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## Governor Cuomo Proposes More than Merger of Insurance and Banking Departments in New York

Along with his proposed budget for the 2011-12 fiscal year, Governor Cuomo has released detailed legislation to merge the Insurance Department, Banking Department and Consumer Protection Board. The bill would authorize the appointment of a Superintendent of Financial Regulation to replace the current heads of those three agencies and would transfer personnel and facilities to the new Department of Financial Regulation (DFR). All existing powers and functions of the Insurance Department would be acquired by the DFR. Insurers would continue to pay assessments to fund the insurance regulatory functions of the new agency, but they would not be charged for the costs of regulating the banking industry.

The Governor's bill would do more, however, than simply reorganize State government. Among the substantive changes that would affect insurers and other insurance licensees if the proposal became law are:

- increasing dramatically, from \$500 to \$10,000, the maximum monetary penalty for any willful violation of the Insurance Law, or any regulation issued under it, for violations that do not carry a more specific penalty, except that the maximum penalty on insurance producers would be \$2,500;
- authorizing the Superintendent to sue for restitution and damages from any person committing "financial fraud" broadly defined to include "any deceptive act or false advertising" involving a financial product or service, encompassing not only insurance and banking but also investments and derivatives;
- allowing the Superintendent to issue a cease-and-desist order, after conducting a hearing, against any person or entity which acts as an insurance company or insurance producer without a license;
- prescribing a specific penalty of \$500 "per transaction" on any person or entity which aids an unlicensed insurer or which acts as an agent, broker, adjuster or insurance consultant without being duly licensed.

The Legislature will certainly thoroughly examine the Governor's proposal, and the bill may well face strenuous opposition from small insurers and certain agent groups who are accustomed to the existing regulatory apparatus. Also, legislators may well request evidence that merging the three agencies will actually produce significant cost savings. We will continue to monitor the Governor's proposal.

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