

House Calendar

Wednesday, March 1, 2023

57th DAY OF THE BIENNIAL SESSION

House Convenes at 1:00 P.M.

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ORDERS OF THE DAY

ACTION CALENDAR

Favorable with Amendment

H. 67

An act relating to household products containing hazardous substances

Rep. Stebbins of Burlington, for the Committee on Environment and Energy, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS

The General Assembly finds that:

(1) Thousands of household products sold in the State contain substances designated as hazardous under State or federal law.

(2) Vermont's hazardous waste rules establish specific requirements for the management of hazardous waste, including a prohibition on disposal in landfills.

(3) Leftover household products, known as household hazardous waste (HHW), are regulated through a requirement that municipal solid waste management entities (SWMEs) include provisions in solid waste implementation plans for the management and diversion of unregulated hazardous waste. The State solid waste management plan also requires the SWMEs to each hold a minimum of two HHW collection events every year.

(4) Many SWMEs already offer more than two HHW collection events, and seven of the SWMEs have established permanent facilities for the regular collection of HHW.

(5) HHW collection events and permanent facilities are expensive to operate, and SWMEs spend approximately \$2.2 million a year to manage HHW, costs that are subsequently passed on to the residents of Vermont through taxes, fees, or disposal charges.

(6) As a result of the failure to divert HHW, it is estimated that 855 tons or more per year of HHW are being disposed of in landfills.

(7) There is general agreement among the SWMEs and the Agency of Natural Resources that additional collection sites and educational and informational activities are necessary to capture more of the HHW being disposed of in landfills.

(8) Funding constraints are a current barrier to new collection sites and educational and informational activities.

(9) HHW released into the environment can contaminate air, groundwater, and surface waters, thereby posing a significant threat to the environment and public health.

(10) To improve diversion of HHW from landfills, reduce the financial burden on SWMEs and taxpayers, reduce the cost of the overall system of managing HHW, and lessen the environmental and public health risk posed by improperly disposed of HHW, the State shall implement a program to require the manufacturers of household products containing a hazardous substance to implement a stewardship organization to collect household products containing a hazardous substance free of charge to the public.

Sec. 2. 10 V.S.A. chapter 164B is added to read:

CHAPTER 164B. COLLECTION AND MANAGEMENT OF
HOUSEHOLD HAZARDOUS PRODUCTS

§ 7181. DEFINITIONS

As used in this chapter:

(1) “Agency” means the Agency of Natural Resources.

(2) “Consumer product” means any product that is regularly used or purchased to be used for personal, family, or household purposes.

(3) “Covered entity” means any person who presents to a collection facility or event that is included in an approved collection plan any number of covered household hazardous products, with the exception of large quantity generators or small quantity generators as those terms are defined in the Agency of Natural Resources’ Vermont Hazardous Waste Regulations.

(4)(A) “Covered household hazardous product” means a consumer product offered for retail sale that is contained in the receptacle in which the product is offered for retail sale, if the product has any of the following characteristics:

(i) the product or a component of the product is a hazardous waste under subchapter 2 of the Vermont Hazardous Waste Management Regulations, regardless of the status of the generator of the hazardous waste;
or

(ii) the product is a gas cylinder.

(B) “Covered household hazardous product” does not mean any of the following:

- (i) a primary battery;
- (ii) a lamp that contains mercury;
- (iii) a thermostat that contains mercury;
- (iv) architectural paint as that term is defined in section 6672 of this title;
- (v) a covered electronic device as that term is defined in section 7551 of this title;
- (vi) a pharmaceutical drug;
- (vii) citronella candles;
- (viii) flea and tick collars;
- (ix) pesticides required to be registered with the Agency of Agriculture, Food and Markets; or
- (x) products that are intended to be rubbed, poured, sprinkled on, sprayed on, introduced into, or otherwise applied to the human body or any part of a human for cleansing, moisturizing, sun protection, beautifying part of a human for cleansing, moisturizing, sun protection, beautifying, promoting attractiveness, or altering appearance, unless designated as a hazardous material or a hazardous waste by the Secretary of Natural Resources.

(5)(A) “Gas cylinder” means:

(i) any nonrefillable cylinder and its contents supplied to a consumer for personal, family, or household use and shall include those containing flammable pressurized gas, spray foam insulating products, single-use and rechargeable handheld fire extinguishers, helium, or carbon dioxide, of any size not exceeding any cylinder with a water capacity of 50 pounds, including seamless cylinders and tubes, welded cylinders, and insulated cylinders intended to contain helium, carbon dioxide, or flammable materials such as propane, butane, or other flammable compressed gasses; or

(ii) refillable cylinders containing propane for personal, family, or household use not exceeding a water capacity of one pound.

(B) “Gas cylinder” does not include any medical or industrial-grade cylinder.

(6)(A) “Manufacturer” means a person who:

(i) manufactures or manufactured a covered household hazardous product under its own brand or label for sale in the State;

(ii) sells in the State under its own brand or label a covered household hazardous product produced by another supplier;

(iii) owns a brand that it licenses or licensed to another person for use on a covered household hazardous product sold in the State;

(iv) imports into the United States for sale in the State a covered household hazardous product manufactured by a person without a presence in the United States;

(v) manufactures a covered household hazardous product for sale in the State without affixing a brand name; or

(vi) assumes the responsibilities, obligations, and liabilities of a manufacturer as defined under subdivisions (i) through (v) of this subdivision (6)(A), provided that the Secretary may enforce the requirements of this chapter against a manufacturer defined under subdivisions (i) through (v) of this subdivision (6)(A) if a person who assumes the manufacturer's responsibilities fails to comply with the requirements of this chapter.

(B) "Manufacturer" does not mean a person set forth under subdivisions (A)(i)–(vi) of this subdivision (6) if the person manufactures, sells, licenses, or imports less than \$5,000.00 of covered household hazardous products in the United States in a program year and is registered with the Secretary.

(7) "Orphan covered product" means a covered household hazardous product for which no manufacturer is participating in a stewardship organization pursuant to section 7182 of this title.

(8) "Program year" means the period from January 1 through December 31.

(9) "Retailer" means a person who sells a covered household hazardous product in the State through any means, including a sales outlet, a catalogue, the telephone, the Internet, or any electronic means.

(10) "Secretary" means the Secretary of Natural Resources.

(11) "Sell" or "sale" means any transfer for consideration of title or of the right to use by lease or sales contract a covered household hazardous product to a person in the State of Vermont. "Sell" or "sale" does not include the sale, resale, lease, or transfer of a used covered household hazardous product or a manufacturer's wholesale transaction with a distributor or a retailer.

(12) "Stewardship organization" means a legal entity such as an organization, association, or entity that has developed a system, method, or

other mechanism that assumes the responsibilities, obligations, and liabilities under this chapter of multiple manufacturers of covered household hazardous products.

§ 7182. SALE OF COVERED HOUSEHOLD HAZARDOUS PRODUCTS;

STEWARDSHIP ORGANIZATION REGISTRATION

(a) Sale prohibited. Beginning on July 1, 2025, a manufacturer of a covered household hazardous product shall not sell, offer for sale, or deliver to a retailer for subsequent sale a covered household hazardous product unless all the following have been met:

(1) The manufacturer is participating in a stewardship organization implementing an approved collection plan.

(2) The name of the manufacturer, the manufacturer's brand, and the name of the covered household hazardous product are submitted to the Agency of Natural Resources by a stewardship organization and listed on the stewardship organization's website as covered by an approved collection plan.

(3) The stewardship organization in which the manufacturer participates has submitted an annual report under section 7185 of this title.

(4) The stewardship organization in which the manufacturer participates has conducted a plan audit consistent with the requirements of subsection 7185(b) of this title.

(b) Stewardship organization registration requirements.

(1) Beginning on July 1, 2024 and annually thereafter, a stewardship organization shall file a registration form with the Secretary. The Secretary shall provide the registration form to the stewardship organization. The registration form shall include:

(A) a list of the manufacturers participating in the stewardship organization;

(B) a list of the brands of each manufacturer participating in the stewardship organization;

(C) a list of the covered household hazardous products of each manufacturer participating in the stewardship organization;

(D) the name, address, and contact information of a person responsible for ensuring the manufacturer's compliance with this chapter;

(E) a description of how the stewardship organization meets the requirements of subsection 7184(b) of this title, including any reasonable requirements for participation in the stewardship organization; and

(F) the name, address, and contact information of a person for a nonmember manufacturer to contact regarding how to participate in the stewardship organization to satisfy the requirements of this chapter.

(2) A renewal of a registration without changes may be accomplished through notifying the Agency of Natural Resources on a form provided by the Agency.

§ 7183. COLLECTION PLANS

(a) Collection plan required. Prior to January 1, 2025, any stewardship organization registered with the Secretary as representing manufacturers of covered household hazardous products shall coordinate and submit to the Secretary for review one collection plan for all manufacturers.

(b) Collection plan; minimum requirements. Each collection plan shall include, at a minimum, all of the following requirements:

(1) List of participants. A list of the manufacturers, brands, and products participating in the collection plan and a methodology for adding and removing manufacturers and notifying the Agency of new participants.

(2) Free statewide collection of covered household hazardous products. The collection program shall provide for free, convenient, and accessible statewide opportunities for the collection from covered entities of covered household hazardous products, including orphan covered products. A stewardship organization shall accept all covered household hazardous products collected from a covered entity and shall not refuse the collection of a covered household hazardous product, including orphan covered household products, based on the brand or manufacturer of the covered household hazardous product unless specifically exempt from this requirement. The collection program shall also provide for the payment of collection, processing, and end-of-life management of the covered household hazardous products. Collection costs include facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials.

(3) Convenient collection location. The stewardship organization shall develop a collection program that allows all municipal household hazardous waste collection programs to opt to be a part of the collection plan, including collection events and facilities offered by solid waste planning entities.

(4) Public education and outreach. The collection plan shall include an education and outreach program that shall include a website and may include media advertising, retail displays, articles and publications, and other public educational efforts. Outreach and education shall be suitable for the State's diverse ethnic populations, through translated and culturally appropriate materials, including in-language and targeted outreach. During the first year of program implementation and every two years thereafter, each stewardship organization shall carry out a survey of public awareness regarding the requirements of the program established under this chapter that can identify communities that have disparities in awareness and need more outreach. Each stewardship organization shall share the results of the public awareness surveys with the Secretary. If multiple stewardship organizations are implementing plans approved by the Secretary, the stewardship organizations shall coordinate in carrying out their education and outreach responsibilities under this subdivision and shall include in their annual reports to the Secretary a summary of their coordinated education and outreach efforts. The education and outreach program and website shall notify the public of the following:

(A) that there is a free collection program for covered household hazardous products;

(B) the location and hours of operation of collection points and how a covered entity can access this collection program;

(C) the special handling considerations associated with covered household hazardous products; and

(D) source reduction information for consumers to reduce leftover covered household products.

(5) Compliance with appropriate environmental standards. In implementing a collection plan, a stewardship organization shall comply with all applicable laws related to the collection, transportation, and disposal of hazardous waste. A stewardship organization shall comply with any special handling or disposal standards established by the Secretary for covered household hazardous products or for the collection plan of the manufacturer.

(6) Method of disposition. The collection plan shall describe how covered household hazardous products will be managed in the most environmentally and economically sound manner, including following the waste-management hierarchy. The management of covered household hazardous products under the collection plan shall use management activities in the following priority order: source reduction, reuse, recycling, energy recovery, and disposal. Collected covered household hazardous products shall be recycled when technically and economically feasible.

(7) Performance goals. A collection plan shall include:

(A) A performance goal for covered household hazardous products determined by the number of total participants at collection events and facilities listed in the collection plan during a program year divided by the total number of households. The number of households shall include seasonal households. The calculation methodology for the number of households shall be included in the plan.

(B) At a minimum, the collection performance goal for the first year of a plan shall be a participation rate of five percent of the households for every collection program based on the number of households the collection program serves, provided that the required participation rate shall increase by one percent for every year of the initial plan. After the initial approved program plan, the stewardship organization shall propose performance goals for subsequent program plans. The Secretary shall approve the performance goals for the plan at least every five years. The Secretary shall use the results of the most recent waste composition study required under 6604 of this title and other relevant factors to establish the performance goals of the collection plan. If a stewardship organization does not meet its performance goals, the Secretary may require the stewardship organization to revise the collection plan to provide for one or more of the following: additional public education and outreach, additional collection events, or additional hours of operation for collection sites. A stewardship organization is not authorized to reduce or cease collection, education and outreach, or other activities implemented under an approved plan on the basis of achievement of program performance goals.

(C) Proposed goals for increasing public awareness of the program, including meaningful participation for environmental justice focus populations as required by 3 V.S.A. chapter 72.

(8) Collection plan funding. The collection plan shall describe how the stewardship organization will fund the implementation of the collection plan and collection activities under the plan, including the costs for education and outreach, collection, processing, and end-of-life management of the covered household hazardous product. Collection costs include facility costs, equipment costs, labor, supplies, maintenance, events costs, and event contractor costs, including collection event set-up fees, environmental service fees, insurance fees, and shipping containers and materials. The collection plan shall include how municipalities will be compensated for all costs associated with collection of covered household hazardous products.

