

1 TO THE HONORABLE SENATE:

2 The Committee on Finance to which was referred House Bill No. 198
3 entitled “An act relating to the Legacy Insurance Management Act”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. TITLE

8 This act shall be known as the “Legacy Insurance Management Act.”

9 Sec. 2. FINDINGS AND PURPOSE

10 (a) The Vermont General Assembly finds:

11 (1) The creation of jobs and investment in the state of Vermont through
12 business expansion and recruitment is of the highest importance.

13 (2) Vermont has created a thriving alternative risk financing industry,
14 which has provided Vermonters with well-paying jobs and has created
15 significant premium tax revenue for the state.

16 (1) Vermont is a competitive location for highly successful financial
17 services firms as a result of its leadership in the field of captive insurance.
18 Vermont’s ability to modernize key aspects of its insurance laws has been a
19 key to the State’s success.

1 (2) The management of closed blocks of commercial insurance policies
2 and reinsurance agreements has been a productive and successful sector of the
3 insurance industry for decades in other jurisdictions.

4 (3) Vermont’s respected, sophisticated, and experienced insurance
5 regulatory apparatus makes it an ideal jurisdiction to establish a non-admitted
6 insurance and reinsurance management industry.

7 (4) A new non-admitted insurance and reinsurance management
8 industry has the potential to attract investment, create well-paying jobs, and
9 generate tax revenue for Vermont.

10 (b) The purpose of this act is to regulate the receipt and management by
11 solvent Vermont companies of closed blocks of non-admitted commercial
12 insurance policies and reinsurance agreements.

13 Sec. 3. 8 V.S.A. chapter 147 is added to read:

14 CHAPTER 147. LEGACY INSURANCE TRANSFERS

15 § 7111. DEFINITIONS

16 As used in this chapter:

17 (1) “Assuming company” means a Vermont-domiciled company
18 established specifically to acquire a closed block under a legacy insurance
19 transfer plan approved by the Commissioner.

20 (2) “Closed block” means a block, line, or group of commercial
21 non-admitted insurance policies or reinsurance agreements or both:

1 (A) which a transferring insurer has ceased to offer, write, or sell to
2 new applicants;

3 (B) for which all policy periods have been fully expired for not less
4 than 60 months;

5 (C) for which active premiums are no longer being paid; and

6 (D) which is not workers' compensation, health, life, or any other
7 personal line of insurance.

8 (3) "Comment period" means the 60-day period starting on the date
9 notice is issued by an assuming company under subsection 7112(h) of this
10 chapter. For good cause, the comment period may be extended by the
11 Commissioner up to an additional 30 days. The Commissioner may, in his or
12 her discretion, extend the comment period for up to an additional 30 days.

13 (4) "Commissioner" means the Commissioner of Financial Regulation.

14 (5) "Controlling party" means a person having "control" of an assuming
15 company or transferring insurer. "Control" shall have the same meaning as in
16 section 3681 of this title.

17 (6) "Department" means the Department of Financial Regulation.

18 (7) "Domicile regulator" means the primary insurance regulatory
19 authority of the domicile jurisdiction of a transferring insurer.

1 (8) “Inward reinsurance agreement” means a contract of reinsurance
2 between a transferring insurer and another insurance company with respect to
3 which a transferring insurer is a party as the reinsurer.

4 (9) “Inward reinsurance counterparty” means an insurance company,
5 other than the transferring insurer, that is a party to an inward reinsurance
6 agreement as the reinsured.

7 (10) “Legacy insurance transfer” means the transfer of a closed block in
8 accordance with the requirements of this chapter.

9 (11) “Legacy insurance transfer plan” or “plan” means a plan that sets
10 forth all provisions and includes all documentation regarding a legacy
11 insurance transfer required under subsection 7112(b) of this chapter.

12 (12) “Non-admitted insurance” means any property and casualty
13 insurance permitted to be placed directly or through a surplus lines broker with
14 a non-admitted insurer eligible to accept such insurance.

15 (13) “Non-admitted insurer” means, with respect to a state, an insurer
16 not licensed to engage in the business of insurance in such state. The term
17 does not include a risk retention group or a captive insurance company.

