

DRAFT LBDC

A BUDGET BILL submitted by the Governor
in accordance with Article VII of the Constitution

AN ACT relating to constituting chapter 18-A of the consolidated laws in relation to financial regulation; to amend the insurance law, the banking law, the executive law, the education law, the energy law, the state technology law, the real property law, the general business law, the public authorities law, the public health law, the public service law, the New York state defense emergency act, the state finance law, the criminal procedure law, the tax law, and chapter 784 of the laws of 1951, constituting the New York state defense emergency act, in relation to the creation of the department of financial regulation; to amend 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, in relation to the effectiveness of certain provisions of such chapter; to transfer certain authority with respect to consumer protection from the executive law to the department of financial regulation; to amend 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, in relation to making certain provisions of such chapter permanent; and to repeal certain provisions of the banking law, the insurance law, the executive law, the agriculture and markets law, the general business law, the tax law, the criminal procedure law and chapter 610 of the laws of 1995, amending the insurance law relating to investments relating to financial regulation and to making technical corrections (Part A)

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

1

PART A

2 Section 1. Chapter 18-A of the consolidated laws is added to read as
3 follows:

1 CHAPTER 18-A OF THE CONSOLIDATED LAWS

2 FINANCIAL REGULATION AND PROTECTION LAW

3 ARTICLE I

4 GENERAL PROVISIONS

5 Section 101. Short title.

6 102. Department of financial regulation.

7 103. Explanation of order of provisions.

8 104. Definitions.

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

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

16 § 103. Explanation of order of provisions. In this financial regu-
17 lation law, the provisions have been divided in descending order of
18 application, with illustrations, as follows:

19 Article 1

20 Section 101

21 Subsection (a)

22 Paragraph (1)

23 Subparagraph (A)

24 Item (i)

25 Clause (I)

26 Subitem (aa)

27 Subclause (aaa)

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

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

4 (2) "Derivative" shall mean a financial instrument that derives its
5 value from other financial instruments, including traditional securi-
6 ties, assets or market indices.

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

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

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

24 (6) "Regulated person" shall mean any person operating under a
25 license, registration, certificate or authorization, or authorized,
26 accredited, chartered or incorporated or possessing other similar status
27 under the insurance law or the banking law.

1 (7) "Superintendent" shall mean the superintendent of financial regu-
2 lation of this state.

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

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

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

17 ARTICLE II

18 ORGANIZATION OF THE DEPARTMENT OF FINANCIAL REGULATION

19 Section 201. Declaration of policy.

20 202. Superintendent.

21 203. Deputies; employees.

22 204. Offices of the department.

23 205. Bureaus.

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

25 § 201. Declaration of policy. (a) It is the intent of the legislature
26 that the superintendent shall supervise the business of, and the persons
27 providing, financial products and services, including any persons
28 subject to the provisions of the insurance law and the banking law.

1 (b) The superintendent shall take such actions as the superintendent
2 believes necessary to:

3 (1) foster the growth of the financial industry in New York through
4 judicious regulation and vigilant supervision;

5 (2) ensure the continued safety, soundness and prudent conduct of the
6 providers of financial products and services;

7 (3) ensure fair, timely and equitable fulfillment of the financial
8 obligations of such providers;

9 (4) protect users of financial products and services from financially
10 impaired or insolvent providers of such services;

11 (5) encourage high standards of honesty, transparency, fair business
12 practices and public responsibility;

13 (6) eliminate financial fraud, other criminal abuse and unethical
14 conduct in the industry; and

15 (7) educate and protect users of financial products and services and
16 ensure that users are provided with timely and understandable informa-
17 tion to make responsible decisions about financial products and
18 services.

19 § 202. Superintendent. (a) The head of the department shall be the
20 superintendent of financial regulation, who shall be appointed by the
21 governor, by and with the advice and consent of the senate, and who
22 shall hold office until the end of the term of the governor by whom the
23 superintendent was appointed and until the superintendent's successor is
24 appointed and qualified. The superintendent shall possess the rights,
25 powers, and duties, in connection with financial regulation and
26 protection in this state, expressed or reasonably implied by this chap-
27 ter or any other applicable law of this state.

1 (b) The superintendent may, in the superintendent's discretion, desig-
2 nate one of the superintendent's deputies to act as superintendent
3 during the superintendent's absence or inability to act. If the office
4 of superintendent is vacant, or if the superintendent's absence or
5 inability to act continues for a period of more than thirty successive
6 days, the governor may designate an individual to act as superintendent
7 until the filling of the vacancy or the return or recovery of the super-
8 intendent.

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

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

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

1 superintendent shall assign to them. The compensation of such employees
2 shall be determined by the superintendent in accordance with law.

3 (c) Any action that the superintendent is required or authorized here-
4 inafter by this chapter, the banking law, the insurance law or other
5 laws to take may be taken by a deputy or authorized employee to whom the
6 duty of taking such action has been delegated or assigned by the super-
7 intendent.

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

16 § 205. Bureaus. The superintendent may establish such bureaus, divi-
17 sions, and other units within the department as may be necessary for the
18 administration and operation of the department and the proper exercise
19 of its powers and the performance of its duties, under this chapter, and
20 may, from time to time, consolidate or abolish such divisions, bureaus
21 or other units within the department. Notwithstanding any inconsistent
22 provision of law, the superintendent may determine the official func-
23 tions of each division, bureau, or other unit within the department.
24 There shall be a head of each bureau, division or other unit to be
25 appointed by the superintendent, who shall serve at the pleasure of the
26 superintendent, except as may be otherwise provided by the civil service
27 law. The heads of bureaus, divisions or units in the banking and insur-
28 ance departments who are in office when this chapter takes effect shall

1 continue in office at the pleasure of the superintendent, except as may
2 be otherwise provided by the civil service law.

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

4 (a) For each fiscal year commencing on or after April first, two thou-
5 sand twelve, assessments to defray operating expenses, including all
6 direct and indirect costs, of the department shall be assessed by the
7 superintendent in such proportions as the superintendent shall deem just
8 and reasonable upon all domestic insurers and all licensed United States
9 branches of alien insurers domiciled in this state within the meaning of
10 the insurance law and upon any regulated person under the banking law,
11 other than mortgage loan originators, except as otherwise provided by
12 sections one hundred fifty-one and two hundred twenty-eight of the work-
13 ers' compensation law and by section sixty of the volunteer firefight-
14 ers' benefit law. The provisions of this section shall not be applicable
15 to a bank holding company, as that term is defined in article three-A of
16 the banking law. Persons regulated under the banking law will not be
17 assessed for expenses that the superintendent deems to benefit solely
18 persons regulated under the insurance law, and persons regulated under
19 the insurance law will not be assessed for expenses that the superinten-
20 dent deems to benefit solely persons regulated under the banking law.

21 (b) For each fiscal year commencing on or after April first, two thou-
22 sand twelve, a partial payment shall be made by each entity subject to
23 this section in a sum equal to twenty-five per centum, or such other per
24 centum or per centums as the superintendent may prescribe, of the annual
25 expenses assessed upon it for the fiscal year as estimated by the super-
26 intendent. Such payment shall be made on March tenth of the preceding
27 fiscal year and on June tenth, September tenth and December tenth of
28 each year, or at such other dates as the superintendent may prescribe.

1 The balance of assessments for the fiscal year shall be paid upon deter-
2 mination of the actual amount due in accordance with the provisions of
3 this section. Any overpayment of annual assessment resulting from
4 complying with the requirements of this subsection shall be applied
5 against the next estimated quarterly assessment, if less than or equal
6 to such amount, with any excess refunded to the assessed. As an alterna-
7 tive, if the estimated annual assessment for the fiscal year is equal to
8 or less than the annual minimum assessment set by the superintendent,
9 the superintendent may require full payment to be made on or before
10 September thirtieth or such other date of the fiscal year as the super-
11 intendent may determine.

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

22 (d) The expenses incurred in making an examination of any affiliate of
23 a banking organization pursuant to the banking law, and the expenses
24 incurred in making an examination, pursuant to the banking law, of a
25 non-banking subsidiary of a corporation or any other entity that is an
26 affiliate of a banking organization, shall be assessed against and paid
27 by such banking organization if the affiliate cannot be assessed pursu-
28 ant to the provisions of the banking law.

1 (e) The superintendent may, in the superintendent's sole discretion,
2 upon notice, suspend the license, registration, certificate or authority
3 (for purposes of this section, a license) granted to any person pursuant
4 to this chapter, the banking law or insurance law, upon the failure of
5 such person to make any payment required by this section within thirty
6 days after the due date. If the superintendent has suspended any such
7 license, such license may be reinstated if the superintendent determines
8 that such person has made any such payments within ninety days after the
9 date of such notice of suspension. Otherwise, unless the superinten-
10 dent, in the superintendent's sole discretion, has extended such suspen-
11 sion, the license of such person shall be deemed to be automatically
12 terminated by operation of law at the close of business on such nineti-
13 eth day.

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

23 (2) (A) For any such examination by the superintendent or a deputy
24 superintendent personally, the charge made shall be only for necessary
25 traveling expenses and other actual expenses. In all other cases the
26 expenses of examination shall also include reimbursement for the compen-
27 sation paid for the services of persons employed by the superintendent

1 or by the superintendent's authority to make such examination or
2 appraisal.