(c) Term of collection plan. A collection plan approved by the Secretary under section 7187 of this title shall have a term not to exceed five years,

provided that the manufacturer remains in compliance with the requirements of this chapter and the terms of the approved collection plan.

(d) Collection plan implementation. Stewardship organizations shall implement the collection plan on or before July 1, 2025.

§ 7184. STEWARDSHIP ORGANIZATIONS

(a) Participation in a stewardship organization. A manufacturer shall meet the requirements of this chapter by participating in a stewardship organization that undertakes the responsibilities under sections 7182, 7183, and 7185 of this title.

(b) Qualifications for a stewardship organization. To qualify as a stewardship organization under this chapter, an organization shall:

(1) commit to assume the responsibilities, obligations, and liabilities of all manufacturers participating in the stewardship organization;

(2) not create unreasonable barriers for participation in the stewardship organization; and

(3) maintain a public website that lists all manufacturers and manufacturers' brands and products covered by the stewardship organization's approved collection plan.

§ 7185. ANNUAL REPORT; COLLECTION PLAN AUDIT

(a) Annual report. On or before September 1, 2026 and annually thereafter, a stewardship organization of manufacturers of covered household hazardous products shall submit a report to the Secretary that contains all of the following:

(1) A description of the collection program.

(2) The volume or weight by hazard category, as defined by the Secretary, of covered household hazardous products collected, the disposition of the collected covered household hazardous products, and the number of covered entities participating at each collection facility or collection event from which the covered household hazardous products were collected.

(3) The name and address of all the recycling and disposal facilities where the covered household hazardous products are collected and delivered and deposited.

(4) The weight or volume by hazard category of covered household hazardous products sold in the State in the previous calendar year by a manufacturer participating in a stewardship organization's collection plan. Sales data provided under this section shall be exempt from public inspection

and copying under the Public Records Act and shall be kept confidential. Confidential information shall be redacted from any final public report.

(5) A comparison of the collection plan's participation rate and public awareness goals compared to the actual participation rate and public awareness and how the program will be improved if the participation rate and public awareness goals are not met.

(6) A description of the methods used to reduce, reuse, collect, transport, recycle, and process the covered household hazardous products.

(7) The cost of implementing the collection plan, including the costs of administration, collection, transportation, recycling, disposal, and education and outreach.

(8) A description and evaluation of the success of the education and outreach materials. If multiple stewardship organizations are implementing the collection plan approved by the Secretary, the stewardship organizations shall include a summary of their coordinated education and outreach efforts.

(9) Recommendations for any changes to the program.

(b) Collection plan audit. On or before September 1, 2030 and every five years thereafter, a stewardship organization of manufacturers of covered household hazardous products shall hire an independent third party to audit the collection plan and the plan's operation. The auditor shall examine the effectiveness of the program in collecting and disposing of covered household hazardous products. The auditor shall examine the cost-effectiveness of the program and compare it to that of collection programs for covered household hazardous products in other jurisdictions. The auditor shall make recommendations to the Secretary on ways to increase the program's efficacy and cost-effectiveness.

(c) Public posting. A stewardship organization shall post a report or audit required under this section to the website of the stewardship organization.

§ 7186. ANTITRUST; CONDUCT AUTHORIZED

(a) Activity authorized. A manufacturer, group of manufacturers, or stewardship organization implementing or participating in an approved collection plan under this chapter for the collection, transport, processing, and end-of-life management of covered household hazardous products is individually or jointly immune from liability for conduct under State laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce under 9 V.S.A. chapter 63, subchapter 1 to the extent that the conduct is reasonably necessary to plan, implement, and comply

with the stewardship organization's chosen system for managing discarded covered household hazardous products.

(b) Limitations on antitrust activity. Subsection (a) of this section shall not apply to an agreement among producers, groups of manufacturers, retailers, wholesalers, or stewardship organizations affecting the price of covered household hazardous products or any agreement restricting the geographic area in which or customers to whom covered household hazardous products shall be sold.

§ 7187. AGENCY RESPONSIBILITIES

(a) Review and approve collection plans. The Secretary shall review and approve or deny collection plans submitted under section 7183 of this title according to the public notice and comment requirements of section 7714 of this title.

(b) Criteria for plan approval.

(1) The Secretary shall approve a collection plan if the Secretary finds that the collection plan:

(A) complies with the requirements of subsection 7183(b) of this title;

(B) provides adequate notice to the public of the collection opportunities available for covered household hazardous products;

(C) ensures that collection of covered household hazardous products will occur in an environmentally sound fashion that is consistent with the law or with any special handling requirements adopted by the Secretary;

(D) promotes the collection and disposal of covered household hazardous products; and

(E) is reasonably expected to meet performance goals and convenience standards.

(2) If a manufacturer or a stewardship organization fails to submit a plan that is acceptable to the Secretary because it does not meet the requirements of this chapter, the Secretary shall modify the submitted plan to make it conform to the requirements of this chapter and place the modified draft plan on notice pursuant to section 7714 of this title.

(c) Collection plan amendment. The Secretary, in the Secretary's discretion or at the request of a manufacturer or a stewardship organization, may require a stewardship organization to amend an approved collection plan. The Secretary shall amend the performance goals in the collection plan at least

every five years. Collection plan amendments shall be subject to the public input provisions of section 7717 of this title.

(d) Registrations. The Secretary shall accept, review, and approve or deny registrations required by this chapter. The Secretary may revoke a registration of a stewardship organization when the actions of the stewardship organization are unreasonable, unnecessary, or contrary to the requirements or the policy of this chapter.

(e) Supervisory capacity. The Secretary shall act in a supervisory capacity over the actions of a stewardship organization registered under this section. In acting in this capacity, the Secretary shall review the actions of the stewardship organization to ensure that they are reasonable, necessary, and limited to carrying out requirements of and policy established by this chapter.

(f) Special handling requirements. The Secretary may adopt by rule special handling requirements for the collection, transport, and disposal of covered household hazardous products.

(g) Identification of regulated pesticides. The Secretary annually shall confer with the Secretary of Agriculture, Food and Markets for the purpose of identifying those pesticides that are subject to regulation under this chapter due to registration with the Agency of Agriculture, Food and Markets as Class C pesticides.

§ 7188. OTHER DISPOSAL PROGRAMS

A municipality or other public agency shall not require covered entities to use public facilities to dispose of covered household hazardous products to the exclusion of other lawful programs available. A municipality and other public agencies are encouraged to work with manufacturers to assist them in meeting their collection and disposal obligations under this chapter. Nothing in this chapter prohibits or restricts the operation of any program collecting and disposing of covered household hazardous products in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or disposing of covered household hazardous products, provided that all other applicable laws are met.

§ 7189. RULEMAKING

The Secretary of Natural Resources may adopt rules to implement the requirements of this chapter.

Sec. 3. AGENCY OF NATURAL RESOURCES RECOMMENDATION OF
REGISTRATION FEE FOR COVERED HOUSEHOLD
HAZARDOUS PRODUCTS

On or before January 15, 2024, the Secretary of Natural Resources shall submit to the House Committees on Ways and Means and on Environment and Energy and the Senate Committees on Finance and on Natural Resources and Energy a recommended fee for the registration of stewardship organizations under the covered household hazardous product program under 10 V.S.A. chapter 164B.

Sec. 4. 10 V.S.A. § 6621a(a) is amended to read:

(a) In accordance with the following schedule, no person shall knowingly dispose of the following materials in solid waste or in landfills:

* * *

(12) Covered household hazardous products after July 1, 2025.

Sec. 5. 10 V.S.A. § 7714 is amended to read:

§ 7714. TYPE 3 PROCEDURES

(a) Purpose; scope.

(1) The purpose of this section is to establish the public notice and comment requirements that the Department must follow when adopting general permits, except for general permits governed by section 7712 of this chapter, and when considering other permits listed in this section.

(2) The procedures under this section shall be known as Type 3 Procedures. This section governs each of the following:

(A) Each general permit issued pursuant to the Secretary's authority under this title other than a general permit subject to section 7712 of this chapter. However, this section does not apply to a notice of intent under a general permit.

(B) Issuance of a dam safety order under chapter 43 of this title, except for an unsafe dam order under section 1095 of this title.

(C) An application or request for approval of:

(i) an aquatic nuisance control permit under chapter 50 of this title;

(ii) a change in treatment for a public water supply under chapter 56 of this title;

(iii) a collection plan for mercury-containing lamps under section 7156 of this title;

(iv) an individual plan for the collection and recycling of electronic waste under section 7554 of this title; ~~and~~

(v) a primary battery stewardship plan under section 7586 of this title; and

(vi) a covered household hazardous waste collection plan under section 7183 of this title.

* * *

Sec. 6. 10 V.S.A. § 8003 is amended to read:

§ 8003. APPLICABILITY

(a) The Secretary may take action under this chapter to enforce the following statutes and rules, permits, assurances, or orders implementing the following statutes, and the Board may take such action with respect to subdivision (10) of this subsection:

* * *

(30) 3 V.S.A. § 2810, relating to interim environmental media standards; ~~and~~

(31) 10 V.S.A. chapter 124, relating to the trade in covered animal parts or products; and

(32) 10 V.S.A. chapter 164B, relating to collection and management of covered household hazardous products.

* * *

Sec. 7. 10 V.S.A. § 8503 is amended to read:

§ 8503. APPLICABILITY

(a) This chapter shall govern all appeals of an act or decision of the Secretary, excluding enforcement actions under chapters 201 and 211 of this title and rulemaking, under the following authorities and under the rules adopted under those authorities:

(1) The following provisions of this title:

* * *

(V) chapter 124 (trade in covered animal parts or products); and

(W) chapter 164B (collection and management of covered household hazardous products).

(2) 29 V.S.A. chapter 11 (management of lakes and ponds).

(3) 24 V.S.A. chapter 61, subchapter 10 (relating to salvage yards).

(4) 3 V.S.A. § 2810 (interim environmental media standards).

* * *

Sec. 8. EFFECTIVE DATE

This act shall take effect on passage.

(Committee Vote: 11-0-0)

Rep. Ode of Burlington, for the Committee on Ways and Means, recommends the bill ought to pass when amended as recommended by the Committee on Environment and Energy and when further amended as follows:

First: In Sec. 2, 10 V.S.A. chapter 164B, in section 7183, in subdivision (b)(3), by adding a new sentence after “solid waste planning entities.” to read as follows:

The plan shall make efforts to site points of collection equitably across all regions of the State to allow for convenient and reasonable access of all Vermonters to collection facilities or collection events.

Second: In Sec. 2, 10 V.S.A. chapter 164B, in section 7185, in subdivision (a)(2), after “of covered household hazardous products collected,” and before “the disposition of the collected covered household hazardous products” by inserting “the volume or weight of covered household hazardous products collected at each collection facility or collection event,”

Third: In Sec. 2, 10 V.S.A. chapter 164B, in section 7185, in subdivision (b), by inserting a new sentence between the third and fourth sentences to read as follows:

The auditor shall examine the effectiveness of the plan in satisfying the requirement of this chapter that all Vermonters have convenient and reasonable access to collection facilities or collection events.

Fourth: In Sec. 2, 10 V.S.A. chapter 164B, in section 7187, by striking out subsection (g) in its entirety

(Committee Vote: 10-2-0)

H. 97

An act relating to the number of votes required for a write-in candidate to win a primary election

Rep. McCarthy of St. Albans City, for the Committee on Government Operations and Military Affairs, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Sore Loser Law * * *

Sec. 1. 17 V.S.A. § 2381(c) is added to read:

(c) In no event shall a candidate who loses a major party primary be nominated to appear on the general election ballot pursuant to this subchapter by a committee of any party other than the party for which the candidate appeared on the primary ballot.

Sec. 2. 17 V.S.A. § 2401 is amended to read:

§ 2401. APPLICABILITY OF SUBCHAPTER

(a) A person may be nominated and have his or her the person's name printed on the general election ballot for any office by filing a consent similar in form to the consent prescribed by section 2361 of this title and a statement of nomination with the Secretary of State. In the case of a nomination for justice of the peace, the consent form and statement of nomination shall be filed with the town clerk.

(b) A candidate who loses a major party primary for any office shall not appear on the general election ballot as an independent candidate for the same office for which the candidate lost in the primary election.

* * * Campaign Finance Limits for Statewide Candidates * * *

Sec. 3. 17 V.S.A. § 2941(a) is amended to read:

(a) In any election cycle:

* * *

(5)(A) A political party shall not accept contributions totaling more than:

- (A)(i) \$10,000.00 from a single source;
- (B)(ii) \$10,000.00 from a political committee; or
- (C)(iii) \$60,000.00 from a political party.

(B) A political party shall not accept contributions totaling more than \$100,000.00 from a candidate.

* * *

* * * Biennial Committee Reorganization Reporting * * *

Sec. 4. 17 V.S.A. § 2313 is amended to read:

§ 2313. FILING OF CERTIFICATE OF ORGANIZATION

* * *

(f) At the same time of filing the certificate of organization, the chair and secretary shall file with the Secretary of State a single machine-readable electronic document containing a list of the names and addresses of the town and county committee members from those towns and counties that have organized pursuant to this chapter.