18 (14) “Outward reinsurance agreement” means a contract of reinsurance
19 between a transferring insurer and another insurance company with respect to
20 which a transferring insurer is a party as the reinsured.

1 (15) “Outward reinsurance counterparty” means an insurance company,
2 other than the transferring insurer, that is a party to an outward reinsurance
3 agreement as the reinsurer.

4 (16) “Party” means:

5 (A) the assuming company;

6 (B) the transferring insurer;

7 (C) with respect to any policy to be transferred under a plan, each
8 policyholder;

9 (D) with respect to any inward reinsurance agreement to be
10 transferred under a plan, each inward reinsurance counterparty; and

11 (E) any other person the Commissioner approves as a party with
12 respect to such proceeding.

13 (17) “Plan summary” means a written statement of the key terms and
14 provisions of a plan as required under subdivision 7112(b)(19) of this chapter.

15 (18) “Policy” means a contract of property and casualty insurance that is
16 ~~not~~ neither a contract of reinsurance nor a personal lines insurance policy
17 contract of workers’ compensation, health, life, or any other personal line of
18 insurance.

19 (19) “Policyholder” means the person identified as the policyholder or
20 first named in a policy.

1 (20) “Reinsurance agreement” means an inward reinsurance agreement
2 or an outward reinsurance agreement.

3 (21) “Reinsurance agreement counterparty” means an inward
4 reinsurance agreement counterparty or an outward reinsurance counterparty.

5 (22) “Transferring insurer” means a non-admitted insurer that is
6 transferring a closed block to an assuming company under a legacy insurance
7 transfer plan.

8 § 7112. APPLICATION; FEE; PLAN

9 (a) An assuming company shall file a plan with the Commissioner and, at
10 the time of filing, shall pay to the Commissioner the fee described in
11 subdivision 7116(a)(1) of this chapter.

12 (b) A plan shall include the following:

13 (1) A list of all policies and inward reinsurance agreements in the closed
14 block to be transferred under the plan.

15 (2) A list of all outward reinsurance agreements attaching to policies or
16 inward reinsurance agreements in the closed block.

17 (3) A list of all policyholders and inward reinsurance counterparties to
18 policies and inward reinsurance agreements in the closed block to be
19 transferred under the plan.

20 (4) The identities of the transferring insurer and the assuming company
21 and their respective controlling parties, if any.

1 (5) Certificates issued by the domicile regulator of the transferring
2 insurer and, if applicable, of any controlling party that is a regulated insurance
3 company, in each case attesting to the good standing of the transferring insurer
4 and the controlling party under the insurance regulatory laws of the jurisdiction
5 of their respective domiciles; or, if any such certificate is not obtainable under
6 the laws or practices of a domicile regulator, a certificate of an officer of the
7 transferring insurer or the controlling party, as applicable, attesting to the
8 foregoing verified by oath of two of its executives.

9 (6) A letter of no objection, or the equivalent, from the domicile
10 regulator of the transferring insurer confirming that the regulator has no
11 objection to the transfer of the closed block under the plan; or, if any such
12 certificate is not obtainable under the laws or practices of a domicile regulator,
13 a certificate of an officer of the transferring insurer or the controlling party, as
14 applicable, attesting to the foregoing, verified by oath of two of its executive
15 officers.

16 (7) a statement describing the terms and conditions, if any, of any policy
17 or inward reinsurance agreement A list of policies and inward reinsurance
18 agreements in the closed block prohibiting to be transferred under the plan, if
19 any, which by their terms and conditions prohibit assignment and assumption
20 of the rights, liabilities, and obligations of the transferring insurer without the
21 prior written consent of the respective policyholder or inward reinsurance

1 counterparty, together with a statement describing such terms and conditions of
2 any such policy or inward reinsurance agreement.

3 (8) The most recent audited financial statements and annual reports of
4 the transferring insurer filed with its domicile regulator and such other
5 financial information as the Commissioner may reasonably require , if any,
6 with respect to the transferring insurer or any controlling party of the
7 transferring insurer, as the Commissioner may reasonably require.

8 (9) An actuarial study or opinion in a form satisfactory to the
9 Commissioner that quantifies the liabilities to be transferred to the assuming
10 company under the policies or inward reinsurance agreements in the closed
11 block.