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

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

20 ARTICLE III

21 ADMINISTRATIVE AND PROCEDURAL PROVISIONS

22 Section 301. Powers of the superintendent.

23 302. Regulations by superintendent.

24 303. Orders of superintendent; when writing required.

25 304. Notice; how given.

26 305. Hearings; conduct; findings and report.

27 306. Attendance of witnesses; production of documents and
28 records.

1 307. Intentionally omitted.

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

4 309. Injunction to restrain violation of this chapter.

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

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

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

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

18 (2) receiving complaints of consumers of financial products and
19 services, and where appropriate (A) providing direct assistance to
20 consumers and advocacy for consumer interests; (B) mediating the resol-
21 ution of such complaints with providers of financial products and
22 services; or (C) referring such complaints to the appropriate federal,
23 state or local agency authorized by law for appropriate action on such
24 complaints;

25 (3) studying the operation of laws and advising and making recommenda-
26 tions to the governor on matters affecting consumers of and investors in
27 financial products and services and promoting and encouraging the

1 protection of the legitimate interests of users of such financial
2 products and services;

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

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

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

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

26 (c) The powers conferred upon the superintendent pursuant to this
27 article with respect to financial products and services includes acts

1 and practices involving financial products and services, as defined in
2 article one of this chapter.

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

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

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

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

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

22 (c) The superintendent may promulgate a list of financial products and
23 services excluded from regulation by the superintendent, provided that
24 such exclusion shall not limit in any way the ability of the superinten-
25 dent to take any actions with respect to financial fraud provided for in
26 this chapter, the insurance law, the banking law or any other applicable
27 law.

1 § 303. Orders of superintendent; when writing required. Whenever by
2 any provision of this chapter, the insurance law, the banking law or any
3 other applicable law the superintendent is authorized to grant any
4 approval, authorization or permission or to make any other order or
5 determination affecting any person subject to the provisions of this
6 chapter, the insurance law, the banking law or any other law, such order
7 or determination shall not be effective unless made in writing and
8 signed by the superintendent or by the superintendent's authority.

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

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

27 (3) If the person being notified is entitled to a hearing by the
28 provisions of this chapter, the banking law, the insurance law or any

1 other law, the notice of proposed action may specify a date on which
2 such action will be taken unless such person shall notify the super-
3 intendent in writing that a hearing is demanded; in such case the super-
4 intendent shall give such person a further notice of the time and place
5 of such hearing in the manner stated above.

6 (b) Whenever the provisions of this chapter, the insurance law, the
7 banking law, or any other law require the superintendent to give to any
8 person a hearing on any proposed action, it shall be sufficient compli-
9 ance with such requirement if the superintendent gives to such person:

10 (1) notice of the time and the place at which an opportunity for hear-
11 ing will be afforded, and

12 (2) an opportunity for hearing, if the person appears at the time and
13 place specified in the notice.

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

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

25 (e) The statement of any regular salaried employee of the department
26 of financial regulation, subscribed and affirmed by such employee as
27 true under the penalties of perjury, stating facts which show that any
28 notice referred to in this section has been delivered or mailed as

1 hereinbefore provided, shall be presumptive evidence that such notice
2 has been duly delivered or mailed, as the case may be.

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

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

24 (c) Every such hearing shall be open to the public unless the super-
25 intendent or the person authorized by the superintendent to conduct such
26 hearing, shall determine that a private hearing would be in the public
27 interest, in which case the hearing shall be private.

1 (d) Every person affected shall be allowed to be present during the
2 giving of all the testimony, and shall be allowed a reasonable opportu-
3 nity to inspect all adverse documentary proof, to examine and cross-exa-
4 mine witnesses, and to present proof in support of the person's inter-
5 est.

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

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

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

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

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

27 (d) Every regulated person under this chapter, the insurance law or
28 the banking law who is given a notice of hearing pursuant to this chap-

1 ter shall upon the service of a notice to produce books and records,
2 when attached to the notice of hearing or mailed subsequently thereto in
3 the same manner as the notice of hearing, pursuant to such notice,
4 produce at the hearing the books, records and documents enumerated ther-
5 ein.

6 § 307. Intentionally omitted.

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

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

25 § 309. Injunction to restrain violation of this chapter. (a) In addi-
26 tion to such other remedies that are provided under this chapter, the
27 superintendent may maintain and prosecute, in the name of the people of
28 the state, an action against any person subject to this chapter, the

1 insurance law or the banking law, or the person's officers, directors,
2 trustees or agents or against any person subject to the provisions of
3 this chapter, the insurance law or the banking law, for the purpose of
4 obtaining an injunction restraining such person or persons from doing
5 any acts in violation of the provisions of this chapter, the insurance
6 law or the banking law.

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

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

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

27 (c) Whenever by the laws of any jurisdiction other than this state,
28 any certificate by any officer in such jurisdiction or a copy of any

1 instruments certified or exemplified by any such officer, may be
2 received as prima facie evidence of the incorporation, existence or
3 capacity of any corporation incorporated in such jurisdiction, or claim-
4 ing so to be, such certificate when exemplified, or such copy of such
5 instrument when exemplified shall be received in all courts, public
6 offices and official bodies of this state, as prima facie evidence with
7 the same force as in such jurisdiction. Such certificate or certified
8 copy of such instrument shall be so received, without being exemplified,
9 if it is certified by the secretary of state, or official performing the
10 equivalent function as to corporate records of such jurisdiction.

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

16 ARTICLE IV

17 FINANCIAL FRAUDS PREVENTION

18 Section 401. Short title.

19 402. Legislative declaration.

20 403. Financial frauds and consumer protection unit.

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

23 405. Immunity.

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

26 407. Financial fraud.

27 408. Civil penalty.

28 409. Reports.

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

3 § 402. Legislative declaration. The legislature hereby finds and
4 declares that financial frauds take many forms across multiple indus-
5 tries. The legislature further finds that financial frauds are detri-
6 mental to the social and economic well-being of the citizens of this
7 state. In order to more thoroughly uncover, investigate and eliminate
8 the myriad financial frauds that may be perpetrated in, and may involve
9 the people of, New York state, the legislature finds that it is appro-
10 priate that the responsibilities of the insurance frauds bureau and the
11 criminal investigations bureau that were administered by the department
12 of insurance and the department of banking, respectively, prior to the
13 enactment of this article, along with the consumer financial protection
14 activities of the consumer protection board be consolidated into a new
15 financial frauds and consumer protection unit under the supervision of
16 the superintendent.

17 § 403. Financial frauds and consumer protection unit. (a) The super-
18 intendent shall establish a financial frauds and consumer protection
19 unit in the department of financial regulation.

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

24 (c) The superintendent shall have the power to designate employees of
25 the unit as peace officers as defined in section 2.10 of the criminal
26 procedure law. Any such designations made by the superintendent of
27 insurance or the superintendent of banks, as they relate to peace offi-
28 cers within the insurance frauds bureau and the criminal investigations

1 bureau, made prior to the effective date of this chapter, shall be
2 deemed continued and will remain effective subject to the discretion of
3 the superintendent.

4 (d) The superintendent is authorized to establish within the financial
5 frauds and consumer protection unit one or more units designated for the
6 purpose of investigating and preventing fraud in certain specified areas
7 of the banking, finance and insurance industries.

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

9 (a) The superintendent has authority under this article, the banking
10 law, the insurance law and other applicable laws to investigate activ-
11 ities that may constitute financial fraud and to develop evidence there-
12 on.

13 (b) If the financial frauds and consumer protection unit has a reason-
14 able suspicion that a person or entity has engaged, or is engaging, in a
15 financial fraud or misconduct, then the superintendent, in the enforce-
16 ment of relevant statutes, may undertake an investigation thereon,
17 provided, however, that the scope of authority set forth in this section
18 shall not be deemed to otherwise limit or impair the ability of the
19 superintendent to assist any other entity in an investigation involving
20 a violation of law, and provided further that the responsibility and
21 power to investigate any specific financial frauds or misconduct enumer-
22 ated in this chapter, the banking law and insurance law shall be
23 included under the jurisdiction of the financial frauds and consumer
24 protection unit.

25 § 405. Immunity. In the absence of fraud or bad faith, no person shall
26 be subject to civil liability, and no civil cause of action of any
27 nature shall arise against such person for any: (a) information
28 furnished to law enforcement officials, their agents and employees; (b)

1 information furnished to other persons subject to the provisions of this
2 chapter; and (c) information furnished in reports to the financial
3 frauds and consumer protection unit, its agents or employees or any
4 state agency investigating fraud or misconduct relating to financial
5 fraud, its agents or employees. The superintendent or any employee of
6 the financial frauds and consumer protection unit, in the absence of
7 fraud or bad faith, shall not be subject to civil liability and no civil
8 cause of action of any nature shall arise against the superintendent or
9 any such employee by virtue of the publication of any report or bulletin
10 related to the official activities of the financial frauds and consumer
11 protection unit. Nothing herein is intended to abrogate or modify in any
12 way any common law privilege or immunity heretofore enjoyed by any
13 person.