(g) A committee is not considered organized until the material required by this section has been filed and accepted.

* * * Nominee Parties Printed on Ballots * * *

Sec. 5. 17 V.S.A. § 2474 is amended to read:

§ 2474. CHOICE OF PARTY

~~(a)(1) A person nominated by any means for the same office by more than one political party may elect, not later than 5:00 p.m. on the tenth day following the primary election, the party or parties in which the nominee will be a candidate. The nominee shall notify in writing the Secretary of State or town clerk, as the case may be, of such choice by that deadline, and only the party or parties that the nominee so elects shall be printed next to the nominee's name on the ballot.~~

~~(2) If the nominee does not notify the Secretary of State or the town clerk of his or her choice of party~~ a nominee is nominated by more than one party, the Secretary of State shall print on the ballot those parties next to the nominee's name by listing in this order:

~~(A)(1) the major political party for which the nominee had his or her the nominee's name printed on the ballot in the primary;~~

~~(B)(2) any major political parties for which the nominee won the nomination by write-in vote;~~

~~(3) any major political parties that nominated the nominee by the party committee, in the order in which the nominations were submitted to the Secretary of State; and~~

~~(C) any major political parties for which the nominee received write-in votes, in an order from highest to lowest vote counts; and~~

~~(D)~~(4) any minor political parties that nominated the nominee by party committee, in the order in which the nominations were submitted to the Secretary of State.

(b)(1) A candidate for State office who is the nominee of two or more political parties shall file with the Secretary of State, not later than 5:00 p.m. the ~~tenth~~ 10th day following the primary election, a statement designating for which party the votes cast for ~~him or her~~ the candidate shall be counted for the purposes of determining whether ~~his or her~~ the candidate's designated party shall be a major political party. ~~The party so designated shall be the first party to be printed immediately after the candidate's name on the ballot.~~

~~(2) If a candidate does not file the statement by that deadline, the Secretary of State shall designate the party for which the votes cast shall be counted as provided in subdivision (a)(2) of this section.~~

* * * Candidate Demographic Information * * *

Sec. 6. 17 V.S.A. § 2359 is amended to read:

§ 2359. NOTIFICATION TO SECRETARY OF STATE

(a) Within three days after the last day for filing petitions, all town and county clerks who have received petitions shall ~~notify~~ file with the Secretary of State ~~of the names of all candidates, a list containing the name, gender, age, race or ethnicity, mailing address, and e-mail address of all candidates, to the extent this information is provided by candidates;~~ the offices for which ~~they~~ the candidates have filed; and whether each candidate has submitted a sufficient number of valid signatures to comply with the requirements of section 2355 of this title. Town and county clerks shall also notify the Secretary of State of any petitions found not to conform to the requirements of this chapter and returned to a candidate under section 2358 of this title; and shall notify the Secretary of State of the status of such ~~petition~~ petitions not later than two days after the last day for filing supplementary petitions.

(b) In any listing of candidate information collected pursuant to subsection (a) of this section, the Secretary of State shall not publish information pertaining to candidates' gender, age, race or ethnicity unless in aggregate form.

Sec. 7. 17 V.S.A. § 2361(b) is amended to read:

(b)(1) The consent shall set forth the ~~name of the candidate,~~ candidate's name as the candidate wishes to have it printed on the ballot, the candidate's gender, age, or race or ethnicity, town of residence, ~~and~~ correct mailing address, and e-mail address. A candidate who does not provide information

pertaining to gender, age, race or ethnicity may still appear on the ballot if all other requirements are met.

* * *

Sec. 8. 17 V.S.A. § 2665 is amended to read:

§ 2665. NOTIFICATION TO SECRETARY OF STATE

The town clerk shall file with the Secretary of State a list of the names and addresses of the selectboard members elected and containing the name, gender, age, race or ethnicity, street address, and e-mail address, to the extent the information is provided by the candidate, and the end date of the term of office of each selectboard member, city councilor, village trustee, and mayor elected. The town clerk shall not be required to ask the candidate for information pertaining to gender, age, or race or ethnicity if this information is not provided to the town clerk. The town clerk shall notify the Secretary of State of any changes in the list as filed.

* * * Write-In Candidate Minimum Thresholds in Primary Elections * * *

Sec. 9. 17 V.S.A. § 2370 is amended to read:

§ 2370. WRITE-IN CANDIDATES

(a) A write-in candidate shall not qualify as a primary winner unless ~~he or she~~ the candidate receives at least ~~one-half~~ the higher of:

(1) 10 percent of the votes cast by a party plus one additional vote; or

(2) the same number of votes as the number of signatures required for his or her the candidate's office on a primary petition, except that if a write-in candidate receives more votes than a candidate whose name is printed on the ballot, he or she may the candidate shall qualify as a primary winner.

(b) The write-in candidate who qualifies as a primary winner under this section must still be determined a winner under section 2369 of this chapter before ~~he or she~~ the candidate becomes the party's candidate in the general election.

* * * Electronic Ballot Returns * * *

Sec. 10. 17 V.S.A. § 2542 is amended to read:

§ 2542. SIGNING CERTIFICATE

(a) There shall be printed on the face of the envelope provided for use in returning early voter absentee ballots, or provided in an electronic format if a ballot is electronically delivered pursuant to subsection 2539(b) or (c) of this title, a certificate in substantially the following form:

“Early or Absentee Voter Ballots of _____”

(print your name)

I, _____, solemnly swear or affirm that I am a resident of the town (city) of _____, State of Vermont, and that I am a legal voter in this town (city).

(your signature)

(b) The early or absentee voter, except a voter receiving a ballot electronically delivered pursuant to subsection 2539(b) or (c) of this title, must sign the certificate on the outside of the envelope in order for the ballot to be valid. When an early or absentee voter is physically unable to sign ~~his or her~~ the voter’s name, ~~he or she~~ the voter may mark an “X” or take an oath swearing or affirming to the statement on the certificate. The officers who deliver the ballots shall witness the mark or oath and sign their names with a statement attesting to this fact on the envelope.

Sec. 11. 17 V.S.A. § 2543 is amended to read:

§ 2543. RETURN OF BALLOTS

* * *

(d)(1) All early voter absentee ballots returned as follows shall be counted:

(A) by any means, to the town clerk’s office before the close of business on the day preceding the election;

(B) to any secure ballot drop box provided by the town or city in which the voter is registered pursuant to section 2543a of this subchapter before the close of business on the day before the election;

(C) by mail to the town clerk’s office before the close of the polls on the day of the election; and

(D) by hand delivery to the presiding officer at the voter’s polling place before the closing of the polls at 7:00 p.m.

(2)(A) All ballots electronically delivered pursuant to subsection 2539(b) or (c) of this title and returned as follows shall be counted:

(i) by means of a secure online portal developed and maintained by the Secretary of State, directly to the clerk before the close of business on the last day the clerk’s office is open prior to the election; and

(ii) with electronic signature on the certificate required pursuant to section 2542 of this title prior to submitting the ballot to the clerk.

(B) A ballot electronically delivered pursuant to subsection 2539(b) or (c) of this title and then returned pursuant to subdivision (A) of this subdivision (d)(2) shall be printed by the clerk and processed in the same manner as all other early or absentee ballots and in accordance with the procedures prescribed by this subchapter.

(C) The voter shall be notified when a ballot electronically delivered pursuant to subsection 2539(b) or (c) of this title and then returned pursuant to subdivision (A) of this subdivision (d)(2) is received and printed by the clerk pursuant to subdivision (B) of this subdivision (d)(2).

(3) An early voter absentee ballot returned in a manner other than those set forth in subdivision (1) or (2)(A) of this subsection shall not be counted.

* * *

* * * Effective Date * * *

Sec. 12. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 9-3-0)

H. 148

An act relating to raising the age of eligibility to marry

Rep. Chapin of East Montpelier, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act may be cited as the “Act to Ban Child Marriage.”

Sec. 2. 12 V.S.A. § 7151 is amended to read:

§ 7151. EMANCIPATED MINOR; DEFINITION; CRITERIA

(a) As used in this chapter:

(1) “Emancipated minor” means a minor who:

(A) has entered into a valid civil marriage prior to July 1, 2023, whether or not such civil marriage was terminated by dissolution;

(B) is on active duty with any of the U.S. Armed Forces ~~of the United States of America~~; or

(C) has been ordered emancipated pursuant to section 7155 of this title.

(2) “Risk of harm” means a significant danger that a child will suffer serious harm other than by accidental means, which would be likely to cause physical injury, neglect, emotional maltreatment, or sexual abuse.

(b) In order to become an emancipated minor by court order under this chapter, a minor at the time of the order must be a person who:

(1) Is 16 years of age or older but under the age of majority.

(2) Has lived separate and apart from ~~his or her~~ the minor’s parents, custodian, or legal guardian for three months or longer.

(3) Is managing ~~his or her~~ the minor’s own financial affairs.

(4) Has demonstrated the ability to be self-sufficient in ~~his or her~~ the minor’s financial and personal affairs, including proof of employment or ~~his or her~~ the minor’s other means of support. “Other means of support” does not include general assistance, Reach Up financial assistance, or relying on the financial resources of another person who is receiving such assistance or aid.

(5) Holds a high school diploma or its equivalent or is earning passing grades in an educational program approved by the court and directed toward the earning of a high school diploma or its equivalent.

(6) Is not under a legal guardianship or in the custody of the Commissioner for Children and Families.

(7) Is not under the supervision or in the custody of the Commissioner of Corrections.

Sec. 3. 18 V.S.A. § 5142 is amended to read:

§ 5142. PERSONS NOT AUTHORIZED TO MARRY

The following persons are not authorized to marry, and a town clerk shall not knowingly issue a civil marriage license, when:

(1) ~~either party is a person who has not attained majority, unless the town clerk has received in writing the consent of one of the parents of the minor, if there is a parent competent to act, or of the guardian of the minor under 18 years of age;~~

(2) ~~either party is under 16 years of age;~~

(3) ~~either of the parties is mentally incapable of entering into marriage as defined in 15 V.S.A. § 514 party lacks capacity to understand the nature of the conduct at issue;~~

(4)(3) ~~either of the parties~~ party is 18 years of age or older and under guardianship, without the written consent of the party’s guardian;

(5) [~~Repealed.~~]

(6)(4) the parties are prohibited from marrying under 15 V.S.A. § 1a on account of consanguinity or affinity; or

(7)(5) either of the parties party has a wife or husband living spouse, as prohibited under 13 V.S.A. § 206 (~~bigamy~~).

Sec. 4. 33 V.S.A. § 5102(16)(A) is amended to read:

(16)(A) “Custody” means the legal status created by order of the court under the authority of the juvenile judicial proceedings chapters for children under 18 years of age that invests in a party to a juvenile proceeding or another person the following rights and responsibilities:

* * *

(iv) the authority to make decisions that concern the child and are of substantial legal significance, including the authority to consent to ~~civil marriage and~~ enlistment in the U.S. Armed Forces, and the authority to represent the child in legal actions.

* * *

Sec. 5. REPEAL

18 V.S.A. § 5143 is repealed.

Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-0)

H. 227

An act relating to the Vermont Uniform Power of Attorney Act

Rep. Andriano of Orwell, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 14 V.S.A. chapter 127 is added to read:

CHAPTER 127. VERMONT UNIFORM POWER OF ATTORNEY ACT

Subchapter 1. General Provisions

§ 4001. SHORT TITLE

This chapter may be cited as the Vermont Uniform Power of Attorney Act.

§ 4002. DEFINITIONS

As used in this chapter:

(1) “Agent” means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, coagent, successor agent, and a person to which an agent’s authority is delegated.

(2) “Durable,” with respect to a power of attorney, means not terminated by the principal’s incapacity.

(3) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(4) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) “General power of attorney” means a power of attorney that is not limited by its terms to a specified transaction or series of transactions, to a specific purpose, or to a specific asset or set of assets, or a power of attorney that grants an agent the authority to do any one or more of the acts described in subsection 4031(e) of this title.

(6) “Good faith” means honesty in fact.

(7) “Incapacity” means the inability of an individual to manage property or business affairs because the individual:

(A) has an impairment in the ability to receive and evaluate information or make or communicate decisions even with the use of technological assistance;

(B) is missing;

(C) is detained, including incarcerated in a penal system; or

(D) is outside the United States and unable to return.

(8) “Person” means an individual; corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture; public corporation; government or governmental subdivision, agency, or instrumentality; or any other legal or commercial entity.

(9) “Power of attorney” means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term power of attorney is used.

(10) “Presently exercisable general power of appointment,” with respect to property or a property interest subject to a power of appointment, means

power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors, or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard, or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(11) "Principal" means an individual who grants authority to an agent in a power of attorney.

(12) "Property" means anything that may be the subject of ownership, whether real or personal, or legal or equitable, or any interest or right therein.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(14) "Sign" means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic sound, symbol, or process.

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) "Stocks and bonds" means stocks, bonds, mutual funds, and all other types of securities and financial instruments, whether held directly, indirectly, or in any other manner. The term does not include commodity futures contracts and call or put options on stocks or stock indexes.

