House Calendar

Tuesday, April 9, 2024

98th DAY OF THE ADJOURNED SESSION

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ACTION CALENDAR

Third Reading

H. 869

An act relating to approval of the merger of Brandon Fire District No. 1 and Brandon Fire District No. 2

Senate Proposal of Amendment

H. 543

An act relating to Vermont's adoption of the Social Work Licensure Compact

The Senate proposes to the House to amend the bill as follows:

By adding a new Sec. 3 and a Sec. 4 after the existing Sec. 2 to read as follows:

Sec. 3. LEGISLATIVE INTENT; EMERGENCY HOUSING ELIGIBILITY DOCUMENTATION

It is the intent of the General Assembly that in fiscal year 2024 documentation of a qualifying disability or health condition pursuant to 2024 Acts and Resolves No. 87, Sec. 89(b) shall require the certification of a health care provider as defined in 18 V.S.A. § 9481.

Sec. 4. 2024 Acts and Resolves No. 87, Sec. 89(b) is amended to read:

(b) A household that is otherwise eligible for temporary emergency housing pursuant to subsection (a) of this section, but for the inability to qualify for or document receipt of SSI or SSDI, may use ~~the Department's Emergency Housing Disability Variance Request Form~~ a form developed by the Department as a means of documenting a qualifying disability or health condition that requires:

(1) the applicant's name, date of birth, and the last four digits of the applicant's social security number;

(2) a description of the applicant's disability or health condition;

(3) a description of the risk posed to the applicant's health, safety, or welfare if temporary emergency housing is not authorized pursuant to this section; and

(4) a certification of a health care provider, as defined in 18 V.S.A. § 9481, that includes the provider's credentials, credential number, address, and phone number.

and by renumbering the remaining section to be numerically correct.

Action Postponed Until April 10, 2024

Senate Proposal of Amendment

H. 659

An act relating to captive insurance

The Senate proposes to the House to amend the bill by striking out Sec. 19, effective date, in its entirety and by inserting in lieu thereof a new Sec. 19 and Secs. 20–50 to read as follows:

* * * Housekeeping Amendments * * *

Sec. 19. 9 V.S.A. § 5604(d) is amended to read:

(d) In a final order under subsection (b) or (c) of this section, the Commissioner may impose a civil penalty of not more than $15,000.00 for each violation. The Commissioner may also require a person to make restitution or provide disgorgement of any sums shown to have been obtained in violation of this chapter, plus interest at the legal rate. The limitations on civil penalties contained in this subsection shall not apply to settlement agreements. In accordance with 8 V.S.A. § 24(e), the Commissioner may increase a civil penalty amount by not more than $5,000.00 per violation for violations involving a person who is a vulnerable adult as defined in 33 V.S.A. § 6902(34).

Sec. 20. 9 V.S.A. § 5616(f) is amended to read:

(f) Vermont Financial Services Education~~,~~ and Victim Restitution~~, and Whistleblower Award~~ Special Fund. The Vermont Financial Services Education~~,~~ and Victim Restitution~~, and Whistleblower Award~~ Special Fund, pursuant to 32 V.S.A. chapter 7, subchapter 5, is created to provide funds for the purposes specified in this section, in subsection 5601(d) of this title, and in section 5617 of this title. All monies received by the State for use in financial services education initiatives pursuant to subsection 5601(d) of this title, in providing uncompensated victims restitution pursuant to this section, or in providing whistleblower awards pursuant to section 5617 of this title shall be deposited into the Fund. The Commissioner may direct a party to deposit a sum not to exceed 15 percent of the total settlement amount into the Fund in conjunction with settling ~~a State securities law~~ an enforcement matter within

the Department's jurisdiction, as described in 8 V.S.A. § 11(a). Interest earned on the Fund shall be retained in the Fund.

Sec. 21. 8 V.S.A. § 3883 is amended to read:

§ 3883. NOTICE REQUIREMENTS

When notice required under section 3880 or 3881 of this title is provided by mail, such notice shall be by certified mail, except that in the case of cancellation for nonpayment of premium, notice shall be by certified mail ~~or~~, certificate of mailing, or any other similar first-class mail tracking method used or approved by the U.S. Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing). A certificate of mailing from the U.S. Postal Service does not include a certificate of bulk mailing.

Sec. 22. 8 V.S.A. § 4226 is amended to read:

§ 4226. NOTICE REQUIREMENTS

When notice required under section 4224 or 4225 of this title is provided by mail, such notice shall be by certified mail, except that in the case of cancellation for nonpayment of premium notice shall be by certified mail ~~or~~, certificate of mailing, or any similar first-class mail tracking method used or approved by the U.S. Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing). A certificate of mailing from the U.S. Postal Service does not include a certificate of bulk mailing.

Sec. 23. 8 V.S.A. § 4714 is amended to read:

§ 4714. NOTICE REQUIREMENTS

When notice required under section 4712 or section 4713 of this title is provided by mail, such notice shall be by certified mail, except that in the case of cancellation for nonpayment of premium, notice shall be by certified mail ~~or~~, certificate of mailing, or any similar first-class mail tracking method used or approved by the U.S. Postal Service, including Intelligent Mail barcode Tracing (IMb Tracing). A certificate of mailing from the U.S. Postal Service does not include a certificate of bulk mailing.

* * * NAIC Holding Company Model Law Updates * * *

Sec. 24. 8 V.S.A. § 3681 is amended to read:

§ 3681. DEFINITIONS

As used in this subchapter:

(1) "Affiliate" of, or person "affiliated" with, a specific person, means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Commissioner" means the Commissioner of Financial Regulation or ~~his or her~~ the Commissioner's deputies, as appropriate.

(3) "Control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection 3684(l) of this title that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(4) "Group capital calculation instructions" means the group capital calculation instructions as adopted by the NAIC and as amended by the NAIC from time to time in accordance with the procedures adopted by the NAIC.

(5) "Groupwide supervisor" ~~or "supervisor"~~ means the regulatory official authorized to engage in conducting and coordinating groupwide supervision activities, as specified by the Commissioner under section 3696 of this subchapter.

(6) "Insurance holding company system" or "system" means two or more affiliated persons, one or more of which is an insurer.

~~(6)~~(7) "Insurer" means a company qualified and licensed to transact the business of insurance in this State and ~~shall include~~ includes a health maintenance organization, a nonprofit hospital service corporation, and a nonprofit medical service corporation, except that it shall not include:

(A) agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state; or

(B) fraternal benefit societies.

~~(7)~~(8) "Enterprise risk" means any activity, circumstance, event, or series of events involving one or more affiliates of an insurer that, if not remedied promptly, is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its insurance holding company system as a whole, including anything that would cause the insurer's risk-based capital to fall into company action level as set forth in section 8303 of this title or would cause the insurer to be in hazardous financial condition under Department Regulation I-93-2, sections 3–4.

~~(8)~~(9) "Internationally active insurance group" or "group" means an insurance holding company system that:

(A) includes an insurer registered under section 3684 of this subchapter; and

(B) meets the following criteria:

(i) premiums written in at least three countries;

(ii) the percentage of gross premiums written outside the United States is at least 10 percent of the system's total gross written premiums; and

(iii) based on a three-year rolling average, the total assets of the system are at least $50,000,000,000.00, or the total gross written premiums of the system are at least $10,000,000,000.00.

(10) "NAIC" means the National Association of Insurance Commissioners.

(11) "NAIC liquidity stress test framework" means a separate NAIC publication, which includes a history of the NAIC's development of regulatory liquidity stress testing, the scope criteria applicable for a specific data year, and the liquidity stress test instructions and reporting templates for a specific data year, such scope criteria, instructions, and reporting template as adopted by the NAIC.

~~(9)~~(12) "Person" means an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any ~~securities broker performing no more than the usual and customary broker's function~~ joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

(13) "Scope criteria" mean the designated exposure bases along with minimum magnitudes thereof for the specified data year used to establish a preliminary list of insurers considered scoped into the NAIC liquidity stress

test framework for that data year, as detailed in the NAIC liquidity stress test framework.

~~(10)~~(14) "Security holder" of a specified person means one who owns any security of such person, including common stock, preferred stock, debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

~~(11)~~(15) "Subsidiary" of a specified person means an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

~~(12)~~(16) "Voting security" ~~shall include~~ includes any security convertible into or evidencing a right to acquire a voting security.

Sec. 25. 8 V.S.A. § 3684 is amended to read:

§ 3684. REGISTRATION OF INSURERS

(a) Registration. Every insurer ~~which is~~ authorized to do business in this State ~~and which~~ that is a member of an insurance holding company system shall register with the Commissioner, except a foreign insurer subject to ~~disclosure~~ registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile ~~which~~ that are substantially similar to those contained in this section and section 3685 of this title. ~~Any~~ An insurer ~~which is~~ subject to registration under this section shall register ~~within 60 days after the effective date of this subchapter or~~ 15 business days after it becomes subject to registration, ~~whichever is later,~~ and annually thereafter ~~by~~ on or before March 15 for the previous year ending December 31, unless the Commissioner for good cause shown extends the time for registration, and then within such extended time. The Commissioner may require ~~any~~ an authorized insurer ~~which~~ that is a member of a holding company system ~~which~~ that is not subject to registration under this section to furnish a copy of the registration statement or other information filed by such ~~insurance company~~ insurer with the insurance regulatory authority of its domiciliary jurisdiction.

(b) Information and form required. Every insurer subject to registration under this section shall file a registration statement on a form provided by the Commissioner, which shall contain current information about:

(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer.

(2) The identity and relationship of every member of the insurance holding company system.

(3) The following agreements in force, relationships subsisting, and transactions currently outstanding between such insurer and its affiliates:

(A) loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) purchases, sales, or exchanges of assets;

(C) transactions not in the ordinary course of business;

(D) guarantees or undertakings for the benefit of an affiliate ~~which~~ that result in an actual contingent exposure of the insurer's assets to liability~~;~~, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) all management and service contracts and all cost sharing arrangements;

(F) all reinsurance agreements;

(G) dividends and other distributions to shareholders; and

(H) consolidated tax allocation agreements.

(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

(5) If requested by the Commissioner, financial statements of or within an insurance holding company system, including all affiliates. Financial statements may include annual audited financial statements filed with the U.S. Securities and Exchange Commission (SEC) pursuant to the Securities Act of 1933, as may be amended, or the Securities Exchange Act of 1934, as may be amended. An insurer required to file financial statements under this subdivision may satisfy the request by providing the Commissioner with the most recently filed parent corporation financial statements that have been filed with the SEC.

(6) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Commissioner.

(7) Statements that the insurer's board of directors oversees corporate governance and internal controls and that the insurer's officers or senior management have approved, implemented, and continue to maintain and monitor corporate governance and internal control procedures.

(8) Any other information required by the Commissioner by rule.

(c) Summary of changes to registration statement. All registration statements shall contain a summary outlining all items in the current

registration statement representing changes from the prior registration statement.

(d) Materiality. No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if such information is not material for the purposes of this section. Unless the Commissioner by rule or order provides otherwise, sales, purchases, exchanges, loans or extensions of credit, or investments involving one-half of one percent or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section. The definition of materiality provided in this subsection shall not apply for purposes of the group capital calculation or the liquidity stress test framework.

(e) Reporting of dividends to shareholders. Subject to subsection 3685(d) of this chapter, each registered insurer shall report to the Commissioner all dividends and other distributions to shareholders within 15 business days following the declaration thereof.

(f) Information of insurers. Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer where the information is reasonably necessary to enable the insurer to comply with the provisions of this section.

(g) Amendments to registration statements. Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions on amendment forms provided by the Commissioner within 15 business days after the end of the month in which it learns of each such change or addition~~,~~; provided, however, that subject to subsection 3685(c) of this ~~title~~ chapter, each registered insurer shall so report all dividends and other distributions to shareholders within two business days following the declaration thereto.

(h) Termination of registration. The Commissioner shall terminate the registration of any insurer ~~which~~ that demonstrates that it no longer is a member of an insurance holding company system.

(i) Consolidated filing. The Commissioner may require or allow two or more affiliated insurers subject to registration ~~hereunder~~ under this section to file a consolidated registration statement or consolidated reports amending their consolidated registration statement or their individual registration statements.

(j) Alternative registration. The Commissioner may allow an insurer ~~which~~ that is authorized to do business in this State and ~~which~~ that is part of an insurance holding company system to register on behalf of any affiliated

insurer ~~which~~ that is required to register under subsection (a) of this section and to file all information and material required to be filed under this section.

(k) Exemptions. The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the Commissioner by rule or order shall exempt the same from the provisions of this section.

(l) Disclaimer. Any person may file with the Commissioner a disclaimer of affiliation with any authorized insurer, or such a disclaimer may be filed by such insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between such person and such insurer as well as the basis for disclaiming such affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section ~~which~~ that may arise out of the insurer's relationship with such person unless and until the Commissioner disallows such a disclaimer. The Commissioner shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support such disallowance.

(m) Enterprise risk ~~filing~~ filings.

(1) Enterprise risk report. The ultimate controlling person of every insurer subject to registration shall also file an annual enterprise risk report. The report shall identify, to the best of the ultimate controlling person's knowledge and belief, the material risks within the insurance holding company system that could pose enterprise risk to the insurer. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the ~~National Association of Insurance Commissioners~~ NAIC.

(2) Group capital calculation. Except as further provided in this subdivision, the ultimate controlling person of every insurer subject to registration shall concurrently file with the registration an annual group capital calculation as directed by the lead state commissioner. The report shall be completed in accordance with the NAIC group capital calculation instructions, which may permit the lead state commissioner to allow a controlling person that is not the ultimate controlling person to file the group capital calculation. The report shall be filed with the lead state commissioner of the insurance holding company system as determined by the Commissioner in accordance with the procedures within the Financial Analysis Handbook adopted by the NAIC. The following insurance holding company systems are exempt from filing the group capital calculation:

(A) An insurance holding company system that has only one insurer within its holding company structure, only writes business and is only licensed in its domestic state, and assumes no business from any other insurer.

(B) An insurance holding company system that is required to perform a group capital calculation specified by the U.S. Federal Reserve Board. The lead state commissioner shall request the calculation from the Federal Reserve Board under the terms of information sharing agreements in effect. If the Federal Reserve Board cannot share the calculation with the lead state commissioner, the insurance holding company system is not exempt from the group capital calculation filing.

(C) An insurance holding company system whose non-U.S. groupwide supervisor is located within a reciprocal jurisdiction as described in subdivision 3634a(b)(6)(A) of this chapter that recognizes the U.S. state regulatory approach to group supervision and group capital.

(D) An insurance holding company system:

(i) that provides information to the lead state that meets the requirements for accreditation under the NAIC financial standards and accreditation program, either directly or indirectly through the groupwide supervisor, who has determined such information is satisfactory to allow the lead state to comply with the NAIC group supervision approach, as detailed in the NAIC Financial Analysis Handbook; and

(ii) whose non-U.S. groupwide supervisor that is not in a reciprocal jurisdiction recognizes and accepts, as specified in a rule adopted by the Commissioner, the group capital calculation as the worldwide group capital assessment for U.S. insurance groups who operate in that jurisdiction.

(E) Notwithstanding the provisions of subdivisions (C) and (D) of this subdivision (m)(2), a lead state commissioner shall require the group capital calculation for U.S. operations of any non-U.S. based insurance holding company system where, after any necessary consultation with other supervisors or officials, it is deemed appropriate by the lead state commissioner for prudential oversight and solvency monitoring purposes or for ensuring the competitiveness of the insurance marketplace.

(F) Notwithstanding the exemptions from filing the group capital calculation stated in subdivisions (A)–(D) of this subdivision (m)(2), the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation or to accept a limited group capital filing or report in accordance with criteria as specified in a rule adopted by the Commissioner.

(G) If the lead state commissioner determines that an insurance holding company system no longer meets one or more of the requirements for an exemption from filing the group capital calculation under this subdivision (2), the insurance holding company system shall file the group capital calculation at the next annual filing date unless given an extension by the lead state commissioner based on reasonable grounds shown.

(3) Liquidity stress test.

(A) The ultimate controlling person of every insurer subject to registration and also scoped into the NAIC liquidity stress test framework shall file the results of a specific year's liquidity stress test. The filing shall be made to the lead state insurance commissioner of the insurance holding company system as determined by the procedures within the Financial Analysis Handbook adopted by the NAIC.

(B) The NAIC liquidity stress test framework includes scope criteria applicable to a specific data year. These scope criteria are reviewed at least annually by the Financial Stability Task Force or its successor. Any change to the NAIC liquidity stress test framework or to the data year for which the scope criteria are to be measured shall be effective on January 1 of the year following the calendar year when such changes are adopted. Insurers meeting at least one threshold of the scope criteria are considered scoped into the NAIC liquidity stress test framework for the specified data year unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should not be scoped into the framework for that data year. Similarly, insurers that do not trigger at least one threshold of the scope criteria are considered scoped out of the NAIC liquidity stress test framework for the specified data year, unless the lead state insurance commissioner, in consultation with the NAIC Financial Stability Task Force or its successor, determines the insurer should be scoped into the framework for that data year.

(C) Regulators shall avoid having insurers scoped in and out of the NAIC liquidity stress test framework on a frequent basis. The lead state insurance commissioner, in consultation with the Financial Stability Task Force or its successor, will assess this concern as part of the determination for an insurer.

(D) The performance of, and filing of the results from, a specific year's liquidity stress test shall comply with the NAIC liquidity stress test framework's instructions and reporting templates for that year and any lead state insurance commissioner determinations, in conjunction with the Financial Stability Task Force or its successor, provided within the Framework.

(n) Violations. The failure to file a registration statement or any amendment ~~thereto~~ to a registration statement required by this section within the time specified for such filing shall be a violation of this section.

Sec. 26. 8 V.S.A. § 3685 is amended to read:

§ 3685. STANDARDS AND MANAGEMENT OF AN INSURER WITHIN AN INSURANCE HOLDING COMPANY SYSTEM

(a) Transactions within an insurance holding company system.

(1) Transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

~~(1)~~(A) ~~the~~ The terms shall be fair and reasonable~~;~~.

~~(2)~~(B) ~~agreements~~ Agreements for cost-sharing services and management shall include such provisions as required by rule adopted by the Commissioner~~;~~.

~~(3)~~(C) ~~charges~~ Charges or fees for services performed shall be reasonable~~;~~.

~~(4)~~(D) ~~expenses~~ Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied~~;~~.

~~(5)~~(E) ~~the~~ The books, accounts, and records of each party to all such transactions shall be ~~so~~ maintained so as to clearly and accurately disclose the precise nature and details of the transactions, including such accounting information as is necessary to support the reasonableness of the charges or fees to the respective parties~~; and~~.

~~(6)~~(F) ~~the~~ The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(G) If an insurer subject to this subchapter is deemed by the Commissioner to be in a hazardous financial condition as defined by Regulation I-1993-02, Defining Standards and Commissioner's Authority for Companies Deemed to be in Hazardous Financial Condition, or a condition that would be grounds for supervision, conservation, or a delinquency proceeding, then the Commissioner may require the insurer to secure and maintain either a deposit, held by the Commissioner, or a bond, as determined by the insurer at the insurer's discretion, for the protection of the insurer for the duration of a contract or agreement, or the existence of the condition for

which the Commissioner required the deposit or the bond. In determining whether a deposit or a bond is required, the Commissioner shall consider whether concerns exist with respect to the affiliated person's ability to fulfill a contract or agreement if the insurer were to be put into liquidation. Once the insurer is deemed to be in a hazardous financial condition or a condition that would be grounds for supervision, conservation, or a delinquency proceeding, and a deposit or bond is necessary, the Commissioner has discretion to determine the amount of the deposit or bond, not to exceed the value of a contract or agreement in any one year, and whether such deposit or bond should be required for a single contract or agreement, multiple contracts or agreements, or a contract or agreement only with a specific person or persons.

(H) All records and data of the insurer held by an affiliate are and remain the property of the insurer, are subject to control of the insurer, are identifiable, and are segregated or readily capable of segregation, at no additional cost to the insurer, from all other persons' records and data. This includes all records and data that are otherwise the property of the insurer, in whatever form maintained, including claims and claim files, policyholder lists, application files, litigation files, premium records, rate books, underwriting manuals, personnel records, financial records, or similar records within the possession, custody, or control of the affiliate. At the request of the insurer, the affiliate shall provide that the receiver can obtain a complete set of all records of any type that pertain to the insurer's business; obtain access to the operating systems on which the data is maintained; obtain the software that runs those systems either through assumption of licensing agreements or otherwise; and restrict the use of the data by the affiliate if it is not operating the insurer's business. The affiliate shall provide a waiver of any landlord lien or other encumbrance to give the insurer access to all records and data in the event of the affiliate's default under a lease or other agreement.

(I) Premiums or other funds belonging to the insurer that are collected by or held by an affiliate are the exclusive property of the insurer and are subject to the control of the insurer. Any right of offset in the event an insurer is placed into receivership shall be subject to chapter 145 of this title.

(2) The following transactions involving a domestic insurer and any person in its holding company system, including amendments or modifications of affiliate agreements previously filed under this section, that are subject to any materiality standards contained in subdivisions (A)–(G) of this subdivision, shall not be entered into unless the insurer has notified the Commissioner in writing of its intention to enter into such transaction at least 30 days prior to the transaction, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within such period.

The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Within 30 days following a termination of a previously filed agreement, informal notice shall be reported to the Commissioner for determination of the type of filing required, if any. Nothing in this subdivision shall be deemed to authorize or permit any transactions that, in the case of an insurer not a member of the same holding company system, would otherwise be contrary to law.

(A) Sales, purchases, exchanges, loans, or extensions of credit or investments, provided such transactions are equal to or exceed:

(i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding; or

(ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.

