

# House Calendar

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Tuesday, February 03, 2015

28th DAY OF THE BIENNIAL SESSION

House Convenes at 10:00 A.M.

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**ACTION CALENDAR**

**Favorable with Amendment**

**H. 23**

An act relating to the Uniform Transfers to Minors Act

**Rep. Jewett of Ripton**, for the Committee on **Judiciary**, recommends the bill be amended as follows:

First: In Sec. 1., 14 V.S.A., by striking out § 3211 in its entirety and inserting in lieu thereof a new § 3211 to read as follows:

§ 3211. DEFINITIONS

As used in this chapter:

- (1) “Adult” means an individual who has attained 21 years of age.
- (2) “Broker” means a person lawfully engaged in the business of effecting transactions in securities or commodities for the person’s own account or for the account of others.
- (3) “Court” means the Probate Division of the Superior Court.
- (4) “Custodial property” means:
  - (A) any interest in property transferred to a custodian under this chapter; and
  - (B) the income from and proceeds of that interest in property.
- (5) “Custodian” means a person so designated under section 3219 of this title or a successor or substitute custodian designated under section 3228 of this title.
- (6) “Financial guardian” means a person who has been appointed by the Probate Division as financial guardian for a minor pursuant to section 2659 of this title, or a person legally authorized to perform substantially the same functions.
- (7) “Financial institution” means a bank, trust company, savings institution, or credit union, chartered and supervised under state or federal law.
- (8) “Legal representative” means an individual’s personal representative.
- (9) “Member of the minor’s family” means the minor’s parent, stepparent, spouse, grandparent, brother, sister, uncle, or aunt, whether of the

whole or half blood or by adoption.

(10) “Minor” means an individual who has not attained 21 years of age.

(11) “Person” means an individual, corporation, organization, or other legal entity.

(12) “Personal representative” means an executor, administrator, successor personal representative, or special administrator of a decedent’s estate or a person legally authorized to perform substantially the same functions.

(13) “State” includes any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession subject to the legislative authority of the United States.

(14) “Transfer” means a transaction that creates custodial property under section 3219 of this title.

(15) “Transferor” means a person who makes a transfer under this chapter.

(16) “Trust company” means a financial institution, corporation, or other legal entity authorized to exercise general trust powers.

Second: In Sec. 1, 14 V.S.A. § 3216(b), by striking out the word “conservator” and inserting in lieu thereof the words “financial guardian”

Third: In Sec. 1, 14 V.S.A. § 3216(c)(1), by striking out the word “conservator” and inserting in lieu thereof the words “financial guardian”

Fourth: In Sec. 1, 14 V.S.A. § 3217(a), by striking out the word “conservator” and inserting in lieu thereof the words “financial guardian”

Fifth: In Sec. 1, 14 V.S.A. § 3217, by striking out subsection (c) in its entirety

Sixth: In Sec. 1, 14 V.S.A. § 3221, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read as follows:

(b) A transfer made pursuant to section 3219 of this title is irrevocable, and the custodial property is indefeasibly vested in the minor, but the custodian has all the rights, powers, duties, and authority provided in this chapter, and the minor, the minor’s legal representative, and the minor’s financial guardian have no right, power, duty, or authority with respect to the custodial property except as provided in this chapter.

Seventh: In Sec. 1, 14 V.S.A. § 3222, by striking out subsection (e) in its entirety and inserting in lieu thereof a new subsection (e) to read as follows:

(e) A custodian shall keep records of all transactions with respect to custodial property, including information necessary for the preparation of the minor's tax returns, and shall make them available for inspection at reasonable intervals by a parent, legal representative of the minor, financial guardian of the minor, or the minor if the minor has attained 14 years of age.

Eighth: In Sec. 1, 14 V.S.A. § 3228(d), by striking out the word “conservator” where it thrice appears and inserting in lieu thereof the words “financial guardian”

Ninth: In Sec. 1, 14 V.S.A. § 3228, by striking out subsection (f) in its entirety and inserting in lieu thereof a new subsection (f) to read as follows:

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, the minor's financial guardian, a guardian of the minor appointed pursuant to section 2628 or 2664 of this title, or the minor if the minor has attained 14 years of age may petition the Court to remove the custodian for cause and to designate a successor custodian other than a transferor under section 3214 of this title or to require the custodian to give appropriate bond.