§ 4003. APPLICABILITY

This chapter applies to all powers of attorney except:

(1) a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;

(2) a power to make health-care decisions;

(3) a proxy or other delegation to exercise voting rights or management rights with respect to an entity;

(4) a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose; and

(5) a power of reciprocal insurers under 8 V.S.A. § 4838.

§ 4004. POWER OF ATTORNEY IS DURABLE

A power of attorney created under this chapter is durable unless it expressly provides that it is terminated by the incapacity of the principal.

§ 4005. EXECUTION OF POWER OF ATTORNEY

A power of attorney shall be signed by the principal or in the principal's conscious presence by another individual directed by the principal to sign the principal's name on the power of attorney. A signature on a power of attorney is presumed to be genuine if the principal acknowledges the signature before a notary public or other individual authorized by law to take acknowledgments.

§ 4006. VALIDITY OF POWER OF ATTORNEY

(a) A power of attorney executed in this State on or after July 1, 2023 is valid if its execution complies with section 4005 of this title.

(b) A power of attorney executed in this State before July 1, 2023 is valid if its execution complied with the law of this State as it existed at the time of execution.

(c) A power of attorney executed other than in this State is valid in this State if, when the power of attorney was executed, the execution complied with:

(1) the law of the jurisdiction that determines the meaning and effect of the power of attorney pursuant to section 4007 of this title; or

(2) the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.

(d) Except as otherwise provided by statute other than this chapter, a photocopy or electronically transmitted copy of an original power of attorney has the same effect as the original.

(e) Except as otherwise provided by statute other than this chapter, a power of attorney that complies with this chapter is valid.

§ 4007. MEANING AND EFFECT OF POWER OF ATTORNEY

The meaning and effect of a power of attorney is determined by the law of the jurisdiction indicated in the power of attorney and, in the absence of an

indication of jurisdiction, by the law of the jurisdiction in which the power of attorney was executed.

§ 4008. NOMINATION OF GUARDIAN; RELATION OF AGENT TO
COURT-APPOINTED FIDUCIARY

(a) In a power of attorney, a principal may nominate a guardian of the principal's estate or a guardian of the principal's person for consideration by the court if protective proceedings for the principal's estate or person are begun after the principal executes the power of attorney. Except for good cause shown or disqualification, the court shall make its appointment in accordance with the principal's most recent nomination.

(b) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some or all of the principal's property, the agent is accountable to the fiduciary as well as to the principal. The power of attorney is not terminated, and the agent's authority continues unless limited, suspended, or terminated by the court.

§ 4009. WHEN POWER OF ATTORNEY EFFECTIVE

(a) A power of attorney is effective when executed unless the principal provides in the power of attorney that it becomes effective at a future date or upon the occurrence of a future event or contingency.

(b) If a power of attorney becomes effective upon the occurrence of a future event or contingency, the principal, in the power of attorney, may authorize one or more persons to determine in a writing or other record that the event or contingency has occurred.

(c) If a power of attorney becomes effective upon the principal's incapacity and the principal has not authorized a person to determine whether the principal is incapacitated, or the person authorized is unable or unwilling to make the determination, the power of attorney becomes effective upon a determination in a writing or other record by:

(1) a licensed health care professional working within the professional's scope of practice, including a physician licensed pursuant to 26 V.S.A. chapter 23 or 33 and a psychologist licensed pursuant to 26 V.S.A. chapter 55, that the principal is incapacitated within the meaning of subdivision 4002(7)(A) of this chapter; or

(2) an attorney at law, a judge, or an appropriate governmental official that the principal is incapacitated within the meaning of subdivision 4002(7)(B) of this chapter.

(d) A person authorized by the principal in the power of attorney to determine that the principal is incapacitated may act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171 through 1179 of the Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations to obtain access to the principal's health-care information and communicate with the principal's health-care provider.

§ 4010. TERMINATION OF POWER OF ATTORNEY OR AGENT'S

AUTHORITY

(a) A power of attorney terminates when:

(1) the principal dies;

(2) the principal becomes incapacitated, if the power of attorney is not durable;

(3) the principal revokes the power of attorney;

(4) the power of attorney provides that it terminates;

(5) the purpose of the power of attorney is accomplished; or

(6) the principal revokes the agent's authority or the agent dies, becomes incapacitated, or resigns, and the power of attorney does not provide for another agent to act under the power of attorney.

(b) An agent's authority terminates when:

(1) the principal revokes the authority;

(2) the agent dies, becomes incapacitated, or resigns;

(3) a petition for divorce, annulment, separation, or a decree of nullity is filed with respect to the agent's marriage to the principal, unless the power of attorney otherwise provides; or

(4) the power of attorney terminates.

(c) Unless the power of attorney otherwise provides, an agent's authority is exercisable until the authority terminates under subsection (b) of this section, notwithstanding a lapse of time since the execution of the power of attorney.

(d) Termination of an agent's authority or of a power of attorney is not effective as to the agent or another person that, without actual knowledge of the termination, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(e) Incapacity of the principal of a power of attorney that is not durable does not revoke or terminate the power of attorney as to an agent or other person that, without actual knowledge of the incapacity, acts in good faith under the power of attorney. An act so performed, unless otherwise invalid or unenforceable, binds the principal and the principal's successors in interest.

(f) The execution of a power of attorney does not revoke a power of attorney previously executed by the principal unless the subsequent power of attorney provides that the previous power of attorney is revoked or that all other powers of attorney are revoked.

§ 4011. CO-AGENTS AND SUCCESSOR AGENTS

(a) A principal may designate two or more persons to act as co-agents. Unless the power of attorney otherwise provides, each co-agent may exercise its authority independently.

(b) A principal may designate one or more successor agents to act if an agent resigns, dies, becomes incapacitated, is not qualified to serve, or declines to serve. A principal may grant authority to designate one or more successor agents to an agent or other person designated by name, office, or function. Unless the power of attorney otherwise provides, a successor agent:

(1) has the same authority as that granted to the original agent; and

(2) may not act until all predecessor agents have resigned, died, become incapacitated, are no longer qualified to serve, or have declined to serve.

(c) Except as otherwise provided in the power of attorney and subsection (d) of this section, an agent who does not participate in or conceal a breach of fiduciary duty committed by another agent, including a predecessor agent, is not liable for the actions of the other agent.

(d) An agent who has actual knowledge of a breach or imminent breach of fiduciary duty by another agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interests. An agent who fails to notify the principal or take action as required by this subsection is liable for the reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.

§ 4012. REIMBURSEMENT AND COMPENSATION OF AGENT

Unless the power of attorney otherwise provides, an agent is entitled to reimbursement of expenses reasonably incurred on behalf of the principal and to compensation that is reasonable under the circumstances.

§ 4013. AGENT'S ACCEPTANCE

Except as otherwise provided in the power of attorney, a person accepts appointment as an agent under a power of attorney by exercising authority or performing duties as an agent or by any other assertion or conduct indicating acceptance.

§ 4014. AGENT'S DUTIES

(a) Notwithstanding provisions in the power of attorney, an agent who has accepted appointment shall:

(1) act in accordance with the principal's reasonable expectations to the extent actually known by the agent and otherwise in the principal's best interests;

(2) act in good faith; and

(3) act only within the scope of authority granted in the power of attorney.

(b) Except as otherwise provided in the power of attorney or other provision of this chapter, an agent that has accepted appointment shall have no further obligation to act under the power of attorney. However, with respect to any action taken by the agent under the power of attorney, the agent shall:

(1) act loyally for the principal's benefit;

(2) act so as not to create a conflict of interest that impairs the agent's ability to act impartially in the principal's best interests;

(3) act with the care, competence, and diligence ordinarily exercised by agents in similar circumstances;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with a person who has authority to make health-care decisions for the principal to carry out the principal's reasonable expectations to the extent actually known by the agent and otherwise act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan, to the extent actually known by the agent, if preserving the plan is consistent with the principal's best interests based on all relevant factors, including:

(A) the value and nature of the principal's property;

(B) the principal's foreseeable obligations and need for maintenance;

(C) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes; and

(D) eligibility for a benefit, a program, or assistance under a statute or regulation.

(c) An agent who acts in good faith is not liable to any beneficiary of the principal's estate plan for failure to preserve the plan.

(d) An agent who acts with care, competence, and diligence for the best interests of the principal is not liable solely because the agent also benefits from the act or has an individual or conflicting interest in relation to the property or affairs of the principal.

(e) If an agent is selected by the principal because of special skills or expertise possessed by the agent or in reliance on the agent's representation that the agent has special skills or expertise, the special skills or expertise must be considered in determining whether the agent has acted with care, competence, and diligence under the circumstances.

(f) Absent a breach of duty to the principal, an agent is not liable if the value of the principal's property declines.

(g) An agent who exercises authority to delegate to another person the authority granted by the principal or who engages another person on behalf of the principal is not liable for an act, error of judgment, or default of that person if the agent exercises care, competence, and diligence in selecting and monitoring the person.

(h) Except as otherwise provided in the power of attorney, an agent is not required to disclose receipts, disbursements, or transactions conducted on behalf of the principal unless ordered by a court or requested by the principal, a guardian, a conservator, another fiduciary acting for the principal, a governmental agency having authority to protect the welfare of the principal, or, upon the death of the principal, by the personal representative or successor in interest of the principal's estate. If so requested, within 30 days the agent shall comply with the request or provide a writing or other record substantiating why additional time is needed and shall comply with the request within an additional 30 days.

§ 4015. EXONERATION OF AGENT

A provision in a power of attorney relieving an agent of liability for breach of duty is binding on the principal and the principal's successors in interest except to the extent the provision:

(1) relieves the agent of liability for breach of duty committed:

(A) dishonestly;

(B) in bad faith;

(C) with reckless indifference to the purposes of the power of attorney;

(D) through willful misconduct;

(E) through gross negligence; or

(F) with actual fraud; or

(2) was inserted as a result of an abuse of a confidential or fiduciary relationship with the principal.

§ 4016. JUDICIAL RELIEF

(a) The following persons may petition a court to construe a power of attorney or review the agent's conduct and grant appropriate relief:

(1) the principal or the agent;

(2) a guardian or other fiduciary acting for the principal, including an executor or administrator of the estate of a deceased principal;

(3) a person authorized to make health-care decisions for the principal;

(4) the principal's spouse, parent, or descendant;

(5) an individual who would qualify as an heir of the principal under the laws of intestacy;

(6) a person named as a beneficiary to receive any property, benefit, or contractual right on the principal's death or as a beneficiary of a trust created by or for the principal who has a financial interest in the principal's estate;

(7) a governmental agency having regulatory authority to protect the welfare of the principal;

(8) the principal's caregiver or another person who demonstrates sufficient interest in the principal's welfare; and

(9) a person asked to accept the power of attorney.

(b) Upon motion by the principal, the court shall dismiss a petition filed under this section, unless the court finds that the principal lacks capacity to revoke the agent's authority or the power of attorney.

§ 4017. AGENT'S LIABILITY

An agent who violates this chapter is liable to the principal or the principal's successors in interest for the amount required to:

(1) restore the value of the principal's property to what it would have been had the violation not occurred;

(2) reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf;

(3) reimburse the reasonable attorney's fees and costs incurred by the principal or the principal's successor in interest in pursuing rectification of the violation by the agent; and

(4) pay such other amounts, damages, costs, or expenses that the court may award.

§ 4018. AGENT'S RESIGNATION; NOTICE

Unless the power of attorney provides a different method for an agent's resignation, an agent may resign by giving written notice to the principal and, if the principal is incapacitated:

(1) to the guardian, if one has been appointed for the principal, and a coagent or successor agent; or

(2) if there is no person described in subdivision (1) of this section, to:

(A) the principal's caregiver;

(B) another person reasonably believed by the agent to have sufficient interest in the principal's welfare; or

(C) a governmental agency having authority to protect the welfare of the principal.

§ 4019. ACCEPTANCE OF AND RELIANCE UPON ACKNOWLEDGED POWER OF ATTORNEY

(a) As used in this section and section 4020 of this title, "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b) A person who in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under section 4005 of this title that the signature is genuine.

(c) A person who effects a transaction in reliance upon an acknowledged power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated; that the purported agent's authority is void, invalid, or terminated; or that the agent is exceeding or improperly exercising the agent's authority may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect; the agent's authority were genuine, valid, and still in effect; and the agent had not exceeded and has properly exercised the authority.

(d) A person who is asked to accept an acknowledged power of attorney may request and rely upon, without further investigation:

(1) an agent's certification under penalty of perjury of any factual matter concerning the principal, agent, or power of attorney; or

(2) an English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English; and

(3) an opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(e) A certification presented pursuant to subsection (d) of this section shall state that:

(1) the person presenting themselves as the agent and signing the affidavit or declaration is the person so named in the power of attorney;

(2) if the agent is named in the power of attorney as a successor agent, the circumstances or conditions stated in the power of attorney that would cause that person to become the acting agent have occurred;

(3) to the best of the agent's knowledge, the principal is still alive;

(4) to the best of the agent's knowledge, at the time the power of attorney was signed, the principal was competent to execute the document and was not under undue influence to sign the document;

(5) all events necessary to making the power of attorney effective have occurred;

(6) the agent does not have actual knowledge of the revocation, termination, limitation, or modification of the power of attorney or of the agent's authority;

(7) if the agent was married to or in a state-registered domestic partnership with the principal at the time of execution of the power of attorney, then at the time of signing the affidavit or declaration, the marriage or state-registered domestic partnership of the principal and the agent has not been dissolved or declared invalid, and no action is pending for the dissolution of the marriage or domestic partnership for legal separation; and

(8) the agent is acting in good faith pursuant to the authority given under the power of attorney.

