

**ASSEMBLY BUDGET COMMITTEE**  
**Testimony by Steven M. Goldman**  
**Commissioner**  
**New Jersey Department of Banking and Insurance**  
**May 12**

Good afternoon, Chairman Greenwald and members of the Assembly Budget Committee.

**I. Introduction and Courtesies**

Before I begin, I would like to introduce members of the Department staff who are here with me today:

- Douglas Wheeler, Acting Director of Insurance
- Terry McEwen, Director of Banking;
- Paul Penna, Director of Operations and Communications;
- Tom Gallagher, Chief Financial Officer;
- Linda Schwimmer, Director of Legislation and Policy; and finally
  
- Don Bryan, Director of Insurance. This is Don's last appearance before this committee. He is retiring from the Department in June after 27 years of service. As many of you know, Don has had a long and distinguished career at the Department and served as acting commissioner twice: between March 2005 and March 2006 and from October 2001 to February 2002. I know many of you have known Don for a long time and he will be sorely missed.

Let me begin by providing some background on the Department.

The Department of Banking and Insurance has a statutory mandate to regulate and monitor the financial solvency and market behavior of property, casualty, life and health insurers; examine all state chartered depositories for safety and soundness, examine mortgage bankers and brokers, licensed lenders, check cashers and money transmitters, and process applications for all types of licensees -- all in order to maintain the highest standards of consumer protection.

To carry out this statutory responsibility, the Department must maintain accreditation by national associations, including the National Association of Insurance Commissioners (NAIC) and the Conference of State Bank Supervisors (CSBS) by meeting the required level of demonstrated capacity and expertise to regulate the institutions it is required to supervise.

To give you an idea of the scope of what we do, the Department licenses and regulates:

- more than 272,000 banking, insurance and real estate licensees
- the conduct of over 1,100 insurance companies and
- 108 state chartered banks and financial institutions.

In Fiscal Year 2009 to date, the Department handled approximately 108,000 consumer and licensing calls. More than half of them went to our licensing department and the remainder to our Consumer Inquiry and Case Preparation Unit. The calls to CICPU resulted in roughly 7,500 new consumer complaints and investigations. The Department closed roughly 7,300 cases thus far.

We also collected far more fines and obtained more recoveries for consumers last year than we have in previous years.

In FY 09 thru March 31, the department collected \$49.3 million in recoveries for consumers – almost double the \$22 million collected in FY 2008 – and collected \$17.7 million in fines – ten times the \$1.7 million collected in FY 08.

That includes \$26 million in recoveries to consumers who were systemically under-reimbursed for certain claims by Health Net Of New Jersey; fines of \$2.5 million from Aetna Health Inc. of Blue Bell for refusing to appropriately cover services provided by out-of-network health care providers; \$1 million from CIGNA Healthcare of New Jersey Inc. for failing to properly notify small businesses of their health plan options, and instead steering them into products with a different package of services that substantially reduced some benefits, and \$13 million from Health Net of New Jersey.

## **II. Administration/Efficiencies**

As you know, Department revenue is generated through assessment of the industries it regulates rather than receiving funding from the General Fund.

However, I want to make it perfectly clear that I in no way believe the self-funded nature of the Department absolves it in any way from the obligation to cut waste and operate efficiently.

In my three plus years as commissioner, I have made it a top priority to be fiscally prudent and to cut waste. In this year's extremely difficult budget that was more important than ever.

The FY 10 proposed budget for the Department is \$67.5 million, down nearly \$3.9 million from this year's adjusted appropriation of \$71.4 million. Approximately \$29.8 million of the budget funds the Office of the Insurance Fraud Prosecutor which is housed at the Department of Law and Public Safety. Because OIFP was largely held harmless, the effective reduction to the Department's budget was 9.3%.

We continue to look for efficiencies, while preserving the ability to carry out the Department's statutory responsibilities.

Since 2006, we have improved Department efficiency in the following ways:

- In the last fiscal year, we consolidated the initial consumer inquiry and complaint functions by establishing the Consumer Inquiry and Case Preparation Unit. This change has ensured greater efficiency in the handling of cases.
- The Department is working to create a single Enforcement Unit from the current Banking and Insurance units under a centralized manager and through cross training of investigators. We hope to have this unit up and running this year.
- The Department has overhauled the phone menu, centralized and consolidated all licensing payments, implemented on-line transfer of real estate salespersons, on-line registration and termination of mortgage solicitors and deployed an online licensing renewal system for the Real Estate Industry. This eliminated the manual processing of approximately 7,000 transactions.

Under Governor Corzine's early leadership, we have increased our efforts in the battle against the rising rate of foreclosure in the state. This year our Department and the Department of Community Affairs continued our work with the NJ HOPE Alliance a public-private alliance of government, non-profits and financial institutions on programs to educate and assist NJ homeowners at risk of foreclosure.

DOBI and NJ HOPE have hosted over 40 community forums to bring consumer information directly to consumers in towns throughout the State, and partnered with Sen. Robert Menendez, the HOPE NOW Alliance, NeighborWorks, and local elected officials to offer mortgage workout sessions to residents throughout the state.

We also worked with the Office of the Attorney General and the Public Advocate's Office of Dispute Resolution on a Mortgage Mediation program to bring mortgage servicers to the table with borrowers, which became the Statewide Mortgage Foreclosure Mediation Program, which was launched in January.

In October, DOBI and the Department of Community Affairs held a Mayors and Elected Officials working meeting to bring the mayors of the 30 most affected towns together with State agencies and national experts on this issue to discuss what steps we can take together to assist our communities.