12 (10) A statement of the outward reinsurance agreement assets, if any,
13 attaching to any policy or inward reinsurance agreement in the closed block.

14 (11) Three years of pro-forma financial statements demonstrating the
15 solvency of the assuming company.

16 (12) Officer’s certificates of the transferring insurer and the assuming
17 company attesting that each has obtained all required internal approvals and
18 authorizations regarding the plan and completed all necessary and appropriate
19 actions relating thereto.

20 (13) The form of notice to be provided under the plan to any
21 policyholder or inward reinsurance counterparty in connection with any policy

1 or inward reinsurance agreement in the closed block and how such notice shall
2 be provided.

3 (14) The form of notice to be provided under the plan to any outward
4 reinsurance counterparty attaching to any policy or inward reinsurance
5 agreement in the closed block and how such notice shall be provided.

6 (15) A statement describing any pending dispute between the
7 transferring insurer and any policyholder or inward reinsurance counterparty in
8 connection with any policy or inward reinsurance agreement in the closed
9 block or any disputed claim by a third party with respect to any policy or
10 inward reinsurance agreement in the closed block.

11 (16) A statement describing the assuming company's proposed
12 investment policies, officers, directors, key employees, and other arrangements
13 regarding matters such as:

14 (A) any contemplated third-party claims management and
15 administration arrangements;

16 (B) operations, management, and solvency relating to the closed
17 block; and

18 (C) a detailed plan for annual or other periodic financial reporting to
19 the Commissioner, including an annual financial audit with actuarial opinion.

20 (17) A statement from the assuming company consenting to the
21 jurisdiction of the Commissioner with regard to ongoing oversight of

1 operations, management, and solvency relating to the closed block, including
2 the authority of the Commissioner to conduct examinations under section 7117
3 of this chapter and to set reasonable standards for oversight of the assuming
4 company, including oversight standards relating to:

5 (A) material transactions with affiliates;

6 (B) adequacy of surplus; and

7 (C) dividends and other distributions, including limitations on
8 extraordinary dividends.

9 (18) A statement from the assuming company submitting to the
10 jurisdiction and authority of the Commissioner of Insurance, or the equivalent
11 regulatory authority, in states in which policyholders or reinsurance
12 counterparties reside, for the purposes of implementing each such state's
13 Unfair Claims Settlement Practices Act, or its equivalent, if any, in such state's
14 market conduct statutory framework; and confirmation of the delivery of such
15 statements of submission. Notwithstanding any provision to the contrary in
16 any state's Unfair Claims Settlement Practices Act, or its equivalent, the
17 submission required under this subdivision shall not confer a private cause of
18 action upon any policyholder or reinsurance counterparty against the assuming
19 company, even if the applicable Unfair Claims Settlement Practices Act, or
20 equivalent, purports to provide a private cause of action.

1 (19) A plan summary which includes all information regarding the plan
2 as reasonably required by the Commissioner.

3 (20) The statement described in subsection (c) of this section regarding
4 the information and documents submitted as part of or with respect to a plan
5 which are confidential.

6 (21) Any other information the Commissioner may reasonably require
7 with respect to the plan in the exercise of his or her discretion.

8 ~~(c) The plan shall include a statement of the information and~~
9 ~~documentation included in the plan that the assuming company or the~~
10 ~~transferring insurer may request be given confidential treatment, which in all~~
11 ~~eases shall include all information identifying policyholders and reinsurance~~
12 ~~counterparties and which may include any information that qualifies as a trade~~
13 ~~secret or other confidential research, development, or commercial information~~
14 ~~of the transferring insurer or the assuming company. The Commissioner,~~
15 ~~subject to the exercise of his or her reasonable discretion, shall determine~~
16 ~~whether the information designated in such statement qualifies for confidential~~
17 ~~treatment and therefore shall be exempt from public inspection and copying~~
18 ~~under the Public Records Act. Any information qualifying for confidential~~
19 ~~treatment shall not be subject to subpoena and shall not be made public by the~~
20 ~~Commissioner or by any other person; provided, however, the Commissioner~~
21 ~~may in his or her discretion grant access to such information to public officers~~

1 ~~having jurisdiction over the regulation of insurance in any other state or~~
2 ~~country, to public officers of a foreign or alien financial regulatory authority,~~
3 ~~or to state or federal law enforcement officers pursuant to a validly issued~~
4 ~~subpoena or search warrant; provided that such officers receiving the~~
5 ~~information agree in writing to hold it in a manner consistent with this~~
6 ~~subsection.~~

7 (c)(1) Information in the plan identifying policyholders and reinsurance
8 counterparties shall be exempt from public inspection and copying under the
9 Public Records Act.