Tenth: In Sec. 1, 14 V.S.A. § 3229, by striking out subsection (a) in its entirety and inserting in lieu thereof a new subsection (a) to read as follows:

(a) A minor who has attained 14 years of age, the minor's financial guardian or legal representative, a guardian of the minor appointed pursuant to section 2628 or 2664 of this title, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the Court:

(1) for an accounting by the custodian or the custodian's legal representative; or

(2) for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under section 3227 of this title to which the minor, the minor's legal representative, or the minor's financial guardian was a party.

**( Committee Vote: 11-1-0)**

## **Action Under Rule 52**

### **J.R.S. 12**

Joint resolution providing for a Joint Assembly for the election of a Sergeant at Arms, an Adjutant and Inspector General, and three Trustees of the University of Vermont and State Agricultural College

**(For text see House Journal 1/30/2015)**

## J.R.S. 13

Joint resolution establishing a procedure for the conduct of the election of UVM trustees by plurality vote by the General Assembly in 2015

(For text see House Journal 1/30/2015)

### NOTICE CALENDAR

#### Favorable with Amendment

#### H. 51

An act relating to group-wide supervision of internationally active insurance groups

**Rep. O'Sullivan of Burlington**, for the Committee on **Commerce & Economic Development**, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

Sec. 1. 8 V.S.A. § 3308 is amended to read:

§ 3308. LIST OF STOCKHOLDERS; CERTIFICATE TO TRANSACT BUSINESS; LIABILITY OF PRESIDENT AND DIRECTORS

When the entire capital stock of ~~such~~ a corporation having capital stock has been issued, a complete list of the stockholders with the name and post office address of each and the number of shares held by each shall be filed with the ~~commissioner~~ Commissioner, who shall ~~thereupon cause an examination to be made~~ examine the corporation. If, after such examination, it appears that the whole capital stock has been paid in cash, and the Commissioner has considered the criteria in section 3361 of this chapter, the ~~commissioner~~ Commissioner shall issue a certificate under his or her seal authorizing ~~such~~ the corporation to begin the transaction of business, which shall be filed with the ~~secretary of state~~ Secretary of State. ~~Such a~~ A corporation having capital stock shall not begin the transaction of business until ~~such~~ the certificate has been ~~so~~ issued and filed. If ~~such~~ a corporation commences business before ~~such~~ a certificate is ~~so~~ issued and filed, the president and directors assenting thereto ~~shall be~~ are personally liable for all debts incurred before ~~such~~ the certificate is ~~so~~ issued and filed.

Sec. 2. 8 V.S.A. § 3309 is amended to read:

§ 3309. MUTUAL INSURERS TO COMMENCE BUSINESS; WHEN

(a) A corporation ~~which~~ that, according to its charter, is not to have a capital stock shall not receive authorization to commence business until:

(1) it complies with ~~such~~ preliminary requirements for the procurement of an adequate amount of subscriptions for insurance and possesses and

thereafter maintains unimpaired basic surplus of not less than \$2,000,000.00 and, when first ~~so~~ authorized, shall possess free surplus of not less than \$3,000,000.00; and

(2) the Commissioner has considered the criteria in section 3361 of this chapter.

(b) The ~~commissioner~~ Commissioner in his or her discretion may establish lesser surplus amount requirements in the case of affiliated corporations jointly conducting the business of insurance under a pooling agreement. Such surplus shall be in the form of cash or marketable securities, a portion of which may be held on deposit with the ~~state treasurer~~ State Treasurer, such securities as designated by the insurer and approved by the ~~commissioner~~ Commissioner, in an amount and subject to ~~such~~ conditions determined by the ~~commissioner~~ Commissioner. ~~Such~~ The conditions shall include a requirement that any interest or other earnings attributable to ~~such~~ cash or marketable securities shall inure to the benefit of the insurer until ~~such time as the commissioner~~ Commissioner determines that the deposit must be used for the benefit of the policyholders of the insurer or some other authorized public purpose relating to the regulation of the insurer. The ~~commissioner~~ Commissioner may prescribe additional surplus based upon the type, volume, and nature of insurance business transacted.