### **III – Banking**

Let me shift to the state of New Jersey's banks. In the midst of this global economic downturn our state-chartered banks are doing relatively well. Of course they are not immune to the forces of the larger global economic downturn, but thanks to our strong state banking charter and prudent lending practices, our banks are in relatively good financial health.

On May 1 we announced that Citizens Community Bank of Ridgewood was closed and the Federal Deposit Insurance Corporation (FDIC) was appointed as receiver. To protect Citizens Community Bank depositors, the FDIC entered into a purchase and assumption

agreement with North Jersey Community Bank and the single branch was reopened as North Jersey Community Bank. Depositors were unaffected by this move.

I know there have been some questions about New Jersey banks and the Troubled Asset Relief Program (TARP). Fifteen New Jersey – based banks have received a total of \$619 million in TARP funds. Ten of those banks are state-chartered and five are federally chartered. I am hopeful that this infusion of funds will help increase lending and encourage community banks to do more lending.

That's the state of New Jersey banks. Let me move to the state of the overall economy, which, of course, remains extremely difficult.

Foreclosures are a key measure of where we stand. Since the onset of this economic crisis, foreclosure filings in New Jersey have more than doubled.

Filings have grown from 23,044 in 2006 to 47,989 in 2008, according to statistics from the Administrative Office of the Courts.

New Jersey's foreclosure rate has edged slightly ahead of the national average.

Nationally, about 3.30 percent of all loans were in foreclosure in the fourth quarter of 2008, compared to 3.58 percent in New Jersey, according to statistics from the Mortgage Bankers Association.

Also, I would like to thank you for passing the Mortgage Originator licensing law, which was signed by Governor Corzine. This law should bring improved oversight and national licensing standards to mortgage originators.

#### **IV Insurance**

##### **A) Blue Cross Blue Shield Conversion**

One of the largest issues we are facing in the insurance area is the application of Horizon Healthcare Services Inc. to convert from non-profit to for-profit status.

As you know, Horizon, filed a conversion application with the Department and the Office of the Attorney General on August 15, 2008.

The application is not yet complete. The Department has requested more information from the applicant and is reviewing that information. We are committed to a review process that is fair, open and transparent. All public information regarding the application is on the DOBI website.

Once the application becomes complete, we will have several public hearings at locations throughout the state.

Among the consultants hired is a consultant who will conduct a health impact study of the conversion plan.

The Attorney General and I will consider all of the factors laid out in the process including whether the conversion is in the best interest of the public.

### **B) -- Health Care Reform**

As you all know, implementing universal health insurance coverage is a top priority for both President Obama and Gov. Corzine.

DOBI has been working with the Administration, Senator Vitale, Assemblyman Greenwald and Assemblyman Schaer towards reforming the healthcare market including new laws that grant some age rating leeway to commercial carriers in the individual health coverage program and an increase in the medical loss ratio from 75 percent to 80 percent in both the small employer and the individual healthcare market. But achieving reform in the state's current economic environment is very challenging.

### **C) - Electronic Health Records**

DOBI is also closely involved in implementing a system of electronic health records—another major initiative in President Obama's healthcare reform plan.

All of the key stakeholders in New Jersey are already part of a unified planning structure. As you know, in January 2008, the New Jersey Health Information Technology Act was signed, creating the New Jersey Health Information Technology Commission and Office for the Development (Office for e-HIT). The Commission and the Office of eHIT have been formulating policies and technical standards that will drive the implementation of a statewide health information technology network.

### **D) - Auto Insurance**

In the area of auto insurance, one of the final pieces needed to complete the reform process begun in 2003 is the Personal Injury Protection (PIP) Medical Fee Schedule – an important cost containment measure.

The Department has developed a fee schedule for payments to medical providers that covers treatment for injuries suffered in an auto accident that we believe is comprehensive, fair and consistent with the statute.

The proposed fees reflect those actually received on average by providers from auto insurers and thus, in most cases, should not result in substantial changes to provider income. Cost savings will come to some extent from the reining in of outliers, but mostly from the greater efficiencies achieved by a schedule that is truly comprehensive and thus leaves less room for costly, time-consuming disputes.

Provider concerns about the proposed fees have nonetheless resulted in litigation. The appeal was argued in January.

While that case proceeds, the Department is actively working with legislators and stakeholders on possible improvements to the statute. We are now in the process of requesting new data from auto insurers in an effort to make certain that in the future there is a less ambiguous way to implement the schedule.

We feel very strongly that this fee schedule needs to be adopted. Insurers' filings for rate increases show that the current rate needs are driven primarily by the increase in PIP medical costs. PIP medical expenses are currently exerting an upward pressure on auto insurance rates.

## **VI. Proposals to expand regulation of banks and insurers**

As you know, the global economic downturn and the meltdown of institutions such as AIG and Lehman Brothers have led to calls for increased federal regulation of financial institutions. There are calls from some quarters in Washington for an optional federal charter for the insurance industry.

I strongly believe that any plan that calls for more federal preemption of state laws governing banks and insurers is the wrong approach.

The Conference of State Bank Supervisors and the National Association of Insurance Commissioners strongly oppose efforts to regulate banks and insurance companies at the federal level at the expense of strong state regulatory systems.

There is broad consensus that lax federal regulations of financial institutions contributed mightily to the global economic downturn we are in today.

We would not want to see the same thing happen in the insurance industry; likewise we don't want to see any further expansion of the federal regulatory system over financial institutions.

## **VII Conclusion**

In closing, let me say that in the more than three years I have been privileged to serve as commissioner, I have been continually impressed with the work ethic and commitment of Department employees. The staff at the Department of Banking and Insurance is dedicated to its mission.

We will continue to do our best to maintain the safety and stability of the state's financial services industries and protect the best interests of all New Jersey residents.

Thank you ...I would be happy to take any questions.