

H.862

An act relating to insurance laws

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Cooperative Insurance; Bylaws * * *

Sec. 1. 8 V.S.A. § 3925 is amended to read:

§ 3925. BYLAWS; COMPULSORY PROVISIONS

The bylaws of a cooperative insurance corporation to which a certificate of authority is issued shall include substantially the following provisions:

(1) The corporate powers of such corporation shall be exercised by a board of directors, who shall be not less than five in number. Such directors shall be divided into classes and a portion only elected each year. They shall be elected for a term of not more than four years each and shall choose ~~from~~ ~~their number~~ a president, secretary, and such other officers as may be deemed necessary. After the first year, the directors shall be chosen at an annual meeting to be held on the second Tuesday of January, unless some other day is designated in such bylaws, at which meeting each person insured shall have one vote and may be entitled to vote by proxy under such rules and regulations as may be prescribed by the bylaws;

(2) Such corporation shall keep proper books, including a policy register, in which the secretary shall enter the complete record of all its transactions and those of the board of directors and executive committee. Such

books shall at all times show fully and truly the condition, affairs, and business of such corporation and shall be open for inspection by every person insured, each day from nine o'clock in the forenoon to four o'clock in the afternoon, Saturdays, Sundays, and legal holidays excepted;

(3) If authorized as an assessment cooperative insurance corporation as outlined in subsection 3920(a) of this title, such corporation may assess for the purposes specified in section 3927 of this title and the bylaws shall specify the manner of giving notice of such assessments, which may be either personal or by mail, and, if by mail, shall be deemed complete if such notice is deposited, postage prepaid, in the post office at the place where the principal office of the corporation is located, directed to the person insured at his or her last known place of residence or business. A person insured who neglects or refuses to pay his or her assessments, for that reason or for any other reason satisfactory to the board of directors or its executive committee, may be excluded from such corporation and, when thus excluded, the secretary shall cancel or withdraw his or her policy or policies, subject to the cancellation provisions in sections 3879 through 3882 and subchapter 2 of chapter 113 of this title, provided that such person shall remain liable for his or her pro rata share of losses and expenses incurred on or before the date of his or her exclusion and for the penalty herein provided, in case an action is brought against him or her. If a member of such corporation is so excluded and his or her policy so

canceled, the secretary shall forthwith enter such cancellation and the date thereof on the records kept in the office of the corporation and serve notice of such cancellation on the person so excluded, as provided herein for the service of notice of assessment. However, in such event, the person so excluded or whose policy is so canceled shall be entitled to the repayment of an equitable portion of the unearned paid premium on such policy. The officers of such corporation shall proceed to collect all assessments within 30 days after the expiration of the notice to pay the same. Neglect or refusal on their part so to proceed or to perform any of the duties imposed on them by law shall render them individually liable for the amount lost to any person, due to such neglect or refusal, and an action may be maintained by such person against such officers to collect such amount. An action may be brought by the corporation against a person insured therein to recover all assessments which he or she may neglect or refuse to pay, and there may be recovered from him or her in such action both the amount so assessed, with lawful interest thereon, and, as a penalty for such neglect or refusal, 50 percent of such assessment in addition thereto.

(4) Any person insured by an assessment cooperative insurance corporation may withdraw therefrom at any time by giving written notice to the corporation, stating the date of withdrawal, paying his or her share of all

claims then existing against such corporation and surrendering his or her policy or policies;

(5) Any person insured by a nonassessment cooperative insurance corporation may withdraw from it at any time by giving written notice to the corporation stating the date of withdrawal and surrendering his or her policy or policies;

(6) Persons residing or owning property within ~~the state of Vermont~~ any state where the corporation is authorized to do business may be insured upon the same terms and conditions as original members and such other terms as may be prescribed in the bylaws of the corporation;

~~(7) Nonresidents owning property within the state of Vermont may be insured therein and shall have all the rights and privileges of the corporation and be accountable as are other persons insured therein, but shall not be eligible to hold office in the corporation;~~

~~(8) The bylaws of such corporation may be amended at any time.~~

* * * Group Life Insurance; Employee Pay All * * *

Sec. 2. 8 V.S.A. § 3803 is amended to read:

§ 3803. EMPLOYEE GROUPS

The lives of a group of individuals may be insured under a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of

the employer for the benefit of persons other than the employer, subject to the following requirements:

