PRESS RELEASE

JANE DEE HULL
GOVERNOR

CHARLES R. COHEN
DIRECTOR

ARIZONA DEPARTMENT OF INSURANCE
2910 North 44th Street, Suite 210, Phoenix, Arizona 85018-7256 · (602) 912-8456 · FAX: (602) 912-8452
http://www.state.az.us/id

Contact: **Don Harris**
Public Information Officer
(602) 912-8402

1999-18
For Immediate Release
August 26, 1999

Arizona Insurance Director Appeals to State's Congressional Delegation to Support Amendments to Financial Services Legislation

As Congress prepares to address pending federal legislation that would allow banks to enter the insurance business, Arizona Insurance Director Charles R. Cohen is appealing to members of the state's Congressional delegation to support amendments that preserve state power to protect insurance consumers.

Both the House and Senate have passed versions of financial services modernization legislation that eliminate federal barriers to the convergence of the banking, securities and insurance industries. Sponsors say the legislation would optimize the benefits of consolidating the operations of businesses engaged in financial services.

Cohen warned that under either the House or Senate version of the legislation, state insurance regulators would be prevented from enforcing vital consumer protection laws against bank-affiliated insurance enterprises.

HR10 and S.900 now move to a joint conference committee, which will attempt to reconcile differences between the two bills.

In a letter Aug. 13, to all members of Arizona's congressional delegation, Cohen outlined three specific areas that need to be remedied to protect consumers.

Both bills prohibit the states from doing anything that might "prevent or restrict" banks from engaging in non-sales insurance activities, including insurance underwriting and policy administration.

-more-

Cohen wrote, “This exceedingly broad standard undercuts ALL state supervisory authority because every regulation restricts business activity to some degree. In addition, the bills flatly prohibit states from regulating the insurance activities of banks, except for certain sales practices, preventing the states from protecting the American public from the dangers of unregulated insurance products in the marketplace.”

Another section of both bills uses an “adverse impact” test to determine if state laws or regulations are preempted because they discriminate against banks. “This unrealistic standard fails to recognize that banks, as government-insured institutions, are fundamentally different from other insurance providers," Cohen wrote. “Sound laws and regulations that are neutral on their face and neutral in their intent would still be subject to preemption under such a standard.”

Finally, Cohen wrote, the bills do not guarantee that state regulators will always have equal standing with federal regulators for disputes that arise in federal court. Cohen echoed the concerns of the National Association of Insurance Commissioners that federal regulators would be given deference regarding court disputes over insurance laws and regulations in force as of Sept. 3, 1998.

“Failure to avoid needless preemption of state insurance regulatory authority will have far reaching and damaging consequences for insurance consumers,” Cohen wrote. “There is no reason for Congress to preempt a state regulatory system that is working well, the only insurance regulatory system, and thereby tilt the playing field in favor of banks as they enter into competition within the insurance industry.”

Cohen has stated repeatedly that he wholeheartedly supports the modernization of financial services to the extent that consumers would benefit through greater competition, choice, service and convenience.

“What I am concerned about,” Cohen said, “is that this consolidation not be accomplished in a way that compromises state authority to regulate the insurance industry and protect consumers of complex financial products. By long-standing federal mandate, this is a state power. If Congress passes the legislation in its current form, it will prevent the states from exercising the regulatory supervision of insurance activities this entire nation depends upon. Because no federal agency regulates the business of insurance, much insurance activity conducted by banks and bank affiliates will go unregulated.

“The costs of regulatory failures will fall directly upon policyholders, claimants, state guaranty funds and state taxpayers.”

-30-