10 (2) The plan shall include a statement of the information and
11 documentation included in the plan that the assuming company or the
12 transferring insurer requests be given confidential treatment. The
13 Commissioner shall determine whether information designated in the
14 statement, including any information designated as trade secrets, is exempt
15 from public inspection and copying under the Public Records Act. If such
16 information is exempt, it shall not be subject to subpoena and shall not be
17 made public by the Commissioner or by any other person; provided, however,
18 the Commissioner may in his or her discretion grant access to such information
19 to public officers having jurisdiction over the regulation of insurance in any
20 other state or country, to public officers of a foreign or alien financial
21 regulatory authority, or to state or federal law enforcement officers pursuant to

1 a validly issued subpoena or search warrant; provided that such officers
2 receiving the information agree in writing to hold it in a manner consistent
3 with this subsection.

4 (d) Within 10 business days of the date the application is filed and the fee
5 payable under subsection (a) of this section is paid in full, the Commissioner
6 shall notify the assuming company whether the plan is complete. In his or her
7 discretion, the Commissioner may extend the 10-business-day application
8 review period for an additional 10 business days. With the written consent of
9 the assuming company, the application review period may be extended beyond
10 20 business days.

11 (e) Upon submission of a plan, the assuming company shall have a
12 continuing obligation to notify the Commissioner promptly and in a full and
13 accurate manner of any material change to information in the plan.

14 (f) If the Commissioner notifies the assuming company that the plan is not
15 complete, the Commissioner shall specify any modifications, supplements, or
16 amendments to the plan that are required, and any additional information or
17 documentation with respect to the plan that must be provided to the
18 Commissioner before the Commissioner issues the notice referenced in
19 subsection (d) of this section.

1 (g) If the Commissioner notifies the assuming company that the plan is
2 complete, the Commissioner shall set a date, time, and place for a hearing on
3 the plan as required under subsection (m) of this section.

4 (h) Within 30 days of the date the Commissioner notifies the assuming
5 company under subsection (g) of this section that the plan is complete, the
6 assuming company shall cause direct written notice to be provided, in the form
7 and manner specified in the plan, to all policyholders and reinsurance
8 counterparties listed in the plan. The notice shall:

9 (1) comply with the plan and the provisions of 3 V.S.A. § 809(b);

10 (2) include the plan summary;

11 (3) describe the effect of the plan and the transfer on each policyholder
12 and reinsurance counterparty and on his or her respective policy or reinsurance
13 agreement, as applicable;

14 (4) state the right of each policyholder or inward reinsurance
15 counterparty to:

16 (A) accept or object to the plan, together with a description of the
17 means by which a policyholder or inward reinsurance counterparty may
18 expressly accept or object to the plan and the effect of such acceptance or
19 objection;

20 (B) file written comments on the plan with the Commissioner; and

21 (C) appear and present evidence on the plan at the hearing;

- 1 (5) describe the terms and conditions under which a policyholder or
2 inward reinsurance counterparty shall be deemed to have accepted the plan;
- 3 (6) specify the date, time, and place of the hearing on the plan;
- 4 (7) include all other information reasonably required by the
5 Commissioner; and
- 6 (8) be published in two newspapers of general nationwide circulation on
7 two separate occasions, as determined by the Commissioner.
- 8 (i) During the comment period:
- 9 (1) any party may file written comments on the plan with the
10 Commissioner;
- 11 (2) any policyholder or inward reinsurance counterparty may, by
12 delivery of such notice in accordance with the terms and conditions of the plan
13 and prior to the expiration of the comment period, provide an express written
14 notice that he or she accepts or objects to the plan; and
- 15 (3) the assuming company shall file with the Commissioner such
16 additional documentation and information regarding the plan as the
17 Commissioner may reasonably require.
- 18 (j) In the event that, prior to the expiration of the comment period, any
19 policyholder or inward reinsurance counterparty provides express written
20 notice that he or she objects to the plan and specifies the policy or agreement
21 with respect to which such objection is made, the assuming company shall, not