(f) An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made

more than seven business days after the power of attorney is presented for acceptance.

(g) For purposes of this section and section 4020 of this title, a person who conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

§ 4020. LIABILITY FOR REFUSAL TO ACCEPT ACKNOWLEDGED

STATUTORY FORM POWER OF ATTORNEY

(a) As used in this section, “statutory form power of attorney” means a power of attorney substantially in the form provided in section 4051 of this title or that meets the requirements for a military power of attorney pursuant to 10 U.S.C. § 1044b, as amended.

(b) Except as otherwise provided in subsection (c) of this section:

(1) a person shall either accept an acknowledged statutory form power of attorney or request a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title not later than seven business days after presentation of the power of attorney for acceptance;

(2) if a person requests a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title, the person shall accept the statutory form power of attorney not later than five business days after receipt of the certification, translation, or opinion of counsel; and

(3) a person may not require an additional or different form of power of attorney for authority granted in the statutory form power of attorney presented.

(c) A person is not required to accept an acknowledged statutory form power of attorney if:

(1) the person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(2) engaging in a transaction with the agent or the principal in the same circumstances would be inconsistent with federal or state law;

(3) the person has actual knowledge of the termination of the agent’s authority or of the power of attorney before exercise of the power;

(4) a request for a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title is refused;

(5) the person in good faith believes that the power is not valid or that the agent does not have the authority to perform the act requested, whether or not a certification, a translation, or an opinion of counsel under subsection 4019(d) of this title has been requested or provided; or

(6) the person makes, or has actual knowledge that another person has made, a report to the Adult Protective Services program or other appropriate entity within the Department of Disabilities, Aging, and Independent Living or to a law enforcement agency stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for or with the agent.

(d) A person who refuses in violation of this section to accept an acknowledged statutory form power of attorney is subject to:

(1) a court order mandating acceptance of the power of attorney; and

(2) liability for reasonable attorney's fees and costs incurred in any action or proceeding that confirms the validity of the power of attorney or mandates acceptance of the power of attorney.

§ 4021. PRINCIPLES OF LAW AND EQUITY

Unless displaced by a provision of this chapter, the principles of law and equity supplement this chapter.

§ 4022. LAWS APPLICABLE TO FINANCIAL INSTITUTIONS AND ENTITIES

This chapter does not supersede any other law applicable to financial institutions or other entities, and the other law controls if inconsistent with this chapter.

§ 4023. REMEDIES UNDER OTHER LAW

The remedies under this chapter are not exclusive and do not abrogate any right or remedy under the law of this State other than this chapter.

Subchapter 2. Authority

§ 4031. AUTHORITY THAT REQUIRES SPECIFIC GRANT; GRANT OF GENERAL AUTHORITY

(a) An agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited by another agreement or instrument to which the authority or property is subject:

- (1) create, amend, revoke, or terminate an inter vivos trust;
 - (2) make a gift;
 - (3) create or change rights of survivorship;
 - (4) create or change a beneficiary designation;
 - (5) delegate authority granted under the power of attorney;
 - (6) waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan;
 - (7) authorize another person to exercise the authority granted under the power of attorney;
 - (8) exercise authority over the content of an electronic communication of the principal in accordance with chapter 125 of this title (Vermont Revised Uniform Fiduciary Access to Digital Assets Act);
 - (9) disclaim property, including a power of appointment;
 - (10) exercise a written waiver of spousal rights under section 323 of this title; or
 - (11) exercise authority with respect to intellectual property, including copyrights, contracts for payment of royalties, and trademarks.
- (b) Notwithstanding a grant of authority to do an act described in subsection (a) of this section, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.
- (c) Subject to subsections (a), (b), (d), and (e) of this section, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in sections 4034–4046 of this title.
- (d) Unless the power of attorney otherwise provides, a grant of authority to make a gift is subject to section 4047 of this title.
- (e) Subject to subsections (a), (b), and (d) of this section, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.
- (f) Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in this State and whether

or not the authority is exercised or the power of attorney is executed in this State.

(g) An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

§ 4032. INCORPORATION OF AUTHORITY

(a) An agent has authority described in this chapter if the power of attorney refers to general authority with respect to the descriptive term for the subjects stated in sections 4034–4047 of this title or cites the section in which the authority is described.

(b) A reference in a power of attorney to general authority with respect to the descriptive term for a subject in sections 4034–4047 of this title or a citation to a section of sections 4034–4047 of this title incorporates the entire section as if it were set out in full in the power of attorney.

(c) A principal may modify authority or a writing or other record incorporated by reference.

§ 4033. CONSTRUCTION OF AUTHORITY GENERALLY

Except as otherwise provided in the power of attorney, by executing a power of attorney that incorporates by reference a subject described in sections 4034–4047 of this title or that grants to an agent authority to do all acts that a principal could do pursuant to subsection 4031(c) of this title, a principal authorizes the agent, with respect to that subject, to:

(1) demand, receive, and obtain by litigation or otherwise, money or another thing of value to which the principal is, may become, or claims to be entitled, and conserve, invest, disburse, or use anything so received or obtained for the purposes intended;

(2) contract in any manner with any person, on terms agreeable to the agent, to accomplish a purpose of a transaction and perform, rescind, cancel, terminate, reform, restate, release, or modify the contract or another contract made by or on behalf of the principal;

(3) execute, acknowledge, seal, deliver, file, or record any instrument or communication the agent considers desirable to accomplish a purpose of a transaction, including creating at any time a schedule listing some or all of the principal's property and attaching it to the power of attorney;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to a claim existing in favor of or against the principal or intervene in litigation relating to the claim;

(5) seek on the principal's behalf the assistance of a court or other governmental agency to carry out an act authorized in the power of attorney;

(6) engage, compensate, and discharge an attorney, accountant, discretionary investment manager, expert witness, or other advisor;

(7) prepare, execute, and file a record, report, or other document to safeguard or promote the principal's interest under a statute or regulation;

(8) communicate with any representative or employee of a government or governmental subdivision, agency, or instrumentality on behalf of the principal;

(9) access communications intended for and communicate on behalf of the principal, whether by mail, electronic transmission, telephone, or other means; and

(10) do any lawful act with respect to the subject and all property related to the subject.

§ 4034. REAL PROPERTY

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to real property authorizes the agent to:

(1) demand, buy, lease, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject an interest in real property or a right incident to real property;

(2) sell; exchange; convey, with or without covenants, representations, or warranties; quitclaim; release; surrender; retain title for security; encumber; partition; consent to partitioning; subject to an easement or covenant; subdivide; apply for zoning or other governmental permits; plat or consent to platting; develop; grant an option concerning; lease; sublease; contribute to an entity in exchange for an interest in that entity; or otherwise grant or dispose of an interest in real property or a right incident to real property;

(3) pledge or mortgage an interest in real property or right incident to real property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a mortgage, deed of trust, conditional sale contract, encumbrance, lien, or other claim to real property that exists or is asserted;

(5) manage or conserve an interest in real property or a right incident to real property owned or claimed to be owned by the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the interest or right by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with them; and

(D) purchasing supplies, hiring assistance or labor, and making repairs or alterations to the real property;

(6) use, develop, alter, replace, remove, erect, or install structures or other improvements upon real property in or incident to which the principal has, or claims to have, an interest or right;

(7) participate in a reorganization with respect to real property or an entity that owns an interest in or right incident to real property and receive, and hold, and act with respect to stocks and bonds or other property received in a plan of reorganization, including:

(A) selling or otherwise disposing of them;

(B) exercising or selling an option, right of conversion, or similar right with respect to them; and

(C) exercising any voting rights in person or by proxy;

(8) change the form of title of an interest in or right incident to real property;

(9) dedicate to public use, with or without consideration, easements or other real property in which the principal has, or claims to have, an interest; and

(10) relinquish any and all of the principal's rights of homestead under 27 V.S.A. § 105 and elective share under section 323 of this title.

§ 4035. TANGIBLE PERSONAL PROPERTY

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to tangible personal property authorizes the agent to:

(1) demand, buy, receive, accept as a gift or as security for an extension of credit, or otherwise acquire or reject ownership or possession of tangible personal property or an interest in tangible personal property;

(2) sell, exchange, or convey, with or without covenants, representations, or warranties; quitclaim; release; surrender; create a security

interest in; grant options concerning; lease; sublease; or otherwise dispose of tangible personal property or an interest in tangible personal property;

(3) grant a security interest in tangible personal property or an interest in tangible personal property as security to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(4) release, assign, satisfy, or enforce by litigation or otherwise a security interest, lien, or other claim on behalf of the principal with respect to tangible personal property or an interest in tangible personal property;

(5) manage or conserve tangible personal property or an interest in tangible personal property on behalf of the principal, including:

(A) insuring against liability or casualty or other loss;

(B) obtaining or regaining possession of or protecting the property or interest, by litigation or otherwise;

(C) paying, assessing, compromising, or contesting taxes or assessments or applying for and receiving refunds in connection with taxes or assessments;

(D) moving the property from place to place;

(E) storing the property for hire or on a gratuitous bailment; and

(F) using and making repairs, alterations, or improvements to the property; and

(6) change the form of title of an interest in tangible personal property.

§ 4036. STOCKS AND BONDS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to stocks and bonds authorizes the agent to:

(1) buy, sell, and exchange stocks and bonds;

(2) establish, continue, modify, or terminate an account with respect to stocks and bonds;

(3) pledge stocks and bonds as security to borrow, pay, renew, or extend the time of payment of a debt of the principal;

(4) receive certificates and other evidences of ownership with respect to stocks and bonds; and

(5) exercise voting rights with respect to stocks and bonds in person or by proxy, enter into voting trusts, and consent to limitations on the right to vote.

§ 4037. COMMODITIES AND OPTIONS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to commodities and options authorizes the agent to:

(1) buy, sell, exchange, assign, settle, and exercise commodity futures contracts and call or put options on stocks or stock indexes traded on a regulated option exchange; and

(2) establish, continue, modify, and terminate option accounts.

§ 4038. BANKS AND OTHER FINANCIAL INSTITUTIONS

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to banks and other financial institutions authorizes the agent to:

(1) continue, modify, and terminate an account or other banking arrangement made by or on behalf of the principal;

(2) establish, modify, and terminate an account or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, brokerage firm, or other financial institution selected by the agent;

(3) contract for services available from a financial institution, including renting a safe deposit box or space in a vault;

(4) withdraw, by check, order, electronic funds transfer, or otherwise, money or property of the principal deposited with or left in the custody of a financial institution;

(5) receive statements of account, vouchers, notices, and similar documents from a financial institution and act with respect to them;

(6) enter a safe deposit box or vault and withdraw or add to the contents;

(7) borrow money and pledge as security personal property of the principal necessary to borrow money or pay, renew, or extend the time of payment of a debt of the principal or a debt guaranteed by the principal;

(8) make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or nonnegotiable paper

of the principal or payable to the principal or the principal's order; transfer money; receive the cash or other proceeds of those transactions; and accept a draft drawn by a person upon the principal and pay it when due;

(9) receive for the principal and act upon a sight draft, warehouse receipt, or other document of title whether tangible or electronic, or other negotiable or nonnegotiable instrument;

(10) apply for, receive, and use letters of credit, credit and debit cards, electronic transaction authorizations, and traveler's checks from a financial institution and give an indemnity or other agreement in connection with letters of credit; and

(11) consent to an extension of the time of payment with respect to commercial paper or a financial transaction with a financial institution.

§ 4039. OPERATION OF ENTITY OR BUSINESS

Subject to the terms of a document or an agreement governing an entity or an entity ownership interest, and unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to operation of an entity or business authorizes the agent to:

(1) operate, buy, sell, enlarge, reduce, or terminate an ownership interest;

(2) perform a duty or discharge a liability and exercise in person or by proxy a right, power, privilege, or option that the principal has, may have, or claims to have;

(3) enforce the terms of an ownership agreement;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party because of an ownership interest;

(5) exercise in person or by proxy, or enforce by litigation or otherwise, a right, power, privilege, or option the principal has or claims to have as the holder of stocks and bonds;

(6) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to which the principal is a party concerning stocks and bonds;

(7) with respect to an entity or business owned solely by the principal:

(A) continue, modify, renegotiate, extend, and terminate a contract made by or on behalf of the principal with respect to the entity or business before execution of the power of attorney;

(B) determine:

(i) the location of its operation;

(ii) the nature and extent of its business;

(iii) the methods of manufacturing, selling, merchandising, financing, accounting, and advertising employed in its operation;

(iv) the amount and types of insurance carried; and

(v) the mode of engaging, compensating, and dealing with its employees and accountants, attorneys, or other advisors;

(C) change the name or form of organization under which the entity or business is operated and enter into an ownership agreement with other persons to take over all or part of the operation of the entity or business; and

(D) demand and receive money due or claimed by the principal or on the principal's behalf in the operation of the entity or business and control and disburse the money in the operation of the entity or business;

(8) put additional capital into an entity or business in which the principal has an interest;

(9) join in a plan of reorganization, consolidation, conversion, domestication, or merger of the entity or business;

(10) sell or liquidate all or part of an entity or business;

(11) establish the value of an entity or business under a buy-out agreement to which the principal is a party;

(12) prepare, sign, file, and deliver reports, compilations of information, returns, or other papers with respect to an entity or business and make related payments; and

(13) pay, compromise, or contest taxes, assessments, fines, or penalties and perform any other act to protect the principal from illegal or unnecessary taxation, assessments, fines, or penalties, with respect to an entity or business, including attempts to recover, in any manner permitted by law, money paid before or after the execution of the power of attorney.