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

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

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

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

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

27 § 408. Civil penalty. In addition to any civil or criminal liability
28 arising under the provisions of this article, the banking law, the

1 insurance law or the penal law, the superintendent may collect restitu-
2 tion on behalf of any person suffering economic harm arising from finan-
3 cial fraud and may levy a civil penalty not exceeding five thousand
4 dollars for each violation upon any person, including any regulated
5 person under the banking law or the insurance law and any such regulated
6 person's employees, who is found, after notice and hearing, to have
7 committed a financial fraud or otherwise violated the provisions of this
8 chapter or the regulations thereunder. Nothing in this section shall
9 preclude the superintendent from imposing any disciplinary action
10 against any person, including any regulated person under the banking law
11 or the insurance law and any such regulated person's employees. The
12 term violation shall have the same meaning as that term is interpreted
13 under section three hundred fifty-d of the general business law.

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

25 (b) No later than March fifteenth of each year, beginning in two thou-
26 sand twelve, the superintendent shall furnish to the governor, the
27 speaker of the assembly and the temporary president of the senate a
28 report describing the activities of the financial fraud and consumer

1 protection unit. Such report shall describe (1) the unit's efforts with
2 respect to (A) frauds against entities regulated under the banking and
3 insurance laws; and (B) frauds against consumers; (2) the unit's activ-
4 ities to address consumer complaints; and (3) any recommendations of the
5 superintendent with respect to changes of law that are desirable to
6 address gaps in protection. The report may address such other matters
7 relating to the activities of the financial fraud and consumer
8 protection unit as the superintendent believes will be useful to the
9 governor or the legislature.

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

20 ARTICLE V

21 RESTRICTIONS ON OFFICERS AND EMPLOYEES OF THE DEPARTMENT

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

24 § 501. Restrictions on officers and employees of the department;
25 penalty. (a) No officer or employee of the department shall obtain a
26 loan or extension of credit from any regulated person or be interested
27 in any such regulated person as a director, partner, officer, attorney,
28 agent, trustee or employee, or own or deal in, either directly or indi-

1 rectly, the stocks or obligations of any such regulated person. A
2 violation of the provisions of this section by any officer or employee
3 shall constitute sufficient grounds for his or her removal by the super-
4 intendent.

5 (b) Nothing in this section shall be construed to prohibit any officer
6 or employee from obtaining financing upon his or her primary or second-
7 ary residence, provided that the premises securing such loan are occu-
8 pied by such employee, and further provided that such loan is reported
9 to the department, which shall keep a record thereof. The term "resi-
10 dence," for the purposes of this section, shall mean a single family or
11 two family residence, condominium apartment or cooperative apartment,
12 occupied in whole or in part, by the officer or employee. The term
13 "cooperative apartment" means a residence where ownership is evidenced
14 by certificates of stock or other evidence of an ownership interest in,
15 and a proprietary lease from, a corporation or partnership formed for
16 the purpose of the cooperative ownership of real estate.

17 (c) Nothing in this section shall be construed to prohibit any officer
18 or employee from: (1) obtaining a loan secured by an assignment of his
19 or her deposit in a banking organization, or an assignment or pledge of
20 his or her shares in a savings and loan association or credit union; (2)
21 accepting financing of an automobile, truck or other personal property
22 from a banking organization or a sales finance company; (3) entering
23 into a premium finance agreement with a premium finance agency; or (4)
24 owning shares of an investment company (mutual fund) that may inci-
25 dentally invest in the securities of any entity licensed or regulated by
26 the department, provided that the purpose of the investment portfolio of
27 such investment company may not be to invest primarily or exclusively in
28 the securities of banking or insurance entities. For purposes of this

1 section, investment companies include open-end and closed-end investment
2 companies and unit investment trusts as those terms are defined in an
3 Act of Congress entitled "The Investment Company Act of 1940," as
4 amended.

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

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

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

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

19 § 3. Section 401 of the insurance law is amended to read as follows:

20 § 401. Title; legislative declaration and purpose. This article shall
21 be known and may be cited as the "insurance frauds prevention act".

22 (a) The legislature finds and declares that the business of insurance
23 directly and indirectly affects all sectors of the public, business and
24 government. It further finds that the business of insurance, including
25 organization and licensing, the issuance of policies, and the adjustment
26 and payment of claims and losses, involve many transactions which have
27 potential for abuse and illegal activities.

1 (b) [The superintendent and the department have broad authority under
2 this chapter to investigate activities which may be fraudulent and to
3 develop evidence thereon. This article is intended to permit the full
4 utilization of the expertise of the superintendent and the department so
5 that they may more effectively investigate and discover insurance
6 frauds, halt fraudulent activities and assist and receive assistance
7 from federal and state law enforcement agencies in the prosecution of
8 persons who are parties to insurance frauds.

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

13 [(d)] (c) This article establishes a framework within which the super-
14 intendent and the department can more effectively assist in the elimi-
15 nation of arson for insurance fraud. That increased capacity, together
16 with a more effective monitoring of fire loss claims and payments by the
17 insurance industry through centralized reporting and oversight, is
18 intended to make it more difficult to perpetrate the crime of insurance
19 fraud by arson.

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

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

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

24 (a) If the [insurance frauds bureau] superintendent has reason to
25 believe that a person has engaged in, or is engaging in, an act defined
26 in section 155.05 of the penal law, with respect to personal or commer-
27 cial insurance transactions, the business of life settlements, section
28 176.05 or section 176.40 of such law, the superintendent may make such

1 investigation within or without this state as the superintendent deems
2 necessary to aid in the enforcement of this chapter or to determine
3 whether any person has violated or is about to violate any such
4 provision of the penal law.

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

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

27 (b) The [insurance frauds bureau] superintendent shall review each
28 report and undertake such further investigation as [it] the superinten-

1 dent deems necessary and proper to determine the validity of the allega-
2 tions.

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

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

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

23 (2) the number of reports received from any person or persons engaged
24 in the business of insurance or life settlements, the number of investi-
25 gations undertaken by the bureau pursuant to any reports received, the
26 number of investigations undertaken not as a result of reports received,
27 the number of investigations that resulted in a referral to a licensing
28 agency, a local prosecutor or the attorney general, the number of such

1 referrals pursued by a licensing agency, a local prosecutor or the
2 attorney general, and the disposition of such cases;

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

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

8 (5) the total number of employees assigned to the frauds bureau delin-
9 eated by title and location of bureau assigned;

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

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

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

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

27 (10) recommendations for further statutory or administrative changes
28 designed to meet the objectives of this article; and

1 (11) an assessment of law enforcement and insurance company activities
2 to detect and curtail the incidence of operating a motor vehicle without
3 proper insurance coverage as required by this chapter and the incidence
4 of misrepresentation by insureds of the principal place where motor
5 vehicles are garaged and driven.]

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

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

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

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

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

20 § 11. Section 11 of the banking law, as amended by chapter 684 of the
21 laws of 1938, the section heading as amended by chapter 777 of the laws
22 of 1939, subdivisions 1 and 4 as amended by chapter 566 of the laws of
23 2004 and subdivision 3 as amended by chapter 276 of the laws of 1990, is
24 amended to read as follows:

25 § 11. [Banking department; official] Department of financial regu-
26 lation; official documents; destruction of documents; official communi-
27 cations. 1. The [banking] department shall be charged with the execution
28 of the laws relating to the individuals, partnerships, corporations and

1 other entities to which this chapter is applicable and shall exercise
2 such powers and perform such duties as are conferred and imposed upon it
3 by this chapter, or by any law of this state. [The principal office of
4 the department shall be in the city of Albany.

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

10 3.] 2. (a) Except as specified in paragraph (b) or (c) of this subdi-
11 vision, any report expressly required to be rendered to the superinten-
12 dent under any provision of this chapter, any report of an examination
13 made in accordance with any provision of this chapter, and any oath or
14 declaration of office received by the department shall be retained in
15 such form and for such period as the superintendent finds necessary and
16 proper. After such period the superintendent shall recommend disposal of
17 such material in accordance with the provisions of the arts and cultural
18 affairs law.

19 (b) Reports made in accordance with section twenty-eight-b of this
20 [chapter] article or pursuant to the rules and regulations of the [bank-
21 ing board] superintendent promulgated in connection with assessing a
22 banking organization's record of performance in meeting the credit needs
23 of local communities within the meaning of section twenty-eight-b of
24 this [chapter] article, including reports expressly required to be
25 rendered to the superintendent and reports of examinations may be
26 destroyed at the direction of the superintendent and in accordance with
27 the provisions of the arts and cultural affairs law after three years
28 from date of receipt thereof, provided any such report has first been

1 photographed, microphotographed or otherwise reproduced. Each such
2 reproduction shall be retained in the files of the department for a
3 period of at least fifteen years from the date of the last received
4 report, oath or declaration appearing thereon. After the expiration of
5 such period, such reproduction may be destroyed at the direction of the
6 superintendent and in accordance with the provisions of the arts and
7 cultural affairs law. Such reproduction thereof shall be deemed, for any
8 purpose, the equivalent of the original of such report. Any such report
9 not so reproduced shall be retained in the files of the department for a
10 period of at least fifteen years from the date of receipt thereof, after
11 which it may be destroyed at the direction of the superintendent and in
12 accordance with the provisions of the arts and cultural affairs law.

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

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

27 § 12. Section 12 of the banking law is REPEALED.

1 § 12-a. Sections 204, 301, 302, 303, 304, 305, 313, 326 and 327 of the
2 insurance law are REPEALED.

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

5 (17) "Department" means the [insurance] department of financial regu-
6 lation of this state.

7 (41) "Superintendent" means the superintendent of [insurance] finan-
8 cial regulation of this state.