(B) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to purchase assets of or to make investments in any affiliate of the insurer making such loans or extensions of credit, provided such transactions are equal to or exceed:

(i) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding; or

(ii) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.

(C) Reinsurance agreements or modifications of reinsurance agreements, including:

(i) all reinsurance pooling agreements; and

(ii) agreements in which the reinsurance premium or a change in the insurer's liabilities or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(D) All management agreements, service contracts, tax allocation agreements, guarantees, and all cost-sharing arrangements.

(E) Guarantees when made by a domestic insurer; provided, however, that a guarantee that is quantifiable as to amount is not subject to the notice requirements of this subdivision (2) unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or 10 percent of surplus as regards policyholders as of the 31st day of December next preceding. All guarantees that are not quantifiable as to amount are subject to the notice requirements of this subdivision.

(F) Direct or indirect acquisitions or investments in a person that controls the insurer or in an affiliate of the insurer in an amount that together with its present holdings in such investments exceeds two and one-half percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 3682 of this subchapter or authorized under any other Vermont insurance law or in nonsubsidiary insurance affiliates that are subject to the provisions of this subchapter, are exempt from the notice requirement of this subdivision (2).

(G) Any material transactions, as specified in a rule adopted by the Commissioner, that the Commissioner determines may adversely affect the interests of the insurer's policyholders.

(H) Nothing in this subdivision (2) shall be deemed to authorize or permit any transaction that, in the case of an insurer not a member of the same insurance holding company system, would otherwise be contrary to law.

(3) A domestic insurer shall not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would otherwise occur. If the Commissioner determines that such separate transactions were entered into over any 12-month period for such purpose, the Commissioner may exercise the Commissioner's authority under this title.

(4) The Commissioner, in reviewing transactions pursuant to subsection (b) of this section, shall consider whether the transactions comply with the standards established in this subsection (a) and whether they may adversely affect the interests of policyholders.

(5) The Commissioner shall be notified within 30 days following any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10 percent of such corporation's voting securities.

(6)(A) Any affiliate that is party to an agreement or contract with a domestic insurer that is subject to subdivision (2)(D) of this subsection (a) shall be subject to the jurisdiction of any supervision, seizure, conservatorship, or receivership proceedings against the insurer and to the authority of any supervisor, conservator, rehabilitator, or liquidator for the insurer appointed pursuant to chapter 145 of this title for the purpose of interpreting, enforcing, and overseeing the affiliate's obligations under the agreement or contract to perform services for the insurer that:

(i) are an integral part of the insurer's operations, including management, administrative, accounting, data processing, marketing, underwriting, claims handling, investment, or any other similar functions; or

(ii) are essential to the insurer's ability to fulfill its obligations under insurance policies.

(B) The Commissioner may require that an agreement or contract for the provision of services described in subdivisions (2)(A)(i) and (ii) of this subsection specify that the affiliate consents to the jurisdiction as set forth in this subdivision (a)(6).

(b) Adequacy of surplus. For purposes of this subchapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

(1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria.

(2) The extent to which the insurer's business is diversified among the several lines of insurance.

(3) The number and size of risks insured in each line of business.

(4) The extent of the geographical dispersion of the insurer's insured risks.

(5) The nature and extent of the insurer's reinsurance program.

(6) The quality, diversification, and liquidity of the insurer's investment portfolio.

(7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.

(8) The surplus as regards policyholders maintained by other comparable insurers.

(9) The adequacy of the insurer's reserves.

(10) The quality and liquidity of investments in ~~subsidiaries made pursuant to section 3682 of this title~~ affiliates. The Commissioner may treat any such investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in ~~his or her~~ the Commissioner's judgment such investment so warrants.

(c) Dividends and other distributions. ~~No insurer subject to registration under section 3684 of this title shall~~ (1) A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

~~(1)~~(A) 30 days after the Commissioner has received notice of the declaration ~~thereof~~ of the dividend or distribution and has not within such period disapproved such payment; or

~~(2)~~(B) the Commissioner shall have approved such payment within such 30-day period.

~~(d) Limitation on dividends.~~

~~(1)~~(2) For purposes of this ~~section~~ subsection, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the lesser of:

(A) 10 percent of such insurer's surplus as regards policyholders as of the 31st day of December next preceding; or

(B) the net gains from operations of such insurer, if such insurer is a life insurer, or the net income, if such insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities.

~~(2)~~(3) In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous two calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years. In determining whether a dividend or distribution is extraordinary, a life insurer may exclude dividends or distributions paid only from unassigned surplus that do not exceed the greater of subdivision ~~(1)(A)~~ (2)(A) or (B) of this subsection, provided that a life insurer relying on this provision shall notify the Commissioner of such dividend or distribution within five business days following declaration and at least 10 days,

commencing from the date of receipt by the Commissioner, prior to the payment thereof.

~~(e) Conditional dividends.~~ (4) Notwithstanding any other provision of law to the contrary, an insurer may declare an extraordinary dividend or distribution that is conditional upon the Commissioner's approval ~~thereof~~, and such a declaration shall not confer ~~no~~ any rights upon shareholders until the Commissioner has:

~~(1)~~(A) approved the payment of such dividend or distribution; or

~~(2)~~(B) not disapproved such payment within the 30-day period referred to in ~~subsection (c)~~ subdivision (1) of this ~~section~~ subsection (c).

(d) Management of domestic insurers subject to registration.

(1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to ensure its separate operating identity consistent with this section.

(2) Nothing in this subsection shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subdivision (a)(1) of this section.

(3) Not less than one-third of the directors of a domestic insurer and not less than one-third of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person shall be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.

(4) The board of directors of a domestic insurer shall establish one or more committees composed solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the

principal officers. For purposes of this subsection, principal officers shall mean the chief executive officer, the president, and any chief operating officer.

(5) The provisions of subdivisions (3) and (4) of this subsection shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of subdivisions (3) and (4) of this subsection with respect to such controlling entity.

(6) An insurer may make application to the Commissioner for a waiver from the requirements of this subsection if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than $300,000,000.00. An insurer may also make application to the Commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The Commissioner may consider various factors, including the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.

~~(f) The following transactions involving a domestic insurer and any person in its holding company system, including amendments or modifications of affiliate agreements previously filed under this section, which are subject to any materiality standards contained in subdivisions (1) through (7) of this subsection, may not be entered into unless the insurer has notified the Commissioner in writing of its intention to enter into such transaction at least 30 days prior thereto, or such shorter period as the Commissioner may permit, and the Commissioner has not disapproved it within such period. The notice for amendments or modifications shall include the reasons for the change and the financial impact on the domestic insurer. Informal notice shall be reported within 30 days after a termination of a previously filed agreement to the Commissioner for determination of the type of filing required, if any. Nothing herein contained shall be deemed to authorize or permit any transactions that in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.~~

~~(1) Sales, purchases, exchanges, loans, or extensions of credit or investments, provided such transactions are equal to or exceed:~~

~~(A) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding;~~

~~(B) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.~~

(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes such loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in any affiliate of the insurer making such loans or extensions of credit, provided such transactions are equal to or exceed:

(A) with respect to nonlife insurers, the lesser of three percent of the insurer's admitted assets or 25 percent of surplus as regards policyholders as of the 31st day of December next preceding;

(B) with respect to life insurers, three percent of the insurer's admitted assets; each as of the 31st day of December next preceding.

(3) Reinsurance agreements or modifications thereto, including:

(A) all reinsurance pooling agreements;

(B) agreements in which the reinsurance premium or a change in the insurer's liabilities or the projected reinsurance premium or a change in the insurer's liabilities in any of the next three years equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(4) Any material transactions, specified by regulation, that the Commissioner determines may adversely affect the interests of the insurer's policyholders.

(5) All management agreements, service contracts, and all cost-sharing arrangements.

(6) Guarantees when made by a domestic insurer; provided, however, that a guarantee that is quantifiable as to amount is not subject to the notice requirements of this subsection unless it exceeds the lesser of one-half of one percent of the insurer's admitted assets or 10 percent of surplus as regards policyholders as of the 31st day of December next preceding. All guarantees that are not quantifiable as to amount are subject to the notice requirements of this subdivision.

(7) Direct or indirect acquisitions or investments in a person that controls the insurer or an affiliate of the insurer in an amount that together with its present holdings in such investments, exceeds two and one-half

~~percent of the insurer's surplus to policyholders. Direct or indirect acquisitions or investments in subsidiaries acquired pursuant to section 3682 of this chapter or authorized under any other section of this chapter or in nonsubsidiary insurance affiliates that are subject to the provisions of this chapter are exempt from this requirement.~~

~~(g) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the Commissioner determines that such separate transactions were entered into over any 12-month period for such purpose, he or she may exercise his or her authority under this title.~~

~~(h) The Commissioner, in reviewing transactions pursuant to subsection (f) of this section, shall consider whether the transactions comply with the standards set forth in subsection (a) of this section and whether they may adversely affect the interests of policyholders.~~

~~(i) The Commissioner shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10 percent of such corporation's voting securities.~~

~~(j) Management of domestic insurers subject to registration.~~

~~(1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to ensure its separate operating identity consistent with this section.~~

~~(2) Nothing in this section shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with one or more other persons under arrangements meeting the standards of subsection (a) of this section.~~

~~(3) Not less than one-third of the directors of a domestic insurer and not less than one-third of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or entity. At least one such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee thereof.~~

~~(4) The board of directors of a domestic insurer shall establish one or more committees composed of a majority of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers. For purposes of this subsection, principal officers shall mean the chief executive officer, the president, and any chief operating officer.~~

~~(5) The provisions of subdivisions (3) and (4) of this subsection shall not apply to a domestic insurer if the person controlling the insurer, such as an insurer, a mutual insurance holding company, or a publicly held corporation, has a board of directors and committees thereof that meet the requirements of subdivisions (3) and (4) of this subsection with respect to such controlling entity.~~

~~(6) An insurer may make application to the Commissioner for a waiver from the requirements of this subsection if the insurer's annual direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, is less than $300,000,000.00. An insurer may also make application to the Commissioner for a waiver from the requirements of this subsection based upon unique circumstances. The Commissioner may consider various factors, including the type of business entity, volume of business written, availability of qualified board members, or the ownership or organizational structure of the entity.~~

Sec. 27. 8 V.S.A. § 3687 is amended to read:

§ 3687. CONFIDENTIAL TREATMENT

(a) Documents, materials, or other information in the possession or control of the Department that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made pursuant to section 3686 of this title and all information reported pursuant to subdivisions 3683(b)(12) and (13), section 3684, and section 3685 of this ~~title~~ chapter are recognized by this State as being proprietary and to contain trade secrets and shall be given confidential treatment, shall not be subject to subpoena, shall not be subject to public inspection and copying under the Public Records Act, shall not be subject to discovery or admissible in evidence in any private civil action, and shall not be made public by the Commissioner or any other person. However, the Commissioner is authorized to use the

documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties. The Commissioner shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer to which it pertains unless the Commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard, determines that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event ~~he or she~~ the Commissioner may publish all or any part thereof in such manner as ~~he or she~~ the Commissioner may deem appropriate.

(1) For purposes of the information reported and provided to the Department pursuant to subdivision 3684(m)(2) of this chapter, the Commissioner shall maintain the confidentiality of the group capital calculation and group capital ratio produced within the calculation and any group capital information received from an insurance holding company supervised by the Federal Reserve Board or any U.S. groupwide supervisor.

(2) For purposes of the information reported and provided to the Department pursuant to subdivision 3684(m)(3) of this chapter, the Commissioner shall maintain the confidentiality of the liquidity stress test results and supporting disclosures and any liquidity stress test information received from an insurance holding company supervised by the Federal Reserve Board and non-U.S. groupwide supervisors.

(b) Neither the Commissioner nor any person who received documents, materials, or other information while acting under the authority of the Commissioner or with whom such documents, materials, or other information are shared pursuant to this chapter shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (a) of this section.

(c) In order to assist in the performance of the Commissioner's duties, the Commissioner:

(1) ~~may~~ May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (a) of this section, including proprietary and trade secret documents and materials, with other state, federal, and international regulatory agencies, with the NAIC ~~and its affiliates and subsidiaries~~, with third-party consultants designated by the Commissioner, and with state, federal, and international law enforcement authorities, including members of any supervisory college described in section 3695 of this title, provided that the recipient agrees in writing to maintain the confidentiality and privileged status

of the document, material, or other information and has verified in writing the legal authority to maintain confidentiality~~;~~.

(2) ~~notwithstanding~~ Notwithstanding subdivision (1) of this subsection, may only share confidential and privileged documents, material, or information reported pursuant to ~~subsection 3684(m)~~ subdivision 3684(m)(1) of this chapter with commissioners of states having statutes or regulations substantially similar to subsection (a) of this section and who have agreed in writing not to disclose such information~~;~~.

(3) ~~may~~ May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information~~; and~~.

(4) ~~shall~~ Shall enter into written agreements with the NAIC and any third-party consultant designated by the Commissioner governing sharing and use of information provided under this chapter consistent with this subsection that shall:

(A) ~~specify~~ Specify procedures and protocols regarding the confidentiality and security of information shared with the NAIC ~~and its affiliates and subsidiaries~~ or a third-party consultant designated by the Commissioner pursuant to this ~~section~~ subchapter, including procedures and protocols for sharing by the NAIC with other state, federal, or international regulators~~;~~. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the documents, materials, or other information and has verified in writing the legal authority to maintain such confidentiality.

(B) ~~specify~~ Specify that ownership of information shared with the NAIC ~~and its affiliates and subsidiaries~~ or a third-party consultant pursuant to this section remains with the Commissioner and the NAIC's use of the information is subject to the direction of the Commissioner~~;~~.

(C) ~~require~~ Excluding documents, materials, or information reported pursuant to subdivision 3684(m)(3) of this title, prohibit the NAIC or third-party consultant designated by the Commissioner from storing the information shared pursuant to this subchapter in a permanent database after the underlying analysis is completed.

(D) Require prompt notice be given to an insurer whose confidential information in the possession of the NAIC or third-party consultant designated by the Commissioner under this ~~section~~ subchapter is subject to a request or subpoena to the NAIC or a third-party consultant designated by the Commissioner for disclosure or production~~; and~~.

~~(D)~~(E) ~~require~~ Require the NAIC ~~and its affiliates and subsidiaries~~ or a third-party consultant designated by the Commissioner to consent to intervention by an insurer in any judicial or administrative action in which the NAIC ~~and its affiliates and subsidiaries~~ or third-party consultant designated by the Commissioner may be required to disclose confidential information about the insurer shared with the NAIC ~~and its affiliates and subsidiaries~~ or third-party consultant designated by the Commissioner pursuant to this section.

(F) For documents, materials, or information report pursuant to subdivision 3684(b)(3) of this chapter, in the case of an agreement involving a third-party consultant, provide for notification of the identity of the consultant to the applicable insurers.

(d) The sharing of information by the Commissioner pursuant to this section shall not constitute a delegation of regulatory authority or rulemaking, and the Commissioner is solely responsible for the administration, execution, and enforcement of the provisions of this section.

(e) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Commissioner under this section or as a result of sharing as authorized in subsection (c) of this section.

(f) Documents, materials, or other information in the possession or control of the NAIC or third-party consultant designated by the Commissioner pursuant to this ~~section~~ subchapter shall be confidential by law and privileged, shall not be subject to public inspection and copying under the Public Records Act, shall not be subject to subpoena, shall not be subject to discovery or admissible in evidence in any private civil action, and shall not be made public by the Commissioner or any other person.

(g) The group capital calculation and resulting group capital ratio required under subdivision 3684(m)(2) of this subchapter and the liquidity stress test along with its results and supporting disclosures required under subdivision 3684(m)(3) of this subchapter are regulatory tools for assessing group risks and capital adequacy and group liquidity risks, respectively, and are not intended as a means to rank insurers or insurance holding company systems, generally. Therefore, except as otherwise may be required under the provisions of this chapter, the making, publishing, disseminating, circulating

or placing before the public, or causing directly or indirectly to be made, published, disseminated, circulated, or placed before the public in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station or any electronic means of communication available to the public, or in any other way as an advertisement, announcement, or statement containing a representation or statement with regard to the group capital calculation, group capital ratio, the liquidity stress test results, or supporting disclosures for the liquidity stress test of any insurer or any insurer group, or of any component derived in the calculation by any insurer, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited. However, if any materially false statement with respect to the group capital calculation, resulting group capital ratio, an inappropriate comparison of any amount to an insurer's or insurance group's group capital calculation or resulting group capital ratio, liquidity stress test result, supporting disclosures for the liquidity stress test, or an inappropriate comparison of any amount to an insurer's or insurance group's liquidity stress test result or supporting disclosures is published in any written publication and the insurer is able to demonstrate to the Commissioner with substantial proof the falsity of such statement or the inappropriateness, as the case may be, then the insurer may publish announcements in a written publication if the sole purpose of the announcement is to rebut the materially false statement.

Sec. 28. 8 V.S.A. chapter 149 is added to read:

CHAPTER 149. PET INSURANCE

§ 7151. SHORT TITLE

This chapter shall be known and may be cited as the "Pet Insurance Act."

§ 7152. SCOPE AND PURPOSE

(a) The purpose of this chapter is to promote the public welfare by creating a comprehensive legal framework within which pet insurance may be sold in Vermont.

(b) The requirements of this chapter shall apply to pet insurance policies that are issued to any resident of this State and are sold, solicited, negotiated, or offered in this State and policies or certificates that are delivered or issued for delivery in this State.

(c) All other applicable provisions of Vermont insurance law shall continue to apply to pet insurance except that the specific provisions of this subchapter shall supersede any general provisions of law that would otherwise be applicable to pet insurance.

§ 7153. DEFINITIONS

(a) If a pet insurer uses any term defined in this section in a policy of pet insurance, the pet insurer shall use the definition of the term provided in this section and include the definition of the term in the policy. The pet insurer shall also make the definition available through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(b) Nothing in this chapter shall in any way prohibit or limit the types of exclusions pet insurers may use in their policies or require pet insurers to have any of the limitations or exclusions defined in this section.

(c) As used in this chapter:

(1) "Chronic condition" means a condition that can be treated or managed, but not cured.

(2) "Congenital anomaly or disorder" means a condition that is present from birth, whether inherited or caused by the environment, which may cause or contribute to illness or disease.

(3) "Hereditary disorder" means an abnormality that is genetically transmitted from parent to offspring and may cause illness or disease.

(4) "Orthopedic" refers to conditions affecting the bones, skeletal muscle, cartilage, tendons, ligaments, and joints. It includes elbow dysplasia, hip dysplasia, intervertebral disc degeneration, patellar luxation, and ruptured cranial cruciate ligaments. It does not include cancers or metabolic, hemopoietic, or autoimmune diseases.

(5) "Pet insurance" means a property insurance policy that provides coverage for accidents and illnesses of pets.

(6)(A) "Preexisting condition" means any condition for which any of the following are true within 180 days prior to the effective date of a pet insurance policy or during any waiting period:

(i) a veterinarian provided medical advice;

(ii) the pet received previous treatment; or

(iii) based on information from verifiable sources, the pet had signs or symptoms directly related to the condition for which a claim is being made.

(B) A condition for which coverage is afforded on a policy cannot be considered a preexisting condition on any renewal of the policy.

(7) "Renewal" means to issue and deliver at the end of an insurance policy period a policy that supersedes a policy previously issued and delivered by the same pet insurer or affiliated pet insurer and that provides types and limits of coverage substantially similar to those contained in the policy being superseded.

(8) "Veterinarian" means an individual who holds a valid license to practice veterinary medicine from the appropriate licensing entity in the jurisdiction in which the veterinarian practices.

(9) "Veterinary expenses" means the costs associated with medical advice, diagnosis, care, or treatment provided by a veterinarian, including the cost of drugs prescribed by a veterinarian.

(10) "Waiting period" means the period of time specified in a pet insurance policy that is required to transpire before some or all of the coverage in the policy can begin. A waiting period may not be applied to a renewal of existing coverage.

(11) "Wellness program" means a subscription or reimbursement-based program that is separate from an insurance policy that provides goods and services to promote the general health, safety, or well-being of the pet. If any wellness program meets the definition of insurance in section 3301a of this title and does not qualify for any exclusion, it is transacting in the business of insurance and is subject to the applicable insurance laws and rules. This definition is not intended to classify a contract directly between a service provider and a pet owner that only involves the two parties as being "the business of insurance," unless other indications of insurance also exist.

§ 7154. DISCLOSURES

(a) A pet insurer transacting pet insurance shall disclose the following to consumers:

(1) If the policy excludes coverage due to any of the following:

(A) a preexisting condition;

(B) a hereditary disorder;

(C) a congenital anomaly or disorder; or

(D) a chronic condition.

(2) If the policy includes any other exclusions, the following statement: "Other exclusions may apply. Please refer to the exclusions section of the policy for more information."

(3) Any policy provision that limits coverage through a waiting or affiliation period, a deductible, coinsurance, or an annual or lifetime policy limit.

(4) Whether the pet insurer reduces coverage or increases premiums based on the insured's claim history, the age of the covered pet, or a change in the geographic location of the insured.

(5) If the underwriting company differs from the brand name used to market and sell the product.

(b)(1) Unless the insured has filed a claim under the pet insurance policy, pet insurance applicants shall have the right to examine and return the policy, certificate, or rider to the company or an agent or insurance producer of the company within 30 days following its receipt and to have the premium refunded if, after examination of the policy, certificate, or rider, the applicant is not satisfied for any reason.

