.

§ 4. Section 402 of the insurance law is REPEALED.

§ 5. Subsection (c) of section 403 of the insurance law is REPEALED.

§ 6. Subsection (a) of section 404 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:

(a) If the [insurance frauds bureau] superintendent has reason to believe that a person has engaged in, or is engaging in, an act defined in section 155.05 of the penal law, with respect to personal or commercial insurance transactions, the business of life settlements, section 176.05 or section 176.40 of such law, the superintendent may make such
investment within or without this state as the superintendent deems necessary to aid in the enforcement of this chapter or to determine whether any person has violated or is about to violate any such provision of the penal law.

§ 7. Section 405 of the insurance law, as amended by chapter 499 of the laws of 2009, paragraph 11 of subsection (d) as amended by chapter 11 of the laws of 2010, is amended to read as follows:

§ 405. Reports. (a) Any person licensed or registered pursuant to the provisions of this chapter, and any person engaged in the business of insurance or life settlement in this state who is exempted from compliance with the licensing requirements of this chapter, including the state insurance fund of this state, who has reason to believe that an insurance transaction or life settlement act may be fraudulent, or has knowledge that a fraudulent insurance transaction or fraudulent life settlement act is about to take place, or has taken place shall, within thirty days after determination by such person that the transaction appears to be fraudulent, send to the [insurance frauds bureau] superintendent on a form prescribed by the superintendent, the information requested by the form and such additional information relative to the factual circumstances of the transaction and the parties involved as the superintendent may require. The [insurance frauds bureau] superintendent shall accept reports of suspected fraudulent insurance transactions or fraudulent life settlement acts from any self insurer, including but not limited to self insurers providing health insurance coverage or those defined in section fifty of the workers' compensation law, and shall treat such reports as any other received pursuant to this section.

(b) The [insurance frauds bureau] superintendent shall review each report and undertake such further investigation as [it] the superinten-
dent deems necessary and proper to determine the validity of the allegations.

(c) Whenever the superintendent is satisfied that a material fraud, deceit, or intentional misrepresentation has been committed in an insurance transaction or in the business of life settlements or purported insurance transaction or business of life settlements, he or she shall report any such violation of law to the appropriate licensing agency, the district attorney of the county in which such acts were committed, when authorized by law, to the attorney general, and where appropriate, to the person who submitted the report of fraudulent activity, as provided by the provisions of this article. Within one hundred twenty days of receipt of the superintendent's report, the attorney general or the district attorney concerned shall inform the superintendent as to the status of the reported violations.

(d) No later than March fifteenth of each year, beginning in nineteen hundred ninety-four, the superintendent shall furnish to the governor, the speaker of the assembly and the president pro tem of the senate a report containing:

(1) a comprehensive summary and assessment of the frauds bureau's efforts in discovering, investigating and halting fraudulent activities and assisting in the prosecution of persons who are parties to insurance fraud or life settlement fraud;

(2) the number of reports received from any person or persons engaged in the business of insurance or life settlements, the number of investigations undertaken by the bureau pursuant to any reports received, the number of investigations undertaken not as a result of reports received, the number of investigations that resulted in a referral to a licensing agency, a local prosecutor or the attorney general, the number of such
referrals pursued by a licensing agency, a local prosecutor or the attorney general, and the disposition of such cases;

(3) a delineation of the number of reported and investigated cases by line of insurance and those that relate to life settlements;

(4) a comparison of the frauds bureau's experience, with regard to paragraphs two and three of this subsection, to the bureau's experience of years past;

(5) the total number of employees assigned to the frauds bureau delineated by title and location of bureau assigned;

(6) an assessment of the activities of insurance companies and life settlement providers activities in regard to detecting, investigating and reporting fraudulent activities, including a list of companies which maintain special investigative units for the sole purpose of detecting, investigating and reporting fraudulent activities and the number of investigators assigned to such units per every thirty thousand policies or life settlement contracts in force with such company or provider;

(7) the amount of technical and monetary assistance requested and received by the frauds bureau from any insurance company or companies, any life settlement provider or providers, or any organization funded by insurance companies or life settlement providers;

(8) the amount of money returned by the frauds bureau to insurance companies pursuant to any fraudulent claims that were recouped by the bureau;

(9) the number and amount of civil penalties levied by the frauds bureau pursuant to chapter four hundred eighty of the laws of nineteen hundred ninety-two;

(10) recommendations for further statutory or administrative changes designed to meet the objectives of this article; and
(11) an assessment of law enforcement and insurance company activities
to detect and curtail the incidence of operating a motor vehicle without
proper insurance coverage as required by this chapter and the incidence
of misrepresentation by insureds of the principal place where motor
vehicles are garaged and driven.]

§ 8. Sections 406, 407-a and 410 of the insurance law are REPEALED.

§ 9. Paragraph 1 of subsection (c) of section 409 of the insurance
law, as added by chapter 635 of the laws of 1996, is amended to read as
follows:

(1) interface of special investigation unit personnel with law
enforcement and prosecutorial agencies[, including] and with the [insur-
ance frauds bureau] financial frauds and consumer protection unit of the
[state insurance department] department of financial regulation;

§ 10. Paragraph 1 of subsection (b) of section 411 of the insurance
law, as added by chapter 499 of the laws of 2009, is amended to read as
follows:

(1) interface of special investigations unit personnel with law
enforcement and prosecutorial agencies, including the [insurance frauds
bureau] financial frauds and consumer protection unit in the department;

§ 11. Section 11 of the banking law, as amended by chapter 684 of the
laws of 1938, the section heading as amended by chapter 777 of the laws
of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of
2004 and subdivision 3 as amended by chapter 276 of the laws of 1990, is
amended to read as follows:

§ 11. [Banking department; official] Department of financial regu-
lation; official documents; destruction of documents; official commu-
ications. 1. The [banking] department shall be charged with the execution
of the laws relating to the individuals, partnerships, corporations and
other entities to which this chapter is applicable and shall exercise such powers and perform such duties as are conferred and imposed upon it by this chapter, or by any law of this state. [The principal office of the department shall be in the city of Albany.]

2. Every paper executed by an officer of the department in pursuance of authority conferred by law and sealed with the official seal of the department shall be received in evidence, and may be recorded in the proper recording offices in the same manner and with the same effect as a deed regularly acknowledged.

3. (a) Except as specified in paragraph (b) or (c) of this subdivision, any report expressly required to be rendered to the superintendent under any provision of this chapter, any report of an examination made in accordance with any provision of this chapter, and any oath or declaration of office received by the department shall be retained in such form and for such period as the superintendent finds necessary and proper. After such period the superintendent shall recommend disposal of such material in accordance with the provisions of the arts and cultural affairs law.

(b) Reports made in accordance with section twenty-eight-b of this [chapter] article or pursuant to the rules and regulations of the [banking board] superintendent promulgated in connection with assessing a banking organization's record of performance in meeting the credit needs of local communities within the meaning of section twenty-eight-b of this [chapter] article, including reports expressly required to be rendered to the superintendent and reports of examinations may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law after three years from date of receipt thereof, provided any such report has first been
photographed, microphotographed or otherwise reproduced. Each such reproduction shall be retained in the files of the department for a period of at least fifteen years from the date of the last received report, oath or declaration appearing thereon. After the expiration of such period, such reproduction may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law. Such reproduction thereof shall be deemed, for any purpose, the equivalent of the original of such report. Any such report not so reproduced shall be retained in the files of the department for a period of at least fifteen years from the date of receipt thereof, after which it may be destroyed at the direction of the superintendent and in accordance with the provisions of the arts and cultural affairs law. 

(c) This subdivision shall not apply to any records, documents or correspondence referred to in subdivision four of section six hundred twenty-seven of this chapter.

4. Any communication from the [banking] department to any person, partnership, corporation or other entity may contain a direction that such communication shall be presented to the controlling owners or principal management of such entity, members of such partnership or to the board of directors or trustees of such corporation. A communication containing such direction shall be for the purposes of this chapter an official communication. The superintendent may, in his or her discretion, notify in writing each owner or principal manager of such entity, every member of such partnership and every director or trustee of such corporation of the sending of such a communication and, in that event the notification shall state the date of such communication.

§ 12. Section 12 of the banking law is REPEALED.
§ 12-a. Sections 204, 301, 302, 303, 304, 313, 326 and 327 of the insurance law are REPEALED.

§ 13. Paragraphs 17 and 41 of subsection (a) of section 107 of the insurance law are amended to read as follows:

(17) "Department" means the [insurance] department of financial regulation of this state.

(41) "Superintendent" means the superintendent of [insurance] financial regulation of this state.

§ 13-a. Section 2 of the banking law is amended by adding two new subdivisions 28 and 29 to read as follows:

(28) "Department" means the department of financial regulation of this state.

(29) "Superintendent" means the superintendent of financial regulation of this state.