9 § 13-a. Section 2 of the banking law is amended by adding two new
10 subdivisions 28 and 29 to read as follows:

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

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

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

20 (b) commissioner of labor, chairman of public service commission,
21 commissioner of taxation and finance, superintendent of [banks] finan-
22 cial regulation, commissioner of criminal justice services, [superinten-
23 dent of insurance,] and commissioner of parks, recreation and historic
24 preservation;

25 (e) chairman of state athletic commission, [chairman and executive
26 director of consumer protection board,] director of the office of victim
27 services, chairman of human rights appeal board, chairman of the indus-
28 trial board of appeals, chairman of the state commission of correction,

1 members of the board of parole, members of the state racing and wagering
2 board, member-chairman of unemployment insurance appeal board, director
3 of veterans' affairs, and vice-chairman of the workers' compensation
4 board;

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

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

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

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

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

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

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

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

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

15 1. An advisory council for registered business and licensed trade
16 schools is hereby created for the purpose of advising the board of
17 regents and the commissioner as provided herein. The council shall be
18 composed of eleven members appointed by the governor, two of whom shall
19 be upon the recommendation of the temporary president of the senate, two
20 of whom shall be upon the recommendation of the speaker of the assembly,
21 one of whom shall be upon the recommendation of the minority leader of
22 the senate and one of whom shall be upon the recommendation of the
23 minority leader of the assembly. Of the five remaining members, one
24 shall be an owner or director of a school regulated pursuant to this
25 article, one shall be a currently enrolled student at the time of
26 appointment or a graduate of such a school who graduated within three
27 years of appointment and one shall be a student advocate. The governor
28 shall designate a chairperson from such members. The commissioner of

1 education, the president of the higher education services corporation,
2 the [chair of the consumer protection board] superintendent of financial
3 regulation, the comptroller, the director of the division of the budget,
4 and the executive director of the job training partnership council, or
5 their designees, shall serve as ex-officio, non-voting members of the
6 council.

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

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

26 § 25. Section 12-101-a of the energy law, as added by chapter 83 of
27 the laws of 1995, is amended to read as follows:

1 § 12-101-a. Administration. Notwithstanding any other provision of
2 law, the [state consumer protection board] New York state energy
3 research and development authority shall be deemed to have the responsi-
4 bility and authority to implement the provisions of this article.

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

7 § 17-102. Administration. Notwithstanding any other provision of law,
8 the [state consumer protection board] New York state energy research and
9 development authority shall be deemed to have the responsibility and
10 authority to implement the provisions of this article.

11 § 27. Paragraph (a) of subdivision 7 of section 208 of the state tech-
12 nology law, as amended by chapter 491 of the laws of 2005, is amended to
13 read as follows:

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

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

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

24 1. There is hereby established within the department of state a state
25 real estate board which shall consist of the secretary of state, [the
26 executive director of the consumer protection board] superintendent of
27 financial regulation, and thirteen additional members. At least five of
28 these members shall be "real estate brokers", each of whom, at the time

1 of appointment, shall be licensed and qualified as a real estate broker
2 under the laws of New York state and shall have been engaged in the real
3 estate business in this state for a period of not less than ten years
4 prior to appointment. The remaining members shall be "public members"
5 who shall not be real estate licensees.

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

9 1. "Department" means the department of health.

10 4. "Commissioner" means the commissioner of health.

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

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

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

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

26 (b) The commercial dealer shall provide to the [board] department
27 certification of disposition for such recalled products within ninety
28 days after the issuance of the recall, unless upon written application

1 by such dealer the [board] department determines an extension of time is
2 warranted.

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

5 § 490-g. Enforcement. 1. Where it is determined after a hearing that
6 any person has violated one or more provisions of this article, the
7 [director] commissioner may assess a civil penalty no greater than five
8 thousand dollars for each violation. Any proceeding conducted pursuant
9 to this section shall be subject to the state administrative procedure
10 act. Upon the occasion of a second violation or subsequent violations of
11 this article, a civil penalty no greater than fifty thousand dollars may
12 be assessed.

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

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

25 4. If any person refuses to comply with a subpoena issued under this
26 section, the [board] department may petition a court of competent juris-
27 diction to enforce the subpoena and such sanctions as the court may
28 direct.

1 5. Nothing in this section shall be construed to restrict any right
2 which any person may have under any other statute or at common law.

3 § 490-h. Promulgation of rules and regulations. The [board] department
4 shall promulgate rules and regulations to administer this article.

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

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

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

18 (b) The department shall, in accordance with regulations promulgated
19 by the commissioner of taxation and finance, produce and make available
20 to taxpayers and tax preparers an informational flier regarding consum-
21 ers' rights and laws concerning tax preparers to be called a "consumer
22 bill of rights regarding tax preparers". The department shall consult
23 with the [state consumer protection board] department of financial regu-
24 lation to enhance distribution of fliers to consumers. The flier shall
25 also be made available on the department and the [state consumer
26 protection board's] department of financial regulation's internet site,
27 and shall contain information including, but not limited to, the follow-
28 ing:

1 (1) postings required by state and federal laws, such as price posting
2 and posting of qualifications;

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

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

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

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

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

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

25 (g) The [consumer protection board] department of financial regulation
26 shall monitor the state of technology relating to the means available to
27 process requests for the lifting or removal of a security freeze, and
28 shall report to the legislature when it is determined that the technolo-

1 gy to process requests for the lifting or removal of a security freeze
2 in a shorter period of time than that set forth in subdivision (e) of
3 this section is available.

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

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

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

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

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

24 a. "Department" shall mean the department of state.

25 b. "Secretary" shall mean the secretary of state.

26 § 40. Subdivision 4 of section 399-z of the general business law, as
27 amended by chapter 344 of the laws of 2010, is amended to read as
28 follows:

1 4. a. The [board] department is authorized to establish, manage, and
2 maintain a no telemarketing sales calls statewide registry which shall
3 contain a list of customers who do not wish to receive unsolicited tele-
4 marketing sales calls. The [board] department may contract with a
5 private vendor to establish, manage and maintain such registry, provided
6 the private vendor has maintained national no telemarketing sales calls
7 registries for more than two years, and the contract requires the vendor
8 to provide the no telemarketing sales calls registry in a printed hard
9 copy format and in any other format as prescribed by the [board] depart-
10 ment.

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

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

24 6. a. The [board] department shall provide notice to customers of the
25 establishment of the national "do-not-call" registry. Any customer who
26 wishes to be included on such registry shall notify the federal trade
27 commission as directed by relevant federal regulations.

1 b. Any company that provides local telephone directories to customers
2 in this state shall inform its customers of the provisions of this
3 section by means of publishing a notice in such local telephone directo-
4 ries.

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

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

21 b. Any proceeding conducted pursuant to paragraph a of this subdivi-
22 sion shall be subject to the state administrative procedure act.

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

26 § 42. Subdivision 1 of section 791 of the general business law, as
27 amended by chapter 133 of the laws of 1999, is amended to read as
28 follows:

1 1. There is created within the department a hearing aid dispensing
2 advisory board which shall consist of thirteen members to be appointed
3 by the secretary: four of whom shall be non-audiologist hearing aid
4 dispensers who shall have been engaged in the business of dispensing
5 hearing aids primarily in this state for at least five years immediately
6 preceding their appointment, two to be appointed upon the recommendation
7 of the governor, one to be appointed upon the recommendation of the
8 temporary president of the senate and one to be appointed upon the
9 recommendation of the speaker of the assembly; four members shall be
10 audiologists who are engaged in the dispensing of hearing aids for at
11 least five years immediately preceding their appointment, two to be
12 appointed upon the recommendation of the governor, one to be appointed
13 upon the recommendation of the temporary president of the senate and one
14 to be appointed upon the recommendation of the speaker of the assembly;
15 two shall be otolaryngologists; and the remaining three members, none of
16 whom shall derive nor have derived in the past economic benefit from the
17 business of dispensing hearing aids, shall be from the resident lay
18 public of this state who are knowledgeable about issues related to hear-
19 ing loss. At least one lay member shall be an individual representing
20 adults over the age of fifty. At least one of the lay members shall be
21 a hearing aid user. Of the otolaryngologists and lay members, one shall
22 be appointed by the secretary on the recommendation of the minority
23 leader of the senate and one shall be appointed by the secretary on the
24 recommendation of the minority leader of the assembly and three shall be
25 appointed by the secretary on the recommendation of the governor. Each
26 member of the board shall be appointed for a term of two years. Any
27 member may be appointed for additional terms. In the event that any
28 member shall die or resign during his or her term, a successor shall be

1 appointed in the same manner and with the same qualifications as set
2 forth in this section. A member may be reappointed for successive terms
3 but no member shall serve more than a total of ten years. The secretary
4 or the designee of the secretary shall serve in an ex officio non-voting
5 position. The secretary shall serve as chairperson. The commissioner of
6 education, the commissioner of health, [the chair and executive director
7 of the consumer protection board] and the attorney general or their
8 designees shall serve as non-voting ex officio members.