(2) Pet insurance policies, certificates, and riders shall have a notice prominently printed on the first page or attached thereto including specific instructions to accomplish a return. The following free-look statement, or substantially similar language, shall be included:

> You have 30 days following the day you receive this policy, certificate, or rider to review it and return it to the company if you decide not to keep it. You do not have to tell the company why you are returning it. If you decide not to keep it, simply return it to the company at its administrative office or you may return it to the agent or insurance producer that you bought it from, provided you have not filed a claim. You must return it within 30 days following the day you first received it. The company will refund the full amount of any premium paid within 30 days following the day it receives the returned policy, certificate, or rider. The premium refund will be sent directly to the person who paid it. The policy, certificate, or rider will be void as if it had never been issued.

(3) A pet insurer shall clearly disclose a summary description of the basis or formula on which the pet insurer determines claim payments under a pet insurance policy within the policy prior to policy issuance and through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(4) A pet insurer that uses a benefit schedule to determine claim payment under a pet insurance policy shall do the following:

(A) clearly disclose the applicable benefit schedule in the policy; and

(B) disclose all benefit schedules used by the pet insurer under its pet insurance policies through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(5) A pet insurer that determines claim payments under a pet insurance policy based on usual and customary fees, or any other reimbursement limitation based on prevailing veterinary service provider charges, shall do the following:

(A) include a usual and customary fee limitation provision in the policy that clearly describes the pet insurer's basis for determining usual and customary fees and how that basis is applied in calculating claim payments; and

(B) disclose the pet insurer's basis for determining usual and customary fees through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(6) If any medical examination by a licensed veterinarian is required to effectuate coverage, the pet insurer shall clearly and conspicuously disclose the required aspects of the examination prior to purchase and disclose that examination documentation may result in a preexisting condition exclusion.

(7) Waiting periods and the requirements applicable to them must be clearly and prominently disclosed to consumers prior to the policy purchase.

(8) The pet insurer shall include a summary of all policy provisions required in subdivisions (1)–(7) of this subsection in a separate document entitled "Insurer Disclosure of Important Policy Provisions."

(9) The pet insurer shall post the "Insurer Disclosure of Important Policy Provisions" document required in subdivision (8) of this subsection through a clear and conspicuous link on the main page of the website of either the pet insurer or the pet insurer's program administrator.

(10) In connection with the issuance of a new pet insurance policy, the pet insurer shall provide the consumer with a copy of the "Insurer Disclosure of Important Policy Provisions" document required pursuant to subdivision (8) of this subsection in at least 12-point type when it delivers the policy.

(11) At the time a pet insurance policy is issued or delivered to a policyholder, the pet insurer shall include a written disclosure with the following information, printed in 12-point boldface type:

(A) the Department of Financial Regulation's mailing address, toll-free telephone number, and website address;

(B) the address and customer service telephone number of the pet insurer or the agent or broker of record; and

(C) if the policy was issued or delivered by an agent or broker, a statement advising the policyholder to contact the broker or agent for assistance.

(12) The disclosures required in this section shall be in addition to any other disclosure requirements required by law or rule.

§ 7155. POLICY CONDITIONS

(a) A pet insurer may issue policies that exclude coverage on the basis of one or more preexisting conditions with appropriate disclosure to the consumer. The pet insurer has the burden of proving that the preexisting condition exclusion applies to the condition for which a claim is being made.

(b) A pet insurer may issue policies that impose waiting periods that do not exceed 30 days from the effective date of the policy for illnesses or orthopedic conditions not resulting from an accident. Waiting periods for accidents are prohibited. An insurer must issue coverage to be effective not later than 12:01 a.m. on the second calendar day after premium is paid.

(1) A pet insurer using a waiting period permitted under this subsection shall include a provision in its contract that allows the waiting period to be waived upon completion of a medical examination. Pet insurers may require the examination to be conducted by a licensed veterinarian after the purchase of the policy.

(A) A medical examination pursuant to this subdivision (1) shall be paid for by the policyholder, unless the policy specifies that the pet insurer will pay for the examination.

(B) A pet insurer can specify elements to be included as part of the examination and require documentation thereof, provided the specifications do not unreasonably restrict a consumer's ability to waive the waiting period under this subsection.

(2) Waiting periods, and the requirements applicable to them, shall be clearly and prominently disclosed to consumers prior to the policy purchase.

(3) If a policy does not include a waiting period, an insurer may set a policy effective date that is up to 15 calendar days after purchase, provided such policy effective date is clearly disclosed and no premium is earned before the policy becomes effective.

(c) A pet insurer must not require a veterinary examination of the covered pet for the insured to have their policy renewed.

(d) If a pet insurer includes any prescriptive, wellness, or noninsurance benefits in the policy form, then it is made part of the policy contract and shall follow all applicable insurance laws and rules.

(e) An insured's eligibility to purchase a pet insurance policy shall not be based on participation, or lack of participation, in a separate wellness program.

(f) A condition for which coverage is afforded on a policy shall not be considered a preexisting condition on any renewal of the policy.

(g) A policyholder shall be allowed to modify coverage amounts without having the policy cancelled and renewed.

(h) Coverage for new or existing claims shall not be suspended due to nonpayment of premium. The policy is considered effective until renewal, cancellation, or nonrenewal.

(i) Unpaid premiums shall not be deducted from claim payments for a covered loss.

§ 7156. SALES PRACTICES FOR WELLNESS PROGRAMS

(a) A pet insurer or producer shall not market a wellness program as pet insurance.

(b) If a wellness program is sold by a pet insurer or producer it shall be subject to the following requirements:

(1) The purchase of the wellness program shall not be a requirement to the purchase of pet insurance.

(2) The costs of the wellness program shall be separate and identifiable from any pet insurance policy sold by a pet insurer or producer.

(3) The terms and conditions for the wellness program shall be separate from any pet insurance policy sold by a pet insurer or producer.

(4) The products or coverages available through the wellness program shall not duplicate products or coverages available through the pet insurance policy.

(5) The advertising of the wellness program shall not be misleading and shall be in accordance with the requirements of this subsection.

(6) A pet insurer or producer shall clearly disclose the following to consumers, printed in 12-point boldface type:

(A) that wellness programs are not insurance;

(B) the address and customer service telephone number of the pet insurer or producer or broker of record; and

(C) the Department of Financial Regulation's mailing address, toll-free telephone number, and website address.

(7) Coverages included in the pet insurance policy contract described as "wellness" benefits are insurance.

§ 7157. INSURANCE PRODUCER TRAINING

(a) An insurance producer shall not sell, solicit, or negotiate a pet insurance product until after the producer is appropriately licensed and has completed the required training identified in subsection (c) of this section.

(b) An insurer shall ensure that its producers are trained under subsection (c) of this section and that its producers have been appropriately trained on the coverages and conditions of its pet insurance products.

(c) The training required under this section shall include information on the following topics:

(A) preexisting conditions and waiting periods;

(B) the differences between pet insurance and noninsurance wellness programs;

(C) hereditary disorders, congenital anomalies or disorders, and chronic conditions and how pet insurance policies interact with those conditions or disorders; and

(D) rating, underwriting, renewal, and other related administrative topics.

(d) The satisfaction of the training requirements of another state that are substantially similar to the training requirements in subsection (c) of this section shall be deemed to satisfy the training requirements in Vermont.

§ 7158. RULES

The Commissioner may adopt rules to administer this chapter and to effectuate its policies and purposes.

§ 7159. VIOLATIONS

A violation of this chapter shall be subject to the penalties and enforcement provisions specified in section 3661 of this title.

* * * Conference of State Bank Supervisors; Money Transmission Modernization Model Act * * *

Sec. 29. 8 V.S.A. § 2101 is amended to read:

§ 2101. DEFINITIONS

Except as otherwise provided in this part:

(1) "Acting in concert" means persons knowingly acting together with a common goal of jointly acquiring control of a license whether or not pursuant to an express agreement.

(2) "Commercial loan" means a loan or extension of credit that is described in 9 V.S.A. § 46(1), (2), or (4). The term does not include a loan or extension of credit secured in whole or in part by an owner-occupied, one- to four-unit dwelling.

~~(2)~~(3) "Commissioner" means the Commissioner of Financial Regulation.

~~(3)~~(4)(A) "Control" means ~~the possession, direct or indirect, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control is presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10 percent or more of the voting securities or other interest of any other person~~:

(i) the power to vote, directly or indirectly, at least 25 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee;

(ii) the power to elect or appoint a majority of key individuals; or

(iii) the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee.

(B) A person is presumed to exercise a controlling influence when the person holds the power to vote, directly or indirectly, at least 10 percent of the outstanding voting shares or voting interests of a licensee or person in control of a licensee.

(C) A person presumed to exercise a controlling influence as defined by subdivision (4)(B) of this section can rebut the presumption of control if the person is a passive investor.

(D) For purposes of determining the percentage of a person controlled by any other person, the person's interest shall be aggregated with the interest of any other immediate family member as defined in subdivision (9) of this section, as well as the interest of the person's mothers-

and fathers-in-law, sons- and daughters-in-law, brothers- and sisters-in-law, and any other person who shares such person's home.

~~(4)~~(5) "Depository institution" has the same meaning as in 12 U.S.C. § 1813 and includes any bank and any savings association as defined in 12 U.S.C. § 1813. The term also includes a credit union organized and regulated as such under the laws of the United States or any state.

~~(5)~~(6) "Dwelling" has the same meaning as in 15 U.S.C. § 1602.

~~(6)~~(7) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation or any successor of any of these.

~~(7)~~(8) "Holder" means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control of a negotiable electronic document of title.

~~(8)~~(9) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild, aunt, uncle, nephew, niece, including stepparents, stepchildren, stepsiblings, step grandparents, step grandchildren, and adoptive relationships. The term also includes former spouses dividing property in connection with a divorce or separation.

~~(9)~~(10) "Individual" means a natural person.

~~(10)~~(11) "Insurance company" means an institution organized and regulated as such under the laws of any state.

~~(11)~~(12) "Key individual" means any individual ultimately responsible for establishing or directing policies and procedures of the licensee, such as an executive officer, manager, director, or trustee, and includes persons exercising the managerial authority of a person in control of a licensee.

(13) "Licensee" means a person required to be licensed or registered under this part.

~~(12)~~(14) "Material litigation" means a litigation that according to generally accepted accounting principles is deemed significant to an applicant's or a licensee's financial health and is required to be disclosed in the

applicant's or licensee's annual audited financial statements, report to shareholders, or similar records.

~~(13)~~(15) "Mortgage loan" means a loan secured primarily by a lien against real estate.

(16) "Multistate licensing process" means any agreement entered into by and among state regulators relating to coordinated processing of applications for licenses, applications for the acquisition of control of a licensee, control determinations, or notice and information requirements for a change of key individuals.

~~(14)~~(17) "Nationwide Multistate Licensing System and Registry" or "Nationwide Mortgage Licensing System and Registry" or "NMLS" means a multistate licensing system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and operated by the State Regulatory Registry LLC for the licensing and registration of ~~non-depository~~ nondepository financial service entities in participating state agencies, or any successor to the Nationwide Multistate Licensing System and Registry.

~~(15)~~(18) "Person" has the same meaning as in 1 V.S.A. § 128.

(19) "Passive investor" means a person that:

(A) does not have the power to elect a majority of key individuals;

(B) is not employed by and does not have any managerial duties of the licensee or person in control of a licensee;

(C) does not have the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee; and

(D) either attests to subdivisions (A), (B), and (C) of this subdivision in a form and in a medium prescribed by the Commissioner or commits to the passivity characteristics of subdivisions (A), (B), and (C) of this subdivision in a written document.

~~(16)~~(20) "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.

~~(17)~~(21) "Residential mortgage loan" means a loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on either a dwelling or residential real estate, upon which is constructed or intended to be constructed a dwelling.

~~(18)~~(22) "Residential real estate" means real property located in this State, upon which is constructed or intended to be constructed a dwelling.

~~(19) "Responsible individual" means an individual who is employed by a licensee and has principal, active managerial authority over the provision of services in this State.~~

~~(20)~~(23) "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, except that when capitalized the term means the State of Vermont.

~~(21)~~(24) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Multistate Licensing System and Registry.

~~(22)~~(25) "Unsafe or unsound practice" means a practice or conduct by a person licensed to do business in this State that creates the likelihood of material loss, insolvency, or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers.

Sec. 30. 8 V.S.A. § 2102 is amended to read:

§ 2102. APPLICATION FOR LICENSE

(a) Application for a license or registration shall be in writing, under oath, and in the form prescribed by the Commissioner, and shall contain the legal name, any fictitious name or trade name, and the address of the residence and place of business of the applicant~~, and~~; if the applicant is a partnership ~~or an association, of every member thereof, and if a corporation, of each officer and director thereof~~ corporation, limited liability company, partnership, or other entity, the name and title of each key individual and person in control of the applicant; ~~also~~ the county and municipality with street and number, if any, where the business is to be conducted; and such further information as the Commissioner may require.

* * *

(c) In connection with an application for a license, the applicant, each ~~officer, director, and responsible individual of the applicant~~ key individual, each person in control of the applicant, and any other person the Commissioner requires in accordance with NMLS guidelines or other multistate agreements, shall furnish to the Nationwide Multistate Licensing System and Registry information concerning each person's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check;

(2) personal history and experience in a form prescribed by the Nationwide Multistate Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Licensing System and Registry and the Commissioner to obtain:

(A) an independent credit report and credit score obtained from a consumer reporting agency described in 15 U.S.C. § 1681a for the purpose of evaluating the applicant's financial responsibility at the time of application; and the Commissioner may obtain additional credit reports and credit scores to confirm the licensee's continued compliance with the financial responsibility requirements of this part; and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction; ~~and~~

(3) if the individual has resided outside the United States at any time in the last 10 years, an investigative background report prepared by an independent search firm that meets the following minimum requirements:

(A) the search firm demonstrates that it has sufficient knowledge, resources, and employs accepted and reasonable methodologies to conduct the research of the background report;

(B) the search firm is not affiliated with nor has an interest with the individual it is researching; and

(C) the investigative background report is written in the English language and contains the following:

(i) if available in the individual's current jurisdiction of residency, a comprehensive credit report, or any equivalent information obtained or generated by the independent search firm to accomplish such report, including a search of the court data in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(ii) criminal records information for the past 10 years, including felonies, misdemeanors, or similar convictions for violations of law in the countries, provinces, states, cities, towns, and contiguous areas where the individual resided and worked;

(iii) employment history;

(iv) media history, including an electronic search of national and local publications, wire services, and business applications; and

(v) financial services-related regulatory history, including money transmission, securities, banking, insurance, and mortgage-related industries; and

(4) any other information required by the ~~Nationwide Multistate Licensing System and Registry~~ NMLS or the Commissioner.

(d) The applicant shall provide a list of any material litigation in which the applicant has been involved in the 10-year period preceding the submission of the application.

(e) If an applicant is a corporation, limited liability company, partnership, or other entity, the applicant shall also provide:

(1) the date of the applicant's incorporation or formation and state or country of incorporation or formation;

(2) if applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses, and the employment, in the 10-year period preceding the submission of the application, of each ~~executive officer, manager, responsible individual, director of, or~~ key individual and person in control of~~,~~ the applicant;

* * *

Sec. 31. 8 V.S.A. § 2103 is amended to read:

§ 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

(a) Upon the filing of an application, payment of the required fees, and satisfaction of any applicable bond and liquid asset requirements, the Commissioner shall issue a license to the applicant if the Commissioner finds:

(1)(A) The financial condition and responsibility, financial and business experience, competence, character, and general fitness of the applicant command the confidence of the community and warrant belief that the business will be operated honestly, fairly, and efficiently pursuant to the applicable chapter of this title.

~~(i)~~ If the applicant is a corporation, partnership, or association, such findings are required with respect to each ~~partner, member, and~~

~~responsible individual of,~~ key individual and each person in control of~~,~~ the applicant.

~~(ii) If the applicant is a corporation, such findings are required with respect to each officer, director, and responsible individual of, and each person in control of, the applicant.~~

* * *

(3) The applicant, each ~~officer, director, and responsible individual of~~ key individual, and each person in control of~~,~~ the applicant~~,~~ has never had a financial services license or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

(4) The applicant, each ~~officer, director, and responsible individual of~~ key individual, and each person in control of~~,~~ the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

* * *

(5) The applicant has satisfied the applicable surety bond and liquid asset requirement as follows:

* * *

(C) for an application for a money transmitter license, the ~~bond and~~ net worth and security requirements of sections ~~2507 and 2510~~ 2531 and 2532 of this title;

* * *

(f) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) the Commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of reaching the findings in subsections (a)–(d) of this section if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Vermont is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to subsections (a)–(e) of this section.

(g) This section does not apply to a person applying for a commercial lender license under section 2202a of this title.

Sec. 32. 8 V.S.A. § 2107 is amended to read:

§ 2107. CHANGE OF CONTROL

(a) ~~A licensee shall give the Commissioner notice of a proposed change of control within 30 days of the proposed change and request approval of the acquisition. A money transmitter licensee shall also submit with the notice a nonrefundable fee of $500.00~~ Any person or group of persons acting in concert shall submit a request to the Commissioner and shall obtain the approval of the Commissioner prior to acquiring control. If the person or group of persons is seeking to acquire control of a money transmitter licensee, the person or group of persons shall submit with the request a nonrefundable fee of $500.00. An individual is not deemed to acquire control of a licensee and is not subject to this section when that individual becomes a key individual in the ordinary course of business.

(b) ~~After review of a request for approval under subsection (a) of this section, the Commissioner may require the licensee to provide additional information concerning the proposed persons in control of the licensee. The additional information shall be limited to the same categories of information required of the licensee or persons in control of the licensee as part of its original license or renewal application~~ The request required by subsection (a) of this section shall include all information required for the person or group of persons seeking to acquire control and all new key individuals that have not previously submitted the application requirements contained in section 2102 of this chapter.

(c) The Commissioner shall approve a request for change of control under subsection (a) of this section if, after investigation, the Commissioner determines that the person or group of persons requesting approval has the financial condition and responsibility, competence, experience, character, and general fitness to control and operate the licensee ~~or person in control of the licensee~~ in a lawful and proper manner, and that the interests of the public will not be jeopardized by the change of control.

* * *

(h) If an applicant avails itself or is otherwise subject to a multistate licensing process:

(1) the Commissioner is authorized to accept the investigation results of a lead investigative state for the purposes of reaching the findings in subsections (c) of this section if the lead investigative state has sufficient staffing, expertise, and minimum standards; or

(2) if Vermont is a lead investigative state, the Commissioner is authorized to investigate the applicant pursuant to subsections (c) of this section.

Sec. 33. 8 V.S.A. § 2108 is amended to read:

§ 2108. NOTIFICATION OF MATERIAL CHANGE

* * *

(b) A licensee ~~shall notify the Commissioner in writing within 30 days of any change in the list of executive officers, managers, directors, or responsible individuals~~ adding or replacing any key individual shall:

(1) notify the Commissioner in writing within 15 days after the effective date of the key individual's appointment; and

(2) provide the information required in subsection 2102(c) of this chapter within 45 days after the effective date of the key individual's appointment.

(c) The Commissioner may issue a notice of disapproval of a key individual if the Commissioner finds that the financial condition and responsibility, financial and business experience, competence, character, or general fitness of the key individual indicates that it is not in the public interest to permit the individual to provide services in this State.

(d) A licensee shall file a report with the Commissioner within 15 business days after the licensee has reason to know of the occurrence of any of the following events involving the licensee, ~~or any executive officer, manager, director~~ key individual, or person in control~~, responsible individual, or equivalent~~ of the licensee:

* * *

Sec. 34. 8 V.S.A. § 2109(g) is added to read:

(g) Notwithstanding any other provisions of this title to the contrary, the license of a money transmitter who fails to pay the annual renewal fee on or before December 1 shall automatically expire on December 31.

Sec. 35. 8 V.S.A. § 2110 is amended to read:

§ 2110. REVOCATION, SUSPENSION, TERMINATION, OR NONRENEWAL OF LICENSE; CEASE AND DESIST ORDERS

(a) The Commissioner may deny, suspend, terminate, revoke, condition, or refuse to renew a license or order that any person or licensee cease and desist in any specified conduct if the Commissioner finds:

* * *

(6) the competence, experience, character, or general fitness of the licensee, person in control of a licensee, or ~~responsible individual of the licensee~~ key individual indicates that it is not in the public interest to permit the person to provide services in this State;

* * *

(b) The Commissioner may issue orders or directives to any person:

* * *

(5) to remove any officer, director, employee, ~~responsible individual~~ key individual, or ~~control~~ person in control; or

* * *

Sec. 36. 8 V.S.A. § 2115 is amended to read:

§ 2115. PENALTIES

* * *

(d) It shall be a criminal offense, punishable by a fine of not more than $10,000.00 or imprisonment of not more than three years in prison, or both, for any person to intentionally make a false statement, misrepresentation, or false certification in a record filed or required to be maintained by this part, or to intentionally make a false entry or omit a material entry in such a record, or to knowingly engage in any activity for which a license is required under this chapter without being licensed under this chapter.

(e)(1) A loan contract made in knowing and willful violation of subdivision 2201(a)(1) of this title is void, and the lender shall not collect or receive any principal, interest, or charges; provided, however, in the case of a loan made in violation of subdivision 2201(a)(1) of this title, where the Commissioner does not find a knowing and willful violation, the lender shall not collect or receive any interest or charges, but may collect and receive principal.

(2) If a person who receives an order that directs the person to cease exercising the duties and powers of a licensee and imposes an administrative penalty under this part continues to perform the duties or exercise the powers of a licensee without satisfying the penalty, or otherwise reaching a satisfactory resolution between the parties, or securing a decision vacating the order by the Commissioner or by a court of competent jurisdiction, a loan contract made by the person after receipt of such order is void and the lender shall not collect or receive any principal, interest, or charges.