§ 14. Paragraphs (b) and (e) of subdivision 1 of section 169 of the executive law, paragraph (b) as amended by section 1 of part F of chapter 56 of the laws of 2005, and paragraph (e) as separately amended by section 11 of part A-1 and section 10 of part O of chapter 56 of the laws of 2010, are amended to read as follows:

(b) commissioner of labor, chairman of public service commission, commissioner of taxation and finance, superintendent of [banks] financial regulation, commissioner of criminal justice services, [superintendent of insurance,] and commissioner of parks, recreation and historic preservation;

(e) chairman of state athletic commission, [chairman and executive director of consumer protection board,] director of the office of victim services, chairman of human rights appeal board, chairman of the industrial board of appeals, chairman of the state commission of correction,
members of the board of parole, members of the state racing and wagering board, member-chairman of unemployment insurance appeal board, director of veterans' affairs, and vice-chairman of the workers' compensation board;

$§ 15. Section 332 of the insurance law is REPEALED.$

$§ 16. Section 17 of the banking law is REPEALED.$

$§ 17. Section 13 of the banking law is REPEALED.$

$§ 18. Section 201 of the insurance law is REPEALED.$

$§ 19. Section 202 of the insurance law is REPEALED.$

$§ 20. Article 20 of the executive law is REPEALED.$

$§ 21. Section 192-d of the agriculture and markets law is REPEALED.$

$§ 22. Section 285 of the agriculture and markets law is REPEALED.$

$§ 23. Subdivision 1 of section 5010 of the education law, as amended by chapter 604 of the laws of 1993, is amended to read as follows:

1. An advisory council for registered business and licensed trade schools is hereby created for the purpose of advising the board of regents and the commissioner as provided herein. The council shall be composed of eleven members appointed by the governor, two of whom shall be upon the recommendation of the temporary president of the senate, two of whom shall be upon the recommendation of the speaker of the assembly, one of whom shall be upon the recommendation of the minority leader of the senate and one of whom shall be upon the recommendation of the minority leader of the assembly. Of the five remaining members, one shall be an owner or director of a school regulated pursuant to this article, one shall be a currently enrolled student at the time of appointment or a graduate of such a school who graduated within three years of appointment and one shall be a student advocate. The governor shall designate a chairperson from such members. The commissioner of
education, the president of the higher education services corporation, the [chair of the consumer protection board] superintendent of financial regulation, the comptroller, the director of the division of the budget, and the executive director of the job training partnership council, or their designees, shall serve as ex-officio, non-voting members of the council.

§ 24. Subdivision 1 of section 6-102 of the energy law, as added by chapter 433 of the laws of 2009, is amended to read as follows:

1. There shall be established a state energy planning board, herein-after referred to as the "board", which shall consist of the chair of the public service commission, the commissioner of environmental conservation, the commissioner of economic development, the commissioner of transportation, the commissioner of labor, the director of the state emergency management office, [the chair of the consumer protection board,] the commissioner of health, the president of the New York state urban development corporation, the secretary of state and the president of the New York state energy research and development authority. The governor, the speaker of the assembly and the temporary president of the senate shall each appoint one representative to serve on the board. The presiding officer of the federally designated electric bulk system operator (BSO) shall serve as a non-voting member of the board. Any decision or action by the board shall be by majority vote. The president of the New York state energy research and development authority shall serve as chair of the board. Members of the board may designate an executive staff representative to participate on the board on their behalf.

§ 25. Section 12-101-a of the energy law, as added by chapter 83 of the laws of 1995, is amended to read as follows:
§ 12-101-a. Administration. Notwithstanding any other provision of law, the New York state energy research and development authority shall be deemed to have the responsibility and authority to implement the provisions of this article.

§ 26. Section 17-102 of the energy law, as added by chapter 83 of the laws of 1995, is amended to read as follows:

§ 17-102. Administration. Notwithstanding any other provision of law, the New York state energy research and development authority shall be deemed to have the responsibility and authority to implement the provisions of this article.

§ 27. Paragraph (a) of subdivision 7 of section 208 of the technology law, as amended by chapter 491 of the laws of 2005, is amended to read as follows:

(a) In the event that any New York residents are to be notified, the state entity shall notify the state attorney general, [the consumer protection board,] the department of financial regulation and the state office of cyber security and critical infrastructure coordination as to the timing, content and distribution of the notices and approximate number of affected persons. Such notice shall be made without delaying notice to affected New York residents.

§ 28. Article 14-A of the general business law is REPEALED.

§ 29. Subdivision 1 of section 442-i of the real property law, as added by chapter 248 of the laws of 1995, is amended to read as follows:

1. There is hereby established within the department of state a state real estate board which shall consist of the secretary of state, [the executive director of the consumer protection board] superintendent of financial regulation, and thirteen additional members. At least five of these members shall be "real estate brokers", each of whom, at the time
of appointment, shall be licensed and qualified as a real estate broker under the laws of New York state and shall have been engaged in the real estate business in this state for a period of not less than ten years prior to appointment. The remaining members shall be "public members" who shall not be real estate licensees.

§ 30. Subdivisions 1 and 4 of section 490-a of the general business law are REPEALED and two new subdivisions 1 and 4 are added to read as follows:

1. "Department" means the department of health.

4. "Commissioner" means the commissioner of health.

§ 31. Paragraph (d) of subdivision 1 of section 490-d of the general business law, as added by chapter 553 of the laws of 2008, is amended to read as follows:

(d) Provide notification to the [board] department of such recall or warning.

All notices under this subdivision must include in a clear and conspicuous fashion a description of the product, the reason for the recall or warning, a picture of the product if available, and instructions on how to return or exchange the recalled product. Such notice shall include only the product recall or warning information and may not include sales or marketing information on that product or any other product, excluding return and exchange policies.

§ 32. Paragraph (b) of subdivision 2 of section 490-d of the general business law, as added by chapter 553 of the laws of 2008, is amended to read as follows:

(b) The commercial dealer shall provide to the [board] department certification of disposition for such recalled products within ninety days after the issuance of the recall, unless upon written application
by such dealer the [board] department determines an extension of time is warranted.

§ 33. Sections 490-g and 490-h of the general business law, as added by chapter 553 of the laws of 2008, are amended to read as follows:

§ 490-g. Enforcement. 1. Where it is determined after a hearing that any person has violated one or more provisions of this article, the [director] commissioner may assess a civil penalty no greater than five thousand dollars for each violation. Any proceeding conducted pursuant to this section shall be subject to the state administrative procedure act. Upon the occasion of a second violation or subsequent violations of this article, a civil penalty no greater than fifty thousand dollars may be assessed.

2. The [board] department shall provide the attorney general any information on recalled or unsafe products, complaints regarding recalled or unsafe products and violations of this section that are necessary for the purposes of enforcement by the attorney general pursuant to section sixty-three of the executive law.

3. The [director] commissioner or his or her designee may administer oaths and take affidavits in relation to any matter or proceeding in the exercise of the powers and duties under this article. The [director] commissioner or his or her designee may subpoena and require the attendance of witnesses and the production of books, papers, contracts and any other documents pertaining to any investigation or hearing conducted pursuant to this article.

4. If any person refuses to comply with a subpoena issued under this section, the [board] department may petition a court of competent jurisdiction to enforce the subpoena and such sanctions as the court may direct.
5. Nothing in this section shall be construed to restrict any right
which any person may have under any other statute or at common law.

§ 490-h. Promulgation of rules and regulations. The [board] department
shall promulgate rules and regulations to administer this article.

§ 34. Subdivision 9 of section 349-d of the general business law, as
added by chapter 416 of the laws of 2010, is amended to read as follows:

9. The attorney general, upon his or her own motion or upon referral
from the public service commission, the Long Island power authority or
the [state consumer protection board] department of state, may bring a
civil action against any energy services company that violates any
provision of this section and may recover (a) a civil penalty not to
exceed one thousand dollars per violation; and (b) costs and reasonable
attorney's fees. In any such proceeding the court may direct restitu-
tion.

§ 35. Subdivisions (b) and (c) of section 372 of the general business
law, as added by section 6 of part VV of chapter 59 of the laws of 2009,
are amended to read as follows:

(b) The department shall, in accordance with regulations promulgated
by the commissioner of taxation and finance, produce and make available
to taxpayers and tax preparers an informational flier regarding consum-
ers' rights and laws concerning tax preparers to be called a "consumer
bill of rights regarding tax preparers". The department shall consult
with the [state consumer protection board] department of financial regu-
lation to enhance distribution of fliers to consumers. The flier shall
also be made available on the department and the [state consumer
protection board's] department of financial regulation's internet site,
and shall contain information including, but not limited to, the follow-
ing:
(1) postings required by state and federal laws, such as price posting and posting of qualifications;

(2) explanations of some of the commonly offered services and industry jargon, such as preparation of short and long federal forms, refund, electronic filing, express mail, direct deposit, refund anticipation check, refund anticipation loan, quick, instant, rapid, fast, fee, and interest;

(3) basic information on what a tax preparer is and is not required to do for a consumer, such as the preparer's responsibility to sign a return, that a tax preparer may not be required to accompany a consumer to an audit but the company may have a voluntary policy to accompany consumers to audits; and

(4) the telephone numbers of the department for information and complaints.

The flier shall be in a form which is easily reproducible by photocopy machine.

(c) The department shall coordinate its response to consumer tax preparer complaints with the [state consumer protection board, pursuant to subdivision (b) of section five hundred fifty-three of the executive law] department of financial regulation, as the department deems appropriate.

§ 36. Subdivision (g) of section 380-t of the general business law, as amended by chapter 279 of the laws of 2008, is amended to read as follows:

(g) The [consumer protection board] department of financial regulation shall monitor the state of technology relating to the means available to process requests for the lifting or removal of a security freeze, and shall report to the legislature when it is determined that the technolo-
gy to process requests for the lifting or removal of a security freeze in a shorter period of time than that set forth in subdivision (e) of this section is available.

