

**NJ Department of Banking & Insurance**  
**Commissioner Steven Goldman**  
**FY 2009 Budget**  
**Senate Budget and Appropriations Committee**  
**Trenton, NJ**  
**April 9, 2008**

Good afternoon, Chairwoman Buono and members of the Senate Budget and Appropriations Committee.

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

- Don Bryan, Director of Insurance;
- Terry McEwen, Director of Banking;
- Jaimee Gilmartin, Director of Operations and Communications; and
- Tom Gallagher, Chief Financial Officer.

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

Fulfilling this statutory responsibility requires that the Department maintain its 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 ongoing 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 1100 insurance companies with a combined \$34.8 billion in written premiums, and
- 108 state chartered financial institutions

In Fiscal Year 2007, the Department handled nearly 13,700 consumer complaints, obtained more than \$13.1 million in recoveries for consumers and levied about \$2.5 million in fines. In the first six months of FY 08, the Department recovered nearly \$14 million for consumers and collected fines of more than \$900,000.

## Administration/Efficiencies

Department revenue, as you know, is generated through assessment of the industries it regulates rather than receiving funding from the General Fund. However, let me stress that I take the Governor's mandate to be fiscally prudent and the public's message to cut waste very seriously. The Governor has made his priorities clear – education, public safety and protecting the most vulnerable. Preserving resources for these priorities means that every Department must evaluate each proposed reduction and confront the stark reality that any restoration in funding requires a new revenue source.

At DOBI, cost cutting and efficiencies have been and remain a top priority.

The FY 09 proposed budget and its \$2.7 billion in reductions includes \$70.3m allocated for the Department is \$70.3 million, down \$1.8 million, or 2.5 percent, from this year's adjusted appropriation of \$72.1 million. It reduces funded positions for the third consecutive year from 495 to 469, a reduction of 26 positions, or five percent of the workforce. In the current budget year we reduced the workforce by 10 positions and in FY 07, we reduced staffing by 30 positions. Since I have been Commissioner, once the planned reductions are completed, we will have reduced the Department's workforce by 44 positions, an 8.6% reduction from March 2006.

The Department's ability to carry out its statutory mandates is more important than ever given the mortgage and credit crisis in the country with millions of Americans facing possible foreclosure, including tens of thousands of New Jersey citizens. But I will talk more about that in a minute.

Retirement of senior management has been and continues to be a significant issue for the Department. The impact of potential reductions as a result of retirement incentives, particularly on the accreditation of the Department to carry out its mission, is under review.

That said, we continue to look for ways to do more with less, while preserving the ability to carry out the Department's responsibilities. As I have discussed with you previously, upon assuming my position I directed my staff to conduct a top-to-bottom position-by-position review of the department. I am pleased to report that in this fiscal year, the results of that review have yielded positive change.

Even 11 years after the consolidation of the Department of Banking with the Department of Insurance, we are still addressing the potential for significant improvements in efficiency through combining functional units. This January, we took a number of steps designed to increase the efficiency and the effectiveness of our consumer related functions. The phone menu was overhauled eliminating 35 direct lines into the Department and creating a system that separates consumer and industry calls. This reduced misdirected calls by 85%. The DOBI website was completely overhauled over the last two years to be more user friendly for consumers and industry.

Most importantly, we consolidated and streamlined the initial consumer inquiry and complaint functions by establishing the Consumer Inquiry and Case Preparation Unit. The unit is made up of investigators from all three major parts of the Department, all of whom are being cross-trained to respond to all initial consumer inquiries and complaints concerning Banking, Insurance and

Real Estate matters. This unit is the primary intake and tracking mechanism for all consumer inquiries.

These actions will allow our Department to be more efficient and responsive to consumers, allow us to identify major trends affecting consumers, and permit us to better respond to consumer crises by shifting knowledgeable personnel within the Department to address consumer problems.

The Department also implemented the use of lock box services to process the payment of the assessments the department collects from its regulated industries. We have continued to increase the opportunity for online licensing applications and payments. In March, we offered this service to our highest volume transactions -- Real Estate licensees. These efficiencies have allowed us to reduce our fiscal staff, while improving service to our licensees.

One area where I felt we had to increase our efforts is consumer education.

Last year, our consumer education staff made 440 presentations to more than 15,000 New Jersey residents on topics including preventing identity theft, selecting car insurance and the pitfalls of certain non-conventional financial products.

In cooperation with the New Jersey banking community, the Department also continued its Financial Literacy Awareness Program, which is aimed at providing high school students a basic understanding of saving, budgeting and the use of financial credit. Since 2006, the program reached more than 13,000 students at 294 high schools.