§ 4040. INSURANCE AND ANNUITIES

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to insurance and annuities authorizes the agent to:

(1) continue, pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract procured by or on behalf of

the principal that insures or provides an annuity to either the principal or another person, whether or not the principal is a beneficiary under the contract;

(2) procure new, different, and additional contracts of insurance and annuities for the principal and the principal's spouse, children, and other dependents and select the amount, type of insurance or annuity, and mode of payment;

(3) pay the premium or make a contribution on, modify, exchange, rescind, release, or terminate a contract of insurance or annuity procured by the agent;

(4) apply for and receive a loan secured by a contract of insurance or annuity;

(5) surrender and receive the cash surrender value on a contract of insurance or annuity;

(6) exercise an election;

(7) exercise investment powers available under a contract of insurance or annuity;

(8) change the manner of paying premiums on a contract of insurance or annuity;

(9) change or convert the type of insurance or annuity with respect to which the principal has or claims to have authority described in this section;

(10) apply for and procure a benefit or assistance under a statute or regulation to guarantee or pay premiums of a contract of insurance on the life of the principal;

(11) collect, sell, assign, hypothecate, borrow against, or pledge the interest of the principal in a contract of insurance or annuity;

(12) select the form and timing of the payment of proceeds from a contract of insurance or annuity; and

(13) pay, from proceeds or otherwise, compromise or contest, and apply for refunds in connection with, a tax or assessment levied by a taxing authority with respect to a contract of insurance or annuity or its proceeds or liability accruing by reason of the tax or assessment.

§ 4041. ESTATES, TRUSTS, AND OTHER BENEFICIAL INTERESTS

(a) As used in this section, "estate, trust, or other beneficial interest" means a trust, probate estate, guardianship, conservatorship, escrow, or custodianship

or a fund from which the principal is, may become, or claims to be entitled to a share or payment.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to estates, trusts, and other beneficial interests authorizes the agent to:

(1) accept, receive, receipt for, sell, assign, pledge, or exchange a share in or payment from an estate, trust, or other beneficial interest;

(2) demand or obtain money or another thing of value to which the principal is, may become, or claims to be entitled by reason of an estate, trust, or other beneficial interest, by litigation or otherwise;

(3) exercise for the benefit of the principal a presently exercisable general power of appointment held by the principal;

(4) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to ascertain the meaning, validity, or effect of a deed, will, declaration of trust, or other instrument or transaction affecting the interest of the principal;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation to remove, substitute, or surcharge a fiduciary;

(6) conserve, invest, disburse, or use anything received for an authorized purpose; and

(7) transfer an interest of the principal in real property, stocks and bonds, accounts with financial institutions or securities intermediaries, insurance, annuities, and other property to the trustee of a revocable trust created by the principal as settlor.

§ 4042. CLAIMS AND LITIGATION

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to claims and litigation authorizes the agent to:

(1) assert and maintain before a court or administrative agency a claim, claim for relief, cause of action, counterclaim, offset, recoupment, or defense, including an action to recover property or other thing of value, recover damages sustained by the principal, eliminate or modify tax liability, or seek an injunction, specific performance, or other relief;

(2) bring an action to determine adverse claims or intervene or otherwise participate in litigation;

(3) seek an attachment, garnishment, order of arrest, or other preliminary, provisional, or intermediate relief and use an available procedure to effect or satisfy a judgment, order, or decree;

(4) make or accept a tender, offer of judgment, or admission of facts; submit a controversy on an agreed statement of facts; consent to examination; and bind the principal in litigation;

(5) submit to alternative dispute resolution, settle, and propose or accept a compromise;

(6) waive the issuance and service of process upon the principal; accept service of process; appear for the principal; designate persons upon which process directed to the principal may be served; execute and file or deliver stipulations on the principal's behalf; verify pleadings; seek appellate review; procure and give surety and indemnity bonds; contract and pay for the preparation and printing of records and briefs; and receive, execute, and file or deliver a consent, waiver, release, confession of judgment, satisfaction of judgment, notice, agreement, or other instrument in connection with the prosecution, settlement, or defense of a claim or litigation;

(7) act for the principal with respect to bankruptcy or insolvency, whether voluntary or involuntary, concerning the principal or some other person, or with respect to a reorganization, receivership, or application for the appointment of a receiver or trustee that affects an interest of the principal in property or other thing of value;

(8) pay a judgment, award, or order against the principal or a settlement made in connection with a claim or litigation; and

(9) receive money or other thing of value paid in settlement of or as proceeds of a claim or litigation.

§ 4043. PERSONAL AND FAMILY MAINTENANCE

(a) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to personal and family maintenance authorizes the agent to:

(1) perform the acts necessary to maintain the customary standard of living of the principal, the principal's spouse, and the following individuals, whether living when the power of attorney is executed or later born:

(A) other individuals legally entitled to be supported by the principal;
and

(B) the individuals whom the principal has customarily supported or indicated the intent to support;

(2) make periodic payments of child support and other family maintenance required by a court or governmental agency or an agreement to which the principal is a party;

(3) provide living quarters for the individuals described in subdivision (1) of this subsection by:

(A) purchase, lease, or other contract; or

(B) paying the operating costs, including interest, amortization payments, repairs, improvements, and taxes, for premises owned by the principal or occupied by those individuals;

(4) provide normal domestic help, usual vacations and travel expenses, and funds for shelter, clothing, food, appropriate education, including postsecondary and vocational education, and other current living costs for the individuals described in subdivision (1) of this subsection;

(5) pay expenses for necessary health care and custodial care on behalf of the individuals described in subdivision (1) of this subsection;

(6) act as the principal's personal representative pursuant to the Health Insurance Portability and Accountability Act; Sections 1171–1179 of the Social Security Act; 42 U.S.C. § 1320d, as amended; and applicable regulations in making decisions related to the past, present, or future payment for the provision of health care consented to by the principal or anyone authorized under the law of this State to consent to health care on behalf of the principal;

(7) continue any provision made by the principal for automobiles or other means of transportation, including registering, licensing, insuring, and replacing them, for the individuals described in subdivision (1) of this subsection;

(8) maintain credit and debit accounts for the convenience of the individuals described in subdivision (1) of this subsection and open new accounts; and

(9) continue payments incidental to the membership or affiliation of the principal in a religious institution, club, society, order, or other organization or to continue contributions to those organizations.

(b) Authority with respect to personal and family maintenance is neither dependent upon, nor limited by, authority that an agent may or may not have with respect to gifts under this chapter.

§ 4044. BENEFITS FROM GOVERNMENTAL PROGRAMS OR CIVIL OR

MILITARY SERVICE

(a) As used in this section, “benefits from governmental programs or civil or military service” means any benefit, program, or assistance provided under a statute or regulation, including Social Security, Medicare, Medicaid, and the Department of Veterans Affairs.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to benefits from governmental programs or civil or military service authorizes the agent to:

(1) execute vouchers in the name of the principal for allowances and reimbursements payable by the United States or a foreign government or by a state or subdivision of a state to the principal, including allowances and reimbursements for transportation of the individuals described in subdivision 4043(a)(1) of this title and for shipment of their household effects;

(2) take possession and order the removal and shipment of property of the principal from a post, warehouse, depot, dock, or other place of storage or safekeeping, either governmental or private, and execute and deliver a release, voucher, receipt, bill of lading, shipping ticket, certificate, or other instrument for that purpose;

(3) enroll in, apply for, select, reject, change, amend, or discontinue, on the principal’s behalf, a benefit or program;

(4) prepare, file, and maintain a claim of the principal for a benefit or assistance, financial or otherwise, to which the principal may be entitled under a statute or regulation;

(5) initiate, participate in, submit to alternative dispute resolution, settle, oppose, or propose or accept a compromise with respect to litigation concerning any benefit or assistance the principal may be entitled to receive under a statute or regulation; and

(6) receive the financial proceeds of a claim described in subdivision (4) of this subsection and conserve, invest, disburse, or use for a lawful purpose anything so received.

§ 4045. RETIREMENT PLANS

(a) As used in this section, “retirement plan” means a plan or account created by an employer, the principal, or another individual to provide retirement benefits or deferred compensation of which the principal is a participant, beneficiary, or owner, including a plan or account under the following sections of the Internal Revenue Code:

(1) an individual retirement account under Internal Revenue Code § 408, 26 U.S.C. § 408, as amended;

(2) a Roth individual retirement account under Internal Revenue Code § 408A, 26 U.S.C. § 408A, as amended;

(3) a deemed individual retirement account under Internal Revenue Code § 408(q), 26 U.S.C. § 408(q), as amended;

(4) an annuity or mutual fund custodial account under Internal Revenue Code § 403(b), 26 U.S.C. § 403(b), as amended;

(5) a pension, profit-sharing, stock bonus, or other retirement plan qualified under Internal Revenue Code § 401(a), 26 U.S.C. § 401(a), as amended;

(6) a plan under Internal Revenue Code § 457(b), 26 U.S.C. § 457(b), as amended; and

(7) a nonqualified deferred compensation plan under Internal Revenue Code § 409A, 26 U.S.C. § 409A, as amended.

(b) Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to retirement plans authorizes the agent to:

(1) select the form and timing of payments under a retirement plan and withdraw benefits from a plan;

(2) make a rollover, including a direct trustee-to-trustee rollover, of benefits from one retirement plan to another;

(3) establish a retirement plan in the principal's name;

(4) make contributions to a retirement plan;

(5) exercise investment powers available under a retirement plan; and

(6) borrow from, sell assets to, or purchase assets from a retirement plan.

§ 4046. TAXES

Unless the power of attorney otherwise provides, language in a power of attorney granting general authority with respect to taxes authorizes the agent to:

(1) prepare, sign, and file federal, state, local, and foreign income, gift, payroll, property, Federal Insurance Contributions Act, and other tax returns; claims for refunds; requests for extension of time; petitions regarding tax matters; and any other tax-related documents, including receipts; offers;

waivers; consents, including consents and agreements under Internal Revenue Code § 2032A, 26 U.S.C. § 2032A, as amended; closing agreements; and any power of attorney required by the Internal Revenue Service or other taxing authority, including an internal revenue service form 2848 in favor of any third party with respect to a tax year upon which the statute of limitations has not run and the following 25 tax years;

(2) pay taxes due, collect refunds, post bonds, receive confidential information, and contest deficiencies determined by the Internal Revenue Service or other taxing authority;

(3) exercise any election available to the principal under federal, state, local, or foreign tax law; and

(4) act for the principal in all tax matters for all periods before the Internal Revenue Service, or other taxing authority.

§ 4047. GIFTS

(a) For purposes of this section, “gift” includes a gift for the benefit of a person, including a gift to a trust, an account under chapter 115 of this title (Vermont Uniform Transfers to Minors Act), and a tuition savings account or prepaid tuition plan as defined under Internal Revenue Code § 529, 26 U.S.C. § 529, as amended.

(b) An agent may make a gift of the principal’s property only as the agent determines is consistent with the principal’s objectives if actually known by the agent or, if unknown, as the agent determines is consistent with the principal’s best interests based on all relevant factors, including:

(1) evidence of the principal’s intent;

(2) the principal’s personal history of making or joining in the making of lifetime gifts;

(3) the principal’s estate plan;

(4) the principal’s foreseeable obligations and maintenance needs and the impact of the proposed gift on the principal’s housing options, access to care and services, and general welfare;

(5) the income, gift, estate, or inheritance tax consequences of the transaction; and

(6) whether the proposed gift creates a foreseeable risk that the principal will be deprived of sufficient assets to cover the principal’s needs during any period of Medicaid ineligibility that would result from the proposed gift.

(c) An agent may make a gift of the principal's property only as the agent determines is consistent with the principal's objectives if actually known by the agent and, if unknown, as the agent determines is consistent with the principal's best interests based on all relevant factors, including:

- (1) the value and nature of the principal's property;
- (2) the principal's foreseeable obligations and need for maintenance;
- (3) minimization of taxes, including income, estate, inheritance, generation-skipping transfer, and gift taxes;
- (4) eligibility for a benefit, a program, or assistance under a statute or regulation; and
- (5) the principal's personal history of making or joining in making gifts.