§ 37. Subdivision 3 of section 390-c of the general business law, as added by chapter 509 of the laws of 2007, is amended to read as follows:

3. The [consumer protection board] department of financial regulation shall establish an internet security website or webpage, that includes, but is not limited to, an explanation of what a firewall is and the importance of other internet security measures.

§ 38. Subdivision 2 of section 399-dd of the general business law, as added by chapter 519 of the laws of 2006, is amended to read as follows:

2. The [consumer protection board, in consultation with the] office of parks, recreation and historic preservation[,] shall promulgate rules and regulations for the design, installation, inspection and maintenance of playgrounds and playground equipment. Those regulations shall substantially comply with the guidelines and criteria which are contained in the handbook for public playground safety produced by the United States consumer products safety commission or any successor. The rules and regulations shall include special provisions for playgrounds appropriate for children within the range of ages in day care settings.

§ 39. Paragraphs a and b of subdivision 1 of section 399-z of the general business law are REPEALED, and two new paragraphs a and b are added to read as follows:

a. "Department" shall mean the department of state.
b. "Secretary" shall mean the secretary of state.

§ 40. Subdivision 4 of section 399-z of the general business law, as amended by chapter 344 of the laws of 2010, is amended to read as follows:
4. a. The [board] department is authorized to establish, manage, and maintain a no telemarketing sales calls statewide registry which shall contain a list of customers who do not wish to receive unsolicited telemarketing sales calls. The [board] department may contract with a private vendor to establish, manage and maintain such registry, provided the private vendor has maintained national no telemarketing sales calls registries for more than two years, and the contract requires the vendor to provide the no telemarketing sales calls registry in a printed hard copy format and in any other format as prescribed by the [board] department.

b. The [board] department is authorized to have the national "do-not-call" registry established, managed and maintained by the federal trade commission pursuant to 16 C.F.R. Section 310.4 (b) (1) (iii) (B) serve as the New York state no telemarketing sales calls statewide registry provided for by this section. The [board] department is further authorized to take whatever administrative actions may be necessary or appropriate for such transition including, but not limited to, providing the telephone numbers of New York customers registered on the no telemarketing sales calls statewide registry to the federal trade commission, for inclusion on the national "do-not-call" registry.

§ 41. Subdivisions 6, 7 and 8 of section 399-z of the general business law, subdivisions 6 and 8 as amended and subdivision 7 as added by chapter 344 of the laws of 2010, are amended to read as follows:

6. a. The [board] department shall provide notice to customers of the establishment of the national "do-not-call" registry. Any customer who wishes to be included on such registry shall notify the federal trade commission as directed by relevant federal regulations.
b. Any company that provides local telephone directories to customers in this state shall inform its customers of the provisions of this section by means of publishing a notice in such local telephone directories.

7. When the [board] department has reason to believe a telemarketer has engaged in repeated unlawful acts in violation of this section, or when a notice of hearing has been issued pursuant to subdivision eight of this section, the [board] department may request in writing the production of relevant documents and records as part of its investigation. If the person upon whom such request was made fails to produce the documents or records within thirty days after the date of the request, the [board] department may issue and serve subpoenas to compel the production of such documents and records. If any person shall refuse to comply with a subpoena issued under this section, the [board] department may petition a court of competent jurisdiction to enforce the subpoena and such sanctions as the court may direct.

8. a. Where it is determined after hearing that any person has violated one or more provisions of this section, the [director] secretary, or any person deputized or so designated by him or her may assess a fine not to exceed eleven thousand dollars for each violation.

b. Any proceeding conducted pursuant to paragraph a of this subdivision shall be subject to the state administrative procedure act.

c. Nothing in this subdivision shall be construed to restrict any right which any person may have under any other statute or at common law.

§ 42. Subdivision 1 of section 791 of the general business law, as amended by chapter 133 of the laws of 1999, is amended to read as follows:
1. There is created within the department a hearing aid dispensing advisory board which shall consist of thirteen members to be appointed by the secretary: four of whom shall be non-audiologist hearing aid dispensers who shall have been engaged in the business of dispensing hearing aids primarily in this state for at least five years immediately preceding their appointment, two to be appointed upon the recommendation of the governor, one to be appointed upon the recommendation of the temporary president of the senate and one to be appointed upon the recommendation of the speaker of the assembly; four members shall be audiologists who are engaged in the dispensing of hearing aids for at least five years immediately preceding their appointment, two to be appointed upon the recommendation of the governor, one to be appointed upon the recommendation of the temporary president of the senate and one to be appointed upon the recommendation of the speaker of the assembly; two shall be otolaryngologists; and the remaining three members, none of whom shall derive nor have derived in the past economic benefit from the business of dispensing hearing aids, shall be from the resident lay public of this state who are knowledgeable about issues related to hearing loss. At least one lay member shall be an individual representing adults over the age of fifty. At least one of the lay members shall be a hearing aid user. Of the otolaryngologists and lay members, one shall be appointed by the secretary on the recommendation of the minority leader of the senate and one shall be appointed by the secretary on the recommendation of the minority leader of the assembly and three shall be appointed by the secretary on the recommendation of the governor. Each member of the board shall be appointed for a term of two years. Any member may be appointed for additional terms. In the event that any member shall die or resign during his or her term, a successor shall be
appointed in the same manner and with the same qualifications as set
forth in this section. A member may be reappointed for successive terms
but no member shall serve more than a total of ten years. The secretary
or the designee of the secretary shall serve in an ex officio non-voting
position. The secretary shall serve as chairperson. The commissioner of
education, the commissioner of health, [the chair and executive director
of the consumer protection board] and the attorney general or their
designees shall serve as non-voting ex officio members.

§ 43. Paragraph (a) of subdivision 8 of section 899-aa of the general
business law, as amended by chapter 491 of the laws of 2005, is amended
to read as follows:

(a) In the event that any New York residents are to be notified, the
person or business shall notify the state attorney general, the [consumer
protection board,] department of financial regulation and the state
office of cyber security and critical infrastructure coordination as to
the timing, content and distribution of the notices and approximate
number of affected persons. Such notice shall be made without delaying
notice to affected New York residents.

§ 44. Subdivision (c) of section 3217 of the insurance law is amended
to read as follows:

(c) Prior to the issuance of regulations pursuant to this section,
the superintendent shall afford the public, including the companies
affected thereby, reasonable opportunity for comment and shall obtain
the views, in writing, of the commissioner of health [and the chairman
of the consumer protection board].

§ 45. Paragraph (a) of subdivision 1 of section 1898 of the public
authorities law, as added by chapter 487 of the laws of 2009, is amended
to read as follows:
(a) the president of the authority; the secretary of state; the commissioner of housing and community renewal; the commissioner of labor; the commissioner of temporary and disability assistance; [the chair of the consumer protection board;] the chair of the department of public service; the president of the power authority of the state of New York; the president of the Long Island power authority; the commissioner of economic development; the commissioner of environmental conservation; or the designees of such persons; and

§ 46. Section 2803-s of the public health law, as added by chapter 539 of the laws of 2010, is amended to read as follows:

§ 2803-s. Access to product recall information. The commissioner shall require that every hospital and birth center distribute at the time of pre-booking or admission directly to each maternity patient and, upon request, to the general public an informational leaflet. Such leaflet shall be designed by the commissioner [in conjunction with the executive director of the state consumer protection board, on behalf of the state consumer protection board,] and shall contain information detailing how parents or guardians of infants and children can subscribe to the United States consumer product safety commission's e-mail subscription lists to receive consumer product recall and safety news by e-mail from the United States consumer product safety commission and such other material as deemed appropriate by the commissioner. Such leaflet shall be made available to hospitals and birth centers by the department on its website and shall be provided in English, as well as the top six languages other than English spoken in the state according to the latest available data from the United States Bureau of Census.

§ 47. Section 24-a of the public service law, as added by chapter 650 of the laws of 1974, is amended to read as follows:
§ 24-a. [1.] Notice to be given to [board] department of state prior to rate increase.

1. Notwithstanding any inconsistent general, special or local law or rule or regulation to the contrary, the commission shall to the extent the [board] department shall so request in any cases or class of cases, give notice to the [board] department of any filed statement proposing to modify or increase rates, services, schedule of rates or any other rating rule or to adopt or amend any rate or service rules or regulations within five days after the commission shall have received such statement from any utility subject to its jurisdiction; provided, however, that in lieu of giving such notice, the commission may direct that the utility give such notice to the [board] department.

2. In any such case in which the [board] department shall file with the commission a statement of intent to be a party, the [board] department shall have and in its discretion may exercise all the rights and privileges of a party.

3. For the purposes of this section, [the term "board" shall mean the state consumer protection board,] the term "commission" shall mean the public service commission.