### Banking

One of the most far reaching issues the Department has dealt with this year has been the mortgage lending crisis, which has over the last 9 to 10 months become a more general credit crisis.

The Department has been closely monitoring the level of mortgage loan payment delinquencies and foreclosures occurring in the state. Those rates have increased, but our numbers are less than those of many other states, such as Michigan and Ohio, that lack New Jersey's strong economic fundamentals.

I am also happy to point out that the overall health of New Jersey depository banks remains relatively good. Most of the state's bankers have been making good business decisions and have engaged in very little, if any, subprime lending.

We believe that the strong predatory lending laws passed by this Legislature have played an important part in preventing many risky and abusive loan practices and have helped protect New Jersey consumers.

We look forward to working with legislative sponsors, including you, Senator Buono and Senator Turner regarding legislation that will provide additional oversight of mortgage solicitors and further protect consumer from fraudulent practices.

## Predatory Lending and Federal Pre-emption

Our State's predatory lending laws, however, and all of your legislation and the regulations we put in place in this area cannot reach national banks and federal savings banks that operate in New Jersey because of federal preemption. Last spring, the U.S. Supreme Court decided a case called *Watters v. Wachovia*, which extended the scope of federal preemption even further - to operating subsidiaries of federally regulated banks, in yet another application of the U.S. Constitution's Supremacy Clause at the expense of State regulatory authority.

This leaves New Jersey citizens wide open to all practices permitted to federally regulated banks, even if those practices have a predatory effect, and the consumer's only recourse is to the very same remote and under-staffed federal regulators that failed to address the growing subprime lending problem for years.

So, while we generally support current efforts to enhance regulations at the federal level, we remain concerned about the past and present gap in coverage of consumer protection laws available to protect New Jersey citizens who purchase financial products and services from federally regulated banks and more particularly from their operating subsidiaries.

But while conditions in New Jersey are not as dire as they are in many other states, we are still caught in this larger economic storm. Foreclosure rates in New Jersey continue to rise and be of concern to DOBI.

## Department Response

In response, DOBI has been coordinating actions on many fronts.

In October, together with the Department of Community Affairs, we announced the establishment of the New Jersey Home Ownership Preservation Effort ("NJHOPE"), a public-private alliance of financial institutions, their trade associations, and government agencies whose goal is to make consumers aware of available help, be a clearinghouse for information, monitor the market and work to find creative solutions to help lessen the impact of the mortgage crisis in New Jersey.

The NJ HOPE Task Force came together in January and includes Federal and State Housing representatives, financial services representatives, and non-profit and faith based organizations like the Department of Housing and Urban Development (HUD), New Jersey Housing and Mortgage Finance Agency (HMFA,) NeighborWorks America, New Jersey Citizen Action, the New Jersey Bankers Association, and a host of other trade and government organizations. It aims to preserve home ownership by raising consumer awareness of available mortgage products, providing increased access to credit and loan counseling and providing temporary assistance to consumers who are in immediate danger of foreclosure.

We have established an advisory committee of elected officials to provide needed input and advice from state, municipal and county elected officials.

Since October, DOBI has spearheaded a community information program to bring awareness and solutions directly to consumers. We have organized or participated in 14 community forums across the state providing information and counseling opportunities to at-risk homeowners who are in foreclosure, or may have difficulty making their mortgage payments now or when their rates reset.

From a regulatory standpoint, the DOBI Office of Consumer Finance continues to be aggressive in its examination of licensees, and responsive to complaints and concerns of consumers who contact us.

The Department looks forward to continuing to work with members of the Legislature, as well as industry trade groups, and community groups in establishing appropriate new standards for monitoring the industry.

### Strengthening the State Banking Charter

Lax federal regulation of financial institutions and the aggressive use of federal preemption by federal regulatory authorities have contributed to the current national economic crises. State chartered institutions have, by and large, steered clear of the risky products and practices at the heart of the problem. There remains an important role to be played in our economy by state regulation of mortgage bankers and brokers, state licensed and chartered financial institutions, and state enforcement of consumer protections. Your legislative voice needs to be preserved.

The current U.S. Treasury proposal, which basically calls for consolidation of financial services regulation at the federal level, is, in our view, fundamentally flawed. State regulators, implementing laws passed by you, have done a far better job at properly regulating the banking and insurance sectors than have their federal counterparts. A cooperative and creative partnership among the states and the federal government is what is called for. We support enhancing state chartered institutions.