(1) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term “employees” shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors, or partnerships if the business of the employer and of such affiliated corporations, proprietors, or partnerships is under common control through stock ownership, contract, or otherwise. The policy may provide that the term “employees” shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term “employees” shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation, by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he or she is actively engaged in and devotes a substantial part of his or her time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public

body may provide that the term “employees” shall include elected or appointed officials.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the employer’s funds or funds contributed by him or her, or partly from such funds and partly from funds contributed by the insured employees, or wholly from funds contributed by the insured employees. ~~No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees.~~ A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least two employees at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

Sec. 3. 8 V.S.A. § 3804 is amended to read:

§ 3804. LABOR UNION GROUPS

The lives of a group of individuals may be insured under a policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives, or agents, subject to the following requirements:

(1) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment or to membership in the union, or both.

(2) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance, or wholly from funds contributed by the insured members specifically for their insurance.

~~No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance.~~ A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75 percent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for the insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(3) The policy must cover at least 10 members at date of issue.

(4) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

Sec. 4. 8 V.S.A. § 3808 is amended to read:

§ 3808. TRUSTEE GROUPS

The lives of a group of individuals may be insured under a policy issued to the trustees of a fund established by, adopted by, or participated in by two or more employers, or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(1) No policy may be issued to insure employees of any employer whose eligibility to participate in the fund as an employer arises out of considerations directly related to the employer being a commercial correspondent or business client or patron of another employer, except where such other employer exercises substantial control over the business operations of the participating employers.

(2) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term “employees” shall include retired employees, former employees, and the individual proprietor or partners if an employer is an individual proprietor or a

partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he or she is actively engaged in and devotes a substantial part of his or her time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(3) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured persons, or wholly from funds contributed by the insured persons. A policy on which no part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance must insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The policy must cover at date of issue at least 100 persons; and it must cover an average of not less than three persons per employer unit unless the policy is issued to the trustees of a fund established by employers which have assumed obligations through a collective bargaining agreement and are

participating in the fund either pursuant to those obligations with regard to one or more classes of their employees which are encompassed in the collective bargaining agreement or as a method of providing insurance benefits for other classes of their employees, or unless the policy is issued to the trustees of a fund established by one or more labor unions.

(5) The amount of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

Sec. 5. 8 V.S.A. § 3809 is amended to read:

§ 3809. ASSOCIATION OF EMPLOYERS GROUPS

The lives of a group of individuals may be insured under a policy issued to an association of two or more employers, which association shall be deemed the policyholder, to insure employees of such employers for the benefits of persons other than the association or the employers, subject to the following requirements:

(1) The policy may be issued only if:

(A) the association has been in existence for at least five years and was formed for purposes other than obtaining the insurance; and

(B) the participating employers constitute at date of issue at least ~~fifty~~ 50 percent of the total employers eligible to participate, unless the total number of persons covered at date of issue exceeds 600, in which event such

participating employers must constitute at least 25 percent of such total employers, in either case omitting from consideration any employer whose employees are already covered for group life insurance.

(2) The persons eligible for insurance under the policy shall be all of the employees of the participating employers, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term “employees” shall include the individual proprietor or partners whenever a participating employer is an individual proprietor or a partnership. The policy may provide that the term “employees” shall include retired employees. The policy may provide that the term “employees” shall include the employees of the association to which the policy is issued.

(3) The premium for the policy shall be paid by the association, either wholly from the association’s funds or funds contributed by the employers, or partly from such funds and partly from funds contributed by the insured employees, or wholly from funds contributed by the insured employees. ~~No policy may be issued on which the entire premium payable by the policyholder is to be derived from funds contributed by the insured employees.~~ A policy on which part of the premium so payable is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 percent of the then eligible employees of each participating employer, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect

to make the required contributions. A policy on which no part of the premiums so payable is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(4) The policy must cover at least 100 employees at date of issue.

(5) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the policyholder or the employer.

Sec. 6. 8 V.S.A. § 3812a is added to read:

§ 3812a. REQUIRED CONSUMER DISCLOSURE

A group life insurance policy on which premiums are to be derived wholly from funds contributed by the insured persons shall include the following notice on the face page of certificates issued under the policy:

REQUIRED CONSUMER DISCLOSURE: READ YOUR

CERTIFICATE CAREFULLY. Unlike individual insurance, group

insurance, while offering advantages for life insurance coverage, may be

cancelled for reasons other than nonpayment of premium. To help fully

understand the group life insurance described in this certificate as well as

other life insurance options, you may want to consult a financial advisor.