1 later than 15 days after the end of the comment period, submit to the

2 Commissioner either:

3 (1) an amended list of policies and reinsurance agreements in the plan,
4 excluding such policyholder or inward reinsurance counterparty and its
5 respective policy or inward reinsurance agreement from the plan; or

6 (2) an express written notice from such policyholder or inward
7 reinsurance counterparty accepting the plan and consenting to the transfer
8 having the full force and effect of a statutory novation of its respective policy
9 or reinsurance agreement, as applicable, and withdrawing and rescinding its
10 prior notice of objection.

11 (k) Except as provided in subsection 7114(f) of this chapter, any
12 policyholder or inward reinsurance counterparty that, prior to the expiration of
13 the comment period, has not provided express written notice objecting to the
14 plan shall be deemed to have accepted the plan and the transfer shall have the
15 full force and effect of a statutory novation of his or her respective policy or
16 inward reinsurance agreement, as applicable.

17 (l) Notwithstanding any provision of this chapter to the contrary, if a policy
18 or inward reinsurance agreement contains a provision prohibiting the transfer
19 of the policy or inward reinsurance agreement without the consent of the
20 policyholder or inward reinsurance counterparty, then such policy or inward
21 reinsurance agreement shall not be transferred under this chapter unless the

1 applicable policyholder or inward reinsurance counterparty provides written
2 consent to the proposed transfer.

3 (m) The hearing on the plan shall be held not later than 60 days after the
4 end of the comment period. In his or her discretion, the Commissioner may
5 postpone the hearing for an additional 10 days. With the written consent of the
6 assuming company, the hearing may be postponed beyond 70 days. Each party
7 participating in the hearing shall bear his or her own costs and attorney's fees.

8 § 7113. PLAN REVIEW

9 (a) The Commissioner may retain an actuary to conduct an actuarial study
10 quantifying the liabilities under insurance policies and reinsurance agreements
11 to be transferred to the assuming company under the plan and is authorized to
12 retain any other legal, financial, and examination services from outside the
13 Department necessary to assist in plan review.

14 (b) In reviewing the plan, the Commissioner shall take into account all
15 written comments filed with respect to the plan, all evidence taken at the
16 hearing, and any other factors the Commissioner reasonably deems relevant
17 with respect to the plan. In all cases, the Commissioner shall make findings
18 with respect to each of the following:

19 (1) the solvency of the assuming company before and after the
20 implementation of the proposed plan;

1 (2) the adequacy of the assuming company’s proposals described in the
2 statement required under subdivision 7112(b)(16) of this chapter;

3 (3) the adequacy of the assuming company’s consent to jurisdiction
4 required under subdivision 7112(b)(17) of this chapter;

5 (4) the ability of the assuming company to comply with all requirements
6 of the policies and inward reinsurance agreements, including the capacity of
7 the assuming company regarding the administration of claims in process on or
8 after the effective date of the transfer;

9 (5) whether any outward reinsurance agreement relating to any policy or
10 policies in the closed block will be adversely affected by the transfer;

11 (6) whether the plan materially adversely affects the interests of any
12 party or outward reinsurance counterparty, ~~or including~~ the interests of any
13 policyholder or inward reinsurance counterparty who has accepted or ~~has~~ been
14 deemed to have accepted the plan;

15 (7) whether policyholders or inward reinsurance counterparties, together
16 with their respective insurance policies and inward reinsurance agreements,
17 have been excluded from the plan as required under subsections 7112(j) and (l)
18 of this chapter; and

19 (8) the fairness of the plan to all parties.

