

Insurance Times: Mass. sues OCC to uphold state's law on bank insurance sales
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BOSTON — The Massachusetts Attorney General's office is hoping to overturn a ruling by the federal banking regulator that federal banking law trumps Bay State statutes when national banks move to sell insurance.

Gov. Jane Swift ordered the federal court lawsuit on behalf of the Divisions of Insurance and Banks. In essence, the suit accuses the U.S. Office of the Comptroller of Currency of exceeding its statutory authority.

If successful, the lawsuit would void OCC's March 18 determination that the federal Gramm-Leach-Bliley financial services reform law takes precedence over three Massachusetts laws governing how banks sell insurance.

The Massachusetts laws affected by the ruling restrict:

- Non-licensed employees from referring prospective customers to a licensed insurance agent unless a customer asks first.
- A bank from paying an employee for handling referrals.
- A bank from telling loan applicants until after their application is approved that they can buy insurance products through the bank.

The OCC, in March, determined that the three laws unfairly restricted national banks from soliciting and cross-marketing products as outlined in the Gramm-Leach-Bliley Act. The Massachusetts Bankers Association asked for the opinion a few years ago.

Appeal Rejected

The Divisions of Insurance and Banks asked the OCC for a reconsideration of its opinion, but that request was rejected.

West Virginia has also filed suit in a similar case still pending in a Washington, D.C. federal court, and insurance trade associations have blasted the OCC decisions in both states.

The OCC opinion and its legal challenges are already affecting Massachusetts. According to the Attorney General's lawsuit, national and state-chartered banks have "invoked the Preemption Opinion" to support their request to conduct business restricted by the three laws.

Murray & MacDonald Insurance Services, a subsidiary of a national bank -- Cape Cod Bank and Trust Co. — is one such institution affected by the OCC opinion and appeal. Murray & McDonald filed an amended plan of operation in April with the DOI that would have authorized it to "conduct activities proscribed by the challenged state law" as affected by the OCC, the lawsuit said.

Those requests have been delayed pending resolution of the Massachusetts' legal case.