§ 48. Section 71 of the public service law, as amended by chapter 217 of the laws of 1978, is amended to read as follows:

§ 71. Complaints as to quality and price of gas and electricity; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village, the town board of a town or the chief executive officer or the legislative body of a county in which a person or corporation is authorized to manufacture, convey, transport, sell or supply gas or electricity for heat, light or power, or upon the complaint in writing of not less than twen-
ty-five customers or purchasers of such gas or electricity, or upon the complaint in writing of the [state consumer protection board] department of state, or upon a complaint of a gas corporation or electrical corporation supplying or transmitting said gas or electricity, as to the illuminating or heating power, purity or pressure or the rates, charges or classifications of service of gas, the efficiency of the electric incandescent lamp supply, the voltage of the current supplied for light, heat or power, or the rates charged or classification of service of electricity sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the works, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such gas or electricity, and may examine or cause to be examined the books and papers of such person, or corporation pertaining to the manufacture, sale, transmitting and supplying of such gas or electricity. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaints shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their places of residence, by street and number, if any.

§ 49. Section 84 of the public service law, as amended by chapter 650 of the laws of 1974, is amended to read as follows:

§ 84. Complaints as to service and price of steam heat; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of the city, the trustees of a village or the town board of a town in which a person or corporation is authorized to manufacture, sell or supply steam for heat or power, or upon the complaint in writing of
not less than fifty customers or purchasers of such steam heat in cities of the first or second class, or of not less than twenty-five in cities of the third class, or of not less than ten elsewhere, or upon the complaint in writing of the [state consumer protection board] department of state, as to the price, pressure or efficiency of steam supplied for heat or power, sold and delivered in such municipality, the commission shall investigate as to the cause for such complaint. When such complaint is made, the commission may, by its agents, examiners and inspectors, inspect the work, system, plant, devices, appliances and methods used by such person or corporation in manufacturing, transmitting and supplying such steam, and may examine or cause to be examined the books and papers of such person or corporation pertaining to the manufacture, sale, transmitting and supplying of such steam. The form and contents of complaints made as provided in this section shall be prescribed by the commission. Such complaint shall be signed by the officers, or by the customers, purchasers or subscribers making them, who must add to their signatures their place of residence, by street and number, if any.

§ 50. Section 89-i of the public service law, as amended by chapter 651 of the laws of 1974, is amended to read as follows:

§ 89-i. Complaints as to price of water; investigation by commission; forms of complaints. Upon the complaint in writing of the mayor of a city, the trustees of a village or the town board of a town in which a person or corporation is authorized to supply or distribute water for domestic, commercial or public uses, or upon the complaint in writing of not less than twenty-five customers or purchasers of such water in such municipality or upon complaint of a water-works corporation supplying such water, as to the rates, charges or classifications of service for
water sold and delivered in such municipality, or upon the complaint in
writing of the [state consumer protection board] department of state, or
as to the methods employed in furnishing such service, the commission
shall investigate as to the cause of such complaint. When such complaint
is made, the commission may, by its agents, examiners and inspectors,
inspect the works, system, plant, devices, appliances and methods used
by such water-works corporation in supplying and distributing such
water, and may examine or cause to be examined the books and papers of
such water-works corporation pertaining to the supplying and distribut-
ing of such water. The form and contents of complaints made as provided
in this section shall be prescribed by the commission. Such complaints
shall be signed by the officers, or by the customers, purchasers or
subscribers making them, who must add to their signatures their places
of residence, by street and number, if any.

§ 51. Subdivision 3 of section 96 of the public service law, as
amended by chapter 650 of the laws of 1974, is amended to read as
follows:

3. Complaints may be made to the commission by the [state consumer
protection board] department of state or by any person or corporation
aggrieved, by petition or complaint in writing, setting forth any act
done or omitted to be done by any telegraph corporation or telephone
corporation alleged to be in violation of the terms or conditions of its
franchise or charter or of any order of the commission. Upon the presen-
tation of such a complaint the commission shall cause a copy thereof to
be forwarded to the person or corporation complained of which may be
accompanied by an order directed to such person or corporation requiring
that the matters complained of be satisfied or that the charges be
answered in writing within a time to be specified by the commission. If
the person or corporation complained of shall make reparation for any
injury alleged and shall cease to commit or permit the violation of law,
franchise, charter or order charged in the complaint, if any there be,
and shall notify the commission of that fact before the time allowed for
answer, the commission need take no further action upon the charges. If,
however, the charges contained in such petition be not thus satisfied
and it shall appear to the commission that there are reasonable grounds
therefor, it shall investigate such charges in such manner and by such
means as it shall deem proper and take such action within its powers as
the facts in its judgment justify.

§ 52. Paragraph 2 of subdivision (n) of section 1817 of the tax law,
as amended by section 30 of subpart I of part V-I of chapter 57 of the
laws of 2009, is amended to read as follows:

(2) The commissioner, [in cooperation with the state consumer
protection board,] shall monitor the prices charged by persons engaged
in the retail sale or distribution of motor fuel and diesel motor fuel.

§ 53. Section 97-www of the state finance law, as added by chapter 547
of the laws of 2000, is amended to read as follows:

§ 97-www. [1.] Consumer protection account. 1. There is hereby estab-
lished in the joint custody of the state comptroller and the commissi-
er of taxation and finance an account within the miscellaneous special
revenue fund to be known as the "consumer protection account."

2. Such account shall consist of all [fees and] penalties received by
the [state consumer protection board] department of state and the super-
intendent of financial regulation pursuant to [article ten-B of the
personal property law,] section three hundred ninety-nine-z of the
general business law, all penalties received by the superintendent
pursuant to section four hundred eight of the financial regulation and
protection law and any additional monies appropriated, credited or 
transferred to such account by the Legislature. Any interest earned by 
the investment of monies in such account shall be added to such account, 
become part of such account, and be used for the purposes of such 
account.

3. Monies in the account shall be available to the [state consumer 
protection board for the payment of costs of producing and distributing 
educational materials and conducting educational activities relating to 
the promotion of the "unsolicited telemarketing sales call registry" and 
all related costs and expenditures incurred in the administration of 
section three hundred ninety-nine-z of the general business law and 
article ten-B of the personal property law] department of financial 
regulation for all costs and expenditures related to its consumer and 
investor protection activities.

4. Monies in the account shall be paid out of the account on the audit 
and warrant of the state comptroller on vouchers certified or approved 
by the [state consumer protection board] department of financial regu-
lation or any officer or employee designated by the [executive director] 
superintendent of financial regulation.

§ 54. Intentionally omitted.

§ 55. Paragraph 1 of subsection (c) of section 109 of the insurance 
law is amended to read as follows:

(1) If the superintendent finds after notice and hearing that any 
authorized insurer, representative of [such] the insurer, licensed 
insurance agent, licensed insurance broker [or], licensed adjuster, or 
any other person or entity licensed, certified, registered, or author-
ized pursuant to this chapter, has wilfully violated the provisions of 
this chapter[, he] or any regulation promulgated thereunder, then the
superintendent may order [such insurer, representative, agent, broker, or adjuster, as the case may be,] the person or entity, except for a person or entity licensed pursuant to article twenty-one or sixty-eight of this chapter, to pay to the people of this state a penalty in a sum not exceeding [five hundred] one thousand dollars for each [such] offense. The superintendent may order any person or entity licensed pursuant to article twenty-one or sixty-eight of this chapter to pay to the people of this state a penalty in a sum not exceeding two thousand five hundred dollars for each offense.

§ 56. Section 203 of the insurance law is REPEALED.

§ 57. Section 209 of the insurance law is REPEALED.

§ 58. Section 210-a of the insurance law is REPEALED.

§ 59. Section 211 of the insurance law is REPEALED.

§ 60. Section 212 of the insurance law is REPEALED.

§ 61. Section 214 of the insurance law, as added by chapter 77 of the laws of 2008, is amended to read as follows:

§ 214. Report on insurance agent licensing examinations. The superintendent shall perform a study of the insurance agent licensure examinations required pursuant to section two thousand one hundred three of this chapter. The study shall, at a minimum, include the total number of examinees, the passing rate of all examinees, and the mean scores on the examination. Additionally, the study shall examine the correlation between these statistics and the applicants' native language, level of education, gender, race and ethnicity. The study shall be completed by [January first] March fifteenth, two thousand [nine] eleven, and annually thereafter.

§ 62. Subsection (d) of section 308 of the insurance law is REPEALED.

§ 63. Sections 498-a and 562 of the banking law are REPEALED.
§ 64. Section 337 of the insurance law, as added by chapter 647 of the laws of 1992, is amended to read as follows:

§ 337. Annual consumer guide on automobile insurance. (a) [No later than October first of each year, beginning in nineteen hundred ninety-three, the] The superintendent shall [publish and make available, free of charge to the public,] issue and update, as necessary, a consumer guide on private passenger automobile insurance that shall contain comprehensive [and updated] information written in plain language in a clear and understandable format, including the following:

(1) an annual ranking of automobile insurers: (A) including an analysis of private passenger insurers in the state which provides, in detail, a ranking of such insurers from best to worst based on each insurer's record of consumer complaints during the preceding calendar year, using criteria available to the department, adjusted for volume of insurance written; and (B) taking into consideration the corresponding total of claims improperly denied in whole or in part, consumer complaints found to be valid in whole or in part, and any other pertinent data which would permit the department to objectively determine an insurer's performance; and (C) the superintendent may note, to the extent relevant, actions taken by the department against an insurer for violating any law or regulation;

(2) a list of makes and models of automobiles that generally do not meet underwriting guidelines of automobile insurers or in regard to which consumers can expect to pay higher premiums as a result of an automobile's style, model type or other distinguishing features, except that specific insurers shall not be identified for purposes of such list;
(3) an explanation of all types of automobile insurance required by law and available as optional coverage, including policyholders' rights under these types of coverage and when making claims;

(4) an explanation of and information on the automobile insurance plan established pursuant to article fifty-three of this chapter, including how motorists in such plan should proceed in attempting to obtain insurance in the voluntary market;

(5) [representative information on the availability and costs of automobile insurance from insurers for rating territories in the state, for classes of drivers, including information on premium credit and surcharge practices;

(6)] recommendations as to how best to shop for and compare prices, service and quality of automobile insurance coverage;

[(7)] (6) an explanation of prohibited discriminatory practices applying to insurance companies, agents and brokers; and

[(8)] (7) a department toll free consumer hot-line through which consumers may initiate complaints, and request general information, about automobile insurance.