1 § 7114. ORDER

2 (a) Within 30 days of the date the hearing is held on the plan, the
3 Commissioner shall issue an order setting forth the amount of fees payable by
4 the assuming company under subdivision 7116(a)(2) of this chapter, payable
5 not later than 14 days after the date of such order. Upon receipt of such
6 payment, the Commissioner shall within five days issue an order approving or
7 disapproving the plan in whole or in part. Whenever it is not practicable to
8 issue an order within 30 days, the Commissioner may extend such time up to
9 an additional 30 days. If the order approves the plan, the order shall:

10 (1) include the terms and conditions of the Commissioner’s oversight
11 with regard to ongoing oversight of the operations, management, and solvency
12 relating to the closed block and any specific standards that the assuming
13 company will be required to comply with, including standards relating to:

14 (A) material transactions with affiliates;

15 (B) adequacy of surplus; and

16 (C) dividends and other distributions, including limitations on
17 dividends;

18 (2) set forth the tax payable by the assuming company under subsection
19 7116(b) of this chapter, which tax shall be payable not later than 14 days after
20 the date of such order;

1 (3) not be effective until such time as the costs and transfer tax
2 described in this subsection have been paid in full.

3 (b) The Commissioner shall not approve a plan unless the Commissioner
4 finds that the assuming company has:

5 (1) sufficient assets to meet its liabilities;

6 (2) sufficient procedures in place for the handling of claims;

7 (3) consented to sufficient regulatory oversight by the Department; and

8 (4) excluded from the plan any policy or agreement required to be
9 excluded under subsections 7112(j) and (l) of this chapter.

10 (c) An order issued under subsection (a) of this section approving the plan
11 shall have the full force and effect of a statutory novation with respect to all
12 policyholders and reinsurance counterparties and their respective policies and
13 reinsurance agreements under the plan and shall provide that the transferring
14 insurer shall have no further rights, obligations, or liabilities with respect to
15 such policies and reinsurance agreements, and that the assuming company shall
16 have all such rights, obligations, and liabilities as if it, instead of the
17 transferring insurer, were the original party to such policies and reinsurance
18 agreements.

19 (d) The Commissioner may issue any other orders he or she reasonably
20 deems necessary to fully implement an order issued under subsection (a) of
21 this section.

1 (e) No order issued under subsection (a) or (d) of this section shall be
2 construed to modify or amend the terms of a policy or reinsurance agreement,
3 other than with respect to matters specifically subject to modification or
4 amendment under this chapter.

5 (f) If a policyholder or inward reinsurance counterparty provides express
6 written notice that he or she objects to the plan after the comment period has
7 expired, and provides evidence reasonably satisfactory to the Commissioner
8 that he or she was not provided notice of the plan in the form and manner
9 previously approved by the Commissioner, or if an outward reinsurance
10 counterparty or other party provides express written notice that he or she
11 objects to a plan, the Commissioner may not approve the plan with respect to
12 such party unless the Commissioner determines that the plan:

- 13 (1) does not materially adversely affect the objecting party; and
14 (2) otherwise complies with the requirements of this chapter.

15 (g) At any time before the Commissioner issues the order described in
16 subsection (a) of this section, the assuming company may file an amendment to
17 the plan, subject to the Commissioner's approval.

18 (h) At any time before the Commissioner issues the order described in
19 subsection (a) of this section, the assuming company may withdraw the plan
20 without prejudice. Upon such withdrawal, however, the Commissioner shall
21 issue an order setting forth the amount of fees payable by the assuming

1 company under subdivision 7116(a)(2) of this chapter, payable not later than
2 14 days after the date of such order.

3 § 7115. JURISDICTION; APPEALS

4 (a) The Commissioner shall have exclusive regulatory jurisdiction with
5 respect to the review and approval or denial of any plan.

6 (b) Any party aggrieved by a final order of the Commissioner may appeal
7 that order to the Vermont Supreme Court under 3 V.S.A. § 815.

8 § 7116. FEE; COSTS; TRANSFER TAX

9 (a) To cover the costs of processing and reviewing a plan under this
10 chapter, the assuming company shall pay to the Commissioner the following
11 nonrefundable fees at the times set forth in subsections 7112(a) and 7114(a) of
12 this chapter:

13 (1) an administrative fee in the amount of \$30,000.00; and

14 (2) the reasonable costs of persons retained by the Commissioner under
15 subsection 7113(a) of this chapter.

16 (b) When a plan is approved, the assuming company shall pay the
17 Commissioner a transfer tax equal to the sum of:

18 (1) one percent of the first \$100,000,000.00 of the gross liabilities
19 transferred, including direct and assumed unpaid claims, losses, and loss
20 adjustment expenses with no reductions for amounts ceded; and

1 (2) 0.5 percent of the gross liabilities transferred that exceed
2 \$100,000,000.00, including direct and assumed unpaid claims, losses, and loss
3 adjustment expenses with no reductions for amounts ceded.