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

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

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

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

26 § 45. Paragraph (a) of subdivision 1 of section 1898 of the public
27 authorities law, as added by chapter 487 of the laws of 2009, is amended
28 to read as follows:

1 (a) the president of the authority; the secretary of state; the
2 commissioner of housing and community renewal; the commissioner of
3 labor; the commissioner of temporary and disability assistance; [the
4 chair of the consumer protection board;] the chair of the department of
5 public service; the president of the power authority of the state of New
6 York; the president of the Long Island power authority; the commissioner
7 of economic development; the commissioner of environmental conservation;
8 or the designees of such persons; and

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

11 § 2803-s. Access to product recall information. The commissioner shall
12 require that every hospital and birth center distribute at the time of
13 pre-booking or admission directly to each maternity patient and, upon
14 request, to the general public an informational leaflet. Such leaflet
15 shall be designed by the commissioner [in conjunction with the executive
16 director of the state consumer protection board, on behalf of the state
17 consumer protection board,] and shall contain information detailing how
18 parents or guardians of infants and children can subscribe to the United
19 States consumer product safety commission's e-mail subscription lists to
20 receive consumer product recall and safety news by e-mail from the
21 United States consumer product safety commission and such other material
22 as deemed appropriate by the commissioner. Such leaflet shall be made
23 available to hospitals and birth centers by the department on its
24 website and shall be provided in English, as well as the top six
25 languages other than English spoken in the state according to the latest
26 available data from the United States Bureau of Census.

27 § 47. Section 24-a of the public service law, as added by chapter 650
28 of the laws of 1974, is amended to read as follows:

1 § 24-a. [1.] Notice to be given to [board] department of state prior
2 to rate increase.

3 1. Notwithstanding any inconsistent general, special or local law or
4 rule or regulation to the contrary, the commission shall to the extent
5 the [board] department shall so request in any cases or class of cases,
6 give notice to the [board] department of any filed statement proposing
7 to modify or increase rates, services, schedule of rates or any other
8 rating rule or to adopt or amend any rate or service rules or regu-
9 lations within five days after the commission shall have received such
10 statement from any utility subject to its jurisdiction; provided, howev-
11 er, that in lieu of giving such notice, the commission may direct that
12 the utility give such notice to the [board] department.

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

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

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

22 § 71. Complaints as to quality and price of gas and electricity;
23 investigation by commission; forms of complaints. Upon the complaint in
24 writing of the mayor of a city, the trustees of a village, the town
25 board of a town or the chief executive officer or the legislative body
26 of a county in which a person or corporation is authorized to manufac-
27 ture, convey, transport, sell or supply gas or electricity for heat,
28 light or power, or upon the complaint in writing of not less than twen-

1 ty-five customers or purchasers of such gas or electricity, or upon the
2 complaint in writing of the [state consumer protection board] department
3 of state, or upon a complaint of a gas corporation or electrical corpo-
4 ration supplying or transmitting said gas or electricity, as to the
5 illuminating or heating power, purity or pressure or the rates, charges
6 or classifications of service of gas, the efficiency of the electric
7 incandescent lamp supply, the voltage of the current supplied for light,
8 heat or power, or the rates charged or classification of service of
9 electricity sold and delivered in such municipality, the commission
10 shall investigate as to the cause for such complaint. When such
11 complaint is made, the commission may, by its agents, examiners and
12 inspectors, inspect the works, system, plant, devices, appliances and
13 methods used by such person or corporation in manufacturing, transmit-
14 ting and supplying such gas or electricity, and may examine or cause to
15 be examined the books and papers of such person, or corporation pertain-
16 ing to the manufacture, sale, transmitting and supplying of such gas or
17 electricity. The form and contents of complaints made as provided in
18 this section shall be prescribed by the commission. Such complaints
19 shall be signed by the officers, or by the customers, purchasers or
20 subscribers making them, who must add to their signatures their places
21 of residence, by street and number, if any.

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

24 § 84. Complaints as to service and price of steam heat; investigation
25 by commission; forms of complaints. Upon the complaint in writing of
26 the mayor of the city, the trustees of a village or the town board of a
27 town in which a person or corporation is authorized to manufacture, sell
28 or supply steam for heat or power, or upon the complaint in writing of

1 not less than fifty customers or purchasers of such steam heat in cities
2 of the first or second class, or of not less than twenty-five in cities
3 of the third class, or of not less than ten elsewhere, or upon the
4 complaint in writing of the [state consumer protection board] department
5 of state, as to the price, pressure or efficiency of steam supplied for
6 heat or power, sold and delivered in such municipality, the commission
7 shall investigate as to the cause for such complaint. When such
8 complaint is made, the commission may, by its agents, examiners and
9 inspectors, inspect the work, system, plant, devices, appliances and
10 methods used by such person or corporation in manufacturing, transmit-
11 ting and supplying such steam, and may examine or cause to be examined
12 the books and papers of such person or corporation pertaining to the
13 manufacture, sale, transmitting and supplying of such steam. The form
14 and contents of complaints made as provided in this section shall be
15 prescribed by the commission. Such complaint shall be signed by the
16 officers, or by the customers, purchasers or subscribers making them,
17 who must add to their signatures their place of residence, by street and
18 number, if any.

19 § 50. Section 89-i of the public service law, as amended by chapter
20 651 of the laws of 1974, is amended to read as follows:

21 § 89-i. Complaints as to price of water; investigation by commission;
22 forms of complaints. Upon the complaint in writing of the mayor of a
23 city, the trustees of a village or the town board of a town in which a
24 person or corporation is authorized to supply or distribute water for
25 domestic, commercial or public uses, or upon the complaint in writing of
26 not less than twenty-five customers or purchasers of such water in such
27 municipality or upon complaint of a water-works corporation supplying
28 such water, as to the rates, charges or classifications of service for

1 water sold and delivered in such municipality, or upon the complaint in
2 writing of the [state consumer protection board] department of state, or
3 as to the methods employed in furnishing such service, the commission
4 shall investigate as to the cause of such complaint. When such complaint
5 is made, the commission may, by its agents, examiners and inspectors,
6 inspect the works, system, plant, devices, appliances and methods used
7 by such water-works corporation in supplying and distributing such
8 water, and may examine or cause to be examined the books and papers of
9 such water-works corporation pertaining to the supplying and distribut-
10 ing of such water. The form and contents of complaints made as provided
11 in this section shall be prescribed by the commission. Such complaints
12 shall be signed by the officers, or by the customers, purchasers or
13 subscribers making them, who must add to their signatures their places
14 of residence, by street and number, if any.

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

18 3. Complaints may be made to the commission by the [state consumer
19 protection board] department of state or by any person or corporation
20 aggrieved, by petition or complaint in writing, setting forth any act
21 done or omitted to be done by any telegraph corporation or telephone
22 corporation alleged to be in violation of the terms or conditions of its
23 franchise or charter or of any order of the commission. Upon the presen-
24 tation of such a complaint the commission shall cause a copy thereof to
25 be forwarded to the person or corporation complained of which may be
26 accompanied by an order directed to such person or corporation requiring
27 that the matters complained of be satisfied or that the charges be
28 answered in writing within a time to be specified by the commission. If

1 the person or corporation complained of shall make reparation for any
2 injury alleged and shall cease to commit or permit the violation of law,
3 franchise, charter or order charged in the complaint, if any there be,
4 and shall notify the commission of that fact before the time allowed for
5 answer, the commission need take no further action upon the charges. If,
6 however, the charges contained in such petition be not thus satisfied
7 and it shall appear to the commission that there are reasonable grounds
8 therefor, it shall investigate such charges in such manner and by such
9 means as it shall deem proper and take such action within its powers as
10 the facts in its judgment justify.

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

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

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

19 § 97-www. [1.] Consumer protection account. 1. There is hereby estab-
20 lished in the joint custody of the state comptroller and the commission-
21 er of taxation and finance an account within the miscellaneous special
22 revenue fund to be known as the "consumer protection account."

23 2. Such account shall consist of all [fees and] penalties received by
24 the [state consumer protection board] department of state and the super-
25 intendent of financial regulation pursuant to [article ten-B of the
26 personal property law,] section three hundred ninety-nine-z of the
27 general business law, all penalties received by the superintendent
28 pursuant to section four hundred eight of the financial regulation and

1 protection law and any additional monies appropriated, credited or
2 transferred to such account by the Legislature. Any interest earned by
3 the investment of monies in such account shall be added to such account,
4 become part of such account, and be used for the purposes of such
5 account.

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

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

20 § 54. Intentionally omitted.

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

23 (1) If the superintendent finds after notice and hearing that any
24 authorized insurer, representative of [such] the insurer, licensed
25 insurance agent, licensed insurance broker [or], licensed adjuster, or
26 any other person or entity licensed, certified, registered, or author-
27 ized pursuant to this chapter, has wilfully violated the provisions of
28 this chapter[, he] or any regulation promulgated thereunder, then the

1 superintendent may order [such insurer, representative, agent, broker,
2 or adjuster, as the case may be,] the person or entity, except for a
3 person or entity licensed pursuant to article twenty-one or sixty-eight
4 of this chapter, to pay to the people of this state a penalty in a sum
5 not exceeding [five hundred] one thousand dollars for each [such]
6 offense. The superintendent may order any person or entity licensed
7 pursuant to article twenty-one or sixty-eight of this chapter to pay to
8 the people of this state a penalty in a sum not exceeding two thousand
9 five hundred dollars for each offense.