Subchapter 3. Statutory Forms

§ 4051. STATUTORY FORM POWER OF ATTORNEY

A document substantially in the following form may be used to create a statutory form power of attorney that has the meaning and effect prescribed by this chapter.

VERMONT STATUTORY FORM POWER OF ATTORNEY

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent will be able to make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

This power of attorney does not authorize the agent to make health-care decisions for you.

You should select someone you trust to serve as your agent. Unless you specify otherwise, generally the agent's authority will continue until you die or revoke the power of attorney or the agent resigns or is unable to act for you.

Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions.

This form does not revoke powers of attorney previously executed by you unless you initial the introductory paragraph under DESIGNATION OF AGENT that all previous powers of attorney are revoked.

This form provides for designation of one agent. If you wish to name more than one agent, you may name a coagent in the Special Instructions. Coagents are not required to act together unless you include that requirement in the Special Instructions.

If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent.

This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions.

If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I _____ (Name of Principal) () revoke all previous powers of attorney and name the following person as my agent:

Name of Agent: _____

Agent's Address: _____

Agent's Telephone Number: _____

DESIGNATION OF SUCCESSOR AGENT(S) (OPTIONAL)

If my agent is unable or unwilling to act for me, I name as my successor agent:

Name of Successor Agent: _____

Successor Agent's Address: _____

Successor Agent's Telephone Number: _____

If my successor agent is unable or unwilling to act for me, I name as my second successor agent:

Name of Second Successor Agent: _____

Second Successor Agent's Address: _____

Second Successor Agent's Telephone Number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

(INITIAL each subject you want to include in the agent’s general authority. If you wish to grant general authority over all of the subjects, you may initial “All Preceding Subjects” instead of initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of Entity or Business
- Insurance and Annuities
- Estates, Trusts, and Other Beneficial Interests
- Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

An agent who is not an ancestor, spouse, or descendant may exercise authority under this power of attorney to create in the agent or in an individual to whom the agent owes a legal obligation of support an interest in my property whether by gift, rights of survivorship, beneficiary designation, disclaimer, or otherwise

Create, amend, revoke, or terminate an inter vivos, family, living, irrevocable, or revocable trust

Consent to the modification or termination of a noncharitable irrevocable trust under 14A V.S.A. § 411

- Make a gift, subject to the limitations of 14 V.S.A. § 4047 (gifts) and any special instructions in this power of attorney
- Create, amend, or change rights of survivorship
- Create, amend, or change a beneficiary designation
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate
- Authorize another person to exercise the authority granted under this power of attorney
- Disclaim or refuse an interest in property, including a power of appointment
- Exercise authority with respect to elective share under 14 V.S.A. § 319
- Exercise waiver rights under 14 V.S.A. § 323
- Exercise authority over the content and catalogue of electronic communications and digital assets under 14 V.S.A. chapter 125 (Vermont Revised Uniform Fiduciary Access to Digital Assets Act)
- Exercise authority with respect to intellectual property, including, without limitation, copyrights, contracts for payment of royalties, and trademarks

LIMITATION ON AGENT'S AUTHORITY

An agent who is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

Initial:

This power of attorney is effective immediately and shall not be affected by disability of the principal.

OR

My agent(s) shall only have the authority to act upon my later incapacity.

You may give special instructions on the following lines:

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

NOMINATION OF GUARDIAN (OPTIONAL)

If it becomes necessary for a court to appoint a guardian of my estate or a guardian of my person, I nominate the following person(s) for appointment:

Name of Nominee for [conservator or guardian] of my estate:

Nominee's Address:

Nominee's Telephone Number:

Name of Nominee for guardian of my person:

Nominee's Address:

Nominee's Telephone Number:

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it has terminated or is invalid. Unless expressly stated otherwise, this power of attorney is durable and shall remain valid if I become incapacitated.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number

State of _____

County of _____

This document was acknowledged before me on _____ (Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT

Agent's Duties

When you accept the authority granted under this power of attorney, a special legal relationship is created between you and the principal. This relationship imposes upon you legal duties that continue until you resign or the power of attorney is terminated or revoked. You must:

(1) do what you know the principal reasonably expects you to do with the principal's property or, if you do not know the principal's expectations, act in the principal's best interests;

(2) act in good faith;

(3) do nothing beyond the authority granted in this power of attorney;
and

(4) disclose your identity as an agent whenever you act for the principal by writing or printing the name of the principal and signing your own name as "agent" in the following manner: (Principal's Name) by (Your Signature) as Agent.

Unless the Special Instructions in this power of attorney state otherwise, you must also:

(1) act loyally for the principal's benefit;

(2) avoid conflicts that would impair your ability to act in the principal's best interest;

(3) act with care, competence, and diligence;

(4) keep a record of all receipts, disbursements, and transactions made on behalf of the principal;

(5) cooperate with any person that has authority to make health-care decisions for the principal to do what you know the principal reasonably expects or, if you do not know the principal's expectations, to act in the principal's best interests; and

(6) attempt to preserve the principal's estate plan if you know the plan and preserving the plan is consistent with the principal's best interests.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. Events that terminate a power of attorney or your authority to act under a power of attorney include:

(1) death of the principal;

(2) the principal's revocation of the power of attorney or your authority;

(3) the occurrence of a termination event stated in the power of attorney;

(4) the purpose of the power of attorney is fully accomplished; or

(5) if you are married to the principal, a legal action is filed with a court to end your marriage, or for your legal separation, unless the Special Instructions in this power of attorney state that such an action will not terminate your authority.

Liability of Agent

The meaning of the authority granted to you is defined in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127. If you violate the Vermont Uniform Power of Attorney Act, or act outside the authority granted, you may be liable for any damages caused by your violation. In addition to civil liability, failure to comply with your duties and authority granted under this document could subject you to criminal prosecution.

If there is anything about this document or your duties that you do not understand, you should seek legal advice.

§ 4052. STATUTORY SHORT FORM POWER OF ATTORNEY FOR

REAL ESTATE TRANSACTIONS

(a) A document substantially in the following form may be used to create a statutory form power of attorney for a real estate transaction that has the meaning and effect prescribed by this chapter.

VERMONT SHORT FORM POWER OF ATTORNEY FOR REAL ESTATE
TRANSACTIONS

This power of attorney authorizes another person (your agent) to take actions for you (the principal) in connection with a real estate transaction (sale, purchase, or mortgage). Your agent will be able to make decisions and act with respect to a specific parcel of land whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

DESIGNATION OF AGENT

I/we _____ and _____
(Name(s) of Principal) appoint the following person as my (our) agent:

Name of Agent: _____

Name of Alternate Agent: _____

Address of Property that is the subject of this power of attorney

(Street): _____, _____ (Municipality)
_____, Vermont.

Transaction for which the power of attorney is given:

Sale

Purchase

Refinance

GRANT OF AUTHORITY

I/we grant my (our) agent and any alternate agent authority named in this power of attorney to act for me/us with respect to a real estate transaction involving the property with the address stated above, including, but not limited to, the powers described in 14 V.S.A. § 4034(2), (3), and (4) as provided in the Vermont Uniform Power of Attorney Act, 14 V.S.A. chapter 127.

POWER TO DELEGATE

Each agent appointed in this power of attorney may delegate the authority to act to another person. Any delegation shall be in writing and executed in the same manner as this power of attorney.

TERM

This power of attorney commences when fully executed and continues until the real estate transaction for which it was given is complete.

SELF DEALING

[] If this box is checked, the agent named in this power of attorney may convey the subject real estate to the agent, individually, in trust, or to one or more persons as co-tenants with the agent.

CHOICE OF LAW

This power of attorney and the effect hereof shall be determined by the application of Vermont law and the Vermont Uniform Power of Attorney Act.

SIGNATURE AND ACKNOWLEDGMENT

Your Name Printed

Your Address

Your Telephone Number

State of

County of

This document was acknowledged before me on _____ (Date)

by _____.

(Name of Principal)

(Seal, if any)

Signature of Notary _____

My commission expires: _____

(b) A power of attorney in the form above confers on the agent the powers provided in subdivisions 4034 (2), (3) and (4) of this Chapter.

(c) Unless the language of the power of attorney expressly forbids delegation of the authority, the agent may delegate the authority granted in the power of attorney created under this provision to another person.

§ 4053. AGENT'S CERTIFICATION

The following optional form may be used by an agent to certify facts concerning a power of attorney.

AGENT'S CERTIFICATION AS TO THE VALIDITY OF POWER OF ATTORNEY AND AGENT'S AUTHORITY

State of _____

[County] of _____]

I, _____ (Name of Agent), certify under penalty of perjury that _____ (Name of Principal) granted me authority as an agent or successor agent in a power of attorney dated _____.

I further certify that to my knowledge:

(1) the Principal is alive and has not revoked the Power of Attorney or my authority to act under the Power of Attorney and the Power of Attorney and my authority to act under the Power of Attorney have not terminated;

(2) if the Power of Attorney was drafted to become effective upon the happening of an event or contingency, the event or contingency has occurred;

(3) if I was named as a successor agent, the prior agent is no longer able or willing to serve; and

(4) _____ (Insert other relevant statements below)

SIGNATURE AND ACKNOWLEDGMENT

Agent's Name Printed

Agent's Address

Agent's Telephone Number

This document was acknowledged before me on _____,

(Date)

by _____

(Name of Agent)

(Seal, if any)

Signature of Notary

My commission expires: _____

Subchapter 4. Miscellaneous Provisions

§ 4061. UNIFORMITY OF APPLICATION AND CONSTRUCTION

In applying and construing this uniform act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among the states that enact it.

§ 4062. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede subsection 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in subsection 103(b) of that act, 15 U.S.C. § 7003(b).

§ 4063. EFFECT ON EXISTING POWERS OF ATTORNEY

Except as otherwise provided in this chapter, on July 1, 2023:

(1) this chapter applies to a power of attorney created before, on, or after July 1, 2023;

(2) this chapter applies to a judicial proceeding concerning a power of attorney commenced on or after July 1, 2023;

(3) this chapter applies to a judicial proceeding concerning a power of attorney commenced before July 1, 2023 unless the court finds that application of a provision of this chapter would substantially interfere with the effective conduct of the judicial proceeding or prejudice the rights of a party, in which case that provision does not apply and the superseded law applies; and

(4) an act done before July 1, 2023 is not affected by this chapter.

Sec. 2. REPEAL

14 V.S.A. chapter 123 (powers of attorney) is repealed.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-0)

Favorable

H. 53

An act relating to driver's license suspensions

Rep. Dolan of Essex Junction, for the Committee on Judiciary, recommends the bill ought to pass.

(Committee Vote: 10-1-0)

Rep. Masland of Thetford, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 12-0-0)

NOTICE CALENDAR

Committee Bill for Second Reading

H. 411

An act relating to extending COVID-19 health care regulatory flexibility

(Rep. Houghton of Essex Junction will speak for the Committee on Health Care.)

H. 429

An act relating to miscellaneous changes to election laws

(Rep. McCarthy of St. Albans City will speak for the Committee on Government Operations and Military Affairs.)

Favorable with Amendment

H. 40

An act relating to nonconsensual removal of or tampering with a sexually protective device

Rep. Rachelson of Burlington, for the Committee on Judiciary, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 13 V.S.A. § 3251 is amended to read:

§ 3251. DEFINITIONS

As used in this chapter:

(1) A “sexual act” means conduct between persons consisting of contact between the penis and the vulva, the penis and the anus, the mouth and the penis, the mouth and the vulva, or any intrusion, however slight, by any part of a person’s body or any object into the genital or anal opening of another.

(2) “Sexual conduct” means any conduct or behavior relating to sexual activities of the complaining witness, including ~~but not limited to~~ prior experience of sexual acts, use of contraceptives, living arrangement, and mode of living.

(3) “Consent” means the affirmative, unambiguous, and voluntary agreement to engage in a sexual act, which can be revoked at any time.

* * *

Sec. 2. 13 V.S.A. § 3260 is added to read:

§ 3260. NONCONSENSUAL REMOVAL OR TAMPERING WITH A
CONDOM

(a) No person shall engage in a sexual act with another person when consent to the sexual act is made with the explicit understanding that a condom would be used and intentionally and without consent remove or tamper with the condom prior to or during the sexual act in a manner likely to render it ineffective for its common purpose.

(b) A person harmed by a violation of subsection (a) of this section may bring an action in the Civil Division of the Superior Court for compensatory damages, punitive damages, and reasonable costs and attorney’s fees.

(c) An action under subsection (b) of this section shall be subject to the statute of limitations in 12 V.S.A. § 511.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

and that after passage the title of the bill be amended to read: “An act relating to nonconsensual removal or tampering with a condom”

(Committee Vote: 8-3-0)

H. 94

An act relating to removing the Reach Up ratable reduction

Rep. McGill of Bridport, for the Committee on Human Services, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. REPORT; REACH UP; RATABLE REDUCTION

On or before January 15, 2024, the Department for Children and Families shall submit a report to the House Committees on Appropriations and on Human Services and to the Senate Committees on Appropriations and on Health and Welfare containing an actionable, phased plan that estimates the amount needed to remove the ratable reduction in the Reach Up program. The plan shall be designed to be phased in over a period not greater than five fiscal years and shall:

(1) address the financial implications posed by removing the ratable reduction;

(2) address any anticipated changes to the Reach Up caseload as a result of removing the ratable reduction; and

(3) identify any federal and State resources that may be utilized to remove the ratable reduction.