Sec. 3. 8 V.S.A. § 3681 is amended to read:

#### § 3681. DEFINITIONS

As used in this subchapter:

\* \* \*

(4) “Group-wide supervisor” or “supervisor” means the regulatory official authorized to engage in conducting and coordinating group-wide supervision activities, as specified by the Commissioner under section 3696 of this subchapter.

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

(~~5~~)(6) “Insurer” means a company qualified and licensed to transact the business of insurance in this State and shall include 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.

~~(6)~~(7) “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) “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 of 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.

~~(7)~~(9) “Person” means an individual, a corporation, 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.

~~(8)~~(10) “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.

~~(9)~~(11) “Subsidiary” of a specified person means an affiliate controlled by such person directly, or indirectly through one or more intermediaries.

~~(10)~~(12) “Voting security” shall include any security convertible into or evidencing a right to acquire a voting security.

Sec. 4. 8 V.S.A. § 3696 is added to read:

§ 3696. GROUP-WIDE SUPERVISOR; INTERNATIONALLY ACTIVE INSURANCE GROUP

(a)(1) The Commissioner is authorized to act as the group-wide supervisor for any internationally active insurance group. The Commissioner, however, may acknowledge another regulatory official as the supervisor, provided the group:

(A) does not have substantial insurance operations in the United States;

(B) has substantial insurance operations in the United States, but not in Vermont; or

(C) has substantial insurance operations in the United States and in Vermont, but the Commissioner has determined, pursuant to the factors in subsections (b) and (g) of this section, that such other regulatory official is the appropriate supervisor.

(2) An insurance holding company system that does not otherwise qualify as an internationally active insurance group under subdivision 3681(8) of this subchapter may request that the Commissioner make a determination or acknowledgment as to a supervisor pursuant to this section.

(b)(1) In cooperation with other state, federal, and international regulatory agencies, the Commissioner shall identify a single group-wide supervisor for a group. The Commissioner may determine that he or she is the appropriate supervisor for a group if the group conducts substantial insurance operations in Vermont, or the Commissioner may acknowledge that a regulatory official from another jurisdiction is the appropriate supervisor for such group. The Commissioner shall consider the following factors when making a determination or acknowledgment under this subsection:

(A) the place of domicile of the insurers within the group that hold the largest share of the group's written premiums, assets, or liabilities;

(B) the place of domicile of the top-tiered insurers in the insurance holding company system of the group;

(C) the location of the executive offices or largest operational offices of the group;

(D) whether another regulatory official is acting or is seeking to act as the supervisor under a regulatory system the Commissioner determines to be:

(i) substantially similar to the system of regulation provided under Vermont law, or

(ii) otherwise sufficient in terms of providing for supervision, enterprise risk analysis, and cooperation with other regulatory officials; and



(E) whether another regulatory official acting or seeking to act as the supervisor provides the Commissioner with reasonably reciprocal recognition and cooperation.

(2) A commissioner identified under this subsection as the group-wide supervisor may determine that it is appropriate to acknowledge another supervisor to serve as the group-wide supervisor. The acknowledgment of the supervisor shall be made after consideration of the factors listed in subdivisions (A) through (E) of this subdivision, and shall be made in cooperation with and subject to the acknowledgment of other regulatory officials involved with supervision of the members of the group, and in consultation with the group itself.

(c) Notwithstanding any other provision of law to the contrary, when another regulatory official is acting as the group-wide supervisor of an internationally active insurance group, the Commissioner shall acknowledge such official as the supervisor. However, in the event of a material change in the group that results in:

(1) the group's insurers domiciled in Vermont holding the largest share of the group's premiums, assets, or liabilities; or

(2) Vermont becoming the place of domicile of the top-tiered insurers in the insurance holding company system of the group, the Commissioner shall make a determination or acknowledgment as to the appropriate supervisor for such an group pursuant to subsection (b) of this section.

(d) Pursuant to section 3686 of this subchapter, the Commissioner is authorized to collect from any insurer registered under section 3684 of this subchapter all information necessary to determine whether the Commissioner shall act as the group-wide supervisor of an internationally active insurance group or, instead, acknowledge another regulatory official to act as supervisor.