~~(e)~~(f) The powers vested in the Commissioner in this part are in addition to any other powers to enforce penalties, fines, or forfeitures authorized by law.

(g) This section does not limit the power of the State to punish a person for conduct that otherwise constitutes a crime under Vermont law.

Sec. 37. 8 V.S.A. § 2127 is added to read:

§ 2127. NETWORKED SUPERVISION

(a) To efficiently and effectively administer and enforce this chapter and to minimize regulatory burden, the Commissioner is authorized and encouraged to participate in multistate supervisory processes established between states and coordinated through the Conference of State Bank Supervisors, Money Transmitter Regulators Association, and affiliates and successors thereof, for all licensees that hold licenses in Vermont and in other states. As a participant in multistate supervision, the Commissioner may:

(1) cooperate, coordinate, and share information with other state and federal regulators in accordance with section 22 of this title and section 2126 of this chapter;

(2) enter into written cooperation, coordination, or information-sharing contracts or agreements with organizations the membership of which is comprised of state or federal governmental agencies; and

(3) cooperate, coordinate, and share information with organizations the membership of which is made up of state or federal governmental agencies, provided that the organizations agree in writing to maintain the confidentiality and security of the shared information in accordance with section 22 of this title.

(b) The Commissioner shall not waive, and nothing in this section constitutes a waiver of, the Commissioner's authority to conduct an examination or investigation or otherwise take independent action authorized by this chapter or a rule adopted or order issued under this chapter to enforce compliance with applicable State or federal law.

Sec. 38. REPEAL

8 V.S.A. chapter 79 (money services), subchapter 1 (general provisions) and subchapter 2 (money transmission licenses) are repealed.

Sec. 39. 8 V.S.A. chapter 79, subchapter 1 is added to read:

Subchapter 1. General Provisions

§ 2500. PURPOSE

~~This chapter, as amended, is designed to replace portions of the prior money services law that addressed money transmission~~. It is the intent of the General Assembly that the provisions of this chapter accomplish the following:

(1) ensure the State can coordinate with other states in all areas of regulation, licensing, and supervision to eliminate unnecessary regulatory burden and more effectively use regulator resources;

(2) protect the public from financial crime;

(3) standardize the types of activities that are subject to licensing or otherwise exempt from licensing; and

(4) modernize safety and soundness requirements to ensure customer funds are protected in an environment that supports innovative and competitive business practices.

§ 2501. TRANSITION PERIOD

(a) A person licensed under subchapter three of this chapter prior to July 1, 2024, and their authorized delegates, shall not be subject to the provisions of this chapter that establish new or different requirements from those that existed prior to July 1, 2024 until July 1, 2025.

(b) Notwithstanding subsection (a) of this section, on or before July 1, 2025 a licensee shall amend its authorized delegate written contracts to comply with the requirements in section 2025 of this chapter, provided the licensee and authorized delegate otherwise operate in full compliance with this chapter pursuant to the timeline established in subsection (a) of this section.

§ 2502. RELATIONSHIP TO FEDERAL LAW

(a) In the event state money transmission jurisdiction is conditioned on a federal law, any inconsistencies between a provision of this chapter and the federal law governing money transmission shall be governed by the applicable federal law to the extent of the inconsistency.

(b) In the event of any inconsistencies between this chapter and a federal law that governs pursuant to subsection (a) of this section, the Commissioner may provide interpretive guidance that:

(1) identifies the inconsistency; and

(2) identifies the appropriate means of compliance with federal law.

§ 2503. DEFINITIONS

As used in this chapter:

(1) "Authorized delegate" means a person a licensee designates to engage in money transmission on behalf of the licensee.

(2) "Average daily money transmission liability" means the amount of the licensee's outstanding money transmission obligations in this State at the end of each day in a given period of time, added together, and divided by the total number of days in the given period of time. For purposes of calculating average daily money transmission liability under this chapter for any licensee required to do so, the given periods of time shall be the quarters ending March 31, June 30, September 30, and December 31.

(3) "Bank Secrecy Act" means the Bank Secrecy Act, 31 U.S.C. § 5311, et seq. and its implementing regulations, as may be amended.

(4) "Check cashing" means receiving at least $500.00 compensation within a 30-day period for taking payment instruments or stored value, other than traveler's checks, in exchange for money, payment instruments, or stored value delivered to the person delivering the payment instrument or stored value at the time and place of delivery without any agreement specifying when the person taking the payment instrument will present it for collection.

(5) "Closed loop stored value" means stored value that is redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value.

(6) "Control of virtual currency," when used in reference to a transaction or relationship involving virtual currency, means the power to execute unilaterally or prevent indefinitely a virtual currency transaction.

(7) "Currency exchange" means receipt of revenues equal to or greater than five percent of total revenues from the exchange of money of one government for money of another government.

(8) "Eligible rating" shall mean a credit rating of any of the three highest rating categories provided by an eligible rating service, whereby each category may include rating category modifiers such as "plus" or "minus" for S&P, or the equivalent for any other eligible rating service. Long-term credit ratings are deemed eligible if the rating is equal to A- or higher by S&P, or the equivalent from any other eligible rating service. Short-term credit ratings are deemed eligible if the rating is equal to or higher than A-2 or SP-2 by S&P, or the equivalent from any other eligible rating service. In the event that ratings differ among eligible rating services, the highest rating shall apply when determining whether a security bears an eligible rating.

(9) "Eligible rating service" shall mean any Nationally Recognized Statistical Rating Organization (NRSRO) as defined by the U.S. Securities and Exchange Commission, and any other organization designated by the Commissioner by rule or order.

(10) "In this State" means at a physical location within Vermont for a transaction requested in person. For a transaction requested electronically or by phone, the provider of money transmission may determine if the person requesting the transaction is "in this State" by relying on other information provided by the person regarding the location of the individual's residential address or a business entity's principal place of business or other physical address location, and any records associated with the person that the provider of money transmission may have to indicate such location, including an address associated with an account.

(11) "Licensee" means a person licensed under this chapter.

(12) "Limited station" means private premises where a check casher is authorized to engage in check cashing for not more than two days of each week solely for the employees of the particular employer or group of employers specified in the check casher license application.

(13) "Mobile location" means a vehicle or a movable facility where check cashing occurs.

(14) "Monetary value" means a medium of exchange, whether or not redeemable in money.

(15) "Money" means a medium of exchange that is issued by the United States or a foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments.

(16) "Money services" means money transmission, check cashing, or currency exchange.

(17)(A) "Money transmission" means any of the following:

(i) selling or issuing payment instruments to a person located in this State;

(ii) selling or issuing stored value to a person located in this State; or

(iii) receiving money for transmission from a person located in this State.

(B) The term "money transmission" includes payroll processing services.

(C) The term "money transmission" does not include the provision solely of telecommunications services or network access.

(18) "Money transmission kiosk" means an automated, unstaffed electronic machine that allows users to engage in money transmission, including any machine that is capable of accepting or dispensing cash in exchange for virtual currency. The term does not include consumer cell phones and other similar personal devices.

(19)(A) "Outstanding money transmission obligations" shall be established and extinguished in accordance with applicable state law and shall mean:

(i) any payment instrument or stored value issued or sold by the licensee to a person located in the United States or reported as sold by an authorized delegate of the licensee to a person that is located in the United States that has not yet been paid or refunded by or for the licensee, or escheated in accordance with applicable abandoned property laws; or

(ii) any money received for transmission by the licensee or an authorized delegate in the United States from a person located in the United States that has not been received by the payee or refunded to the sender, or escheated in accordance with applicable abandoned property laws.

(B) For purposes of this section, "in the United States" shall include, to the extent applicable, a person in any state, territory, or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico; or a U.S. military installation located in a foreign country.

(20) "Payment instrument" means a written or electronic check, draft, money order, traveler's check, or other written or electronic instrument for the transmission or payment of money or monetary value, whether or not negotiable. The term does not include stored value or any instrument that is:

(A) redeemable by the issuer only for goods or services provided by the issuer or its affiliate or franchisees of the issuer or its affiliate, except to the extent required by applicable law to be redeemable in cash for its cash value; or

(B) not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

(21) "Payroll processing services" means receiving money for transmission pursuant to a contract with a person to deliver wages or salaries,

make payment of payroll taxes to state and federal agencies, make payments relating to employee benefit plans, or make distributions of other authorized deductions from wages or salaries. The term does not include an employer performing payroll processing services on its own behalf or on behalf of its affiliate.

(22) "Prevailing market value" means the value to buy or sell a particular virtual currency, as applicable, quoted on a virtual currency exchange operated by a licensee based in the United States, with sufficient volume to reflect the prevailing market price of such virtual currency.

(23) "Receiving money for transmission" or "money received for transmission" means receiving money or monetary value in the United States for transmission within or outside the United States by electronic or other means.

(24) "Stored value" means monetary value representing a claim against the issuer evidenced by an electronic or digital record, and that is intended and accepted for use as a means of redemption for money or monetary value, or payment for goods or services. The term includes "prepaid access" as defined by 31 C.F.R. § 1010.100, as may be amended. Notwithstanding the foregoing, the term "stored value" does not include a payment instrument or closed loop stored value, or stored value not sold to the public but issued and distributed as part of a loyalty, rewards, or promotional program.

(25) "Tangible net worth" means the aggregate assets of a licensee excluding all intangible assets, less liabilities, as determined in accordance with United States generally accepted accounting principles.

(26) "U.S. dollar equivalent of virtual currency" means the prevailing market value of a particular virtual currency in United States dollars for a particular date or period specified in this chapter.

(27)(A) "Virtual currency" means a digital representation of value that:

(i) is used as a medium of exchange, unit of account, or store of value; and

(ii) is not money, whether or not denominated in money.

(B) The term "virtual currency" does not include:

(i) a digital representation of value that can be redeemed for goods, services, discounts, or purchases solely as part of a customer affinity or rewards program with the issuing merchant or other designated merchants, or both, or can be redeemed for digital units in another customer affinity or rewards program, but cannot be, directly or indirectly, converted into,

redeemed, or exchanged for money, monetary value, bank credit, or virtual currency; or

(ii) a digital representation of value issued by or on behalf of a publisher and used solely within an online game, game platform, or family of games sold by the same publisher or offered on the same game platform, and:

(I) has no market or application outside of such online game, game platform, or family of games;

(II) cannot be, directly or indirectly, converted into, redeemed, or exchanged for money, monetary value, bank credit, or virtual currency; and

(III) may or may not be redeemable for real-world goods, services, discounts, or purchases.

(28) "Virtual-currency administration" means:

(A) issuing virtual currency with the authority to redeem such virtual currency for money, monetary value, bank credit, or other virtual currency; or

(B) issuing virtual currency that entitles the purchaser or holder of such virtual currency, or otherwise conveys or represents a right of the purchaser or holder of such virtual currency, to redeem such virtual currency for money, monetary value, bank credit, or other virtual currency.

(29) "Virtual-currency business activity" means:

(A) exchanging or transferring virtual currency, engaging in virtual-currency administration, or engaging in virtual-currency storage, in each case whether directly or through an agreement with a virtual-currency control-services vendor;

(B) holding electronic precious metals or electronic certificates representing interests in precious metals on behalf of another person or issuing shares or electronic certificates representing interests in precious metals;

(C) buying or selling virtual currency as a consumer business; or

(D) receiving virtual currency or control of virtual currency for transmission or transmitting virtual currency, except where the transaction is undertaken for nonfinancial purposes and does not involve the transfer of more than a nominal amount of virtual currency.

(30) "Virtual-currency control-services vendor" means a person that has control of virtual currency solely under an agreement with a person that, on behalf of another person, assumes control of virtual currency.

(31) "Virtual-currency kiosk operator" means a person that engages in virtual-currency business activity via a money transmission kiosk located in this State or a person that owns, operates, or manages a money transmission kiosk located in this State through which virtual-currency business activity is offered.

(32) "Virtual-currency storage" means:

(A) maintaining possession, custody, or control over virtual currency on behalf of another person, including as a virtual-currency control-services vendor;

(B) issuing, transferring, or otherwise granting or providing to any person in this State any claim or right, or any physical, digital, or electronic instrument, receipt, certificate, or record representing any claim or right to receive, redeem, withdraw, transfer, exchange, or control any virtual currency or amount of virtual currency; or

(C) receiving possession, custody, or control over virtual currency from a person in this State, in return for a promise or obligation to return, repay, exchange, or transfer such virtual currency or a like amount of such virtual currency.

§ 2504. EXEMPTIONS

This chapter does not apply to:

(1) An operator of a payment system to the extent that it provides processing, clearing, or settlement services, between or among persons exempted by this section or licensees, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearing house transfers, or similar funds transfers.

(2) A person appointed as an agent of a payee to collect and process a payment from a payor to the payee for goods or services, other than money transmission itself, provided to the payor by the payee, provided that:

(A) there exists a written agreement between the payee and the agent directing the agent to collect and process payments from payors on the payee's behalf;

(B) the payee holds the agent out to the public as accepting payments for goods or services on the payee's behalf; and

(C) payment for the goods and services is treated as received by the payee upon receipt by the agent so that the payor's obligation is extinguished and there is no risk of loss to the payor if the agent fails to remit the funds to the payee.

(3) A person that acts as an intermediary by processing payments between an entity that has directly incurred an outstanding money transmission obligation to a sender, and the sender's designated recipient, provided that the entity:

(A) is properly licensed or exempt from licensing requirements under this chapter;

(B) provides a receipt, electronic record, or other written confirmation to the sender identifying the entity as the provider of money transmission in the transaction; and

(C) bears sole responsibility to satisfy the outstanding money transmission obligation to the sender, including the obligation to make the sender whole in connection with any failure to transmit the funds to the sender's designated recipient.

(4) The United States or a department, agency, or instrumentality thereof, or its agent.

(5) Money transmission by the U.S. Postal Service or by an agent of the U.S. Postal Service.

(6) A state, county, city, or any other governmental agency or governmental subdivision or instrumentality of a state, or its agent.

(7) A financial institution as defined in subdivision 11101(32) of this title, or a credit union, provided their deposits are federally insured.

(8) A financial institution holding company as defined in subdivision 11101(33) of this title; an office of an international banking corporation; a foreign bank that establishes a federal branch pursuant to the International Bank Act, 12 U.S.C. § 3102, as may be amended; a corporation organized pursuant to the Bank Services Company Act, 12 U.S.C. §§ 1862–1867, as may be amended; a corporation organized under the Edge Act, 12 U.S.C. §§ 611–633, as may be amended; an independent trust company organized under chapter 77 of this title; or a special purpose financial institution that is organized under the laws of this State.

(9) Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or on behalf of a state or governmental subdivision, agency, or instrumentality thereof.

(10) A board of trade designated as a contract market under the federal Commodity Exchange Act, 7 U.S.C. §§ 1–25, as may be amended, or a person that, in the ordinary course of business, provides clearance and settlement

services for a board of trade to the extent of its operation as or for such a board.

(11) A registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant.

(12) A person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer.

(13) An individual employed by a licensee, authorized delegate, or any person exempted from the licensing requirements of this chapter when acting within the scope of employment and under the supervision of the licensee, authorized delegate, or exempted person as an employee and not as an independent contractor.

(14) A person expressly appointed as a third-party service provider to or agent of an entity exempt under subdivision (7) of this section, solely to the extent that:

(A) such service provider or agent is engaging in money transmission on behalf of and pursuant to a written agreement with the exempt entity that sets forth the specific functions that the service provider or agent is to perform; and

(B) the exempt entity assumes all risk of loss and all legal responsibility for satisfying the outstanding money transmission obligations owed to purchasers and holders of the outstanding money transmission obligations upon receipt of the purchaser's or holder's money or monetary value by the service provider or agent.

(15) The sale or issuance of stored value by a public or nonprofit school to its students and employees.

(16) A debt adjuster licensed pursuant to chapter 133 of this title when engaged in the business of debt adjustment.

(17) A person exempt by rule or order if the Commissioner finds such exemption to be in the public interest and that the regulation of such person is not necessary for the purposes of this chapter.

§ 2504a. AUTHORITY TO REQUIRE DEMONSTRATION OF EXEMPTION

The Commissioner may require that any person claiming to be exempt from licensing pursuant to section 2504 of this chapter provide information and documentation to the Commissioner demonstrating that it qualifies for any claimed exemption.

Sec. 40. 8 V.S.A. chapter 79, subchapter 2 is added to read:

Subchapter 2. Money Transmission Licenses

§ 2505. LICENSE REQUIRED

(a) A person shall not engage in the business of money transmission or advertise, solicit, or hold itself out as providing money transmission, unless the person is licensed under this subchapter.

(b) Subsection (a) of this section does not apply to:

(1) a person that is an authorized delegate of a person licensed under this subchapter acting within the scope of authority conferred by a written contract with the licensee; or

(2) a person that is exempt pursuant to section 2504 of this chapter and does not engage in money transmission outside the scope of such exemption.

§2506. APPLICATION FOR LICENSE; ADDITIONAL INFORMATION

(a) In addition to the information required by section 2102 of this title, an application for a license under this subchapter shall state or contain:

(1) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in this State;

(2) a list of the applicant's proposed authorized delegates, and the locations in Vermont where the applicant and its authorized delegates propose to engage in money transmission or provide other money services;

(3) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services;

(4) information concerning any bankruptcy or receivership proceedings affecting the licensee or a person in control of a licensee;

(5) a sample form of contract for authorized delegates, if applicable;

(6) a sample form of payment instrument or instrument upon which stored value is recorded, as applicable; and

(7) the name and address of any financial institution through which the applicant plans to conduct money services.

(b) For good cause shown and consistent with the purposes of this section, the Commissioner may waive one or more requirements of this section or permit an applicant to submit substituted information in lieu of the required information.

§ 2507. MONEY TRANSMISSION KIOSK REGISTRATION

(a) A licensee shall not locate, or allow a third party to locate, a money transmission kiosk in this State that allows users of the money transmission kiosk to engage in money transmission through the licensee unless the licensee registers the money transmission kiosk and obtains the prior approval of the Commissioner for its activation.

(b) To apply for registration and approval to activate a money transmission kiosk, a licensee shall submit an application, using a form prescribed by the Commissioner, that includes the ownership and location of the money transmission kiosk, an affidavit of all businesses and services to be offered at the kiosk, the written agreement between the licensee and the owner of the money transmission kiosk if different persons, and the text of each disclosure required pursuant to subsection (c) of this section along with a description of the form, timing, and location for each disclosure.

(c) Each money transmission kiosk shall disclose prominently and conspicuously, using as high a contrast or resolution as any other display or graphics on the money transmission kiosk, prior to the point at which a user of the money transmission kiosk is irrevocably committed to completing any transaction:

(1) on or at the location of the money transmission kiosk, or on the first screen of such kiosk, the name, address, and telephone number of the owner of the kiosk and the days, time, and means by which a consumer can contact the owner for consumer assistance; and

(2) on the screen of the money transmission kiosk:

(A) for a transaction that does not involve virtual currency, the amount of the fees or charges that will be assessed to the user of the money transmission kiosk for the transaction by the licensee and by the owner of the money transmission kiosk, a clear explanation of who is imposing each fee or charge and that such fees and charges are in addition to any fees or charges that may be imposed by other entities relevant to the particular transaction, and the method by which the user may cancel the transaction to avoid the imposition of fees or charges; and

(B) for a transaction that involves virtual currency, all disclosures required pursuant to subsection 2574(c) of this chapter, a clear explanation of who is imposing each consideration to be charged for the transaction, and that such consideration is in addition to any fees or charges that may be imposed by other entities relevant to the particular transaction, and the method by which

the user may cancel the transaction to avoid the imposition of the consideration and other fees or charges.

(d) Any alterations in the form, content, timing, or location of previously approved disclosures must be submitted to and approved by the Commissioner prior to their adoption and use.

(e) To ensure adequate consumer protection, the Commissioner may by rule or order specify additional minimum disclosure standards for money transmission kiosks, including the form, content, timing, and location of such disclosures.

(f) Immediately following the completion of each transaction, each money transmission kiosk shall provide the user of the money transmission kiosk with a receipt that is compliant with sections 2562 and 2574 of this chapter as applicable to the particular transaction.

Sec. 41. 8 V.S.A. chapter 79, subchapter 3 is amended to read:

Subchapter 3. Check Cashing and Currency Exchange Licenses

§ 2515. CHECK CASHING AND CURRENCY EXCHANGE ~~LICENSES~~ LICENSE REQUIRED

(a) A person ~~licensed under this subchapter may~~ shall not engage in check cashing and currency exchange, or hold itself out as providing these money services, unless the person is licensed under this chapter.

(b) Subsection (a) of this section shall not apply to:

(1) ~~A~~ a person licensed under subchapter 2 of this chapter ~~may engage in check cashing and currency exchange without first obtaining a separate license under this subchapter.~~;

~~(c)~~(2) ~~An~~ an authorized delegate of a person licensed under subchapter 2 of this chapter ~~may engage in check cashing and currency exchange without first obtaining a license under this subchapter~~ if such money services are within the scope of ~~activity permissible under the~~ authority conferred by a written contract between the authorized delegate and the licensee~~.~~; or

(3) a person that is exempt pursuant to section 2504 of this chapter and that does not engage in money services outside the scope of such exemption.

* * *

§ 2520. APPLICABILITY OF SUBCHAPTERS

The following subchapters of this chapter shall not apply to persons licensed under this subchapter: subchapter 4 (authorized delegates of money

transmitters), subchapter 5 (reporting and records for money transmitters), subchapter 6 (prudential standards for money transmitters), subchapter 9 (timely transmission, refunds, and disclosures by money transmitters), and subchapter 10 (virtual currency).