Sec. 7. 8 V.S.A. § 3821 is amended to read:

§ 3821. CONVERSION ON TERMINATION OF POLICY

The group life insurance policy shall contain a provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him or her by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by section 3820 of this title except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of:

~~(1) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he or she is or becomes eligible under any group policy issued or reinstated by the same or another insurer within 31 days after such termination; or~~

~~(2) \$2,000.00.~~

* * * Commissioner of Financial Regulation; Information Sharing * * *

Sec. 8. 8 V.S.A. § 22(b) is amended to read:

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

(1) may share documents, materials, or other information, including confidential and privileged documents, materials, or other information with other state, federal, or international ~~regulatory~~ agencies; the National Association of Insurance Commissioners; the North American Securities Administrators Association; the International Association of Insurance Supervisors; the Conference of State Bank Supervisors; the National Association of State Credit Union Supervisors; self-regulatory organizations organized under 15 U.S.C. §§ 78f, 78o-3 and 78q-1; other self-regulatory organizations and their affiliates or subsidiaries; and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(2) may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from other state, federal, and international ~~regulatory~~ agencies; the National Association of Insurance Commissioners; the North American Securities Administrators Association; the International Association of Insurance Supervisors; the Conference of State Bank Supervisors; the National Association of State Credit Union Supervisors; self-regulatory organizations organized under 15 U.S.C. §§ 78f, 78o-3 and 78q-1; other self-regulatory organizations and their affiliates or subsidiaries; and from state, federal, and

international law enforcement authorities, 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;

(3) may enter into agreements governing sharing and use of information consistent with this section; and

(4) shall determine, prior to sharing information about an individual pursuant to subdivision (1) of this subsection, that sharing the information will substantially further the performance of the regulatory or law enforcement duties of the recipient.

Sec. 9. 8 V.S.A. § 11505 is amended to read:

§ 11505. COOPERATIVE AND OTHER AGREEMENTS

(a) The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with any other governmental agency, the Federal Home Loan Bank, or any organization affiliated with or representing one or more governmental agencies with respect to the periodic examination or other supervision of any activity, branch, agency, office, or location in this State of a state financial institution, or any activity or branch of a Vermont financial institution located in any host state. Such agreements may be used to resolve conflicts arising from inconsistent regulatory requirements and to

specify the manner in which any application process under section 15201 or 15202 of this title shall be coordinated.

(b) Agreements under this section may also be entered with nonbank regulatory agencies on matters affecting financial institutions organized or doing business in this State.

Sec. 10. 8 V.S.A. § 30605 is amended to read:

§ 30605. COOPERATIVE AND OTHER AGREEMENTS

(a) The Commissioner may enter into cooperative, coordinating, and information-sharing agreements with any other governmental agency, the Federal Home Loan Bank, or any organization affiliated with or representing one or more governmental agencies with respect to the periodic examination or other supervision of any activity, office, or location in this State of a state credit union, or any activity or office of a Vermont credit union located in any host state. Such agreements may be used to resolve conflicts arising from inconsistent regulatory requirements and to specify the manner in which any application process under section 33102 or 33103 of this title shall be coordinated.

(b) Agreements under this section may also be entered with any other regulatory agencies on matters affecting any credit union organized or doing business in this State.

* * * Study; Credit-Based Insurance Scoring * * *

Sec. 11. STUDY OF CREDIT REPORTS AND INSURANCE RATES

(a) The Commissioner of Financial Regulation shall conduct a study of credit-based insurance scoring for personal lines insurance. The study shall make findings regarding the prevalence of use of insurance scoring and related rating factors in Vermont, its impact on Vermont insurance consumers, and how limitations on the use of insurance scoring would affect insurance companies doing business in Vermont and the affordability and availability of personal lines insurance. The Commissioner shall report his or her findings and recommendations to the General Assembly on or before December 15, 2016.

(b) As used in this section, “personal lines insurance” means property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

* * * Assistant Medical Examiners; Liability Protections * * *

Sec. 12. 18 V.S.A. § 511 is added to read:

§ 511. ACTIONS AGAINST MEDICAL EXAMINERS

Actions taken by any person given authority under this chapter, including assistant medical examiners, shall be considered to be actions taken by State employees for the purposes of 3 V.S.A. chapter 29 and 12 V.S.A. chapter 189 if such actions occurred within the scope of such person’s duties.

* * * Effective Date * * *

Sec. 13. EFFECTIVE DATE

This act shall take effect on passage.