4 (c) All fees and payments received by the Department under subsection (a)
5 of this section and 10 percent of the transfer tax under subsection (b) of this
6 section shall be credited to the insurance regulatory and supervision fund under
7 section 80 of this title. The remaining 90 percent of the transfer tax shall be
8 deposited directly into the general fund.

9 § 7117. EXAMINATIONS

10 (a) The Commissioner has the authority to order any assuming company to
11 produce any records, books, and papers in the possession of the assuming
12 company or its affiliates necessary to ascertain the financial condition or
13 legality of conduct of the assuming company.

14 (b) The Commissioner shall exercise his or her authority under subsection
15 (a) of this section only if he or she has reason to believe the interests of the
16 assuming company's policyholders may be adversely affected under the plan.

17 (c) The Commissioner may retain, at the assuming company's expense,
18 attorneys, actuaries, accountants, and other experts not otherwise a part of the
19 Commissioner's staff reasonably necessary to assist with an examination under
20 this section. Any persons so retained shall be under the direction and control
21 of the Commissioner and shall act in a purely advisory capacity.

1 (d) Each assuming company that produces records, books, and papers for
2 examination under this section shall pay the expense of such examination.

3 § 7118. APPLICABLE LAWS

4 (a) Chapter 157 (transfer and novation of insurance contracts) of this title
5 shall not apply to any legacy insurance transfer under this chapter.

6 (b) In the event of any conflict between a provision of this chapter and any
7 other provision of this title, such provision of this chapter shall control.

8 (c) A proposed legacy insurance transfer shall be a “contested case” under
9 3 V.S.A. chapter 25, except that a “party” shall be limited as defined in
10 subdivision 7111(16) of this chapter.

11 § 7119. ASSUMING COMPANY; BOARD; PRINCIPAL PLACE OF

12 BUSINESS; REGISTERED AGENT

13 No assuming company shall be a party to a legacy insurance transfer under
14 this chapter unless:

15 (1) its board of directors or committee of managers holds at least one
16 meeting each year in this State;

17 (2) it maintains its principal place of business in this State; and

18 (3) it appoints a registered agent to accept service of process and to
19 otherwise act on its behalf in this State; provided that whenever such registered
20 agent cannot with reasonable diligence be found at the registered office of the

1 assuming company, the Secretary of State shall be an agent of such assuming
2 company upon whom any process, notice, or demand may be served.

3 § 7120. POSTING OF PLANS ON WEBSITE

4 The Commissioner shall require that all plans filed with the Department are
5 posted on the Department’s website, along with any other notice or other
6 information the Commissioner deems appropriate, excluding any information
7 designated as confidential under subsection 7112(c) of this chapter.

8 § 7121. REGULATION OF ASSUMING COMPANIES AND SERVICE
9 PROVIDERS

10 (a) An assuming company shall be subject to all rules adopted by the
11 Commissioner under this chapter and also shall be subject to:

12 (1) chapter 145 (supervision, rehabilitation, and liquidation of insurers)
13 of this title;

14 (2) the market conduct and unfair trade practices provisions of chapter
15 129 (insurance trade practices) of this title, as deemed applicable by the
16 Commissioner; and

17 (3) in addition to the initial transfer tax required under subsection
18 7116(b) of this chapter, an annual renewal fee of \$300.00.

19 (b) An assuming company shall not be subject to the requirements of
20 chapter 101, subchapter 9 (Property and Casualty Insurance Guaranty
21 Association) of this title.

1 (c) The Commissioner may adopt rules regarding the provision of services
2 to an assuming company by persons other than any director, officer, or
3 employee of the assuming company with respect to the administration of
4 policies and reinsurance agreements assumed by the assuming company under
5 a legacy insurance transfer, including licensing or other requirements.

6 (d) The Commissioner may adopt any other rules necessary or appropriate
7 to carry out the provisions of this chapter.

8 Sec. 4. EFFECTIVE DATE

9 This act shall take effect on passage.

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(Committee vote: _____)

Senator [surname]

FOR THE COMMITTEE