Toward this end, we strongly support a new *de novo* banking statute that will enable New Jersey chartered banks to expand more easily outside our borders, and would also allow banks from other states to do business here more easily on a reciprocal basis.

Currently, state chartered banks can only open branches in a neighboring state if they acquire an existing branch of another bank and that branch may well be subject to regulation by the other state. As a result, it has actually become desirable for banks to relinquish their state charters in favor of Federal charters that are more costly, but less restrictive.

In a further effort to strengthen the state chartered banking system, the Department has developed a tri-state banking compact with the New York and Pennsylvania banking departments that will permit state-chartered banks to open new branches across state lines and be regulated only by their home state regulator. This agreement will be signed by all three states on April 15.

### Insurance

#### Auto Reforms

We continue to be pleased with the progress made as a result of the Legislature's 2003 auto insurance reforms, which transformed New Jersey from a regulatory pariah to a model of reform that other states now strive to emulate.

Through the reforms instituted by this Legislature, more drivers are insured and are paying less in total premiums than they were five years ago. Seven of the top 10 largest national carriers are now operating in New Jersey. As a result of the reforms, downward pressure on rates from competition saved New Jersey drivers hundreds of millions of dollars each year in rate reductions and dividends.

But if we are to see these successes continue, New Jersey must be committed to finishing the job of creating a stable and sustainable marketplace capable of withstanding the cyclical nature of the industry.

Toward that end, the Department has proposed two measures that represent the final pieces needed to complete the reform process: an update of the state's territorial rating system, and a comprehensive Personal Injury Protection, or PIP, medical fee schedule.

Regarding territories: A new territorial map is complete (the first in over 50 years), and was approved in December 2007. In conjunction with redrawing the map, the Department adopted regulations establishing the Territorial Rating Equalization Exchange (TREE), in February 2008. TREE will centralize collection of currently paid premium dollars and redistribute them based upon how much business a company writes in high-loss areas of the state. No additional premium dollars will be collected. Through this mechanism, the historic disincentive to cover drivers in high-loss areas will be mitigated, and the premiums that those drivers pay will be moderated.

Insurers are filing new maps and rating systems with the Department this year to reflect the new territorial map. The filings must be revenue neutral. The new systems will take effect beginning in the second half of this year.

The other remaining unfinished piece of auto reform is the Personal Injury Protection (PIP) Medical Fee Schedule. The Department has developed a fee schedule 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 disputes that are costly, and time-consuming to resolve for both providers and payers.

Provider concerns about the proposed fees have nonetheless resulted in litigation. 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.

### Universal Health Insurance

Implementing universal health insurance coverage in New Jersey has been, and remains one of this administration's top priorities. DOBI has been working with the Administration and, with you, Senator Vitale, towards reforming the healthcare market. Achieving reform in the context of the state's fiscal problems is a challenge; nonetheless, DOBI continues to look for low cost or no cost ways to reduce the cost of health insurance until the time comes when affordability is less of an issue.

These initiatives include support for commercial market reforms, expanded use of technology to improve efficiency, and other efforts that affect medical costs. For example, DOBI is in the process of proposing new rules to address fluctuations in the cost of medical malpractice insurance and is working with legislators and other Departments on a pilot program for Electronic Health Records.

We look forward to working with Senator Vitale, other members of the Legislature, insurers and the medical community in a continuing effort to make health insurance more available and affordable.

#### Coastal Homeowners/Disaster Planning

In the wake of Hurricane Katrina and other recent severe hurricanes, the Department has been closely watching the issue of property insurance in coastal areas. Though we have seen less impact than many other coastal states, New Jersey has not been totally immune to the forces affecting the cost and availability of this insurance.

Coverage remains in sufficient supply in New Jersey. But coverage is increasingly found in the more expensive surplus lines market, instead of in the more regulated admitted market. The Department has been working with admitted companies to mitigate the extent of this shift, and with some success. But this is going to be an ongoing effort.

Last year I reported to you that we convened a Disaster Response Plan Development Group, made up of department employees and a cross-section of bankers and insurers. The committee's task was to develop a plan and outline the steps necessary to implement a comprehensive disaster response program for the financial services industries.

Following the committee's recommendations last year, the Department stepped up its coordination efforts with State emergency management authorities and the Office of Homeland Security and developed 12 emergency support functions it will perform in the event of a disaster. These functions cover such areas as: having insurance companies promptly pay claims to affected insureds, having banking services available to those in need, and confirming that these financial institutions have developed their own disaster preparedness and response plans. The Department continues to work with the private sector and other state agencies develop ways to improve its own and industry's response to disaster.

Finally let me say that in the two 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.