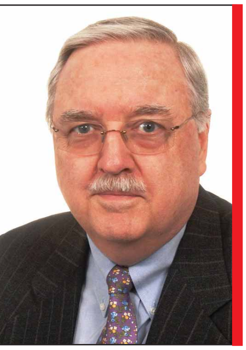
[INSIGHT] By Peter H. Bickford

By Way of Introduction…

Welcome to our first Insight column!

When Steve Acunto asked me to write a regular column for *Insurance Advocate*, my first reaction was negative. At this stage in my career, why undertake an assignment with deadlines and the constant pressure to come up with something interesting and informative for the readership? Then I went back and reviewed a number of back issues of IA and realized that its readers might enjoy, even profit by, a pointed voice to pepper its content.



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I have accepted on the premise that Steve's goal is to have someone be able to voice what is on the minds of many and should be on the mind's of all parties in the insuring process.... even if it means occasionally pointing out that the emperor has no clothes. And who better to provide this counterpoint than someone who has been in the insurance business for more than 40 years and has participated in and observed the ups and downs of the business and its regulation from a number of vantage points.

Much of my focus – at least initially – will be on the regulatory and legislative side, particularly in New York. This is not just because I love to pester the administration (which I do), but also because the regulatory landscape has totally changed with the creation of the new Department of Financial Services. According to the statute creating the DFS, its principal purpose is "to encourage, promote and assist banking, insurance and other financial services institutions to effectively and productively locate, operate, employ, grow, remain, and expand in New York state;…" The concern of many, at least out of hearing of the department chiefs, is that this lofty statutory purpose was simply salve to cover the true intent of the administration to pursue enforcement over productivity, punishment over growth, and rules over efficiency in the marketplace.

Me? I believe in giving the DFS a chance to prove that it can carry out the legislative intent and properly balance its role as regulator for the benefit of the industry and its consumers. But I will pester and goad them along the path. Starting now…

An important sign of how the administration views its role is through its public pronouncements. So let's look at the public releases of the DFS. During the first four months of 2012, the DFS issued 27 press releases. Of these 27 releases, 16 related to the banking side:

- 12 specifically addressed the very important foreclosure issue statewide;
- 1 announced a conversion to a state bank;
- 1 announced appointments to a bank advisory board; and
- 2 addressed the investigation of force-placed insurance by banks.

The other 11 releases related to the insurance industry, and covered the following topics:

- 1 announced former insurance superintendent Wrynn joining the Goldberg Segalla law firm;
- 1 announced the executive order to by-pass the Legislature and move forward with the creation of the politically charged health exchanges;
- 1 announced the ability for p/c companies to file rate and form requests via the DFS website; and
- Each of the remaining 8 insurance related press releases announced an enforcement action or audit directed at some segment of the industry including insurers, service providers and agents.

The target activity of each of these releases was unquestionably an important and meaningful topic for DFS action. But where's the balance? *There was not one DFS press release in the first quarter of 2012 relating to support for or growth of the industry!* While 4 months may be too short a time to reach any meaningful conclusion, it is enough to raise concern about the main focus and objective of the DFS.

Curiously, one action of the DFS this year that could be considered as industry friendly even with its flaws – commercial deregulation – was not the subject of a DFS press release. The subject was touted by the DFS at industry functions and in the trade press (including IA), but apparently the topic of helping domestic insurance companies expand their ability to underwrite large commercial risks was not sufficiently "on message" to warrant a release to the general public.

As I pointed out in an article on the merger of banking and insurance appearing in these pages last September ("Consolidation," *Insurance Advocate*, September 28, 2011) the administration was to be commended for addressing the concerns of the industry in the originally proposed merger legislation to make it as much about helping the insurance business thrive in New York as it was about enforcement against abusers. The jury is still out on the issue of whether or not the DFS will be able to achieve this balance, although the press release indicator was not encouraging. I assure you that I will continue to observe and report on the issue.

And here is a teaser for my next column: Because of the liquidation of Executive Life Insurance Company of New York, the aggregate life guaranty fund caps have been exhausted. *Without new legislation, there is no current life guaranty fund coverage for New York residents!*

My thanks to Steve for giving me this opportunity, and I look forward to a continuing dialogue with IA's readers! [IA]