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

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

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

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

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

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

17 § 214. Report on insurance agent licensing examinations. The super-
18 intendent shall perform a study of the insurance agent licensure exam-
19 inations required pursuant to section two thousand one hundred three of
20 this chapter. The study shall, at a minimum, include the total number of
21 examinees, the passing rate of all examinees, and the mean scores on the
22 examination. Additionally, the study shall examine the correlation
23 between these statistics and the applicants' native language, level of
24 education, gender, race and ethnicity. The study shall be completed by
25 [January first] March fifteenth, two thousand [nine] eleven, and annual-
26 ly thereafter.

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

28 § 63. Sections 498-a and 562 of the banking law are REPEALED.

1 § 64. Section 337 of the insurance law, as added by chapter 647 of
2 the laws of 1992, is amended to read as follows:

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

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

22 (2) a list of makes and models of automobiles that generally do not
23 meet underwriting guidelines of automobile insurers or in regard to
24 which consumers can expect to pay higher premiums as a result of an
25 automobile's style, model type or other distinguishing features, except
26 that specific insurers shall not be identified for purposes of such
27 list;

1 (3) an explanation of all types of automobile insurance required by
2 law and available as optional coverage, including policyholders' rights
3 under these types of coverage and when making claims;

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

8 (5) [representative information on the availability and costs of auto-
9 mobile insurance from insurers for rating territories in the state, for
10 classes of drivers, including information on premium credit and
11 surcharge practices;

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

14 [(7)] (6) an explanation of prohibited discriminatory practices apply-
15 ing to insurance companies, agents and brokers; and

16 [(8)] (7) a department toll free consumer hot-line through which
17 consumers may initiate complaints, and request general information,
18 about automobile insurance.

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

22 (c) The superintendent shall [provide for the adequate distribution
23 and availability of] post the consumer guide on automobile insurance on
24 the department's website. [Appropriate copies of the guide shall be
25 transmitted to the commissioner of motor vehicles for distribution at
26 every department of motor vehicle local and district office in the state
27 and to the commissioner of education for distribution to every public

1 library in the state, where copies of the guide shall be made available
2 free of charge to the public.]

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

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

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

6 § 68. Intentionally omitted.

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

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

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

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

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

24 (b) "Defined violation" means the commission by a person of an act
25 prohibited by: subsection (a) of section one thousand one hundred two,
26 section one thousand two hundred fourteen, one thousand two hundred
27 seventeen, one thousand two hundred twenty, one thousand three hundred
28 thirteen, subparagraph (B) of paragraph two of subsection (i) of section

1 one thousand three hundred twenty-two, subparagraph (B) of paragraph two
2 of subsection (i) of section one thousand three hundred twenty-four, two
3 thousand one hundred two, two thousand one hundred seventeen, two thou-
4 sand one hundred twenty-two, two thousand one hundred twenty-three,
5 subsection (p) of section two thousand three hundred thirteen, section
6 two thousand three hundred twenty-four, two thousand five hundred two,
7 two thousand five hundred three, two thousand five hundred four, two
8 thousand six hundred one, two thousand six hundred two, two thousand six
9 hundred three, two thousand six hundred four, two thousand six hundred
10 six, two thousand seven hundred three, three thousand one hundred nine,
11 three thousand two hundred twenty-four-a, three thousand four hundred
12 twenty-nine, three thousand four hundred thirty-three, paragraph seven
13 of subsection (e) of section three thousand four hundred twenty-six,
14 four thousand two hundred twenty-four, four thousand two hundred twen-
15 ty-five, four thousand two hundred twenty-six, seven thousand eight
16 hundred nine, seven thousand eight hundred ten, seven thousand eight
17 hundred eleven, seven thousand eight hundred thirteen, seven thousand
18 eight hundred fourteen and seven thousand eight hundred fifteen of this
19 chapter; or section 135.60, 135.65, 175.05, 175.45, or 190.20, or arti-
20 cle one hundred five of the penal law.

21 § 72. Section 2706 of the insurance law is REPEALED.

22 § 73. Intentionally omitted.

23 § 74. Intentionally omitted.

24 § 75. Intentionally omitted.

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

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

27 § 78. Subdivision 47 of section 2.10 of the criminal procedure law, as
28 added by chapter 720 of the laws of 1981 is amended to read as follows:

1 47. Employees of the [insurance frauds bureau of the state] department
2 of [insurance] financial regulation when designated as peace officers by
3 the superintendent of [insurance] financial regulation and acting pursu-
4 ant to their special duties as set forth in article three of the finan-
5 cial regulation and protection law; provided, however, that nothing in
6 this subdivision shall be deemed to authorize such officer to carry,
7 possess, repair or dispose of a firearm unless the appropriate license
8 therefor has been issued pursuant to section 400.00 of the penal law.

9 § 78-a. Subdivision 61 of section 2.10 of the criminal procedure law,
10 as added by chapter 321 of the laws of 1992, is REPEALED.

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

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

1 five shall be for one year. The council shall be chaired by the commis-
2 sioner or his or her designee.

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

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

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

24 The continuing care retirement community council is hereby estab-
25 lished, to consist of the following, or their designees: the attorney
26 general; the commissioner; [the superintendent of insurance;] the direc-
27 tor of the office for the aging; and eight public members appointed by
28 the governor with the advice and consent of the senate. Such public

1 members shall be representative of the public, and have a demonstrated
2 expertise or interest in continuing care retirement communities;
3 provided that no more than one such member shall be a sponsor, owner,
4 operator, manager, member of a board of directors, or shareholder of a
5 continuing care retirement community. At least two public members shall
6 be residents of a continuing care retirement community. At least one of
7 the public members shall be a representative of an organization with
8 demonstrated experience in representing the interests of senior citi-
9 zens. The public members of the council shall have fixed terms of four
10 years. The council shall be chaired by the commissioner or his or her
11 designee.

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

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

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

23 (12) "Superintendent" - the superintendent of [insurance] financial
24 regulation; provided, however, that "superintendent" shall mean the
25 commissioner of economic development with regard to any application,
26 certification, report, submission, filing or other action required or
27 governed by this section occurring on or after August first, two thou-
28 sand eleven.

1 § 84. Subsection (j) of section 11 of the tax law is REPEALED.

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

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

20 § 86. Section 4 of chapter 610 of the laws of 1995 amending the insur-
21 ance law, in relation to investments, is hereby REPEALED.

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

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

26 3. Except with respect to a federally permitted power approved pursu-
27 ant to subdivision four of this section, prior to any state chartered
28 banking institution initially exercising any federally permitted power

1 pursuant to this section, such banking institution shall make an appli-
2 cation individually or with one or more state chartered banking insti-
3 tutions to the superintendent indicating that such institution or insti-
4 tutions intend to exercise such federally permitted power and the basis
5 on which such institution or institutions believe such power is a feder-
6 ally permitted power. [The] If such application meets the requirements
7 of this section, the superintendent shall post such application upon the
8 bulletin board of the department pursuant to section forty-two of this
9 article. After promptly reviewing such application, the superintendent
10 shall determine, consistent with the standards set forth in subdivision
11 five of this section, whether to [recommend to the banking board
12 approval of] approve such application subject to such terms and condi-
13 tions as [he or she] the superintendent may deem appropriate, in [his or
14 her] the superintendent's sole discretion. Such determination, [and any
15 recommendation to the banking board to approve an application,] shall be
16 made by the superintendent within forty-five days after the posting of
17 such application by the superintendent, provided however that the super-
18 intendent may notify the applicant or applicants that the review of the
19 application shall be extended for an additional period of time not
20 exceeding one hundred twenty days after the posting of such application,
21 and provided further that such period of time may be extended for an
22 additional period of time with the written consent of the applicant or
23 applicants. The [banking board] superintendent shall not act upon the
24 [superintendent's recommendation] application prior to thirty days after
25 such application has been posted. If the superintendent shall determine
26 not to [recommend approval] approve of such application, the superinten-
27 dent shall notify the applicant or applicants in writing that the appli-
28 cant or applicants may not exercise such federally permitted power. If

1 the superintendent [determines to recommend approval of such applica-
2 tion, and the banking board approves such application by adoption of a
3 resolution,] approves such application, the superintendent shall notify
4 the applicant or applicants in writing thereof, and the applicant or
5 applicants may exercise such federally permitted power subject to such
6 terms and conditions as the [banking board] superintendent may have
7 approved. [If the banking board declines to approve such application,
8 the superintendent shall notify the applicant or applicants in writing
9 thereof.] Notwithstanding any other law, the [banking board, upon the
10 recommendation of the] superintendent[,] may[, by resolution,] make the
11 approval of an application under this section applicable to one or more
12 additional state chartered banking institutions that are qualified to
13 exercise the same federally permitted powers as the applicant or appli-
14 cants pursuant to subdivision two of this section, subject to such terms
15 and conditions as the superintendent shall find necessary and appropri-
16 ate [and as approved by the banking board].

17 4. Notwithstanding any other law, the superintendent, in [his or her
18 sole] the superintendent's discretion, may, when [he or she] the super-
19 intendent deems it necessary and appropriate after considering the stan-
20 dards set forth in subdivision five of this section, [recommend to the
21 banking board that it adopt a resolution authorizing] by order, author-
22 ize one or more state chartered banking institutions to exercise a
23 federally permitted power, subject to such terms and conditions as the
24 superintendent shall find necessary and appropriate [and as approved by
25 the banking board]. Prior to [making any such recommendation to the
26 banking board] issuing such order, the superintendent shall post [such
27 recommendation] notice of the superintendent's intention to issue such
28 order upon the bulletin board of the department pursuant to section

1 forty-two of this article, and [the banking board] shall not act upon
2 such [recommendation] intention prior to thirty days after such [recom-
3 mendation] notice has been posted.