Sec. 42. 8 V.S.A. chapter 79, subchapter 4 is amended to read:

Subchapter 4. Authorized Delegates of Money Transmitters

§ 2525. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE

(a) ~~In~~ As used in this subchapter, "remit" means to make direct payments of money to a licensee or its representative authorized to receive the money, or to deposit ~~money in a depository institution within the meaning of subdivision 11101(24) of this title~~ the money in an entity identified as exempt under subdivision 2504(7) of this chapter, in an account specified by the licensee.

(b) ~~A contract between a licensee and an authorized delegate shall require the authorized delegate to operate in full compliance with this chapter. The licensee shall furnish in a record to each authorized delegate policies and procedures sufficient to permit compliance with this chapter.~~

~~(c) An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.~~

~~(d) If a license is suspended, revoked, or nonrenewed, the Commissioner shall notify all authorized delegates of the licensee whose names are in a record filed with the Commissioner of the suspension, revocation, or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.~~

~~(e) An authorized delegate may not provide money services outside the scope of activity permissible under the contract between the authorized delegate and the licensee, except for activity in which the authorized delegate is otherwise licensed or authorized to engage.~~

~~(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money less fees earned from money transmission.~~

~~(g) A person shall not provide money services on behalf of a person not licensed under this chapter. A person that engages in any money services activity under this chapter shall be subject to the provisions of this chapter to the same extent as if the person were a licensee under this chapter.~~

~~(h) A person may not be an authorized delegate of another authorized delegate. An authorized delegate must enter into a contract directly with a licensee~~ Before a licensee is authorized to conduct business through an authorized delegate or allows a person to act as the licensee's authorized delegate, the licensee shall:

(1) adopt, and update as necessary, written policies and procedures reasonably designed to ensure that the licensee's authorized delegates comply with applicable state and federal law;

(2) enter into a written contract that complies with subsection (d) of this section; and

(3) conduct a reasonable risk-based background investigation sufficient for the licensee to determine whether the authorized delegate has complied and will likely comply with applicable state and federal law.

(c) An authorized delegate must operate in full compliance with this chapter.

(d) The written contract required by subsection (b) of this section must be signed by the licensee and the authorized delegate and, at a minimum, shall:

(1) appoint the person signing the contract as the licensee's authorized delegate with the authority to conduct money transmission on behalf of the licensee;

(2) set forth the nature and scope of the relationship between the licensee and the authorized delegate and the respective rights and responsibilities of the parties;

(3) require the authorized delegate to agree to fully comply with all applicable state and federal laws, rules, and regulations pertaining to money transmission, including this chapter and rules implementing this chapter, relevant provisions of the Bank Secrecy Act and the USA PATRIOT Act;

(4) require the authorized delegate to remit and handle money and monetary value in accordance with the terms of the contract between the licensee and the authorized delegate;

(5) impose a trust on money and monetary value net of fees received for money transmission for the benefit of the licensee;

(6) require the authorized delegate to prepare and maintain records as required by this chapter or rules implementing this chapter, or as reasonably requested by the Commissioner;

(7) acknowledge that the authorized delegate consents to examination or investigation by the Commissioner;

(8) state that the licensee is subject to regulation by the Commissioner and that, as part of that regulation, the Commissioner may suspend or revoke an authorized delegate designation or require the licensee to terminate an authorized delegate designation; and

(9) acknowledge receipt of the written policies and procedures required under subsection (b) of this section.

(e) If the licensee's license is suspended, revoked, terminated, nonrenewed, surrendered or expired, the licensee must, within five business days, provide documentation to the Commissioner that the licensee has notified all applicable authorized delegates of the licensee whose names are in a record filed with the Commissioner of the suspension, revocation, termination, nonrenewal, surrender, or expiration of a license. Upon suspension, revocation, termination, nonrenewal, or surrender of a license, applicable authorized delegates shall immediately cease to provide money transmission as an authorized delegate of the licensee.

(f) An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission. If any authorized delegate commingles any funds received from money transmission with any other funds or property owned or controlled by the authorized delegate, all commingled funds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of money net of fees received from money transmission.

(g) An authorized delegate shall not use a subdelegate to conduct money transmission on behalf of a licensee.

§ 2526. UNAUTHORIZED ACTIVITIES

A person shall not engage in the business of money transmission on behalf of a person not licensed under subchapter 2 of this chapter or not exempt pursuant to subchapter 1 of this chapter. A person that engages in such activity provides money transmission to the same extent as if the person were a licensee, and shall be jointly and severally liable with the unlicensed or nonexempt person.

§ 2527. TERMINATION OR SUSPENSION OF AUTHORIZED DELEGATE ACTIVITY

(a) The authority granted to the Commissioner over licensees in section 2110 of this title applies equally to authorized delegates.

(b) The Commissioner may issue an order suspending or barring any authorized delegate or any key individual or person in control of such authorized delegate from continuing to be or becoming an authorized delegate of any licensee during the period for which such orders is in effect, or may order that an authorized delegate cease and desist in any specified conduct.

(c) Upon issuance of a suspension or bar order, the licensee shall terminate its relationship with such authorized delegate according to the terms of the order.

§ 2528. PRIVATE ACTIONS AGAINST AUTHORIZED DELEGATES

(a) Distinct from the Commissioner's authority over licensees and authorized delegates, any court in this State with jurisdiction over a private civil action brought by a licensee against an authorized delegate shall have the ability to grant appropriate equitable or legal relief, including prohibiting the authorized delegate from directly or indirectly acting as an authorized delegate for any licensee in this State and the payment of restitution, damages, or other monetary relief, if the court finds that an authorized delegate failed to remit money in accordance with the written contract required by subsection 2525(b) of this chapter or as otherwise directed by the licensee or required by law.

(b) If the court issues an order prohibiting a person from acting as an authorized delegate for any licensee pursuant to subsection (a) of this section, the licensee that brought the action shall report the order to the Commissioner within 30 days and shall report the order through NMLS within 90 days.

Sec. 43. REPEAL

8 V.S.A. chapter 79, subchapter 5 (examinations; reports; records), subchapter 6 (permissible investments), and subchapter 7 (enforcement) are repealed.

Sec. 44. 8 V.S.A. chapter 79, subchapters 5–7 are added to read:

Subchapter 5. Reporting and Records for Money Transmitters

§ 2530. REPORT OF CONDITION

(a) Each licensee shall submit a report of condition within 45 days of the end of the calendar quarter, or within any extended time as the Commissioner may prescribe.

(b) The report of condition shall include:

(1) Financial information at the licensee level.

(2) Nationwide and state-specific money transmission transaction information in every jurisdiction in the United States where the licensee is licensed to engage in money transmission.

(3) A permissible investments report.

(4) Transaction destination country reporting for money received for transmission, if applicable.

(5) Any other information the Commissioner reasonably requires with respect to the licensee. The Commissioner is authorized and encouraged to use NMLS for the submission of the report required by this section.

(c) The information required by subdivision (b)(4) of this section shall only be included in a report of condition submitted within 45 days after the end of the fourth calendar quarter.

§ 2531. AUDITED FINANCIALS

(a) Each licensee shall, within 90 days after the end of each fiscal year, or within any extended time as the Commissioner may prescribe, file with the Commissioner:

(1) an audited financial statement of the licensee for the fiscal year prepared in accordance with U.S. generally accepted accounting principles; and

(2) any other information as the Commissioner may reasonably require.

(b) The audited financial statements shall be prepared by an independent certified public accountant or independent public accountant who is satisfactory to the Commissioner.

(c) The audited financial statements shall include or be accompanied by a certificate of opinion of the independent certified public accountant or independent public accountant that is satisfactory in form and content to the Commissioner. If the certificate or opinion is qualified, the Commissioner may order the licensee to take any action as the Commissioner may find necessary to enable the independent or certified public accountant or independent public accountant to remove the qualification.

§ 2532. AUTHORIZED DELEGATE REPORTING

(a) Each licensee shall submit a report of authorized delegates within 45 days after the end of the calendar quarter. The Commissioner is authorized and encouraged to use NMLS for the submission of the report required by this section provided that such functionality is consistent with the requirements of this section.

(b) The authorized delegate report shall include, at a minimum, each authorized delegate's:

(1) company legal name;

(2) taxpayer employer identification number;

(3) principal provider identifier;

(4) physical address;

(5) mailing address;

(6) any business conducted in other states;

(7) any fictitious or trade name;

(8) contact person name, phone number, and e-mail

(9) start date as licensee's authorized delegate;

(10) end date acting as licensee's authorized delegate, if applicable;

(11) any administrative, civil, or criminal order against an authorized delegate concerning their activity as an authorized delegate; and

(12) any other information the Commissioner reasonably requires with respect to the authorized delegate.

§ 2533. CHANGE OF AUTHORIZED DELEGATE

A licensee shall notify the Commissioner in writing within 30 days after any change in the list of authorized delegates, identifying the name and street address of each new authorized delegate and of each removed authorized delegate.

§ 2534. MONEY LAUNDERING REPORTS

A licensee and an authorized delegate shall file all reports required by federal currency reporting, record keeping, and suspicious activity reporting requirements as set forth in the Bank Secrecy Act and other federal and state laws pertaining to money laundering. The timely filing of a complete and accurate report required under this section with the appropriate federal agency is deemed compliance with the requirements of this section.

Subchapter 6. Prudential Standards for Money Transmitters

§ 2540. NET WORTH

(a) A licensee under this chapter shall maintain at all times a tangible net worth of the greater of $100,000.00 or three percent of total assets for the first $100,000,000.00, two percent of additional assets for $100,000,000.00 to

$1,000,000,000.00, and 0.5 percent of additional assets for over $1,000,000,000.00.

(b) Tangible net worth must be demonstrated at initial application by the applicant's most recent audited or unaudited financial statements pursuant to subsection 2102(e) of this title.

(c) Notwithstanding subsections (a) and (b) of this section, the Commissioner for good cause shown has the authority to exempt an applicant or licensee from the requirements of this section, in part or in whole.

§ 2541. SECURITY

(a) An applicant for a money transmission license shall provide, and a licensee at all times shall maintain, security consisting of a surety bond in a form satisfactory to the Commissioner or, with the Commissioner's approval, a deposit that meets the requirements of this section.

(b) The amount of the required security shall be the greater of $100,000.00 or an amount equal to one hundred percent of the licensee's average daily money transmission liability in this State calculated for the most recently completed three-month period, up to a maximum of $2,000,000.00.

(c) A licensee that maintains a surety bond or deposit in the maximum amount provided for in subsection (b) of this section shall not be required to calculate its average daily money transmission liability in this State for purposes of this section.

(d) A licensee may exceed the maximum required surety bond or deposit amount pursuant to subdivision 2543(a)(5) of this subchapter.

(e) The surety bond or deposit shall be payable to the State for use of the State and for the benefit of any claimant against the licensee and its authorized delegates to secure the faithful performance of the obligations of the licensee and its authorized delegates with respect to money transmission.

(f) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant against a licensee or its authorized delegate may maintain an action directly against the bond, or the Commissioner may maintain an action on behalf of the claimant against the bond. The power vested in the Commissioner by this subsection shall be in addition to any other powers of the Commissioner under this chapter.

(g) The surety bond or deposit shall cover claims effective for as long as the Commissioner specifies, but for at least five years after the licensee ceases to provide money services in this State. However, the Commissioner may permit the amount of security to be reduced or eliminated before the expiration

of that time to the extent the amount of the licensee's outstanding money transmission obligations in this State is reduced.

§ 2542. MAINTENANCE OF PERMISSIBLE INVESTMENTS

(a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with U.S. generally accepted accounting principles of not less than the aggregate amount of all of its outstanding money transmission obligations.

(b) Except for permissible investments enumerated in subsection 2543(a) of this subchapter, the Commissioner, with respect to any licensee, may by rule or order limit the extent to which a specific investment maintained by a licensee within a class of permissible investments may be considered a permissible investment, if the specific investment represents undue risk to customers, not reflected in the market value of investments.

(c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations upon the occurrence of one or more of the following events:

(1) the insolvency of the licensee;

(2) the filing of a petition by or against the licensee under the U.S. Bankruptcy Code, 11 U.S.C. §§ 101–110, as may be amended, for bankruptcy or reorganization;

(3) the filing of a petition by or against the licensee for receivership;

(4) the commencement of any other judicial or administrative proceeding for its dissolution or reorganization, or

(5) the commencement of an action by a creditor against the licensee who is not a beneficiary of this statutory trust.

(d) No permissible investments impressed with a trust pursuant to subsection (c) of this section shall be subject to attachment, levy of execution, or sequestration by order of any court, except for a beneficiary of this statutory trust.

(e) Upon the establishment of a statutory trust in accordance with subsection (c) of this section or when any funds are drawn on a letter of credit pursuant to subdivision 2543(a)(4) of this subchapter, the Commissioner shall notify the applicable regulator of each state in which the licensee is licensed to engage in money transmission, if any, of the establishment of the trust or the funds drawn on the letter of credit, as applicable. Notice shall be deemed satisfied if performed pursuant to a multistate agreement or through NMLS.

Funds drawn on a letter of credit, and any other permissible investments held in trust for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations, are deemed held in trust for the benefit of such purchasers and holders on a pro rata and equitable basis in accordance with statutes pursuant to which permissible investments are required to be held in this State, and other states, as applicable. Any statutory trust established hereunder shall be terminated upon extinguishment of all of the licensee's outstanding money transmission obligations.

(f) The Commissioner by rule or order may allow other types of investments that the Commissioner determines are of sufficient liquidity and quality to be a permissible investment. The Commissioner is authorized to participate in efforts with other state regulators to determine that other types of investments are of sufficient liquidity and quality to be a permissible investment.

§ 2543. TYPES OF PERMISSIBLE INVESTMENTS

(a) The following investments are permissible under section 2542 of this subchapter:

(1) cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers in an entity identified as exempt under subdivision 2504(7) of this chapter, and cash equivalents, including ACH items in transit to the licensee and ACH items or international wires in transit to a payee, cash in transit via armored car, cash in smart safes, cash in licensee-owned locations, debit card or credit card-funded transmission receivables owed by any bank, or money market mutual funds rated "AAA" by S&P or the equivalent from any eligible rating service;

(2) certificates of deposit or senior debt obligations of an insured depository institution, as defined in the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c), as may be amended, or as defined under the federal Credit Union Act, 12 U.S.C. § 1781, as may be amended;

(3) an obligation of the United States or a commission, department, agency, or instrumentality thereof; an obligation that is guaranteed fully as to principal and interest by the United States; or an obligation of a state or a governmental subdivision, agency, or instrumentality thereof;

(4) the full drawable amount of an irrevocable standby letter of credit for which the stated beneficiary is the Commissioner that stipulates that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds up to the letter of credit amount within seven days of presentation of the items required by subdivision (a)(4)(C) of this section.

(A) The letter of credit shall:

(i) be issued by a financial institution as defined in subdivision 11101(32) of this title with federally insured deposits, a credit union with federally insured deposits, a foreign bank that is authorized under federal law to maintain a federal agency or federal branch office in a state or states, or a foreign bank that is authorized under state law to maintain a branch in a state that:

(I) bears an eligible rating or whose parent company bears an eligible rating; and

(II) is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks, credit unions, and trust companies;

(ii) be irrevocable, unconditional, and indicate that it is not subject to any condition or qualifications outside of the letter of credit;

(iii) not contain reference to any other agreements, documents, or entities, or otherwise provide for any security interest in the licensee; and

(iv) contain an issue date and expiration date, and expressly provide for automatic extension, without a written amendment, for an additional period of one year from the present or each future expiration date, unless the issuer of the letter of credit notifies the Commissioner in writing by certified or registered mail or courier mail or other receipted means, at least 60 days prior to any expiration date, that the irrevocable letter of credit will not be extended.

(B) In the event of any notice of expiration or non-extension of a letter of credit issued under subdivision (a)(4)(A) of this section, the licensee shall be required to demonstrate to the satisfaction of the Commissioner, 15 days prior to expiration, that the licensee maintains and will maintain permissible investments in accordance with subsection 2542(a) of this subchapter upon the expiration of the letter of credit. If the licensee is not able to do so, the Commissioner may draw on the letter of credit in an amount up to the amount necessary to meet the licensee's requirements to maintain permissible investments in accordance with subsection 2542(a) of this subchapter. Any such draw shall be offset against the licensee's outstanding money transmission obligations. The drawn funds shall be held in trust by the Commissioner or the Commissioner's designated agent, to the extent authorized by law, as agent for the benefit of the purchasers and holders of the licensee's outstanding money transmission obligations.

(C) The letter of credit shall provide that the issuer of the letter of credit will honor, at sight, a presentation made by the beneficiary to the issuer of the following documents on or prior to the expiration date of the letter of credit:

(i) the original letter of credit, including any amendments; and

(ii) a written statement from the beneficiary stating that any of the following events have occurred:

(I) the filing of a petition by or against the licensee under the U.S. Bankruptcy Code, 11 U.S.C. §§ 101–110, as may be amended, for bankruptcy or reorganization;

(II) the filing of a petition by or against the licensee for receivership or the commencement of any other judicial or administrative proceeding for its dissolution or reorganization;

(III) the seizure of assets of a licensee by a Commissioner pursuant to an emergency order issued in accordance with applicable law on the basis of an action, a violation, or a condition that has caused or is likely to cause the insolvency of the licensee; or

(IV) the beneficiary has received notice of expiration or non-extension of a letter of credit and the licensee failed to demonstrate to the satisfaction of the beneficiary that the licensee will maintain permissible investments in accordance with subsection 2542(a) of this subchapter upon the expiration or non-extension of the letter of credit.

(D) The Commissioner may designate an agent to serve on the Commissioner's behalf as beneficiary to a letter of credit provided the agent and letter of credit meet requirements established by the Commissioner. The Commissioner's agent may serve as agent for multiple licensing authorities for a single irrevocable letter of credit if the proceeds of the drawable amount for the purposes of subdivision (a)(4) of this section are assigned to the Commissioner.

(E) The Commissioner is authorized and encouraged to participate in multistate processes designed to facilitate the issuance and administration of letters of credit, including but not limited to services provided by the NMLS and State Regulatory Registry, LLC.

(5) One hundred percent of the surety bond or deposit provided for under section 2541 of this subchapter that exceeds the average daily money transmission liability in this state.

(b) Unless permitted by the Commissioner by rule or order to exceed the limit as set forth in this subchapter, the following investments are permissible under subdivision 2542(a) of this subchapter to the extent specified:

(1) receivables that are payable to a licensee from its authorized delegates in the ordinary course of business that are less than seven days old, up to 50 percent of the aggregate value of the licensee's total permissible investments;

(2) of the receivables permissible under subdivision (b)(1) of this section, receivables that are payable to a licensee from a single authorized delegate in the ordinary course of business may not exceed 10 percent of the aggregate value of the licensee's total permissible investments.

(3) the following investments are permissible up to 20 percent per category and combined up to 50 percent of the aggregate value of the licensee's total permissible investments:

(A) a short-term investment of up to six months bearing an eligible rating;

(B) commercial paper bearing an eligible rating;

(C) a bill, note, bond, or debenture bearing an eligible rating;

(D) U.S. tri-party repurchase agreements collateralized at 100 percent or more with U.S. government or agency securities, municipal bonds, or other securities bearing an eligible rating;

(E) money market mutual funds rated less than "AAA" and equal to or higher than "A-" by S&P or the equivalent from any other eligible rating service; and

(F) a mutual fund or other investment fund composed solely and exclusively of one or more permissible investments listed in subdivisions (a)(1)–(3) of this section.

(4) cash, including demand deposits, savings deposits, and funds in such accounts held for the benefit of the licensee's customers, at foreign depository institutions are permissible up to 10 percent of the aggregate value of the licensee's total permissible investments if the licensee has received a satisfactory rating in its most recent examination and the foreign depository institution:

(A) has an eligible rating;

(B) is registered under the Foreign Account Tax Compliance Act;

(C) is not located in any country subject to sanctions from the Office of Foreign Asset Control; and

(D) is not located in a high-risk or non-cooperative jurisdiction as designated by the Financial Action Task Force.

Subchapter 7. Requirements for Money Servicers

§ 2545. CHANGE OF LOCATION

(a) A licensee shall notify the Commissioner in writing within 30 days following any change in locations in this State where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations.

(b) The notice required in subsection (a) of this section shall state the name and street address of each location removed or added to the licensee's list.

(c) Licensees shall submit with the notice required in subsection (a) of this section a nonrefundable fee of $25.00 for each new authorized delegate location and for each change in location for an authorized delegate. There is no fee to remove locations of authorized delegates.

§ 2546. RECORDS

(a) In addition to the records required to be maintained by section 2119 of this title and any other records the Commissioner requires pursuant to this chapter or rule, a licensee shall maintain the following records for at least five years for determining the licensee's compliance with this chapter:

(1) a general ledger posted at least monthly containing all asset, liability, capital, income, and expense accounts;

(2) bank statements and bank reconciliation records; and

(3) if the licensee is a money transmitter:

(A) a record of each outstanding money transmission obligation sold;

(B) records of outstanding money transmission obligations;

(C) records of each outstanding money transmission obligation paid within the five-year period; and

(D) a list of the last known names and addresses of all of the licensee's authorized delegates.

(b) The records specified in subsection (a) of this section shall be maintained in any form permitted in subsection 11301(c) of this title.

(c) Records specified in subsection (a) of this section may be maintained outside this State if they are made accessible to the Commissioner on seven business-days' notice.