(b) The requirements set forth in subsection (a) of this section may be satisfied by separate or supplemental publications and updates.

(c) The superintendent shall [provide for the adequate distribution and availability of] post the consumer guide on automobile insurance on the department's website. [Appropriate copies of the guide shall be transmitted to the commissioner of motor vehicles for distribution at every department of motor vehicle local and district office in the state and to the commissioner of education for distribution to every public]
library in the state, where copies of the guide shall be made available free of charge to the public.]}

§ 65. Section 338 of the insurance law is REPEALED.

§ 66. Section 339 of the insurance law is REPEALED.

§ 67. Section 402 of the insurance law is REPEALED.

§ 68. Intentionally omitted.

§ 69. Section 2102 of the insurance law is amended by adding a new subsection (g) to read as follows:

(g) Any person, firm, association or corporation who or that violates this section shall be subject to a penalty not to exceed five hundred dollars for each transaction, except as provided in paragraph two of subsection (a) of this section.

§ 70. Subsection (g) of section 2117 of the insurance law is amended to read as follows:

(g) Any person, firm, association or corporation violating any provision of this section shall, in addition to any other penalty provided by law, forfeit to the people of the state the sum of five hundred dollars for [the first offense, and an additional sum of five hundred dollars for each month during which any such person, firm, association or corporation shall continue to act in violation of this section] each transaction.

§ 71. Subsection (b) of section 2402 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:

(b) "Defined violation" means the commission by a person of an act prohibited by: subsection (a) of section one thousand one hundred two, section one thousand two hundred fourteen, one thousand two hundred seventeen, one thousand two hundred twenty, one thousand three hundred thirteen, subparagraph (B) of paragraph two of subsection (i) of section
§ 72. Section 2706 of the insurance law is REPEALED.

§ 73. Intentionally omitted.

§ 74. Intentionally omitted.

§ 75. Intentionally omitted.

§ 76. Section 5514 of the insurance law is REPEALED.

§ 77. Subsection (d) of section 7006 of the insurance law is REPEALED.

§ 78. Subdivision 47 of section 2.10 of the criminal procedure law, as added by chapter 720 of the laws of 1981 is amended to read as follows:
47. Employees of the [insurance frauds bureau of the state] department of [insurance] financial regulation when designated as peace officers by the superintendent of [insurance] financial regulation and acting pursuant to their special duties as set forth in article three of the financial regulation and protection law; provided, however, that nothing in this subdivision shall be deemed to authorize such officer to carry, possess, repair or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law.

§ 78-a. Subdivision 61 of section 2.10 of the criminal procedure law, as added by chapter 321 of the laws of 1992, is REPEALED.

§ 79. Subdivision 1 of section 1370-b of the public health law, as amended by section 5 of part A of chapter 58 of the laws of 2009, is amended to read as follows:

1. The New York state advisory council on lead poisoning prevention is hereby established in the department, to consist of the following, or their designees: the commissioner; the commissioner of labor; the commissioner of environmental conservation; the commissioner of housing and community renewal; the commissioner of children and family services; the commissioner of temporary and disability assistance; the secretary of state; [the superintendent of insurance;] and fifteen public members appointed by the governor. The public members shall have a demonstrated expertise or interest in lead poisoning prevention and at least one public member shall be representative of each of the following: local government; community groups; labor unions; real estate; industry; parents; educators; local housing authorities; child health advocates; environmental groups; professional medical organizations and hospitals. The public members of the council shall have fixed terms of three years; except that five of the initial appointments shall be for two years and
five shall be for one year. The council shall be chaired by the commissioner or his or her designee.

§ 80. Paragraph (b) of subdivision 1 of section 2553 of the public health law, as amended by chapter 231 of the laws of 1993, is amended to read as follows:

(b) The council shall consist of [twenty-seven] twenty-six members, unless otherwise required by federal law, appointed by the governor. At least five members shall be parents, four of whom shall be parents of children with disabilities aged twelve or younger and one of whom shall be the parent of a child with disabilities aged six or younger; at least five shall be representatives of public or private providers of early intervention services; at least one shall be involved in personnel preparation or training; at least two shall be early intervention officials; at least two shall be members of the legislature; [seven] six shall be the commissioner and the commissioners of education, social services, [mental retardation and] people with developmental disabilities, mental health, alcoholism and substance abuse services [and the superintendent of insurance], or their appropriate designees with sufficient authority to engage in policy planning and implementation on behalf of their agencies.

§ 81. The opening paragraph of subdivision 1 of section 4602 of the public health law, as amended by chapter 401 of the laws of 2003, is amended to read as follows:

The continuing care retirement community council is hereby established, to consist of the following, or their designees: the attorney general; the commissioner; [the superintendent of insurance;] the director of the office for the aging; and eight public members appointed by the governor with the advice and consent of the senate. Such public
members shall be representative of the public, and have a demonstrated expertise or interest in continuing care retirement communities; provided that no more than one such member shall be a sponsor, owner, operator, manager, member of a board of directors, or shareholder of a continuing care retirement community. At least two public members shall be residents of a continuing care retirement community. At least one of the public members shall be a representative of an organization with demonstrated experience in representing the interests of senior citizens. The public members of the council shall have fixed terms of four years. The council shall be chaired by the commissioner or his or her designee.

§ 82. Paragraph 5 of subsection (a) of section 11 of the tax law, as amended by section 19 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(5) "Department" - the department of [insurance] financial regulation; provided, however, that "department" shall mean the department of economic development with regard to any application, certification, report, submission, filing or other action required or governed by this section occurring on or after August first, two thousand eleven.

§ 83. Paragraph 12 of subsection (a) of section 11 of the tax law, as amended by section 19 of part A of chapter 63 of the laws of 2005, is amended to read as follows:

(12) "Superintendent" - the superintendent of [insurance] financial regulation; provided, however, that "superintendent" shall mean the commissioner of economic development with regard to any application, certification, report, submission, filing or other action required or governed by this section occurring on or after August first, two thousand eleven.
§ 84. Subsection (j) of section 11 of the tax law is REPEALED.

§ 85. Subdivision 1 of section 20 of chapter 784 of the laws of 1951, constituting the New York state defense emergency act, as amended by chapter 641 of the laws of 1978, is amended to read as follows:

1. There is hereby continued in the division of military and naval affairs in the executive department a state civil defense commission to consist of the same members as the members of the disaster preparedness commission as established in article two-B of the executive law. In addition, the [superintendents] superintendent of [banking and insurance] financial regulation, the chairman of the workers' compensation board and the director of the division of veterans' affairs shall be members. The governor shall designate one of the members of the commission to be the chairman thereof. The commission may provide for its division into subcommittees and for action by such subcommittees with the same force and effect as action by the full commission. The members of the commission, except for those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

§ 86. Section 4 of chapter 610 of the laws of 1995 amending the insurance law, in relation to investments, is hereby REPEALED.

§ 87. Section 3 of the banking law is REPEALED.

§ 88. Subdivisions 3, 4, 5, 7 and 9 of section 12-a of the banking law, as added by chapter 322 of the laws of 2007, are amended to read as follows:

3. Except with respect to a federally permitted power approved pursuant to subdivision four of this section, prior to any state chartered banking institution initially exercising any federally permitted power
pursuant to this section, such banking institution shall make an application individually or with one or more state chartered banking institutions to the superintendent indicating that such institution or institutions intend to exercise such federally permitted power and the basis on which such institution or institutions believe such power is a federally permitted power. [The] If such application meets the requirements of this section, the superintendent shall post such application upon the bulletin board of the department pursuant to section forty-two of this article. After promptly reviewing such application, the superintendent shall determine, consistent with the standards set forth in subdivision five of this section, whether to [recommend to the banking board approval of] approve such application subject to such terms and conditions as [he or she] the superintendent may deem appropriate, in [his or her] the superintendent's sole discretion. Such determination, [and any recommendation to the banking board to approve an application,] shall be made by the superintendent within forty-five days after the posting of such application by the superintendent, provided however that the superintendent may notify the applicant or applicants that the review of the application shall be extended for an additional period of time not exceeding one hundred twenty days after the posting of such application, and provided further that such period of time may be extended for an additional period of time with the written consent of the applicant or applicants. The [banking board] superintendent shall not act upon the [superintendent's recommendation] application prior to thirty days after such application has been posted. If the superintendent shall determine not to [recommend approval] approve of such application, the superintendent shall notify the applicant or applicants in writing that the applicant or applicants may not exercise such federally permitted power. If
the superintendent [determines to recommend approval of such applica-
tion, and the banking board approves such application by adoption of a
resolution,] approves such application, the superintendent shall notify
the applicant or applicants in writing thereof, and the applicant or
applicants may exercise such federally permitted power subject to such
terms and conditions as the [banking board] superintendent may have
approved. [If the banking board declines to approve such application,
the superintendent shall notify the applicant or applicants in writing
thereof.] Notwithstanding any other law, the [banking board, upon the
recommendation of the] superintendent[,] may[, by resolution,] make the
approval of an application under this section applicable to one or more
additional state chartered banking institutions that are qualified to
exercise the same federally permitted powers as the applicant or appli-
cants pursuant to subdivision two of this section, subject to such terms
and conditions as the superintendent shall find necessary and appropri-
ate [and as approved by the banking board].