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

8 (i) consistent with the policy of the state of New York as declared in
9 section ten of this article and thereby protects the public interest,
10 including the interests of depositors, creditors, shareholders, stock-
11 holders and consumers; and

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

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

27 (b) In those instances where a federally permitted power authorized
28 pursuant to this section is subject to regulation by an agency, as

1 defined in subdivision one of section one hundred two of the state
2 administrative procedure act, other than the superintendent, [banking
3 board or superintendent of insurance,] then when a state chartered bank-
4 ing institution exercises such federally permitted power, unless it is
5 so authorized by other New York state law, or a rule, regulation or
6 policy adopted pursuant to such other New York state law, or by a judi-
7 cial decision, it shall do so subject to such regulation to the same
8 extent and in the same manner as such agency regulates entities other
9 than state chartered banking institutions, except to the extent that
10 federally chartered banking institutions are not subject to such regu-
11 lation.

12 [(c) Except with respect to a credit unemployment insurance policy,
13 group credit life insurance policy, a group credit health, group credit
14 accident or group credit health and accident policy, or similar group
15 credit insurance covering the person of the insured, state chartered
16 banking institutions, federally chartered banking institutions, and any
17 person soliciting the purchase of or selling insurance on the premises
18 thereof, must disclose or cause to be disclosed in writing, where prac-
19 ticable, in clear and concise language, to their customers and prospec-
20 tive customers who are solicited therefor that any insurance offered or
21 sold:

22 (i) is not a deposit;

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

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

27 (d) Except with respect to a flood insurance policy, or a credit unem-
28 ployment insurance policy, group credit life insurance policy, a group

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

9 (e) State chartered banking institutions and federally chartered bank-
10 ing institutions shall not extend credit, lease or sell property of any
11 kind, or furnish any services, or fix or vary the consideration for any
12 of the foregoing, on the condition or requirement that the customer
13 obtain insurance from the state chartered banking institution or feder-
14 ally chartered banking institution, its affiliate or subsidiary, or a
15 particular insurer, agent or broker; provided, however, that this prohi-
16 bition shall not prevent any state chartered banking institution or
17 federally chartered banking institution from engaging in any activity
18 described in this subdivision that would not violate section 106 of the
19 Bank Holding Company Act Amendments of 1970 (12 USCA §1971 et seq.), as
20 interpreted by the Board of Governors of the Federal Reserve System.
21 This prohibition shall not prevent a state chartered banking institution
22 or federally chartered banking institution from informing a customer
23 that insurance is required in order to obtain a loan or credit, that
24 loan or credit approval is contingent upon the customer's procurement of
25 acceptable insurance, or that insurance is available from the state
26 chartered banking institution or federally chartered banking institu-
27 tion; provided, however, that the state chartered banking institution or
28 federally chartered banking institution shall also inform the customer

1 in writing that his or her choice of insurance provider shall not affect
2 the state chartered banking institution's or federally chartered banking
3 institution's credit decision or credit terms in any way. Such disclo-
4 sure shall be given prior to or at the time that a state chartered bank-
5 ing institution or federally chartered banking institution or person
6 selling insurance on the premises thereof solicits the purchase of any
7 insurance from a customer who has applied for a loan or extension of
8 credit.

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

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

24 [9.] 8. Any rules or regulations promulgated by the banking board
25 pursuant to former sections fourteen-g and fourteen-h of this chapter
26 prior to September first, two thousand seven, and any resolutions
27 adopted by the banking board pursuant to this section after September
28 first, two thousand seven and before the effective date of the chapter

1 of the laws of two thousand eleven which amended this subdivision,
2 including any such rules [and], regulations and resolutions which in
3 whole or in part impose conditions, qualifications or restrictions on
4 any federally permitted powers authorized thereby which exceed the
5 conditions, qualifications or restrictions imposed on the same when
6 exercised by a federally chartered banking institution, shall remain in
7 full force and effect on or after such date, unless any such rule [or],
8 regulation or resolution is thereafter superseded, modified, or revoked
9 by the [banking board] superintendent pursuant to the provisions of
10 subdivisions three and four of this section.

11 § 88-a. Subdivision 8 of section 12-a of the banking law is REPEALED.

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

16 § 90. Section 14 of the banking law, as amended by chapter 684 of the
17 laws of 1938, the opening paragraph, paragraphs (a), (d), (e), and (f)
18 of subdivision 1 as amended by chapter 315 of the laws of 2008, para-
19 graphs (b) and (c) of subdivision 1 as amended by chapter 652 of the
20 laws of 1988, paragraph (cc) of subdivision 1 as amended by chapter 115
21 of the laws of 1981, paragraph (g) of subdivision 1 as amended and para-
22 graphs (h), (i), (ii), (k), (m), (n), (o), (p), (q), and (qq) of subdi-
23 vision 1 as relettered by chapter 360 of the laws of 1984, paragraph
24 (i) of subdivision 1 as amended by chapter 766 of the laws of 1975,
25 paragraph (ii) of subdivision 1 as added by chapter 226 of the laws of
26 1943, paragraphs (j) and (l) of subdivision 1 as amended by chapter 154
27 of the laws of 2007, paragraph (s) of subdivision 1 as amended by chap-
28 ter 613 of the laws of 1993, and paragraph (t) of subdivision 1 as sepa-

1 rately relettered by chapters 360 and 789 of the laws of 1984, paragraph
2 (qq) as added by chapter 15 of the laws of 1980, is amended to read as
3 follows:

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

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

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

24 (c) To grant permission to a trust company, including a national bank,
25 to establish one or more common trust funds upon application and after
26 inquiry concerning the qualifications of such trust company to maintain
27 and manage the same, and to regulate the conduct and management of any
28 common trust fund and for such purpose, but not by way of limitation of

1 the foregoing power, to prescribe (1) the records and accounts to be
2 kept of such common trust funds; (2) the procedure to be followed in
3 adding moneys to or withdrawing moneys or investments from any such
4 common trust fund; (3) the methods and standards to be employed in
5 determining the value of such common trust funds and of the assets and
6 investments thereof; (4) the maximum amount of moneys of any estate,
7 trust or fund which may be invested in any common trust fund; and (5)
8 the maximum proportionate share of any such common trust fund which may
9 be apportioned to any estate, trust or fund; and in connection with such
10 powers to classify the corporations maintaining such common trust funds
11 according to the population of the city, town or village in which the
12 principal offices of such corporations are respectively located and to
13 prescribe the minimum total of any such common trust fund and the
14 permissible limits of investment therein in accordance with such classi-
15 fication.

16 (cc) To approve the incorporation by or on behalf of trust companies
17 and national banks with trust powers of a mutual trust investment compa-
18 ny to form a medium for the common investment of funds held by trust
19 companies, including national banks, acting as executors, administra-
20 tors, guardians, inter-vivos or testamentary trustees or committees or
21 conservators either alone or with individual co-fiduciaries, and any
22 amendments of the certificate of incorporation of such mutual trust
23 investment company, and to regulate the conduct and management of such
24 mutual trust investment company and for such purpose, but not by way of
25 limitation of the foregoing power, to prescribe (1) the records and
26 accounts to be kept by such mutual trust investment company; (2) the
27 procedure to be followed in the sale or redemption of stocks or shares
28 therein; (3) the methods and standards to be employed in determining the

1 value of such shares in the mutual trust investment company and the
2 assets and investments thereof; and (4) the maximum proportionate shares
3 of any such mutual trust investment company which may be apportioned or
4 sold to any one trust company or national bank.

5 (d) To authorize a bank or a trust company to invest in the capital
6 stock of, or any other equity interest in, any corporation, partnership,
7 unincorporated association, limited liability company, or other entity
8 not included among the corporations or other entities for which invest-
9 ment in the capital stock or other equity interest is expressly author-
10 ized by this chapter.

11 (e) To authorize a savings bank to invest in the capital stock, capi-
12 tal notes and debentures of a trust company or other corporation, as
13 provided in article six of this chapter.

14 (f) To authorize a savings and loan association to invest in the capi-
15 tal stock, capital notes and debentures of a trust company or other
16 corporation, as provided in article ten of this chapter.

17 (g) To prescribe from time to time: (1) the rates of interest which
18 may be paid on deposits with any banking organization and with any
19 branch or agency of a foreign banking corporation; and (2) the rates of
20 dividends which may be paid on shares of any savings and loan associ-
21 ation or credit union, and to prohibit the payment of such interest or
22 such dividends by any banking organization or by any branch of a foreign
23 banking corporation. Interest or dividend rates so prescribed need not
24 be uniform.

25 (h) To limit and regulate withdrawals of deposits or shares from any
26 banking organization, if the [board] superintendent shall find that such
27 limitation and regulation are necessary because of the existence of

1 unusual and extraordinary circumstances. [The board shall enter such
2 finding on its records.]

3 (i) To prescribe from time to time reserves against deposits to be
4 maintained by banks and trust companies pursuant to article three of
5 this chapter; provided that no reserve requirement imposed [by the
6 board] against either time or demand deposits shall require any bank or
7 trust company to maintain total reserves in an amount greater than it
8 would be required to maintain if it were at the time a member of the
9 federal reserve system; and provided further, however, that a bank or
10 trust company not a member of the federal reserve system may be author-
11 ized [by the board] to maintain total reserves against deposits in an
12 amount lower than the reserves required by article three of this chapter
13 to be maintained, either in individual cases or by general regulations
14 [of the board] on such basis as the [board] superintendent may deem
15 reasonable or appropriate in view of the character of the business tran-
16 sacted by such bank or trust company.