Sec. 2. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 11-0-0)

H. 126

An act relating to community resilience and biodiversity protection

Rep. Sheldon of Middlebury, for the Committee on Environment and Energy, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. SHORT TITLE

This act may be cited as the “Community Resilience and Biodiversity Protection Act” or “CRBPA.”

Sec. 2. FINDINGS

The General Assembly finds:

(1) Nature is facing a catastrophic loss of biodiversity, both globally and locally.

(2) In addition to its intrinsic value, biodiversity is essential to human survival.

(3) According to the United Nations:

(A) one million species of plants and animals are threatened with extinction;

(B) human activity has altered almost 75 percent of the Earth's surface, squeezing wildlife and nature into ever-smaller natural areas of the planet;

(C) the health of ecosystems on which humans and all other species depend is deteriorating more rapidly than ever, affecting the very foundations of economies, livelihoods, food security, health, and quality of life worldwide; and

(D) the causes of the drivers of changes in nature rank as follows:

(i) changes in land and sea use;

(ii) direct exploitation of organisms;

(iii) climate change;

(iv) pollution, and

(v) invasive species.

(4) The 2017 Vermont Forest Action Plan found that fragmentation and parcelization represent major threats to forest health and productivity and exacerbate the impacts of climate change.

(5) The 2021 Vermont Climate Assessment highlights an increase in extreme weather events such as droughts and floods as a significant impact of climate change in Vermont and recommends nature-based solutions as a proven, low-cost strategy for climate adaptation and resilience.

(6) The initial Vermont Climate Action Plan calls for investing in strategic conservation to increase the pace of permanent conservation towards 30 by 30 targets, with Vermont Conservation Design guiding prioritization of efforts.

(7) The Nature Conservancy has developed the Resilient and Connected Landscapes project and found that Vermont plays a key role in the conservation of biodiversity regionally.

(8) The Staying Connected Initiative is an international partnership of public and private organizations. Its goal is to maintain, enhance, and restore landscape connectivity for wide-ranging mammals across the Northern

Appalachians-Acadian region, from the Adirondack Mountains to the Maritime Provinces. The Staying Connected Initiative has identified nine linkages across this vast region that are extremely important to wildlife. Six of these linkages lie within Vermont.

(9) The Vermont Department of Fish and Wildlife, working within the Agency of Natural Resources and with Vermont conservation organizations, has developed Vermont Conservation Design, a framework to sustain the State’s ecologically functional landscape into the future.

(10) Intact and connected ecosystems support Vermont’s biodiversity, reduce flood risks, mitigate drought, and sequester and store carbon.

(11) Vermont’s most effective and efficient contribution to conserving biological diversity and maintaining a landscape resilient to climate change is to conserve an intact and connected landscape.

(12) In order to maintain ecological functions in intact and connected ecosystems, the full range of conservation approaches is needed, including supporting private landowner education, technical assistance, and programs; conservation easements that promote sustainable forest management; and conservation easements and fee acquisitions focused on passive management.

(13) The Vermont Housing Finance Agency’s 2020 Housing Needs Assessment projected an urgent pre-pandemic need for new housing. Strategic investment in conservation is consistent with construction of housing in Vermont’s villages and town centers.

(14) The land and waters, forests and farms, and ecosystems and natural communities in Vermont are the traditional and unceded home of the Abenaki people. Access to land and land-based enterprises has excluded Black, Indigenous, and Persons of Color (BIPOC) Vermonters and others from historically marginalized and disadvantaged communities in the centuries of European settlement. Efforts to increase land conservation must also include opportunities to increase access to land and land-based enterprise for Indigenous People and all who come from historically marginalized and disadvantaged communities.

Sec. 3. 10 V.S.A. chapter 89 is added to read:

CHAPTER 89. COMMUNITY RESILIENCY AND BIODIVERSITY
PROTECTION

§ 2801. DEFINITIONS

As used in this section:

(1) “Ecological reserve area” means an area having permanent protection from conversion of natural land cover and that is managed to maintain a natural state within which natural ecological processes and disturbance events are allowed to proceed with minimal interference.

(2) “Biodiversity conservation area” means an area having permanent protection from conversion of natural land cover for the majority of the area and that is managed for the primary goal of sustaining species or habitats. These areas may include regular, active interventions to address the needs of particular species or to maintain or restore habitats.

(3) “Natural resource management area” means an area having permanent protection from conversion of natural land cover for the majority of the area but that is subject to long-term sustainable forest management.

(4) “Sustainable forest management” means the stewardship and use of forests and forestlands in a way, and at a rate, that maintains their biodiversity, productivity, regeneration capacity, vitality, and their potential to fulfill, now and in the future, relevant ecological, economic, and social functions at local, State, and regional levels, and that does not degrade ecosystem function.

(5) “Conserved” means permanently protected and meeting the definition of ecological reserve area, biodiversity conservation area, or natural resource management area as defined in this section.

§ 2802. CONSERVATION VISION AND GOALS

(a) The vision of the State of Vermont is to maintain an ecologically functional landscape that sustains biodiversity, maintains landscape connectivity, promotes climate resilience, supports working farms and forests, provides opportunities for recreation and appreciation of the natural world, and supports the historic settlement pattern of compact villages surrounded by rural lands and natural areas.

(b) It is the goal of the State that 30 percent of Vermont’s total land area shall be conserved by 2030, and 50 percent of the State’s total land area shall be conserved by 2050. The Secretary of Natural Resources shall lead the effort in achieving these goals. The land conserved shall include State, federal, municipal, and private land.

(c) Reaching 30 percent by 2030 and 50 percent by 2050 shall include a mix of ecological reserve areas, biodiversity conservation areas, and natural resource management areas. In order to support an ecologically functional and connected landscape with sustainable production of natural resources and recreational opportunities, the approximate percentages of each type of

conservation category shall be guided by the principles of conservation science and the conservation targets within Vermont Conservation Design, prioritizing ecological reserve areas to protect highest priority natural communities and maintain or restore old forests.

§ 2803. CONSERVED LAND INVENTORY

(a) On or before July 1, 2024, the Secretary, with assistance from the Vermont Housing and Conservation Board, shall create an inventory of Vermont's conserved land and conservation policies to serve as the basis of meeting the conservation goals of Vermont Conservation Design and to meet the goals established in section 2802 of this title. The inventory shall be submitted for review to the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry and the Senate Committee on Natural Resources and Energy.

(b) The inventory shall include:

(1) a review of the three conservation categories defined in section 2801 of this title and suggestions for developing any modifications or additions to these categories that maintain the core concepts of ecological reserve areas, biodiversity conservation areas, and natural resource management areas in order to complete the conserved land inventory;

(2) the amount of conserved land in Vermont that fits into each of the three conservation categories defined in section 2801 of this title, including public and private land. The inventory shall also include other lands permanently protected from development by fee ownership or subject to conservation easements;

(3) a summary of the totality of conservation practices, both permanent and intermediate, available for reaching the goals of this chapter, including what they are, what they do, how they contribute, and what metrics are available to quantify them;

(4) an assessment of how State lands will be used to increase conserved ecological reserve areas;

(5) the implementation methods that could be utilized for achieving the goals of this chapter using Vermont Conservation Design as a guide;

(6) an assessment of how water is protected in the State and how protection of aquatic systems may be addressed in the plan;

(7) how existing programs will be used to meet the permanent, nonconversion conservation goals of this chapter and recommendations for new programs that will be needed to meet the goals;

(8) an assessment of existing funding and recommendations for new funding sources that will be needed for acquisition of land, purchase or donation of conservation easements, staffing capacity, and long-term stewardship to meet the goals;

(9) an equity assessment of existing land protection and conservation strategies and programs; and

(10) an evaluation of the opportunities related to intergenerational land transfer trends and how the State could proactively direct resources to achieve conservation at the time of transfer.

§ 2804. CONSERVATION PLAN

(a) On or before December 31, 2025, the Secretary, with assistance from the Vermont Housing and Conservation Board, shall develop a plan to implement the conservation goals of Vermont Conservation Design and to meet the goals established in section 2802 of this title. The plan shall be submitted for review to the House Committees on Environment and Energy and on Agriculture, Food Resiliency, and Forestry and the Senate Committee on Natural Resources and Energy.

(b) The plan shall include:

(1) a comprehensive strategy for achieving the goals of section 2802 of this title;

(2) the implementation methods for achieving the vision and goals of this chapter using Vermont Conservation Design as a guide; and

(3) recommendations to increase equitable access to protected and conserved lands and land-based enterprises.

(c) In developing the plan, the Secretary, with assistance from the Vermont Housing and Conservation Board, shall hold 12 or more public meetings on the plan between July 1, 2023 and December 31, 2025 to solicit input from stakeholders. Stakeholders shall include private owners of forestlands and agricultural lands, land trusts, conservation organizations, environmental organizations, working lands enterprises, outdoor recreation groups and businesses, Indigenous groups and representatives from historically marginalized and disadvantaged communities, municipalities, regional planning commissions, conservation commissions, and relevant State and federal agencies. At least three of the meetings shall be designed to solicit comments from the general public.

(d) The conserved land inventory established in 2803 of this title shall be updated biennially to track progress toward meeting the goals of this chapter,

which shall be publicly available, and the Secretary shall submit a report to the relevant committees on or before January 15 following each update.

Sec. 4. APPROPRIATION

The sum of \$75,000.00 is appropriated from the General Fund to the Vermont Housing and Conservation Board in fiscal year 2024 to support public education and outreach to inform the development of the statewide conservation plan. The funds shall be available for use for two years and shall support equitable engagement with community members from historically marginalized and disadvantaged communities, including costs for travel vouchers, food, and childcare where necessary to accommodate participation, as well as compensation for community members who might be asked to serve on more formal subcommittees and who would otherwise not be able to participate.

Sec. 5. EFFECTIVE DATE

This act shall take effect on July 1, 2023.

(Committee Vote: 9-2-0)

Favorable

H. 217

An act relating to miscellaneous workers' compensation amendments

Rep. Williams of Barre City, for the Committee on Commerce and Economic Development, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

Rep. Anthony of Barre City, for the Committee on Ways and Means, recommends the bill ought to pass.

(Committee Vote: 12-0-0)

For Informational Purposes

CROSSOVER DATES

The Joint Rules Committee established the following crossover deadlines:

(1) All **Senate/House** bills must be reported out of the last committee of reference (including the Committees on Appropriations and Finance/Ways and Means, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 17, 2023**, and filed with the Secretary/Clerk so they

may be placed on the Calendar for Notice the next legislative day – Committee bills must be voted out of Committee by **Friday, March 17, 2023**.

(2) All **Senate/House** bills referred pursuant to Senate Rule 31 or House Rule 35(a) to the Committees on Appropriations and Finance/Ways and Means must be reported out by the last of those committees on or before **Friday, March 24, 2023**, and filed with the Secretary/Clerk so they may be placed on the Calendar for Notice the next legislative day.

Note: The Senate will not act on bills that do not meet these crossover deadlines, without the consent of the Senate Rules Committee.

Exceptions to the foregoing deadlines include the major money bills (the general Appropriations bill (“The Big Bill”), the Transportation Capital bill, the Capital Construction bill and the Fee/Revenue bills).

NOTICE OF JFO GRANTS AND POSITIONS

Grants and Positions that have been submitted to the Joint Fiscal Committee by the Administration, under 32 V.S.A. §5(b)(3)(D):

JFO #3138: One (1) limited-service position, Statewide Grants Administrator, to the Agency of Administration, Department of Finance and Management to cover increased grant activity due to the Covid-19 pandemic. The position is funded through Act 185 of 2022. Sec G.801 of the Act appropriates ARPA funds for administrative costs related to the pandemic. This position is funded through 12/31/2026. The grant packet can be found at:

<https://ljfo.vermont.gov/assets/grants-documents/ec01b0bea7/JFO-3138-packet.pdf>

[Received February 9, 2023]

JFO #3137: One (1) limited-service position to the Vermont Department of Health, Senior Health Asbestos and Lead Engineer, to perform senior professional level work to educate, advise on and enforce Vermont asbestos and lead control regulations. The position is funded through 9/30/2024 through an existing Environmental Protection Agency grant. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/a44b7c8cac/JFO-3137-packet-v2.pdf>

[Received 1/23/2023]

JFO #3136: \$5,000,000.00 to the Agency of Administration, Public Service Department, VT Community Broadband Board (VCBB) from the National

Telecommunications and Information Administration, Broadband Equity, Access and Deployment Program to deliver broadband to unserved and underserved areas in Vermont. This is a 5-year grant and will fill in the technical gaps existing in the VCBB's program of broadband deployment. The grant packet can be found at: <https://ljfo.vermont.gov/assets/grants-documents/3d7b96fcb1/JFO-3136-packet.pdf>
[Received 1/23/2023]