4. Notwithstanding any other law, the superintendent, in [his or her
sole] the superintendent's discretion, may, when [he or she] the super-
intendent deems it necessary and appropriate after considering the stan-
dards set forth in subdivision five of this section, [recommend to the
banking board that it adopt a resolution authorizing] by order, author-
ize one or more state chartered banking institutions to exercise a
federally permitted power, subject to such terms and conditions as the
superintendent shall find necessary and appropriate [and as approved by
the banking board]. Prior to [making any such recommendation to the
banking board] issuing such order, the superintendent shall post [such
recommendation] notice of the superintendent's intention to issue such
order upon the bulletin board of the department pursuant to section
forty-two of this article, and [the banking board] shall not act upon such [recommendation] intention prior to thirty days after such [recommendation] notice has been posted.

5. Prior to approving any [recommendation by the superintendent] application or proposal pursuant to subdivision three or four of this section, the [banking board] superintendent shall make a finding that the approval of such [recommendation] application or proposal is:

(i) consistent with the policy of the state of New York as declared in section ten of this article and thereby protects the public interest, including the interests of depositors, creditors, shareholders, stockholders and consumers; and

(ii) necessary to achieve or maintain parity between state chartered banking institutions and their counterpart federally chartered banking institutions with respect to rights, powers, privileges, benefits, activities, loans, investments or transactions.

7. (a) In those instances where state chartered banking institutions are permitted to engage in the business of insurance pursuant to this section, they shall do so subject to [regulation by the department of insurance and pursuant to] all insurance laws, rules, and regulations; provided, however, that the superintendent[, in consultation with the superintendent of insurance,] may exempt state chartered banking institutions from any insurance law, rule or regulation which has been preempted under federal law, rule or regulation for federally chartered banking institutions if such law, rule or regulation has been preempted because it applies to insurance activities of federally chartered banking institutions and not to those of other entities.

(b) In those instances where a federally permitted power authorized pursuant to this section is subject to regulation by an agency, as
defined in subdivision one of section one hundred two of the state administrative procedure act, other than the superintendent, [banking board or superintendent of insurance,] then when a state chartered banking institution exercises such federally permitted power, unless it is so authorized by other New York state law, or a rule, regulation or policy adopted pursuant to such other New York state law, or by a judicial decision, it shall do so subject to such regulation to the same extent and in the same manner as such agency regulates entities other than state chartered banking institutions, except to the extent that federally chartered banking institutions are not subject to such regulation.

(c) Except with respect to a credit unemployment insurance policy, group credit life insurance policy, a group credit health, group credit accident or group credit health and accident policy, or similar group credit insurance covering the person of the insured, state chartered banking institutions, federally chartered banking institutions, and any person soliciting the purchase of or selling insurance on the premises thereof, must disclose or cause to be disclosed in writing, where practicable, in clear and concise language, to their customers and prospective customers who are solicited therefor that any insurance offered or sold:

(i) is not a deposit;

(ii) is not insured by the federal deposit insurance corporation or the national credit union share insurance fund, as applicable; and

(iii) is not guaranteed by the state chartered banking institution or the federally chartered banking institution.

(d) Except with respect to a flood insurance policy, or a credit unemployment insurance policy, group credit life insurance policy, a group


credit health, group credit accident or group credit health and accident policy, or similar group credit insurance covering the person of the insured, when a customer obtains insurance and credit from a state chartered banking institution or a federally chartered banking institution, then the credit and insurance transactions shall be completed through separate documents. The expense of insurance premiums may not be included in the primary credit transaction without the express written consent of the customer.

(e) State chartered banking institutions and federally chartered banking institutions shall not extend credit, lease or sell property of any kind, or furnish any services, or fix or vary the consideration for any of the foregoing, on the condition or requirement that the customer obtain insurance from the state chartered banking institution or federally chartered banking institution, its affiliate or subsidiary, or a particular insurer, agent or broker; provided, however, that this prohibition shall not prevent any state chartered banking institution or federally chartered banking institution from engaging in any activity described in this subdivision that would not violate section 106 of the Bank Holding Company Act Amendments of 1970 (12 USCA §1971 et seq.), as interpreted by the Board of Governors of the Federal Reserve System. This prohibition shall not prevent a state chartered banking institution or federally chartered banking institution from informing a customer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent upon the customer's procurement of acceptable insurance, or that insurance is available from the state chartered banking institution or federally chartered banking institution; provided, however, that the state chartered banking institution or federally chartered banking institution shall also inform the customer
in writing that his or her choice of insurance provider shall not affect
the state chartered banking institution's or federally chartered banking
institution's credit decision or credit terms in any way. Such disclo-
sure shall be given prior to or at the time that a state chartered bank-
ing institution or federally chartered banking institution or person
selling insurance on the premises thereof solicits the purchase of any
insurance from a customer who has applied for a loan or extension of
credit.

(f) No state chartered banking institution or federally chartered
banking institution shall require a debtor, insurer, or insurance agent
or broker to pay a separate charge in connection with the handling of
insurance that is required in connection with a loan or other extension
of credit or the provision of another traditional banking product solely
because the insurance is being provided by an insurance agent or broker
which is not the state chartered banking institution or federally char-
tered banking institution or any subsidiary or affiliate thereof.

(g) Any state chartered banking institution or federally char-
tered banking institution and any subsidiary or affiliate thereof which
is licensed to sell insurance in this state shall maintain separate and
distinct books and records relating to its insurance transactions,
including all files relating to and reflecting consumer complaints, and
such insurance books and records shall be made available to the super-
intendent of insurance for inspection upon reasonable notice.

[9.] Any rules or regulations promulgated by the banking board
pursuant to former sections fourteen-g and fourteen-h of this chapter
prior to September first, two thousand seven, and any resolutions
adopted by the banking board pursuant to this section after September
first, two thousand seven and before the effective date of the chapter
of the laws of two thousand eleven which amended this subdivision,
including any such rules and regulations and resolutions which in
whole or in part impose conditions, qualifications or restrictions on
any federally permitted powers authorized thereby which exceed the
conditions, qualifications or restrictions imposed on the same when
exercised by a federally chartered banking institution, shall remain in
full force and effect on or after such date, unless any such rule or
regulation or resolution is thereafter superseded, modified, or revoked
by the [banking board] superintendent pursuant to the provisions of
subdivisions three and four of this section.

§ 88-a. Subdivision 8 of section 12-a of the banking law is REPEALED.

§ 89. The functions and powers possessed by and all of the obligations
and duties of the banking board, as established pursuant to the banking
law, shall be transferred and assigned to, assumed by and devolved upon
the superintendent.

§ 90. Section 14 of the banking law, as amended by chapter 684 of the
laws of 1938, the opening paragraph, paragraphs (a), (d), (e), and (f)
of subdivision 1 as amended by chapter 315 of the laws of 2008, para-
graphs (b) and (c) of subdivision 1 as amended by chapter 652 of the
laws of 1988, paragraph (cc) of subdivision 1 as amended by chapter 115
of the laws of 1981, paragraph (g) of subdivision 1 as amended and para-
graphs (h), (i), (ii), (k), (m), (n), (o), (p), (q), and (qq) of subdivi-
sion 1 as relettered by chapter 360 of the laws of 1984, paragraph
(i) of subdivision 1 as amended by chapter 766 of the laws of 1975,
paragraph (ii) of subdivision 1 as added by chapter 226 of the laws of
1943, paragraphs (j) and (l) of subdivision 1 as amended by chapter 154
of the laws of 2007, paragraph (s) of subdivision 1 as amended by chap-
ter 613 of the laws of 1993, and paragraph (t) of subdivision 1 as sepa-
rately relettered by chapters 360 and 789 of the laws of 1984, paragraph
(qq) as added by chapter 15 of the laws of 1980, is amended to read as
follows:

§ 14. [Powers of the banking board] Additional powers of the super-
intendent. 1. For the purpose of effectuating the policy declared in
section ten of this article, without limiting any other powers that the
superintendent is permitted by law to exercise, the [banking board]
superintendent shall have the power[, by a three-fifths vote of all its
members,] to make, alter and amend [resolutions,] orders, rules and
regulations not inconsistent with law. Such orders, rules[,] and regu-
lations [and resolutions] shall be brought to the attention of those
affected thereby in a manner [to be] prescribed by [the board] law.
Without limiting the foregoing power, [resolutions] orders or rules or
regulations may be so adopted for the following specific purposes:

(a) To approve organization certificates and articles of association,
private bankers' certificates and applications of foreign corporations
for licenses to do business in this state, [submitted to it by the
superintendent] as provided in this article.