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

22 (j) To grant permission to officers, directors, clerks or employees of
23 banks and trust companies to engage in the issue, flotation, underwrit-
24 ing, public sale or distribution at wholesale or retail, or through
25 syndicate participation of stocks, bonds or other similar securities,
26 and to revoke such permission, both as provided in this chapter.

1 (k) To prescribe the methods and standards to be used (1) in making
2 the examinations provided for in this chapter, and (2) in valuing the
3 assets of banking organizations.

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

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

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

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

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

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

25 (qq) To permit any banking organization, national banking association,
26 federal mutual savings bank, federal savings and loan association and
27 federal credit union to offer graduated payment mortgages which shall

1 conform to the provisions of section two hundred seventy-nine of the
2 real property law.

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

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

8 2. The board shall consider and make recommendations upon any matter
9 which the superintendent may submit to it for recommendations, and pass
10 upon and determine any matter which he shall submit to it for determi-
11 nation.

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

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

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

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

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

20 § 95. Section 6 of chapter 322 of the laws of 2007, amending the bank-
21 ing law relating to the power of banks, private bankers, trust compa-
22 nies, savings banks, savings and loan associations, credit unions and
23 foreign banking corporations to exercise the rights of national banks,
24 federal savings associations, federal credit unions and federal branches
25 and agencies of foreign banks, as amended by chapter 122 of the laws of
26 2009, is amended to read as follows:

27 § 6. This act shall take effect immediately; provided, however that
28 sections one, two, three and four of this act shall take effect Septem-

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

6 § 95-a. Section 7 of chapter 3 of the laws of 1997, amending the
7 banking law and the insurance law relating to authorizing the banking
8 board to permit banks and trust companies to exercise the rights of
9 national banks, as amended by chapter 122 of the laws of 2009, is
10 amended to read as follows:

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

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

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

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

1 banking board at which such recommendation is expected to be considered]
2 The intention of the superintendent to issue an order pursuant to subdi-
3 vision four of section twelve-a of this article, which shall include a
4 description of the proposed federally permitted power and a reference to
5 the state-chartered banking institutions which shall be permitted to
6 exercise such power.

7 § 98. Transfer of powers of the banking and insurance departments. The
8 functions and powers possessed by and all of the obligations and duties
9 of the banking and insurance departments, as established pursuant to the
10 insurance law, the banking law and other laws, shall be transferred and
11 assigned to, and assumed by and devolved upon, the department of finan-
12 cial regulation.

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

20 § 100. Continuity of authority of the banking and insurance depart-
21 ments. Except as herein otherwise provided, upon the transfer pursuant
22 to this act of the functions and powers possessed by, and all of the
23 obligations and duties of, the banking and insurance departments as
24 established pursuant to the banking law, the insurance law and other
25 laws, to the department of financial regulation as prescribed by this
26 act, for the purpose of succession, all functions, powers, duties and
27 obligations of the department of financial regulation shall be deemed

1 and be held to constitute the continuation of such functions, powers,
2 duties and obligations and not a different agency.

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

13 § 102. Completion of unfinished business of the banking and insurance
14 departments and the consumer protection board. Upon the transfer pursu-
15 ant to this act of the functions and powers possessed by and all of the
16 obligations and duties of the banking and insurance departments and
17 certain of the functions and powers possessed by and obligations and
18 duties of the consumer protection board as established pursuant to the
19 banking law, the insurance law and other laws, to the department of
20 financial regulation as prescribed by this act, any business or other
21 matter undertaken or commenced by the banking and insurance departments
22 and the consumer protection board pertaining to or connected with the
23 functions, powers, obligations and duties so transferred and assigned to
24 the department of financial regulation may be conducted or completed by
25 the department of financial regulation.

26 § 103. Terms occurring in laws, contracts or other documents of or
27 pertaining to the banking and insurance departments and the consumer
28 protection board. Upon the transfer pursuant to this act of the func-

1 tions and powers possessed by and all of the obligations and duties of
2 the banking and insurance departments and certain of the functions and
3 powers possessed by and obligations and duties of the consumer
4 protection board as established pursuant to the banking law, the insur-
5 ance law and other laws, as prescribed by this act, whenever the banking
6 and insurance departments and the superintendents thereof or the consum-
7 er protection board and the chairperson and executive director thereof,
8 the functions, powers, obligations and duties of which are transferred
9 to the department of financial regulation are referred to or designated
10 in any law, regulation, contract or document pertaining to the func-
11 tions, powers, obligations and duties transferred and assigned pursuant
12 to this act, such reference or designation shall be deemed to refer to
13 the department of financial regulation and its superintendent. In the
14 case of any boards or other organizations where the superintendents of
15 both the banking department and the insurance department both sit, the
16 references or designations shall be deemed to refer solely to super-
17 intendent of the department of financial regulation.

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

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

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

1 (d) Wherever the terms "superintendent of insurance" or "superinten-
2 dent" appear in the insurance law, such terms are hereby changed to
3 "superintendent of financial regulation".

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

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

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

19 § 105. Existing rights and remedies of or pertaining to the banking
20 and insurance departments and consumer protection board preserved. Upon
21 the transfer pursuant to this act of the functions and powers possessed
22 by and all of the obligations and duties of the banking and insurance
23 departments and certain of the functions and powers possessed by and
24 obligations and duties of the consumer protection board as established
25 pursuant to the banking law, the insurance law and other laws, to the
26 department of financial regulation as prescribed by this act, no exist-
27 ing right or remedy of the state, including the banking and insurance

1 departments and consumer protection board, shall be lost, impaired or
2 affected by reason of this act.

3 § 106. Pending actions and proceedings of or pertaining to the banking
4 or insurance departments or the consumer protection board. Upon the
5 transfer pursuant to this act of the functions and powers possessed by
6 and all of the obligations and duties of the banking and insurance
7 departments and certain of the functions and powers possessed by and
8 obligations and duties of the consumer protection board as established
9 pursuant to the banking law, the insurance law and other laws, to the
10 department of financial regulation as prescribed by this act, no action
11 or proceeding pending on the effective date of this act, brought by or
12 against the banking or insurance departments or the superintendents
13 thereof or the consumer protection board and the chairperson and execu-
14 tive director thereof shall be affected by any provision of this act,
15 but the same may be prosecuted or defended in the name of the New York
16 state department of financial regulation. In all such actions and
17 proceedings, the New York state department of financial regulation, upon
18 application to the court, shall be substituted as a party.

19 § 107. Continuation of rules and regulations of or pertaining to the
20 banking and insurance departments and the consumer protection board.
21 Upon the transfer pursuant to this act of the functions and powers
22 possessed by and all the obligations and duties of the banking and
23 insurance departments and certain of the functions and powers possessed
24 by and obligations and duties of the consumer protection board as estab-
25 lished pursuant to the banking law, the insurance law and other laws, to
26 the department of financial regulation as prescribed by this act, all
27 rules, regulations, acts, orders, determinations, decisions, licenses,
28 registrations and charters of the banking and insurance departments and

1 the consumer protection board, pertaining to the functions transferred
2 and assigned by this act to the department of financial regulation in
3 force at the time of such transfer, assignment, assumption or devolution
4 shall continue in force and effect as rules, regulations, acts, determi-
5 nations and decisions of the department of financial regulation until
6 duly modified or repealed.

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

1 dent of the department of financial regulation, on audit and warrant of
2 the comptroller.

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

12 § 110. No later than April first, two thousand eleven, the director of
13 the budget shall notify the superintendent of the level of the depart-
14 ment's expenses that will be incurred for the fiscal year beginning
15 April first, two thousand eleven related to the department's regulation
16 and supervision of the state's banking and insurance industries. Such
17 notification shall separately detail the department's level of expenses
18 to be incurred with respect to the regulation and supervision of the
19 banking industry, the department's level of expenses to be incurred for
20 regulation and supervision of the insurance industry, and the depart-
21 ment's level of general expenses that are allocable to both the insur-
22 ance and banking industries. The superintendent shall subsequently
23 employ the provisions of section seventeen of the banking law and
24 section three hundred thirty-two of the insurance law to assess the
25 department's incurred costs in order to appropriately charge persons or
26 entities that are licensed, registered, organized, authorized, incorpo-
27 rated or otherwise formed pursuant to the provisions of the banking law
28 or insurance law.

1 § 111. Coordination of services. In an effort to create greater cost
2 efficiencies and cost savings, the superintendent of financial regu-
3 lation shall coordinate administrative, clerical and human resource
4 functions, or any other resources and functions, including but not
5 limited to office space and materials and supplies in accordance with
6 the transfer of powers set forth in this act.

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

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

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

21 (a) sections fifteen and sixteen of this act shall take effect April
22 1, 2012;

23 (b) any officer or employee of the department of financial regulation
24 whose holdings as of the close of business on March 31, 2011 conflict
25 with section 501 of the financial regulation and protection law, as
26 added by section one of this act, shall have until April 1, 2012 to
27 dispose of non-conforming holdings or otherwise bring such non-conform-
28 ing 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.