

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.