Sec. 45. 8 V.S.A. § 2555 is amended to read:

§ 2555. CONSERVATION, LIQUIDATION, AND INSOLVENCY

To the extent applicable, the provisions of subchapters 2, 3, and ~~5~~ 4 of chapter 209 of this title, excluding sections 19207, 19208, 19210, 19306, and 19307 of this title, shall apply to the conservation, liquidation, and insolvency of any licensee under this chapter. Such licensee shall be treated as a financial institution for the purposes of application of those subchapters. If an impaired or insolvent licensee is or becomes a debtor in bankruptcy or the subject of a bankruptcy proceeding under federal law, the Commissioner shall be relieved of any obligation otherwise imposed under this section and subchapters 2, 3, and ~~5~~ 4 of chapter 209 of this title, and shall relinquish control of the assets and estate of such debtor to the duly appointed trustee in bankruptcy or the debtor in possession, as the case may be.

Sec. 46. REPEAL

8 V.S.A. chapter 79, subchapter 9 (Nationwide Licensing System) is repealed.

Sec. 47. 8 V.S.A. chapter 79, subchapter 9 is added to read:

Subchapter 9. Timely Transmission, Refunds, and Disclosures by Money Transmitters

§ 2560. TIMELY TRANSMISSION

(a) Every licensee shall forward all money received for transmission in accordance with the terms of the agreement between the licensee and the sender unless the licensee has a reasonable belief or a reasonable basis to believe that the sender may be a victim of fraud or that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

(b) If a licensee fails to forward money received for transmission in accordance with this section, the licensee must respond promptly to inquiries by the sender with the reason for the failure unless providing a response would violate a state or federal law, rule, or regulation.

§ 2561. REFUNDS

(a) This section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, subpart B, as may be amended; or

(2) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee.

(b) Every licensee shall refund to the sender within 10 days of receipt of the sender's written request for a refund of any and all money received for transmission unless any of the following occurs:

(1) The money has been forwarded within 10 days following the date on which the money was received for transmission.

(2) Instructions have been given committing an equivalent amount of money to the person designated by the sender within 10 days following the date on which the money was received for transmission.

(3) The agreement between the licensee and the sender instructs the licensee to forward the money at a time that is beyond 10 days following the date on which the money was received for transmission. If funds have not yet been forwarded in accordance with the terms of the agreement between the licensee and the sender, the licensee shall issue a refund in accordance with the other provisions of this section.

(4) The refund is requested for a transaction that the licensee has not completed based on a reasonable belief or a reasonable basis to believe that a crime or violation of law, rule, or regulation has occurred, is occurring, or may occur.

(5) The refund request does not enable the licensee to:

(A) identify the sender's name and address or telephone number; or

(B) identify the particular transaction to be refunded in the event the sender has multiple transactions outstanding.

§ 2562. RECEIPTS

(a) This section does not apply to:

(1) money received for transmission subject to the federal Remittance Rule, 12 C.F.R. Part 1005, subpart B, as may be amended;

(2) money received for transmission that is not primarily for personal, family, or household purposes;

(3) money received for transmission pursuant to a written agreement between the licensee and payee to process payments for goods or services provided by the payee; or

(4) payroll processing services.

(b) As used in this section and sections 2507 and 2574 of this chapter, "receipt" means a paper receipt, electronic record, or other written confirmation. For a transaction conducted in person, the receipt may be provided electronically if the sender requests or agrees to receive an electronic receipt. For a transaction conducted electronically or by phone, a receipt may be provided electronically. All electronic receipts shall be provided in a retainable form.

(c) Every licensee or its authorized delegate shall provide the sender a receipt for money received for transmission.

(1) The receipt shall contain the following information, as applicable:

(A) the name of the sender;

(B) the name of the designated recipient;

(C) the date of the transaction;

(D) the unique transaction or identification number;

(E) the name of the licensee, NMLS Unique ID, the licensee's business address, and the licensee's customer service telephone number;

(F) the amount of the transaction in U.S. dollars;

(G) for transactions that involve money sent in a different currency from the money received:

(i) if the rate of exchange is fixed by the licensee at the time the transmission is initiated, the receipt shall disclose the rate of exchange for the transaction, and the duration, if any, for the payment to be made at the fixed rate of exchange so specified;

(ii) if the rate of exchange is not fixed at the time the transmission is initiated, the receipt shall disclose that the rate of exchange for the transaction will be set at the time the money is received;

(H) any fee charged by the licensee to the sender for the transaction; and

(I) any taxes collected by the licensee from the sender for the transaction.

(2) The receipt required by this section shall be in English and in the language principally used by the licensee or authorized delegate to advertise, solicit, or negotiate, either orally or in writing, for a transaction conducted in person, electronically, or by phone, if other than English.

§ 2563. NOTICE

Every licensee or authorized delegate shall disclose on their website and mobile application the name of the Department and a current link to the Vermont Banking Consumer Complaint Form accompanied by statements conveying that, should the licensee's customers have a complaint about the licensee's money transmission services they should first contact the licensee using contact information supplied by the licensee and, if the complaint remains unresolved, they can submit a complaint to the Department using the form.

§ 2564. DISCLOSURE FOR PAYROLL PROCESSING SERVICES

(a) A licensee that provides payroll processing services shall:

(1) issue reports to clients detailing client payroll obligations in advance of the payroll funds being deducted from an account; and

(2) make available worker paystubs or an equivalent statement to workers.

(b) This section shall not apply to a licensee providing payroll processing services where the licensee's client designates the intended recipients to the licensee and is responsible for providing the disclosures required by subdivision (a)(2) of this section.

Sec. 48. 8 V.S.A. chapter 79, subchapter 10 is added to read:

Subchapter 10. Virtual Currency

§ 2571. DEFINITIONS

As used in this subchapter:

(1) "Exchange," used as a verb, means to assume or exercise control of virtual currency from or on behalf of a person, including momentarily, to buy, sell, trade, or convert:

(A) virtual currency for money, monetary value, bank credit, or one or more forms of virtual currency, or other consideration; or

(B) money, monetary value, bank credit, or other consideration for one or more forms of virtual currency.

(2) "Transfer" means to assume or exercise control of virtual currency from or on behalf of a person and to:

(A) credit the virtual currency to the account or digital wallet of another person;

(B) move the virtual currency from one account or digital wallet of a person to another account or digital wallet of the same person; or

(C) relinquish or transfer control or ownership of virtual currency to another person, digital wallet, distributed ledger address, or smart contract.

§ 2572. EXEMPTIONS

(a) This subchapter shall not apply to the exchange or transfer of virtual currency, or to virtual-currency storage or virtual-currency administration, by a person to the extent that the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78oo, as may be amended, or the Commodities Exchange Act of 1936, 7 U .S.C. §§ 1–27f, as may be amended, govern such activity and the person is conducting such activity in compliance with all applicable requirements of such laws and any regulations promulgated thereunder.

(b) This subchapter shall not apply to activity by:

(1) a person that:

(A) provides only data storage or security services for a business engaged in virtual-currency business activity and does not otherwise engage in virtual-currency business activity on behalf of another person; or

(B) provides only to a person otherwise exempt from this chapter virtual currency as one or more enterprise solutions used solely among each other and has no agreement or relationship with a person that is an end-user of virtual currency;

(2) a person using virtual currency, including creating, investing, buying or selling, or obtaining virtual currency as payment for the purchase or sale of goods or services, solely on its own behalf for personal, family, or household purposes or for academic purposes;

(3) a person whose virtual-currency business activity with or on behalf of persons is reasonably expected to be valued, in the aggregate, on an annual basis at $5,000.00 or less, measured by the U.S. dollar equivalent of virtual currency;

(4) a securities intermediary, as defined in 9A V.S.A. § 8-102, or a commodity intermediary, as defined in 9A V.S.A. § 9-102, that:

(A) does not engage in the ordinary course of business in virtual-currency business activity with or on behalf of a person in addition to maintaining securities accounts or commodities accounts and is regulated as a securities intermediary or commodity intermediary under federal law, law of this State other than this chapter, or law of another state; and

(B) affords a person protections comparable to those set forth in section 2574 of this subchapter;

(5) a person that is engaged in testing products or services with the person's own funds.

(c) The Commissioner may determine that other persons or classes of persons, given facts particular to the person or class, are exempt from this chapter, when the person or class is covered by requirements imposed under federal law on business engaged in money services and the Commissioner determines that no additional requirements are necessary to ensure the protection of the public.

§ 2573. CONDITIONS PRECEDENT TO ENGAGING IN VIRTUAL-CURRENCY BUSINESS ACTIVITY

(a) A person shall not engage in virtual-currency business activity, or hold itself out as being able to engage in virtual-currency business activity, with or on behalf of another person unless the person is:

(1) licensed under subchapter 2 of this chapter to engage in virtual-currency business activity;

(2) an authorized delegate of a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity if such money services are within the scope of authority conferred by a written contract between the authorized delegate and the licensee;

(3) exempt pursuant to section 2572 of this subchapter and engages in no licensable activity outside the scope of such exemption; or

(4) exempt pursuant to section 2504 of this chapter and does not engage in money services outside the scope of such exemption.

(b) A person that engages in virtual-currency business activity is engaged in the business of money transmission.

(c) It is prohibited for a person to facilitate the provision of unlicensed virtual-currency business activity by another person that is required to be licensed under this subchapter, when the first person or the first person's authorized agent receives notice from a regulatory, law enforcement, or similar governmental authority, or knows from its normal monitoring and compliance systems, or consciously avoids knowing that the unlicensed person is in violation of this chapter.

(d) All provisions of this chapter, and any rule adopted under this chapter, that apply to a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall apply equally to any person required to hold a license pursuant to subsection (a) of this section that does not hold one. Nothing herein shall be interpreted to permit any such unlicensed person to

engage in virtual-currency business activity or hold itself out as being able to engage in any virtual-currency business activity without a license.

§ 2574. REQUIRED DISCLOSURES

(a) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall provide the disclosures required by this section and any additional disclosure the Commissioner determines reasonably necessary for the protection of the public.

(1) A disclosure required by this section must be made separately from any other information provided by the licensee and in a clear and conspicuous manner in a record the person may keep.

(2) The Commissioner may waive one or more requirements in subsections (b)–(d) of this section and approve alternative disclosures proposed by a licensee if the Commissioner determines that the alternative disclosure is more appropriate for the virtual-currency business activity and provides the same or equivalent information and protection to the public.

(b) Before engaging in virtual-currency business activity with a person, a licensee shall disclose, to the extent applicable to the virtual-currency business activity the licensee will undertake with the person:

(1) a schedule of fees and charges the licensee may assess, the manner by which fees and charges will be calculated if they are not set in advance and disclosed, and the timing of the fees and charges, including general disclosure regarding mark-ups and mark-downs on purchases, sales, or exchanges of virtual currency in which the licensee or any affiliate thereof is acting in a principal capacity;

(2) whether the product or service provided by the licensee is covered by:

(A) a form of insurance or is otherwise guaranteed against loss by an agency of the United States:

(i) up to the full U.S. dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee as of the date of the placement or purchase, including the maximum amount provided by insurance under the Federal Deposit Insurance Corporation or otherwise available from the Securities Investor Protection Corporation; or

(ii) if not provided at the full U.S. dollar equivalent of virtual currency purchased from the licensee or for control of virtual currency by the licensee, the maximum amount of coverage for each person expressed in the U.S. dollar equivalent of the virtual currency; or

(B) private insurance against theft or loss, including cyber theft or theft by other means;

(3) the irrevocability of a transfer or exchange and any exception to irrevocability;

(4) a description of:

(A) liability for an unauthorized, mistaken, or accidental transfer or exchange;

(B) the person's responsibility to provide notice to the licensee of the transfer or exchange;

(C) the basis for any recovery by the person from the licensee;

(D) general error-resolution rights applicable to the transfer or exchange; and

(E) the method for the person to update the person's contact information with the licensee;

(5) that the date or time when the transfer or exchange is made and the person's account is debited may differ from the date or time when the person initiates the instruction to make the transfer or exchange;

(6) whether the person has a right to stop a preauthorized payment or revoke authorization for a transfer and the procedure to initiate a stop-payment order or revoke authorization for a subsequent transfer;

(7) the person's right to receive a receipt, trade ticket, or other evidence of the transfer or exchange;

(8) the person's right to at least 30 days' prior notice of a change in the licensee's fee schedule, other terms and conditions of operating its virtual-currency business activity with the person, and the policies applicable to the person's account; and

(9) that virtual currency is not money.

(c) In connection with any virtual-currency transaction effected through a money transmission kiosk in this State, or in any transaction where the licensee or any affiliate thereof is acting in a principal capacity in a sale of virtual currency to, or purchase of virtual currency from, a customer, then immediately prior to effecting such a purchase or sale transaction with or on behalf of a customer, a licensee shall prominently disclose and require the customer to acknowledge and confirm:

(1) the type, value, date, precise time, and amount of the transaction;

and

(2) the consideration charged for the transaction, including:

(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; and

(B) any difference between the price paid by the customer for any virtual currency and the prevailing market price of such virtual currency, if any.

(d) Except as otherwise provided in subsection (e) of this section, at the conclusion of a virtual-currency transaction with or on behalf of a person, a licensee shall provide the person with a receipt that contains:

(1) the name and contact information of the licensee, including information the person may need to ask a question or file a complaint;

(2) the type, value, date, precise time, and amount of the transaction;

(3) the consideration charged for the transaction, including:

(A) any charge, fee, commission, or other consideration for any trade, exchange, conversion, or transfer involving virtual currency; or

(B) the amount of any difference between the price paid by the customer for any virtual currency and the prevailing market price of such virtual currency, if any; and

(4) any other information required pursuant to section 2562 of this title.

(e) If a licensee discloses that it will provide a daily confirmation in the initial disclosure under subsection (c) of this section, the licensee may elect to provide a single, daily confirmation for all transactions with or on behalf of a person on that day instead of a per-transaction confirmation.

§ 2575. PROPERTY INTERESTS AND ENTITLEMENTS TO VIRTUAL CURRENCY

(a) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity that has control of virtual currency or provides virtual-currency storage to, for, or on behalf of one or more persons shall maintain custody and control of virtual currency in an identical type and amount of virtual currency sufficient to satisfy the aggregate entitlements of such persons to such identical types and amounts of virtual currency.

(b) For the purposes of subsection (a) of this section, units of virtual currency are only of an identical type and amount if such units are fungible in all respects, including having the same issuer and being identical in amount,

market capitalization, circulating supply, name, U.S. dollar equivalent of virtual currency, liquidity, use, rights, restrictions, functionality, permissions, and any other material attribute.

(c) If a licensee violates section subsection (a) of this section, the property interests of the persons in the virtual currency are pro rata property interests in the type of virtual currency to which the persons are entitled, without regard to the time the persons became entitled to the virtual currency or the licensee obtained control of the virtual currency.

(d) The virtual currency referred to in this section is and shall be:

(1) held for the persons entitled to the virtual currency;

(2) not property of the licensee or any person required to be licensed under this chapter;

(3) not subject to any claims, liens, or encumbrances of creditors of the licensee or any person required to be licensed under this chapter; and

(4) deemed to be a permissible investment under this chapter to the extent that there is an outstanding money transmission obligation owed to a customer in such type and amount of virtual currency.

(e) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity is prohibited from selling, transferring, assigning, lending, hypothecating, pledging, or otherwise using or encumbering virtual currency stored, held, controlled, or maintained by, or under the custody or control of, such licensee on behalf of another person except for the sale, transfer of ownership, or assignment of such assets at the direction of such other person.

(f) A person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall not directly or indirectly use or engage any other person, including any virtual-currency control-services vendor, to store or hold custody or control of any virtual currency for or on behalf of any customer in this State, unless such other person is licensed under subchapter 2 of this chapter to engage in virtual-currency business activity, a financial institution or credit union that is exempt from licensing under section 2504(7) of this chapter, or a qualified custodian approved by the Commissioner by rule or order to hold virtual currency on behalf of customers in this State.

(g) Virtual currency held in violation of subsection (f) of this section shall not be deemed to be a permissible investment for purposes of satisfying a licensee's obligations under section 2542(a) of this chapter, but shall be deemed to be a permissible investment for purposes of section 2542(c)–(e) of this chapter.

(h) The Commissioner may by rule or order adopt additional consumer protections concerning virtual currency, including:

(1) rules regarding the segregation of virtual currencies and accounts held for or on behalf of customers from a licensee's own virtual currencies and assets;

(2) rules related to the custody, storage, security, ownership of, and title to permissible investments and customer virtual currencies and assets;

(3) rules related to the use of virtual-currency control service vendors or other custodians to hold custody or control of virtual currency;

(4) rules related to audit requirements for customer assets;

(5) rules setting standards, limits, prohibitions, disclosure requirements, and procedures regarding the types of virtual currencies and related services, activities, and transactions that licensees may offer in this State as may be necessary or appropriate for the protection of consumers or compliance with the terms of this chapter;

(6) rules requiring compliance with specific provisions of the Uniform Commercial Code; and

(7) any rules as may be necessary or appropriate for the protection of consumers or necessary or appropriate to effectuate the purposes of this chapter.

§ 2576. ADDITIONAL REQUIREMENTS AND CLARIFICATIONS FOR VIRTUAL-CURRENCY BUSINESS ACTIVITIES

(a) To ensure adequate consumer protection, the Commissioner may adopt by rule provisions that specify limitations to and the method by which a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity may include virtual currency and virtual currency-denominated assets in the calculation of its net worth pursuant to section 2540 of this chapter.

(b) In addition to the records required to be maintained by sections 2119 and 2546 of this title and any other records the Commissioner requires pursuant to this chapter or rule, a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall maintain, for all virtual-currency business activity with or on behalf of a person, for at least five years after the date of the activity, a record of:

(1) each transaction of the licensee with or on behalf of the person or for the licensee's account in this state, including:

(A) the identity of the person;

(B) the form of the transaction;

(C) the amount, date, and payment instructions given by the person; and

(D) the account number, name, and U.S. Postal Service address of the person, and, to the extent feasible, other parties to the transaction;

(2) the aggregate number of transactions and aggregate value of transactions by the licensee with or on behalf of the person and for the licensee's account in this State, expressed in U.S. dollar equivalent of virtual currency for the previous 12 calendar months;

(3) each transaction in which the licensee exchanges one form of virtual currency for money or another form of virtual currency with or on behalf of the person;

(4) a general ledger posted at least monthly that lists all assets, liabilities, capital, income, and expenses of the licensee;

(5) each business-call report the licensee is required to create or provide to the Department or NMLS;

(6) bank statements and bank reconciliation records for the licensee and the name, account number, and U.S. Postal Service address of each bank the licensee uses in the conduct of its virtual-currency business activity with or on behalf of the person;

(7) a report of any dispute with the person; and

(8) a report of any virtual-currency business activity transaction with or on behalf of a person which the licensee was unable to complete.

(c) It is unlawful for a person licensed under subchapter 2 of this chapter to engage in virtual-currency business activity, or any other person, in connection with the offer to sell, the offer to purchase, the sale, the purchase of a virtual currency, or in connection with any virtual-currency business activity or transaction in virtual currency, directly or indirectly:

(1) to employ a device, scheme, or artifice to defraud;

(2) to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or

(3) to engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

(d) Persons licensed under subchapter 2 of this chapter to engage in virtual-currency business activity shall comply at all times with all applicable federal and state laws, rules, and regulations, including the following laws, as may be amended: the Securities Act of 1933, 15 U.S.C. §§ 77a–77aa, the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a–78oo, the Commodities Exchange Act of 1936, 7 U.S.C. §§ 1–27f, and the Vermont Securities Act, 9 V.S.A. chapter 150.

§ 2577. VIRTUAL CURRENCY KIOSK OPERATORS

(a) A virtual-currency kiosk operator shall not accept or dispense more than $1,000.00 of cash in a day in connection with virtual currency transactions with a single customer in this State via one or more money transmission kiosks.

(b) The aggregate fees and charges, directly or indirectly, charged to a customer related to a single transaction or series of related transactions involving virtual currency effected through a money transmission kiosk in this State, including any difference between the price charged to a customer to buy, sell, exchange, swap, or convert virtual currency and the prevailing market value of such virtual currency at the time of such transaction, shall not exceed the greater of the following:

(1) $5.00; or

(2) 15 percent of the U.S. dollar equivalent of virtual currency involved in the transaction or transactions.

(c) The purchase, sale, exchange, swap, or conversion of virtual currency, or the subsequent transfer of virtual currency, in a series of transactions shall be deemed to be a single transaction for purposes of subsection (b) of this section.

(d) A virtual-currency kiosk operator shall comply with the licensing requirements of this subchapter to the extent that the virtual-currency kiosk operator engages in virtual-currency business activity.

(e) If a virtual-currency kiosk operator allows or facilitates another person to engage in virtual-currency business activity via a money transmission kiosk in this State that is owned, operated, or managed by the virtual-currency kiosk operator, the virtual-currency kiosk operator shall do all of the following:

(1) ensure that the person engaging in virtual-currency business activity is licensed under subchapter 2 of this chapter to engage in virtual-currency business activity and complies with all other applicable provisions of this chapter;

(2) ensure that any charges collected from a customer via the money transmission kiosk comply with the limits provided by subsection (b) of this section; and

(3) comply with all other applicable provisions of this chapter.

