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MEMORANDUM

To: Rep. Bill Botzow, Chair, House Committee on Commerce and Economic Development

From: Rep. Janet Ancel, Chair, House Committee on Ways and Means
Rep. Carolyn Branagan, Vice-Chair, House Committee on Ways and Means

Date: January 26, 2016

Subject: Review of Administration's Proposed FY 2017 Fee Bill

The House Ways and Means Committee has begun work on the Administration's proposed FY 2017 Fee Bill and would like the Committee on Commerce and Economic Development to review Sections 31 to 35 of the draft bill.

These sections contain the proposed establishment of a "business entity limited lines producer" definition in statute as well as a corresponding fee of \$150 for initial licensing and subsequent biennial renewals. The language also proposes to increase the filing fee for issuers of mutual funds from \$600 to \$1,200 per portfolio or class of securities.

Please see below the proposed language and fees provided by the Administration. It would be helpful if you could respond with any recommendations by the end of the day on Friday, February 5th, 2016. Thank you in advance for your consideration.

Financial Regulations

License requirements

Sec. 31. 8 VSA § 4791 is amended to read:

(8) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(9) “Business entity limited lines producer” means a business entity, as defined in subdivision (8) of this section, that is also a limited lines producer, as defined in subdivision (7) of this section.

Sec. 32. 8 VSA § 4800 is amended to read:

License requirements

The Commissioner shall not issue, continue, or permit to continue any license of an insurance producer, surplus lines insurance broker, managing general agent, reinsurance intermediary, insurance consultant, limited lines producer, business entity limited lines producer, insurance adjuster, public adjuster, and appraiser except in compliance with the following:

Sec. 33. 8 VSA § 4800(2)(A) is amended to read:

All license applications shall be accompanied by a \$30.00 fee plus the applicable fees as follows:

(i) Initial licensing and biennial renewal licensing fee for insurance producers and limited lines producers, \$30.00.

(ii) Initial licensing and biennial renewal licensing fee for a business entity limited lines producer, \$150.

~~(iii)~~ Except as provided in subdivisions (I) and (II) of this subdivision, initial and biennial producer appointment fees for each qualification set forth in section 4813g of subchapter 1A of this chapter for resident and nonresident producers acting as agents of foreign insurers, \$60.00:

(I) the Commissioner may charge one fee for a qualification in "property and casualty" insurance; and

(II) the Commissioner may charge one fee for a qualification in "life and accident and health or sickness" insurance.

~~(iv)~~ Initial 24-month appointment and biennial renewal appointment fee for limited lines producers, \$60.00.

~~(v)~~ Initial 24-month license and biennial renewal fee for resident and nonresident adjusters, and appraisers licenses, \$60.00, and public adjusters, \$200.00.

~~(vi)~~ The initial 24-month license fee and biennial renewal fee for surplus lines brokers, \$400.00.

~~(vii)~~ The initial 24-month license fee and biennial renewal fee for consultants, \$200.00.

~~(viii)~~ The initial 24-month license fee and biennial renewal fee for reinsurance intermediaries, \$200.00.

~~(ix)~~ The initial 24-month license fee and biennial renewal fee for managing general agents, \$300.00.

Sec. 34. 8 VSA § 4813a is amended to read:

Definitions

(1) "Business entity" ~~means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.~~ shall have the same meaning as in subdivision 4791(8) of this title.

Sec. 35. 9 VSA § 5302(e) is amended to read:

(a) With respect to a federal covered security, as defined in 15 U.S.C. § 77r(b)(2), that is not otherwise exempt under sections 5201 through 5203 of this chapter, a rule adopted or an order issued under this chapter may require the filing of any or all of the following records:

(1) before the initial offer of a federal covered security in this State, all records that are part of a federal registration statement filed with the Securities and Exchange Commission under 15 U.S.C. § 77a et seq. and a consent to service of process complying with section 5611 of this chapter signed by the issuer and the payment of a registration fee as set forth in subsection (e) or (f) of this section;

(2) after the initial offer of the federal covered security in this State, all records that are part of an amendment to a federal registration statement filed with the Securities and Exchange Commission under 15 U.S.C. § 77a et seq.; and

(3) to the extent necessary or appropriate to compute fees, a report of the value of the federal covered securities sold or offered to persons present in this State in such form and at such time as the commissioner may prescribe if the state-specific sales data are not included and available in records filed with the Securities and Exchange Commission.

(b) A notice filing under subsection (a) of this section is effective for one year from the date the notice filing is accepted as complete by the Office of the Commissioner. On or before expiration, the issuer may renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed and by paying an annual renewal fee as set forth in subsection (e) or (f) of this section. A previously filed consent to service of process complying with section 5611 of this chapter may be incorporated by reference in a renewal. A renewed notice filing becomes effective upon the expiration of the filing being renewed.

(c) With respect to a security that is a federal covered security under 15 U.S.C. § 77r(b)(4) ~~(DE)~~, a rule under this chapter may require a notice filing by or on behalf of an issuer to include a copy of Form D, including the Appendix, as promulgated by the Securities and Exchange Commission, and a consent to service of process complying with section 5611 of this chapter signed by the issuer not later than 15 days after the first sale of the federal covered security in this state and the payment of a fee as set forth in subsection (e) of this section. The notice filing shall be effective for one year from the date the notice filing is accepted as complete by the Office of the Commissioner. On or before expiration, the issuer may annually renew a notice filing by filing a copy of those records filed by the issuer with the Securities and Exchange Commission that are required by rule or order under this chapter to be filed and by paying an annual renewal fee as set forth in subsection (e) of this section.

(d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted thereunder, with respect to any security that is a federal covered security under 15 U.S.C. § 77r(b)(3) or (4)(A)-(C) and that is not otherwise exempt under sections 5201 through 5203 of this chapter, a rule adopted or order issued under this chapter may require any or all

of the following with respect to such federal covered securities, at such time as the Commissioner may deem appropriate:

(1) the filing of documents as deemed appropriate by the Commissioner;

(2) the filing of a consent to service of process complying with section 5611 of this chapter; and

(3) the payment of fees as set forth in subsection (e) of this section, including but not limited to fees for renewal of a notice filing, as appropriate. The notice filing shall be effective for one year from the date the notice filing is accepted as complete by the office of the Commissioner.

(e) At the time of the filing of the information prescribed in subsections (a), (b), (c), or (d) of this section, except investment companies subject to 15 U.S.C. § 80a-1 et seq., the issuer shall pay to the Commissioner a fee of \$600.00. If the notice filing is withdrawn or otherwise terminated, the Commissioner shall retain the fee paid. ~~Open-end investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay an initial notice filing fee and annual renewal fee for each portfolio or class of investment company securities for which a notice filing is submitted.~~

(f) Investment companies subject to 15 U.S.C. § 80a-1 et seq. shall pay to the Commissioner an initial notice filing fee and annual renewal fee of \$1,200 for each portfolio or class of investment company securities for which a notice filing is submitted.

(fg) Nothing in this section shall be construed to require the notice filing or payment of notice filing fees with respect to variable annuities or variable life insurance products.

(gh) Except with respect to a federal covered security under 15 U.S.C. § 77r(b)(1), if the Commissioner finds that there is a failure to comply with a notice or fee requirement of this section, the Commissioner may issue a stop order suspending the offer and sale of a federal covered security in this State. If the deficiency is corrected, the stop order is void as of the time of its issuance and no penalty may be imposed by the Commissioner.