(b) To determine the purposes for which and the extent to which capi-
tal notes or debentures shall be considered and treated as capital stock
of corporate banking organizations; but capital notes or debentures
shall not be considered or treated as capital stock for the purposes of
sections one hundred ten and one hundred eleven of this chapter.

(c) To grant permission to a trust company, including a national bank,
to establish one or more common trust funds upon application and after
inquiry concerning the qualifications of such trust company to maintain
and manage the same, and to regulate the conduct and management of any
common trust fund and for such purpose, but not by way of limitation of
the foregoing power, to prescribe (1) the records and accounts to be kept of such common trust funds; (2) the procedure to be followed in adding moneys to or withdrawing moneys or investments from any such common trust fund; (3) the methods and standards to be employed in determining the value of such common trust funds and of the assets and investments thereof; (4) the maximum amount of moneys of any estate, trust or fund which may be invested in any common trust fund; and (5) the maximum proportionate share of any such common trust fund which may be apportioned to any estate, trust or fund; and in connection with such powers to classify the corporations maintaining such common trust funds according to the population of the city, town or village in which the principal offices of such corporations are respectively located and to prescribe the minimum total of any such common trust fund and the permissible limits of investment therein in accordance with such classification.

(cc) To approve the incorporation by or on behalf of trust companies and national banks with trust powers of a mutual trust investment company to form a medium for the common investment of funds held by trust companies, including national banks, acting as executors, administrators, guardians, inter-vivos or testamentary trustees or committees or conservators either alone or with individual co-fiduciaries, and any amendments of the certificate of incorporation of such mutual trust investment company, and to regulate the conduct and management of such mutual trust investment company and for such purpose, but not by way of limitation of the foregoing power, to prescribe (1) the records and accounts to be kept by such mutual trust investment company; (2) the procedure to be followed in the sale or redemption of stocks or shares therein; (3) the methods and standards to be employed in determining the
value of such shares in the mutual trust investment company and the
assets and investments thereof; and (4) the maximum proportionate shares
of any such mutual trust investment company which may be apportioned or
sold to any one trust company or national bank.
(d) To authorize a bank or a trust company to invest in the capital
stock of, or any other equity interest in, any corporation, partnership,
unincorporated association, limited liability company, or other entity
not included among the corporations or other entities for which invest-
ment in the capital stock or other equity interest is expressly author-
ized by this chapter.
(e) To authorize a savings bank to invest in the capital stock, capi-
tal notes and debentures of a trust company or other corporation, as
provided in article six of this chapter.
(f) To authorize a savings and loan association to invest in the capi-
tal stock, capital notes and debentures of a trust company or other
corporation, as provided in article ten of this chapter.
(g) To prescribe from time to time: (1) the rates of interest which
may be paid on deposits with any banking organization and with any
branch or agency of a foreign banking corporation; and (2) the rates of
dividends which may be paid on shares of any savings and loan associ-
ation or credit union, and to prohibit the payment of such interest or
such dividends by any banking organization or by any branch of a foreign
banking corporation. Interest or dividend rates so prescribed need not
be uniform.
(h) To limit and regulate withdrawals of deposits or shares from any
banking organization, if the [board] superintendent shall find that such
limitation and regulation are necessary because of the existence of
unusual and extraordinary circumstances. [The board shall enter such finding on its records.]

(i) To prescribe from time to time reserves against deposits to be maintained by banks and trust companies pursuant to article three of this chapter; provided that no reserve requirement imposed [by the board] against either time or demand deposits shall require any bank or trust company to maintain total reserves in an amount greater than it would be required to maintain if it were at the time a member of the federal reserve system; and provided further, however, that a bank or trust company not a member of the federal reserve system may be authorized [by the board] to maintain total reserves against deposits in an amount lower than the reserves required by article three of this chapter to be maintained, either in individual cases or by general regulations [of the board] on such basis as the [board] superintendent may deem reasonable or appropriate in view of the character of the business transacted by such bank or trust company.

(ii) To exempt from reserve requirements prescribed by or pursuant to this chapter deposits payable to the United States by any banking organization arising solely as a result of subscriptions made by or through any such banking organization for United States government securities issued under the authority of the second liberty bond act as amended.]

(j) To grant permission to officers, directors, clerks or employees of banks and trust companies to engage in the issue, flotation, underwriting, public sale or distribution at wholesale or retail, or through syndicate participation of stocks, bonds or other similar securities, and to revoke such permission, both as provided in this chapter.
(k) To prescribe the methods and standards to be used (1) in making
the examinations provided for in this chapter, and (2) in valuing the
assets of banking organizations.

(l) To prescribe the form and contents of periodical reports of condi-
tion to be rendered to the superintendent by banks, trust companies,
private bankers and branches of foreign banking corporations, and the
manner of publication of such reports.

(m) To postpone or omit the calling for and rendering of reports
provided for by this chapter if the [board] superintendent shall find
that such postponement or omission is necessary because of the existence
of unusual and extraordinary circumstances. [The board shall enter such
finding on its records.]

(n) To define what is an unsafe manner of conducting the business of
banking organizations.

(o) To define what is a safe or unsafe condition of a banking organ-
ization.

(p) To make variations from the requirements of this chapter, provided
such variations are in harmony with the spirit of the law, if the
[board] superintendent shall find that such variations are necessary
because of the existence of unusual and extraordinary circumstances.
[The board shall enter such finding on its records.]

(q) To establish safe and sound methods of banking and safeguard the
interests of depositors, creditors, shareholders and stockholders gener-
ally in times of emergency.

(qq) To permit any banking organization, national banking association,
federal mutual savings bank, federal savings and loan association and
federal credit union to offer graduated payment mortgages which shall
conform to the provisions of section two hundred seventy-nine of the real property law.

(s) To permit authorized lenders, as defined by section two hundred eighty or two hundred eighty-a of the real property law, to offer reverse mortgage loans which shall conform to the provisions of section two hundred eighty or two hundred eighty-a of the real property law.

(t) To exercise any other power conferred upon the board by law.

2. The board shall consider and make recommendations upon any matter which the superintendent may submit to it for recommendations, and pass upon and determine any matter which he shall submit to it for determination.

3. The board shall submit to the superintendent proposals for any amendments to this chapter which it deems desirable.

§ 91. Whenever the term banking board shall appear in any law or regulation other than a section amended in this act, such term shall be deemed to refer to the superintendent.

§ 92. Section 15 of the banking law is REPEALED.

§ 93. Section 16 of the banking law is REPEALED.

§ 94. Section 9-q of the banking law is REPEALED.

§ 95. Section 6 of chapter 322 of the laws of 2007, amending the banking law relating to the power of banks, private bankers, trust companies, savings banks, savings and loan associations, credit unions and foreign banking corporations to exercise the rights of national banks, federal savings associations, federal credit unions and federal branches and agencies of foreign banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

§ 6. This act shall take effect immediately; provided, however that sections one, two, three and four of this act shall take effect Septem-
ber 1, 2007[; and provided further that sections one, two, three and four of this act shall expire and be deemed repealed September 10, 2011; and provided further that any federally permitted powers approved under section three of this act shall remain in full force and effect on and after such repeal date and shall not be affected by such repeal].

§ 95-a. Section 7 of chapter 3 of the laws of 1997, amending the banking law and the insurance law relating to authorizing the banking board to permit banks and trust companies to exercise the rights of national banks, as amended by chapter 122 of the laws of 2009, is amended to read as follows:

§ 7. This act shall take effect immediately provided that section two of this act shall take effect on the thirtieth day after it shall have become a law and shall apply to violations prescribed in section 44 of the banking law that occur on or after such date[; and provided further that sections one, three, four and five shall expire and be deemed repealed September 10, 2011; and provided further that any rules and regulations promulgated pursuant to sections one, three, four and five shall remain in full force and effect on and after such expiration date and shall not be affected by such expiration date].

§ 96. Subdivision 2 of section 75-g of the banking law is REPEALED.

§ 97. Paragraph b of subdivision 19 of section 42 of the banking law, as added by chapter 322 of the laws of 2007, is amended to read as follows:

b. [Every recommendation to be made to the banking board pursuant to subdivision four of section twelve-a of this article, which shall include a description of the recommended federally permitted power, a reference to the state chartered banking institutions which shall be permitted to exercise such power, and the date of the meeting of the
banking board at which such recommendation is expected to be considered.

The intention of the superintendent to issue an order pursuant to subdivision four of section twelve-a of this article, which shall include a description of the proposed federally permitted power and a reference to the state-chartered banking institutions which shall be permitted to exercise such power.

§ 98. Transfer of powers of the banking and insurance departments. The functions and powers possessed by and all of the obligations and duties of the banking and insurance departments, as established pursuant to the insurance law, the banking law and other laws, shall be transferred and assigned to, and assumed by and devolved upon, the department of financial regulation.

§ 99. Abolition of the banking and insurance departments and the consumer protection board. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and the consumer protection board, as established pursuant to the banking law, the insurance law and other laws, the banking and insurance departments and the consumer protection board shall be abolished.

§ 100. Continuity of authority of the banking and insurance departments. Except as herein otherwise provided, upon the transfer pursuant to this act of the functions and powers possessed by, and all of the obligations and duties of, the banking and insurance departments as established pursuant to the banking law, the insurance law and other laws, to the department of financial regulation as prescribed by this act, for the purpose of succession, all functions, powers, duties and obligations of the department of financial regulation shall be deemed
and be held to constitute the continuation of such functions, powers,
duties and obligations and not a different agency.