* * * Automated Teller Machines * * *

Sec. 49. 8 V.S.A. § 10302 is amended to read:

§ 10302. AUTOMATED TELLER MACHINES

(a) The owner of an automated teller machine or other remote service unit~~, including a cash dispensing machine,~~ located or ~~employed~~ to be located in this State shall ~~prominently and conspicuously disclose on or at the location of each such machine or on the first screen of each such machine the identity, address, and telephone number of the owner and the availability of consumer assistance. The owner shall also disclose on the screen of such machine or on a paper notice issued from the machine the amount of the fees or charges that the owner will assess to the consumer for the use of that machine. The amount of the fees or charges shall be disclosed before the consumer is irrevocably committed to completing the transaction. The Commissioner shall approve the form, content, timing, and location of such disclosures and any amendments prior to use. The Commissioner shall act on any submission made under this section within 30 days after receipt. If the Commissioner determines that any disclosures do not provide adequate consumer protection, the Commissioner may by order or by rule specify minimum disclosure standards, including the form, content, timing, and location of such disclosures. The Commissioner may impose on the owner of an automated teller machine or other remote service unit an administrative penalty of not more than $1,000.00 for each day's failure of the owner to apply to the Commissioner for approval of disclosures required under this section, for each day's failure of the owner to use disclosures approved by the Commissioner, or for each day's continuing violation of an order of the Commissioner relating to the disclosures required by this section.~~

~~(b) The owner of an automated teller machine or other remote service unit, including a cash dispensing machine, located or employed in this State shall notify the Commissioner of the location of each terminal at least 30 days prior to the activation of such terminal. The owner shall notify the Commissioner of the deactivation of any terminal within 30 days after the deactivation of such terminal.~~, using a form prescribed by the Commissioner:

(1) provide the ownership and location of each machine or unit at least 30 days prior to the activation of the machine or unit;

(2) obtain Commissioner approval of the form, content, timing, and location of all disclosures required by subsection (b) of this section prior to their use; and

(3) notify the Commissioner of the deactivation of any machine or unit within 30 days after its deactivation.

(b) The owner of an automated teller machine or other remote service unit located or to be located in this State shall disclose prominently and conspicuously, using as high a contrast or resolution as any other display or graphics on the machine or unit, prior to the point at which a consumer using the machine or unit is irrevocably committed to completing any transaction:

(1) on or at the location of each machine or unit, or on the first screen of such machine or unit, the name, address, and telephone number of the owner of the machine or unit and the days, time, and means by which a consumer can contact the owner for consumer assistance; and

(2) on the screen of each machine or unit, the amount of the fees or charges that the owner will assess to the consumer for the transaction, a clear explanation that the fees or charges are imposed by the owner of the machine or unit in connection with the consumer's transaction and are in addition to any fees or charges that may be imposed by the issuer of a consumer's card, and the method by which the consumer may cancel the transaction to avoid imposition of the fees or charges.

(c) The Commissioner shall act on complete applications for approval of disclosures required by subsection (b) of this section within 30 days after receipt. The absence of full ownership and location information for each machine or unit that will use the disclosures will result in return of the application as incomplete.

(d) To ensure adequate consumer protection, the Commissioner may by order or by rule specify additional minimum disclosure standards for automated teller machines or other remote service units, including the form, content, timing, and location of such disclosures.

(e) The Commissioner may impose on the owner of an automated teller machine or other remote service unit an administrative penalty of not more than $1,000.00 for each day's failure of the owner to apply to the Commissioner for approval of disclosures required under this section, for each day's failure of the owner to use disclosures approved by the Commissioner, or for each day's continuing violation of an order of the Commissioner relating to the disclosures required by this section.

~~(e)~~(f) In addition to an automated teller machine or other remote service unit owned by a financial institution or credit union, the provisions of this section shall apply to ~~any automated teller machine or other remote service unit~~ such machine or unit not owned by a financial institution or credit union, except it shall not include a money transmission kiosk governed by chapter 79 of this title or a point-of-sale terminal owned or operated by a merchant who does not charge a fee for the use of the point-of-sale terminal.

(g) The activities of an automated teller machine or other remote service unit whose owner is not a financial institution or credit union shall be limited to cash dispensing or the offer or sale of nonbanking services and products.

* * * Effective Dates * * *

Sec. 50. EFFECTIVE DATES

This act shall take effect on July 1, 2024, except that Sec. 28 (pet insurance) shall take effect on July 1, 2025.

And that after passage the title of the bill be amended to read:

An act relating to banking, insurance, and securities

NOTICE CALENDAR

Favorable with Amendment

S. 25

An act relating to regulating cosmetic and menstrual products containing certain chemicals and chemical classes and textiles and athletic turf fields containing perfluoroalkyl and polyfluoroalkyl substances

Rep. Whitman of Bennington, for the Committee on Human Services, recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Chemicals in Cosmetic and Menstrual Products * * *

Sec. 1. 9 V.S.A. chapter 63, subchapter 12 is added to read:

Subchapter 12. Chemicals in Cosmetic and Menstrual Products

§ 2494a. DEFINITIONS

As used in this subchapter:

(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the

manufacture of polycarbonate plastic and epoxy resins.

(2) "Cosmetic product" means articles or a component of articles intended to be rubbed, poured, sprinkled, or sprayed on; introduced into; or otherwise applied to the human body or any part thereof for cleansing, promoting attractiveness, or improving or altering appearance, including those intended for use by professionals. "Cosmetic product" does not mean soap, dietary supplements, or food and drugs approved by the U.S. Food and Drug Administration.

(3) "Formaldehyde-releasing agent" means a chemical that releases formaldehyde.

(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(5) "Manufacturer" means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers. "Manufacturer" excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a "manufacturer" includes the importer or first domestic distributor of the consumer product.

(6) "Menstrual product" means a product used to collect menstruation and vaginal discharge, including tampons, pads, sponges, menstruation underwear, disks, applicators, and menstrual cups, whether disposable or reusable.

(7) "Ortho-phthalates" means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

(8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(9) "Professional" means a person granted a license pursuant to 26 V.S.A. chapter 6 to practice in the field of barbering, cosmetology, manicuring, or esthetics.

§ 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product to which the following chemicals or chemical classes have been intentionally added in any amount:

(1) ortho-phthalates;

(2) PFAS;

(3) formaldehyde (CAS 50-00-0);

(4) methylene glycol (CAS 463-57-0);

(5) mercury and mercury compounds (CAS 7439-97-6);

(6) 1, 4-dioxane (CAS 123-91-1);

(7) isopropylparaben (CAS 4191-73-5);

(8) isobutylparaben (CAS 4247-02-3);

(9) lead and lead compounds (CAS 7439-92-1);

(10) asbestos;

(11) triclosan (CAS 3380-34-5);

(12) m-phenylenediamine and its salts (CAS 108-42-5);

(13) o-phenylenediamine and its salts (CAS 95-54-5); and

(14) quaternium-15 (CAS 51229-78-8).

(b) A cosmetic or menstrual product made through manufacturing processes intended to comply with this chapter and containing a technically unavoidable trace quantity of a chemical or chemical class listed in subsection (a) of this section shall not be in violation of this subchapter on account of the trace quantity where it is caused by impurities of:

(1) natural or synthetic ingredients;

(2) the manufacturing process;

(3) storage; or

(4) migration from packaging.

(c) A manufacturer shall not knowingly manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product that contains 1,4, dioxane at or exceeding 10 parts per million.

(d)(1) Pursuant to 3 V.S.A. chapter 25, the Department of Health may adopt rules prohibiting a manufacturer from selling, offering for sale, distributing for sale, or distributing for use a cosmetic or menstrual product to which formaldehyde releasing agents have been intentionally added and are present in any amount.

(2) The Department may only prohibit a manufacturer from selling,

offering for sale, distributing for sale, or distributing for use a cosmetic or menstrual product in accordance with this subsection if the Department or at least one other state has determined that a safer alternative is readily available in sufficient quantity and at comparable cost and that the safer alternative performs as well as or better than formaldehyde releasing agents in a specific application of formaldehyde releasing agents to a cosmetic or menstrual product.

(3) Any rule adopted by the Department pursuant to this subsection may restrict formaldehyde releasing agents as individual chemicals or as a class of chemicals.

Sec. 2. 9 V.S.A. § 2494b is amended to read:

§ 2494b. PROHIBITED CHEMICALS IN COSMETIC AND MENSTRUAL PRODUCTS

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product to which the following chemicals or chemical classes have been intentionally added in any amount:

* * *

(13) o-phenylenediamine and its salts (CAS 95-54-5); ~~and~~

(14) quaternium-15 (CAS 51229-78-8);

(15) styrene (CAS 100-42-5);

(16) octamethylcyclotetrasiloxane (CAS 556-67-2); and

(17) toluene (CAS 108-88-3).

* * *

(e) A manufacturer shall not knowingly manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State any cosmetic or menstrual product that contains lead or lead compounds at or exceeding five parts per million.

* * * PFAS in Consumer Products * * *

Sec. 3. 9 V.S.A. chapter 63, subchapter 12a is added to read:

Subchapter 12a. PFAS in Consumer Products

§ 2494e. DEFINITIONS

As used in this subchapter:

(1) "Adult mattress" means a mattress other than a crib or toddler

mattress.

(2) "Aftermarket stain and water resistant treatments" means treatments for textile and leather consumer products used in residential settings that have been treated during the manufacturing process for stain, oil, and water resistance, but excludes products marketed or sold exclusively for use at industrial facilities during the manufacture of a carpet, rug, clothing, or shoe.

(3) "Apparel" means any of the following:

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions do not include clothing items for exclusive use by the U.S. Armed Forces, outdoor apparel for severe wet conditions, and personal protective equipment.

(B) Outdoor apparel.

(4) "Artificial turf" means a surface of synthetic fibers that is used in place of natural grass in recreational, residential, or commercial applications.

(5) "Cookware" means durable houseware items used to prepare, dispense, or store food, foodstuffs, or beverages and that are intended for direct food contact, including pots, pans, skillets, grills, baking sheets, baking molds, trays, bowls, and cooking utensils.

(6) "Incontinency protection product" means a disposable, absorbent hygiene product designed to absorb bodily waste for use by individuals 12 years of age and older.

(7) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(8) "Juvenile product" means a product designed or marketed for use by infants and children under 12 years of age:

(A) including a baby or toddler foam pillow; bassinet; bedside sleeper; booster seat; changing pad; infant bouncer; infant carrier; infant seat; infant sleep positioner; infant swing; infant travel bed; infant walker; nap cot; nursing pad; nursing pillow; play mat; playpen; play yard; polyurethane foam mat, pad, or pillow; portable foam nap mat; portable infant sleeper; portable hook-in chair; soft-sided portable crib; stroller; toddler mattress; and disposable, single-use diaper; and

(B) excluding a children's electronic product, such as a personal

computer, audio and video equipment, calculator, wireless phone, game console, handheld device incorporating a video screen, or any associated peripheral such as a mouse, keyboard, power supply unit, or power cord; a medical device; or an adult mattress.

(9) "Manufacturer" means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers. "Manufacturer" excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a "manufacturer" includes the importer or first domestic distributor of the consumer product.

(10) "Medical device" has the same meaning given to "device" in 21 U.S.C. § 321.

(11) "Outdoor apparel" means clothing items intended primarily for outdoor activities, including hiking, camping, skiing, climbing, bicycling, and fishing.

(12) "Outdoor apparel for severe wet conditions" means outdoor apparel that are extreme and extended use products designed for outdoor sports experts for applications that provide protection against extended exposure to extreme rain conditions or against extended immersion in water or wet conditions, such as from snow, in order to protect the health and safety of the user and that are not marketed for general consumer use. Examples of extreme and extended use products include outerwear for offshore fishing, offshore sailing, whitewater kayaking, and mountaineering.

(13) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(14) "Personal protective equipment" has the same meaning as in section 2494p of this title.

(15) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

(A) PFAS that a manufacturer has intentionally added to a product and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or

(B) the presence of PFAS in a product or product component at or above 100 parts per million, as measured in total organic fluorine.

(16) "Rug or carpet" means a fabric marketed or intended for use as a floor covering.

(17) "Ski wax" means a lubricant applied to the bottom of snow runners, including skis and snowboards, to improve their grip and glide properties.

(18) "Textile" means any item made in whole or part from a natural, manmade, or synthetic fiber, yarn, or fabric, and includes leather, cotton, silk, jute, hemp, wool, viscose, nylon, or polyester. "Textile" does not include single-use paper hygiene products, including toilet paper, paper towels, tissues, or single-use absorbent hygiene products.

(19) "Textile articles" means textile goods of a type customarily and ordinarily used in households and businesses, and includes apparel, accessories, handbags, backpacks, draperies, shower curtains, furnishings, upholstery, bedding, towels, napkins, and table cloths. "Textile articles" does not include:

(A) a vehicle, as defined in 1 U.S.C. § 4, or its component parts;

(B) a vessel, as defined in 1 U.S.C. § 3, or its component parts;

(C) an aircraft, as defined in 49 U.S.C. § 40102(a)(6), or its component parts;

(D) filtration media and filter products used in industrial applications, including chemical or pharmaceutical manufacturing and environmental control technologies;

(E) textile articles used for laboratory analysis and testing; and

(F) rugs or carpets.

§ 2494f. AFTERMARKET STAIN AND WATER-RESISTANT TREATMENTS

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State aftermarket stain and water-resistant treatments for rugs or carpets to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 2494h. COOKWARE

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State cookware to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 2494i. INCONTINENCY PROTECTION PRODUCT

A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State an incontinency protection product to which PFAS have been intentionally added in any amount.

§ 2494j. JUVENILE PRODUCTS

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State juvenile products to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 2494k. RUGS AND CARPETS

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a residential rug or carpet to which PFAS have been added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 2494l. SKI WAX

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State ski wax or related tuning products to which PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 2494m. TEXTILES

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a textile or textile article to which regulated PFAS have been intentionally added in any amount.

(b) This section shall not apply to the sale or resale of used products.

§ 2494n. CERTIFICATE OF COMPLIANCE

(a) The Attorney General may request a certificate of compliance from a manufacturer of a consumer product regulated under this chapter. Within 60 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this subchapter; or

(2) notify persons who are selling a product of the manufacturer's in

this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

(b) A manufacturer required to submit a certificate of compliance pursuant to this section may rely upon a certificate of compliance provided to the manufacturer by a supplier for the purpose of determining the manufacturer's reporting obligations. A certificate of compliance provided by a supplier in accordance with this subsection shall be used solely for the purpose of determining a manufacturer's compliance with this section.

* * * PFAS in Artificial Turf * * *

Sec. 4. 9 V.S.A. § 2494g is added to read:

§ 2494g. ARTIFICIAL TURF

A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State artificial turf to which:

(1) PFAS have been intentionally added in any amount; or

(2) PFAS have entered the product from the manufacturing or processing of that product, the addition of which is known or reasonably ascertainable by the manufacturer.

* * * Amendments to PFAS in Textiles * * *

Sec. 5. 9 V.S.A. § 2494e(2) is amended to read:

(2) "Apparel" means any of the following:

(A) Clothing items intended for regular wear or formal occasions, including undergarments, shirts, pants, skirts, dresses, overalls, bodysuits, costumes, vests, dancewear, suits, saris, scarves, tops, leggings, school uniforms, leisurewear, athletic wear, sports uniforms, everyday swimwear, formal wear, onesies, bibs, reusable diapers, footwear, and everyday uniforms for workwear. Clothing items intended for regular wear or formal occasions do not include clothing items for exclusive use by the U.S. Armed Forces~~,~~ ~~outdoor apparel for severe wet conditions,~~ and personal protective equipment.

(B) Outdoor apparel.

(C) Outdoor apparel for severe wet conditions.

Sec. 6. 9 V.S.A. § 2494e(15) is amended to read:

(15) "Regulated perfluoroalkyl and polyfluoroalkyl substances" or "regulated PFAS" means:

(A) PFAS that a manufacturer has intentionally added to a product

and that have a functional or technical effect in the product, including PFAS components of intentionally added chemicals and PFAS that are intentional breakdown products of an added chemical that also have a functional or technical effect in the product; or

(B) the presence of PFAS in a product or product component at or above ~~100~~ 50 parts per million, as measured in total organic fluorine.

* * * PFAS in Firefighting Agents and Equipment * * *

Sec. 7. 9 V.S.A. chapter 63, subchapter 12b is added to read:

Subchapter 12b. PFAS in Firefighting Agents and Equipment

§ 2494p. DEFINITIONS

As used in this subchapter:

(1) "Class B firefighting foam" means chemical foams designed for flammable liquid fires.

(2) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(3) "Manufacturer" means any person engaged in the business of making or assembling a consumer product directly or indirectly available to consumers. "Manufacturer" excludes a distributor or retailer, except when a consumer product is made or assembled outside the United States, in which case a "manufacturer" includes the importer or first domestic distributor of the consumer product.

(4) "Municipality" means any city, town, incorporated village, town fire district, or other political subdivision that provides firefighting services pursuant to general law or municipal charter.

(5) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

(6) "Personal protective equipment" means clothing designed, intended, or marketed to be worn by firefighting personnel in the performance of their duties, designed with the intent for use in fire and rescue activities, and includes jackets, pants, shoes, gloves, helmets, and respiratory equipment.

(7) "Terminal" means an establishment primarily engaged in the wholesale distribution of crude petroleum and petroleum products, including liquefied petroleum gas from bulk liquid storage facilities.

§ 2494q. PROHIBITION OF CERTAIN CLASS B FIREFIGHTING FOAM

A person, municipality, or State agency shall not discharge or otherwise use for training or testing purposes class B firefighting foam that contains intentionally added PFAS.

§ 2494r. RESTRICTION ON MANUFACTURE, SALE, AND DISTRIBUTION; EXCEPTIONS

(a) A manufacturer of class B firefighting foam shall not manufacture, sell, offer for sale, or distribute for sale or use in this State class B firefighting foam to which PFAS have been intentionally added.

(b) A person operating a terminal who seeks to purchase class B firefighting foam containing intentionally added PFAS for the purpose of fighting emergency class B fires, may apply to the Department of Environmental Conservation for a temporary exemption from the restrictions on the manufacture, sale, offer for sale, or distribution of class B firefighting foam for use at a terminal. An exemption shall not exceed one year. The Department of Environmental Conservation, in consultation with the Department of Health, may grant an exemption under this subsection if the applicant provides:

(1) clear and convincing evidence that there is not a commercially available alternative that:

(A) does not contain intentionally added PFAS; and

(B) is capable of suppressing a large atmospheric tank fire or emergency class B fire at the terminal;

(2) information on the amount of class B firefighting foam containing intentionally added PFAS that is annually stored, used, or released at the terminal;

(3) a report on the progress being made by the applicant to transition at the terminal to class B firefighting foam that does not contain intentionally added PFAS; and

(4) an explanation of how:

(A) all releases of class B firefighting foam containing intentionally added PFAS shall be fully contained at the terminal; and

(B) existing containment measures prevent firewater, wastewater, runoff, and other wastes from being released into the environment, including into soil, groundwater, waterways, and stormwater.

(c) Nothing in this section shall prohibit a terminal from providing class B firefighting foam in the form of aid to another terminal in the event of a class B fire.

§ 2494s. SALE OF PERSONAL PROTECTIVE EQUIPMENT CONTAINING PFAS

(a) A manufacturer or other person that sells firefighting equipment to any person, municipality, or State agency shall provide written notice to the purchaser at the time of sale, citing to this chapter, if the personal protective equipment contains PFAS. The written notice shall include a statement that the personal protective equipment contains PFAS and the reason PFAS are added to the equipment.

(b) The manufacturer or person selling personal protective equipment and the purchaser of the personal protective equipment shall retain the notice for at least three years from the date of the transaction.

§ 2494t. NOTIFICATION; RECALL OF PROHIBITED PRODUCTS

(a) A manufacturer of class B firefighting foam containing intentionally added PFAS shall provide written notice to persons that sell the manufacturer's products in this State about the restrictions imposed by this chapter not less than one year prior to the effective date of the restrictions.

(b) Unless a class B firefighting foam containing intentionally added PFAS is intended for use at a terminal and the person operating a terminal holds a temporary exemption pursuant to subsection 2494r(b) of this title, a manufacturer that produces, sells, or distributes a class B firefighting foam containing intentionally added PFAS shall:

(1) recall the product and reimburse the retailer or any other purchaser for the product; and

(2) issue either a press release or notice on the manufacturer's website describing the product recall and reimbursement requirement established in this subsection.

§ 2494u. CERTIFICATE OF COMPLIANCE

(a) The Attorney General may request a certificate of compliance from a manufacturer of class B firefighting foam or firefighting personal protective equipment. Within 60 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this subchapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

(b) A manufacturer required to submit a certificate of compliance pursuant to this section may rely upon a certificate of compliance provided to the manufacturer by a supplier for the purpose of determining the manufacturer's reporting obligations. A certificate of compliance provided by a supplier in accordance with this subsection shall be used solely for the purpose of determining a manufacturer's compliance with this section.

* * * Chemicals of Concern in Food Packaging * * *

Sec. 8. 9 V.S.A. chapter 63, subchapter 12c is added to read:

Subchapter 12c. Chemicals of Concern in Food Packaging

§ 2494x. DEFINITIONS

As used in this subchapter:

(1) "Bisphenols" means any member of a class of industrial chemicals that contain two hydroxyphenyl groups. Bisphenols are used primarily in the manufacture of polycarbonate plastic and epoxy resins.

(2) "Department" means the Department of Health.

(3) "Food package" or "food packaging" means a package or packaging component that is intended for direct food contact.

(4) "Intentionally added" means the addition of a chemical in a product that serves an intended function in the product component.

(5) "Ortho-phthalates" means any member of the class of organic chemicals that are esters of phthalic acid containing two carbon chains located in the ortho position.

(6) "Package" means a container providing a means of marketing, protecting, or handling a product and shall include a unit package, an intermediate package, and a shipping container. "Package" also means unsealed receptacles, such as carrying cases, crates, cups, pails, rigid foil and other trays, wrappers and wrapping films, bags, and tubs.

(7) "Packaging component" means an individual assembled part of a package, such as any interior or exterior blocking, bracing, cushioning, weatherproofing, exterior strapping, coatings, closures, inks, and labels, and disposable gloves used in commercial or institutional food service.

(8) "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" means a class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

§ 2494y. FOOD PACKAGING

(a) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package to which PFAS have been intentionally added and are present in any amount.