(e) Prior to issuing a determination that a group is subject to supervision by the Commissioner, the Commissioner shall notify the insurer registered pursuant to section 3684 of this subchapter of the pending determination, including the ultimate controlling person within the group. The group shall have not less than 30 days to provide the Commissioner with any additional information it deems relevant to the determination. The Commissioner shall publish on its website the identity of internationally active insurance groups subject to supervision by him or her.

(f) If the Commissioner is the supervisor for a group, the Commissioner is authorized to engage in any of the following group-wide supervision activities:

(1) Assess the enterprise risks within the group to ensure that:

(A) the material financial condition and liquidity risks to the members of group engaged in the business of insurance are identified by management; and

(B) reasonable and effective mitigation measures are in place.

(2) Request, from any member of a group subject to the Commissioner's supervision, information necessary and appropriate to assess enterprise risk, including information about the members of the group regarding:

(A) governance, risk assessment, and management;

(B) capital adequacy; and

(C) material intercompany transactions.

(3) Coordinate and, through the authority of the regulatory officials of the jurisdictions where members of the group are domiciled, compel development and implementation of reasonable measures designed to ensure that the group is able to timely recognize and mitigate enterprise risks to members of the group engaged in the business of insurance.

(4) Communicate with other state, federal, and international regulatory agencies of members within group and share relevant information, subject to the confidentiality provisions of section 3687 of this subchapter, through supervisory colleges as provided in section 3695 of this subchapter or otherwise.

(5) Enter into agreements with or obtain documentation from any insurer registered under section 3684 of this subchapter, any member of the group, and any other state, federal, and international regulatory agencies of members of the group, providing the basis for or otherwise clarifying the Commissioner's role as group-wide supervisor, including provisions for resolving disputes with other regulatory officials. Such agreements or documentation shall not serve as evidence in any proceeding that any insurer or person within an insurance holding company system not domiciled or incorporated in Vermont is doing business in Vermont or is otherwise subject to Vermont jurisdiction.

(6) Engage in other group-wide supervision activities, consistent with this subsection, as deemed necessary by the Commissioner.

(g) If the Commissioner acknowledges another regulatory official from a jurisdiction not accredited by the NAIC as the group-wide supervisor, the Commissioner is authorized to reasonably cooperate, through supervisory colleagues or otherwise, with group-wide supervision undertaken by the supervisor, provided:

(1) The Commissioner's cooperation is in compliance with Vermont law.

(2) The regulatory official acknowledged as the supervisor also recognizes and cooperates with the Commissioner's activities as a group-wide supervisor for other internationally active insurance groups where applicable. When such recognition and cooperation is not reasonably reciprocal, the Commissioner is authorized to refuse recognition and cooperation.

(h) The Commissioner is authorized to enter into agreements with or obtain documentation from any insurer registered under section 3684 of this subchapter, any affiliate of the insurer, and other state, federal, and international regulatory agencies for members of the internationally active insurance group that provide the basis for or otherwise clarify a regulatory official's role as group-wide supervisor.

(i) The Commissioner may adopt rules necessary for the administration of this section.

(j) A registered insurer subject to this section is liable for and shall pay the reasonable expenses of the Commissioner's participation in the administration of this section, including the engagement of attorneys, actuaries, and any other professionals, as well as all reasonable travel expenses.

#### Sec. 5. EFFECTIVE DATE

This act shall take effect on passage.

and that after passage the title of the bill be amended to read: "An act relating to group-wide supervision of internationally active insurance groups and the establishment of domestic insurers in Vermont".

**( Committee Vote: 10-0-1)**

#### **Public Hearings**

February 10, 2015 - House Chambers - 5:30pm-8:00 pm - Public Hearing on Criminal Background Check for Firearms - Senate Judiciary and Health and Welfare

#### **Information Notice**

#### **HOUSE BILL INTRODUCTION DEADLINES**

To All House Members:

Request Deadline - All requests for introduction of bills drafted in standard form must be submitted to the Legislative Council by Friday, January 30,

2015.

During the first year of the biennium, a member may request introduction of a bill drafted in short form and submitted to the Legislative Council anytime during the session.

Introduction Deadline - Except with prior consent of the Committee on Rules, all bills drafted in standard form, shall be introduced by February 27, 2015.

During the first year of the biennium Committee bills may be introduced at anytime.