§ 101. Transfer of records of the banking and insurance departments
and the consumer protection board. Upon the transfer pursuant to this
act of the functions and powers possessed by and all of the obligations
and duties of the banking and insurance departments and certain of the
obligations and duties of the consumer protection board as established
pursuant to the banking law, the insurance law and other laws, to the
department of financial regulation as prescribed by this act, all books,
papers, records and property pertaining to the banking and insurance
departments and the consumer protection board shall be transferred to
and maintained by the department of financial regulation.

§ 102. Completion of unfinished business of the banking and insurance
departments and the consumer protection board. Upon the transfer pursu-
ant to this act of the functions and powers possessed by and all of the
obligations and duties of the banking and insurance departments and
certain of the functions and powers possessed by and obligations and
duties of the consumer protection board as established pursuant to the
banking law, the insurance law and other laws, to the department of
financial regulation as prescribed by this act, any business or other
matter undertaken or commenced by the banking and insurance depart-
ment and the consumer protection board pertaining to or connected with the
functions, powers, obligations and duties so transferred and assigned to
the department of financial regulation may be conducted or completed by
the department of financial regulation.

§ 103. Terms occurring in laws, contracts or other documents of or
pertaining to the banking and insurance departments and the consumer
protection board. Upon the transfer pursuant to this act of the func-
tions and powers possessed by and all of the obligations and duties of
the banking and insurance departments and certain of the functions and
powers possessed by and obligations and duties of the consumer
protection board as established pursuant to the banking law, the insur-
ance law and other laws, as prescribed by this act, whenever the banking
and insurance departments and the superintendents thereof or the consum-
er protection board and the chairperson and executive director thereof,
the functions, powers, obligations and duties of which are transferred
to the department of financial regulation are referred to or designated
in any law, regulation, contract or document pertaining to the func-
tions, powers, obligations and duties transferred and assigned pursuant
to this act, such reference or designation shall be deemed to refer to
the department of financial regulation and its superintendent. In the
case of any boards or other organizations where the superintendents of
both the banking department and the insurance department both sit, the
references or designations shall be deemed to refer solely to super-
intendent of the department of financial regulation.

§ 104. (a) Wherever the terms "insurance department", "department of
insurance" or "department" appear in the insurance law, such terms are
hereby changed to "department of financial regulation".

(b) Wherever the terms "banking department", "department of banking"
or "department" appear in the banking law, such terms are hereby changed
to "department of financial regulation".

(c) Wherever the terms "insurance department", "department of insur-
ance", "banking department" or "department of banking" appears in the
consolidated or unconsolidated laws of this state other than the banking
law or the insurance law, such terms are hereby changed to "department
of financial regulation".
(d) Wherever the terms "superintendent of insurance" or "superintendent" appear in the insurance law, such terms are hereby changed to "superintendent of financial regulation".

(e) Wherever the terms "superintendent of banks" or "superintendent" appear in the banking law, such terms are hereby changed to "superintendent of financial regulation".

(f) Wherever the terms "superintendent of insurance" or "superintendent of banks" appears in the consolidated or unconsolidated laws of this state other than the banking law or the insurance law, such term is hereby changed to "superintendent of financial regulation".

(g) The legislative bill drafting commission is hereby directed to effectuate this provision, and shall be guided by a memorandum of instruction setting forth the specific provisions of law to be amended. Such memorandum shall be transmitted to the legislative bill drafting commission within sixty days of enactment of this provision. Such memorandum shall be issued jointly by the governor, the temporary president of the senate and the speaker of the assembly, or by the delegate of each.

§ 105. Existing rights and remedies of or pertaining to the banking and insurance departments and consumer protection board preserved. Upon the transfer pursuant to this act of the functions and powers possessed by and all of the obligations and duties of the banking and insurance departments and certain of the functions and powers possessed by and obligations and duties of the consumer protection board as established pursuant to the banking law, the insurance law and other laws, to the department of financial regulation as prescribed by this act, no existing right or remedy of the state, including the banking and insurance
§ 106. Pending actions and proceedings of or pertaining to the banking
or insurance departments or the consumer protection board. Upon the
transfer pursuant to this act of the functions and powers possessed by
and all of the obligations and duties of the banking and insurance
departments and certain of the functions and powers possessed by and
obligations and duties of the consumer protection board as established
pursuant to the banking law, the insurance law and other laws, to the
department of financial regulation as prescribed by this act, no action
or proceeding pending on the effective date of this act, brought by or
against the banking or insurance departments or the superintendents
thereof or the consumer protection board and the chairperson and execu-
tive director thereof shall be affected by any provision of this act,
but the same may be prosecuted or defended in the name of the New York
state department of financial regulation. In all such actions and
proceedings, the New York state department of financial regulation, upon
application to the court, shall be substituted as a party.

§ 107. Continuation of rules and regulations of or pertaining to the
banking and insurance departments and the consumer protection board.
Upon the transfer pursuant to this act of the functions and powers
possessed by and all the obligations and duties of the banking and
insurance departments and certain of the functions and powers possessed
by and obligations and duties of the consumer protection board as estab-
lished pursuant to the banking law, the insurance law and other laws, to
the department of financial regulation as prescribed by this act, all
rules, regulations, acts, orders, determinations, decisions, licenses,
registrations and charters of the banking and insurance departments and
the consumer protection board, pertaining to the functions transferred
and assigned by this act to the department of financial regulation in
force at the time of such transfer, assignment, assumption or devolution
shall continue in force and effect as rules, regulations, acts, determin-
ations and decisions of the department of financial regulation until
duly modified or repealed.

§ 108. Transfer of appropriations heretofore made to the banking and
insurance departments and the consumer protection board. Upon the
transfer pursuant to this act of the functions and powers possessed by
and all of the obligations and duties of the banking and insurance
departments and certain of the functions and powers possessed by and
obligations and duties of the consumer protection board as established
pursuant to the banking law, the insurance law and other laws, to the
department of financial regulation as prescribed by this act, all appro-
priations and reappropriations which shall have been made available as
of the date of such transfer to the banking department or the insurance
department or the consumer protection board or segregated pursuant to
law, to the extent of remaining unexpended or unencumbered balances
thereof, whether allocated or unallocated and whether obligated or unob-
ligated, shall be transferred to and made available for use and expendi-
ture by the department of financial regulation and shall be payable on
vouchers certified or approved by the commissioner of taxation and
finance, on audit and warrant of the comptroller. Payments of liabil-
ities for expenses of personnel services, maintenance and operation
which shall have been incurred as of the date of such transfer by the
banking and insurance departments or the consumer protection board, and
for liabilities incurred and to be incurred in completing its affairs
shall also be made on vouchers certified or approved by the superinten-
dent of the department of financial regulation, on audit and warrant of
the comptroller.

§ 109. Transfer of employees. Provision shall be made for the transfer
of all employees from the banking department and the insurance depart-
ment and certain of the employees of the consumer protection board into
the department of financial regulation. Employees so transferred shall
be transferred without further examination or qualification to the same
or similar titles and shall remain in the same collective bargaining
unit and shall retain their respective civil service classification,
status and rights pursuant to their collective bargaining unit and
collective bargaining agreement.

§ 110. No later than April first, two thousand eleven, the director of
the budget shall notify the superintendent of the level of the depart-
ment's expenses that will be incurred for the fiscal year beginning
April first, two thousand eleven related to the department's regulation
and supervision of the state's banking and insurance industries. Such
notification shall separately detail the department's level of expenses
to be incurred with respect to the regulation and supervision of the
banking industry, the department's level of expenses to be incurred for
regulation and supervision of the insurance industry, and the depart-
ment's level of general expenses that are allocable to both the insur-
ance and banking industries. The superintendent shall subsequently
employ the provisions of section seventeen of the banking law and
section three hundred thirty-two of the insurance law to assess the
department's incurred costs in order to appropriately charge persons or
entities that are licensed, registered, organized, authorized, incorpo-
rated or otherwise formed pursuant to the provisions of the banking law
or insurance law.
§ 111. Coordination of services. In an effort to create greater cost efficiencies and cost savings, the superintendent of financial regulation shall coordinate administrative, clerical and human resource functions, or any other resources and functions, including but not limited to office space and materials and supplies in accordance with the transfer of powers set forth in this act.

§ 112. Provision for acting superintendent. Upon the effective date of this chapter, the governor shall designate an acting superintendent, who shall be entitled to exercise all of the authority of the superintendent until such time as a superintendent shall be confirmed and qualified, provided that the governor shall nominate a superintendent within sixty days of such effective date.

§ 113. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 114. This act shall take effect April 1, 2011; provided, however, that:

(a) sections fifteen and sixteen of this act shall take effect April 1, 2012;

(b) any officer or employee of the department of financial regulation whose holdings as of the close of business on March 31, 2011 conflict with section 501 of the financial regulation and protection law, as added by section one of this act, shall have until April 1, 2012 to dispose of non-conforming holdings or otherwise bring such non-conforming holdings into compliance with such section 501; and
1 (c) the amendments to section 2803-s of the public health law made by
2 section forty-six of this act shall take effect on the same date and in
3 the same manner as chapter 539 of the laws of 2010, takes effect.