(b)(1) Pursuant to 3 V.S.A. chapter 25, the Department may adopt rules prohibiting a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package to which bisphenols have been intentionally added and are present in any amount. The Department may exempt specific chemicals within the bisphenol class when clear and convincing evidence suggests they are not endocrine-active or otherwise toxic.

(2) The Department may only prohibit a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with this subsection if the Department or at least one other state has determined that a safer alternative is readily available in sufficient quantity and at a comparable cost and that the safer alternative performs as well as or better than bisphenols in a specific application of bisphenols to a food package or the packaging component of a food package.

(3) If the Department prohibits a manufacturer, supplier, or distributor from selling or offering for sale or for promotional distribution a food package or the packaging component of a food package in accordance with this subsection, the prohibition shall not take effect until two years after the Department adopts the rules.

(c) A manufacturer shall not manufacture, sell, offer for sale, distribute for sale, or distribute for use in this State a food package that includes inks, dyes, pigments, adhesives, stabilizers, coatings, plasticizers, or any other additives to which ortho-phthalates have been intentionally added and are present in any amount.

(d) This section shall not apply to the sale or resale of used products.

§ 2494z. CERTIFICATE OF COMPLIANCE

(a) The Attorney General may request a certificate of compliance from a manufacturer of food packaging. Within 60 days after receipt of the Attorney General's request for a certificate of compliance, the manufacturer shall:

(1) provide the Attorney General with a certificate attesting that the manufacturer's product or products comply with the requirements of this subchapter; or

(2) notify persons who are selling a product of the manufacturer's in this State that the sale is prohibited because the product does not comply with this chapter and submit to the Attorney General a list of the names and addresses of those persons notified.

(b) A manufacturer required to submit a certificate of compliance pursuant to this section may rely upon a certificate of compliance provided to the manufacturer by a supplier for the purpose of determining the manufacturer's reporting obligations. A certificate of compliance provided by a supplier in accordance with this subsection shall be used solely for the purpose of determining a manufacturer's compliance with this section.

* * * Engagement and Implementation Plans * * *

Sec. 9. COMMUNITY ENGAGEMENT PLAN

(a) On or before July 1, 2025, the Department of Health shall develop and submit a community engagement plan to the Senate Committee on Health and Welfare and to the House Committee on Human Services related to the enactment of 9 V.S.A. chapter 63, subchapter 12. The community engagement plan shall:

(1) provide education to the general public on chemicals of concern in cosmetic and menstrual products and specifically address the unique impact these products have on marginalized communities by providing the use of language access services, participant compensation, and other resources that support equitable access to participation; and

(2) outline the methodology and costs to conduct outreach for the purposes of:

(A) identifying cosmetic products of concern, including those marketed to or utilized by marginalized communities in Vermont;

(B) conducting research on the prevalence of potentially harmful ingredients within cosmetic products, including those marketed to or utilized by marginalized communities in Vermont;

(C) proposing a process for regulating chemicals or products containing potentially harmful ingredients, including those marketed to or utilized by marginalized communities in Vermont; and

(D) creating culturally appropriate public health awareness campaigns concerning harmful ingredients used in cosmetic products.

(b) As used in the section, "marginalized communities" means members of communities who experience or have historically experienced discrimination based on race, ethnicity, color, national origin, English language proficiency, disability, gender identity, gender expression, or sexual orientation.

Sec. 10. IMPLEMENTATION PLAN; CONSUMER PRODUCTS CONTAINING PFAS

(a) The Agency of Natural Resources, in consultation with the Agency of Agriculture, Food and Markets; the Department of Health; and the Office of the Attorney General, shall propose a program requiring the State to identify and restrict the sale and distribution of consumer products containing perfluoroalkyl and polyfluoroalkyl substances (PFAS) that could impact public health and the environment. The proposed program shall:

(1) identify categories of consumer products that could have an impact on public health and environmental contamination;

(2) propose a process by which manufacturers determine whether a consumer product contains PFAS and how that information is communicated to the State;

(3) address how information about the presence or lack of PFAS in a consumer product is conveyed to the public;

(4) describe which agency or department is responsible for administration of the proposed program, including what additional staff, information technology changes, and other resources, if any, are necessary to implement the program;

(5) determine whether and how other states have structured and implemented similar programs and identify the best practices used in these efforts;

(6) propose definitions of "intentionally added," "consumer product," and "perfluoroalkyl and polyfluoroalkyl substances";

(7) propose a related public service announcement program and website content to inform the public and health care providers about the potential public health impacts of exposure to PFAS and actions that can be taken to

reduce risk;

(8) provide recommendations for the regulation of PFAS within consumer products that use recycled materials, including food packaging, cosmetic product packaging, and textiles; and

(9) determine whether "personal protective equipment" regulated by the U.S. Occupational Safety and Health Administration under the Occupational Safety and Health Act, the U.S. Food and Drug Administration, or the U.S. Centers for Disease Control and Prevention, or a product that is regulated as a drug, medical device, or dietary supplement by the U.S. Food and Drug Administration under the Federal Food, Drug, and Cosmetic Act or the Dietary Supplement Health and Education Act, is appropriately regulated under 9 V.S.A. chapter 63, subchapters 12–12c.

(b) The Agency of Natural Resources shall obtain input on its recommendation from interested parties, including those that represent environmental, agricultural, and industry interests.

(c) On or before November 1, 2024, the Agency of Natural Resources shall submit an implementation plan developed pursuant to this section and corresponding draft legislation to the House Committees on Environment and Energy and on Human Services and the Senate Committees on Health and Welfare and on Natural Resources and Energy.

(d) For the purposes of this section, "consumer products" includes restricted and nonrestricted use pesticides.

* * * Repeal * * *

Sec. 11. REPEAL; PFAS IN VARIOUS CONSUMER PRODUCTS

18 V.S.A. chapter 33 (PFAS in firefighting agents and equipment), 18 V.S.A. chapter 33A (chemicals of concern in food packaging), 18 V.S.A. chapter 33B (PFAS in rugs, carpets, and aftermarket stain and water resistant treatments), and 18 V.S.A. chapter 33C (PFAS in ski wax) are repealed on January 1, 2026.

* * * Compliance Notification * * *

Sec. 12. COMPLIANCE NOTIFICATION

If, upon a showing by a manufacturer, the Office of the Attorney General determines that it is not feasible to produce a particular consumer product as required by this act on the effective date listed in Sec. 13 (effective dates), the Attorney General may postpone the compliance date for that product for up to one year. If the Attorney General postpones a compliance date pursuant to this

section, the Office of the Attorney General shall post notification of the postponement on its website.

* * * Effective Dates * * *

Sec. 13. EFFECTIVE DATES

This act shall take effect on July 1, 2024, except that:

(1) Sec. 1 (chemicals in cosmetic and menstrual products), Sec. 3 (PFAS in consumer products), Sec. 7 (PFAS in firefighting agents and equipment), and Sec. 8 (chemicals of concern in food packaging) shall take effect on January 1, 2026;

(2) Sec. 2 (9 V.S.A. § 2494b) and Sec. 6 (9 V.S.A. § 2494e(15)) shall take effect on July 1, 2027;

(3) Sec. 4 (artificial turf) shall take effect on January 1, 2028; and

(4) Sec. 5 (9 V.S.A. § 2494e(2)) shall take effect on July 1, 2028.

and that after passage the title of the bill be amended to read: "An act relating to regulating consumer products containing perfluoroalkyl and polyfluoroalkyl substances or other chemicals"

(Committee vote: 11-0-0)

S. 183

An act relating to reenvisioning the Agency of Human Services

Rep. Gregoire of Fairfield, for the Committee on Human Services, recommends that the House propose to the Senate that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. FINDINGS AND PURPOSE

(a) Since its establishment in 1970, Vermont's Agency of Human Services has grown significantly in both size and scope. In its current form, the Agency is composed of six departments: the Department for Children and Families; the Department of Corrections; the Department of Disabilities, Aging, and Independent Living; the Department of Health; the Department of Mental Health; and the Department of Vermont Health Access, along with several divisions and many offices, boards, and councils. The Agency's budget comprises more than half of the overall State budget, and the programs and benefits administered by the Agency and its departments have an impact on the lives of all Vermonters.

(b) The purpose of this act is to create a meaningful process through which the Agency, its departments, and the individuals and organizations with whom they engage most can collaborate to identify opportunities to build on past successes and to make improvements for the future.

Sec. 2. REENVISIONING THE AGENCY OF HUMAN SERVICES; REPORT

(a) The Secretary of Human Services, in collaboration with the commissioner of each department within the Agency of Human Services and in consultation with relevant commissions, councils, and advocacy organizations; community partners; individuals and families impacted by the Agency and its departments; and other interested stakeholders, shall consider options for reenvisioning the Agency of Human Services, such as restructuring the existing Agency of Human Services or dividing the existing Agency of Human Services into two or more separate agencies.

(b) The Secretary of Human Services and the other stakeholders identified in subsection (a) of this section shall evaluate the current structure of the Agency of Human Services, identify potential options for reenvisioning the Agency and engage in a cost-benefit analysis of each option, and develop one or more recommendations for implementation.

(c) The Agency shall solicit open, candid feedback from the stakeholders identified in subsection (a) of this section to inform the evaluation, identification of options, and development of recommendations. To the extent feasible, the Agency shall engage existing boards, committees, and other channels to collect input from individuals and families who are directly impacted by the work of the Agency and its departments.

(d) On or before February 1, 2025, the Secretary shall present to the House Committees on Government Operations and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Government Operations and on Health and Welfare an update on the status of the stakeholder process and development of recommendations as set forth in this section.

(e) On or before November 1, 2025, the Secretary shall provide the recommendations developed by the Secretary and stakeholders to the House Committees on Government Operations and Military Affairs, on Health Care, and on Human Services and the Senate Committees on Government Operations and on Health and Welfare, including the following:

(1) the rationale for selecting the recommended option or options;

(2) the likely impact of the recommendations on the departments within the Agency and on the Vermonters served by those departments, including Vermonters who are members of historically marginalized communities;

(3) how the recommendations would center the needs of and lead to better outcomes for the individuals and families served by the Agency and its departments and make the Agency more accountable to the Vermonters whom it serves;

(4) how the recommendations could improve collaboration, integration, and alignment of the services currently provided by the Agency and its departments and how they could enhance coordination and communication among the departments and with community partners;

(5) how the recommendations could address the workforce and personnel capacity challenges that the Agency and its departments encounter;

(6) how the recommendations could address the facility challenges that the Agency and its departments encounter;

(7) how the recommendations could strengthen the use of technology to improve access to programs and services, increase accountability, enhance coordination, and expand data collection and analysis;

(8) a transition and implementation plan for the recommendations that is designed to minimize confusion and disruption for individuals and families served by the Agency and its departments, as well as for Agency and departmental staff;

(9) a proposed organizational chart for any recommended reconfigurations; and

(10) the estimated costs or savings associated with the recommendations.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 11-0-0)

Favorable

S. 199

An act relating to mergers and governance of communications union districts

Rep. Torre of Moretown, for the Committee on Environment and Energy, recommends that the bill ought to pass in concurrence.

(Committee Vote: 10-0-1)

For Informational Purposes

NOTICE OF CROSSOVER DATES

The Committee on Joint Rules adopted the following Crossover dates:

(1) All **House/Senate** bills must be reported out of the last committee of reference (including the Committees on Appropriations and on Ways and Means/Finance, except as provided below in (2) and the exceptions listed below) on or before **Friday, March 15, 2024** and filed with the Clerk/Secretary 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 15, 2024.**

(2) All **House/Senate** bills referred pursuant to House Rule 35(a) or Senate Rule 31 to the Committees on Appropriations and on Ways and Means/Finance must be reported out by the last of those committees on or before **Friday, March 22, 2024** and filed with the Clerk/Secretary so they may be placed on the Calendar for Notice the next legislative day.

Exceptions the foregoing deadlines include the major money bills (the general Appropriations bill ("The Big Bill"), the Transportation Capital bill, the Capital Construction bill, the Pay Act, and the Fee and miscellaneous tax bills).

JOINT FISCAL COMMITTEE NOTICES

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 #3198: Bargain sale of timber rights to the Agency of Natural Resources, Department of Fish and Wildlife from the A Johnson Co., LLC. Vermont acquired the current Pond Woods Wildlife Management Area in Benson and Orwell, VT in the 1960s. At that time the A Johnson Co. retained the timber rights. The State now has the opportunity to acquire the timber rights, valued at $2,320,529.00, for $900,000.00. Acquisition of the timber rights will allow greater control over the property management. The $900,000.00 sale price plus closing costs is covered by ongoing, annual funding from the U.S. Department of Fish and Wildlife.

[Received March 24, 2024]

JFO #3197: One (1) limited-service position, Environmental Analyst IV, to the Agency of Natural Resources, Department of Environmental Conservation. The position will manage the increase in funding and the resulting increase in projects for the Healthy Homes program which provides financial assistance to low to moderate income homeowners to address failed or inadequate water, wastewater, drainage and storm water issues. A portion of the American Rescue Plan Act – Coronavirus State Fiscal Recovery Funds appropriated in Act 78 of 2023, funds this position through 12/31/2026.

[Received March 19, 2024]

JFO #3196: Two (2) limited-service positions, both Grant Specialists, to the Agency of Natural Resources, Department of Forests, Parks and Recreation. The positions will manage stewardship of existing grants and applications and outreach for annual grant cycles. Both positions are 70% funded through existing federal funds. The remaining 30% will be a combination of state special funds: State Recreation Trails Fund and Vermont Outdoor Recreation Economic Collaborative funds. The positions will not rely on annual appropriations of the General Fund. Both funded through 9/30/2024.

[Received March 19, 2024]

JFO #3195: One (1) limited-service position, Environmental Scientist III to the Agency of Natural Resources, Department of Environmental Conservation. The position will support high-priority efforts to reduce the spread of aquatic invasive species in public waters in the Lake Champlain Basin and is funded through additional federal funds received under an existing EPA grant for work in the Lake Champlain Basin program. Funding is for one-year with anticipation that funding will renew and be available for the foreseeable future. Position requested is through 12/31/2028.

[Received March 19, 2024]

JFO #3194: $10,483,053.00 to the Agency of Commerce and Community Development, Department of Tourism and Marketing from the U.S. Department of Commerce, Economic Development Administration. Funds will support the resiliency and long-term recovery of the travel and tourism sectors in Vermont after the wide-spread disruption of these sectors during the Covid-19 pandemic. The Department of Tourism and Marketing has been working with the Economic Development Administration (EDA) for over 18 months to develop a plan that would satisfy the EDA requirements and meet the specific needs of the Vermont travel and tourism industry. The grant includes two (2) limited-service positions, Grants Programs Manager and Travel Marketing Administrator to complete the grant administration plan. Both positions are fully funded through the new award through 10/31/2025.

[Received March 19, 2024]

JFO #3193: Land donation of 18.6 acres of undevelopable wetlands in Newport City, VT from Linda Chamberlin Mosher to the Agency of Natural Resources, Department of Fish and Wildlife. The land abuts the existing South Bay Wildlife Management Area and will expand wildlife and fish habitats and improve public access. The donation value is $51,500.00. Estimated closing costs of $10,000.00 and ongoing maintenance costs are covered by already budgeted federal funds. No state funds will be used for the acquisition.

Received March 12, 2024]

JFO #3192: $327,250.00 to the Agency of Human Services, Department of Health from the Centers for Disease Control and Prevention for data collection and public awareness related to Chronic Obstructive Pulmonary Disease. The grant is expected to fund yearly through 9/29/2027. The grant includes one (1) limited-service position, Health Systems Program Administrator, to manage contracts and grants associated with the funding and communications with the CDC. The position is also funded through 9/29/2027.

[Received March 12, 2024]

JFO #3191: One (1) limited-service position to the Agency of Human Services, Department of Health to assess and carry out work related to data on maternal mortality and sudden unexpected infant deaths. Position requires quality assurance of data and transfer to federal data tracking systems. Position is funded through 09/29/2024 through previously approved JFO #1891.

[Received March 12, 2024]

JFO #3190: $900,000.00 to the Agency of Human Services, Department of Corrections from the U.S. Department of Justice. Funds will enhance the reentry vocational case management of incarcerated individuals who are assessed for moderate and above risk of reoffending. The funds include one (1) limited-service position, Vocational Outreach Project Manager, fully funded through 9/30/2026.

[Received March 1, 2024]

JFO #3189: $10,000,000.00 to the Agency of Human Services, Department of Disabilities, Aging and Independent Living from the U.S. Department of Education. The funds will be used to support the transition of youths with disabilities from high school to adulthood. The grants will support six (6) limited-service positions through 9/30/2028 that will work to support partnerships with all supervisory unions and the agencies focusing on employment opportunities for adults with disabilities.

[Received March 1, 2024]

JFO #3188: There are two sources of funds related to this request: $50,000.00 from the Vermont Land Trust and $20,000.00 from the Lintilhac Foundation, all to the Agency of Natural Resources, Department of Forests, Parks and Recreation. All funds will go to support the acquisition of a 19-acre property in Island Pond which will expand the Brighton State Park.

[Received March 4, 2024]

JFO #3187: Two (2) limited-service positions to the Public Service Department, Vermont Community Broadband Board: Administrative Services Manager III and Data and Information Project Manager. Positions will carry out work related to the federal Broadband Equity, Access and Deployment (BEAD) program. This program has the potential to bring in additional Broadband investment, provided local applications are successful. Positions are fully funded through 11/30/2027 and are funded by previously approved JFO #3136.

[Received February 26, 2024]

JFO #3186: $4,525,801.81 to the Agency of Agriculture, Food and Markets from the U.S. Department of Agriculture. The majority of funds to be sub-awards to Vermont's agricultural businesses and organizations to build resilience in the middle of the food supply chain and to support market development for small farms and food businesses. Includes full funding for one (1) limited-service position, Agriculture Development Specialist II and 50% support for one (1) limited-service position, Contracts and Grants Specialist I. The other 50% for the position will come from already approved JFO #2982.

[Received February 8, 2024]

JFO #3185: $70,000.00 to the Attorney General's Office from the Sears Consumer Protection and Education Fund to improve accessibility and outreach of the Vermont Consumer Assistance Program to underserved populations in Vermont.

[Received January 31, 2024]

JFO #3184: Three (3) limited-service positions to the Agency of Human Services, Department of Health. One (1) Substance Abuse Program Evaluator, funded through 8/31/28; and one (1) Public Health Specialist II, and one (1) Family Service Specialist both funded through 9/29/2024. The positions are fully funded by previously approved JFO requests #3036 and #1891. These positions will support Vermont's Overdose Data to Action program and the Maternal Mortality Review Panel.

[Received January 31, 2024]

JFO #3183: $182,500.00 to the Agency of Natural Resources, Department of Forests, Parks and Recreation. Funds will be used to complete the purchase of a conservation easement on a 183-acre parcel of land in Townshend, Vermont (Peterson Farm). [*Note: Remainder of the easement ($82,500) is supported by a State appropriation agreement between the department and the VHCB. Closing costs, including department staff time, is funded by already budgeted federal funds. Ongoing enforcement costs are managed by the department's Lands and Facilities Trust Fund. A $15,000.00 stewardship contribution to this fund will be made by the landowner at the time of the sale.*]

[Received January 31, 2024]

JFO #3182: $125,000.00 to Agency of Natural Resources, Department of Environmental Conservation from the New England Interstate Water Pollution Control Commission to expand current monitoring of cyanotoxins in Lake Champlain and Vermont inland lakes.

[Received January 31, 2024]

JFO #3181: $409,960.00 to the Agency of Commerce and Community Development, Department of Housing and Community Development from the U.S. Department of the Interior/National Park Service. Funds will be used for the preservation, repair, and restoration of the Old Constitution House, located in Windsor, Vermont. The first Constitution of Vermont was adopted on this site, then known as Elijah West's Tavern, on July 8, 1777. *[Note: A State match of $53,714.00 is accomplished within the agency budget through the reduction of a fraction of an existing position base and existing capital bill funds.]*

[Received January 31, 2024]

JFO #3180: One (1) limited-service position, Administrative Services Director III, to the Agency of Administration, Recovery Office. Position will ensure that flood recovery projects are integrated with existing state and federal programs. Will also ensure compliance and tracking of already awarded grants as well as those anticipated in the wake of the July 2023 flooding event. Position is funded through already approved JFO Request #3165 as well as Acts 74 (2021) and 185 (2022). The position is fully funded through 7/31/2027.

[Received January 31, 2024]

JFO #3179: Two (2) limited-service positions. One (1) to the Department of Mental Health, Project AWARE Lead Coordinator and one (1) to the Agency of Education, Project AWARE Co-Coordinator. The positions will liaison to

coordinate and expand the state's efforts to develop sustainable infrastructure for school-based mental health. Both positions are fully funded through 9/29/28 from previous SAMHSA grant award JFO #2934.

[Received January 26, 2024]

JFO #3178: $456,436.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funds will support (1) limited-service position, Environmental Analyst IV. This position will serve as administrative lead developing the updated Climate Action Plan with the Vermont Climate Council and perform added work required by the EPA grant. Position is funded through 6/30/2027.

[Received January 11, 2024]

JFO #3177: $2,543,564.00 to the Agency of Natural Resources, Secretary's Office from the U.S. Environmental Protection Agency. Funding is phase one of a two-phase funding opportunity aimed to support Vermont with climate change mitigation planning efforts. A comprehensive climate action plan will be developed, to overlap with and be synonymous to the required update to Vermont's Climate Action Plan in 2025.

[Received January 12, 2024]

JFO #3176: $250,000.00 to the Agency of Human Services, Department of Mental Health from the National Association of State Mental Health Program Directors. These funds will increase rapid access to behavioral health care by supporting the peer service component of the mental health urgent care clinic being established in Chittenden County. This clinic will offer an alternative to seeking mental health care in emergency departments

[Received January 11, 2024]