

1 H.719

2 Introduced by Representative Botzow of Pownal

3 Referred to Committee on

4 Date:

5 Subject: Insurance; rates; claims; investments; trust companies; board
6 meetings

7 Statement of purpose of bill as introduced: This bill proposes to amend
8 Vermont laws pertaining to insurance companies and trust companies.

9 An act relating to insurance companies and trust companies

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

11 * * * Authority to Transact Various Kinds of Insurance Business * * *

12 Sec. 1. 8 V.S.A. § 3362 is amended to read:

13 § 3362. AUTHORITY TO TRANSACT VARIOUS KINDS OF
14 INSURANCE BUSINESS

15 ~~The provisions of 11 V.S.A. § 762 shall not prevent a foreign or alien~~
16 ~~insurer from transacting~~ A foreign or alien insurer may transact more than one
17 kind of insurance business, provided the charter of such corporation authorizes
18 it to transact such different kinds of insurance business and its capital is
19 sufficient to provide the required capital for each kind of business to be
20 transacted.

1 * * * Permissible Investments for Domestic Insurance Companies * * *

2 Sec. 2. 8 V.S.A. § 3461 is amended to read:

3 § 3461. DEFINITIONS

4 ~~The following definitions, unless otherwise specified or qualified shall be~~
5 ~~applicable to~~ As used in this chapter:

6 (1) “Admitted assets” means assets permitted to be reported as admitted
7 assets on the annual statutory financial statement of the insurer for the next
8 preceding year or as shown by a current financial statement.

9 (2) “Appraised” or “appraised value” when used in connection with real
10 estate shall refer to appraisals made or examined and approved by an insurer or
11 its agents. An insurer shall have the right to make one or more renewals or
12 extensions of a loan secured by real estate, provided any renewal or extension
13 is based upon a reexamination of the facts and upon an appraisal made within
14 three years.

15 (3) “Asset-backed security” means a security or other instrument,
16 excluding a mutual fund, evidencing an interest in, or the right to receive
17 payments from, or payable from distributions on, an admitted asset, a pool of
18 admitted assets, or specifically divisible cash flows which are legally
19 transferred to a trust or another special purpose bankruptcy-remote business
20 entity, on the following conditions:

1 (A) The trust or other business entity is established solely for the
2 purpose of acquiring specific types of admitted assets or rights to cash flows,
3 issuing securities and other instruments representing an interest in or right to
4 receive cash flows from those admitted assets or rights, and engaging in
5 activities required to service the admitted assets or rights and any credit
6 enhancement or support features held by the trust or other business entity.

7 (B) The admitted assets of the trust or other business entity consist
8 solely of interest-bearing obligations or other contractual obligations
9 representing the right to receive payment from the cash flows from the
10 admitted assets or rights. However, the existence of credit enhancements, such
11 as letters of credit or guarantees, or support features such as swap agreements,
12 shall not cause a security or other instrument to be ineligible as an asset-backed
13 security.

14 (4) “Canada” means Canada, any province of Canada, or any political
15 subdivision of Canada.

16 (5) “Cap” means an agreement obligating the seller to make payments to
17 the buyer, with each payment based on the amount by which a reference price
18 or level or the performance or value of one or more underlying interests
19 exceeds a predetermined number, sometimes called the strike rate or strike
20 price.

1 (6) ~~“Class one bond mutual fund” means a mutual fund that at all times~~
2 ~~qualifies for investment using applicable SVO standards.~~

3 (7) ~~“Class one money market mutual fund” means a money market~~
4 ~~mutual fund that at all times qualifies for investment using applicable SVO~~
5 ~~standards.~~

6 (8) “Collar” means an agreement to receive payments as the buyer of an
7 option, cap, or floor and to make payments as the seller of a different option,
8 cap, or floor.

9 (9)(7) “Counterparty exposure amount” means:

10 (A) The net amount of credit risk attributable to a derivative
11 instrument entered into with a business entity other than through a qualified
12 exchange, or qualified foreign exchange or cleared through a qualified
13 clearinghouse. Such derivative instruments are hereinafter referred to as
14 “over-the-counter derivative instruments.” The amount of credit risk equals:

15 (i) the market value of the over-the-counter derivative instrument
16 if the liquidation of the derivative instrument would result in a final cash
17 payment to the insurer; or

18 (ii) zero, if the liquidation of the derivative instrument would not
19 result in a final cash payment to the insurer.

20 (B) If over-the-counter derivative instruments are entered into under
21 a written master agreement ~~which~~ that provides for netting of payments owed

1 by the respective parties, and the domiciliary jurisdiction of the counterparty is
2 either within the United States or, if not within the United States, within a
3 foreign jurisdiction listed in the Purposes and Procedures of the ~~Securities~~
4 ~~Valuation Office~~ NAIC Investment Analysis Office as eligible for netting, the
5 net amount of credit risk shall be the greater of zero or the net sum of:

6 (i) the market value of the over-the-counter derivative instruments
7 entered into under the agreement, the liquidation of which would result in a
8 final cash payment to the insurer; and

9 (ii) the market value of the over-the-counter derivative
10 instruments entered into under the agreement, the liquidation of which would
11 result in a final cash payment by the insurer to the business entity.

12 (C) For open transactions, market value shall be determined at the
13 end of the most recent quarter of the insurer's fiscal year; and shall be reduced
14 by the market value of acceptable collateral held by the insurer or placed in
15 escrow by one or both parties.

16 ~~(10)(8)~~ "Covered" means that an insurer owns or can immediately
17 acquire, through the exercise of options, warrants, or conversion rights already
18 owned, the underlying interest in order to fulfill or secure its obligations under
19 a call option, cap, or floor it has written or has set aside under a custodial or
20 escrow agreement cash or cash equivalents with a market value equal to the

1 amount required to fulfill its obligations under a put option it has written, in an
2 income generation transaction.

3 ~~(11)~~(9) “Derivative instrument” means an agreement, option,
4 instrument, or a series or combination thereof:

5 (A) to make or take delivery of, or assume or relinquish, a specified
6 amount of one or more underlying interests or to make a cash settlement in lieu
7 thereof; or

8 (B) that has a price, performance, value, or cash flow based primarily
9 upon the actual or expected price, level, performance, value, or cash flow of
10 one or more underlying interests. Derivative instruments include options,
11 warrants used in a hedging transaction and not attached to another financial
12 instrument, caps, floors, collars, swaps, forwards, futures, and any other
13 agreements, options, or instruments substantially similar thereto or any series
14 or combination thereof and any agreements, options, or instruments permitted
15 under this chapter. Derivative instruments shall not include an investment
16 authorized under subdivisions 3463(a)(1) through (a)(14) and (a)(16) through
17 (a)(29) of this title.

18 ~~(12)~~(10) “Derivative transaction” means a transaction involving the use
19 of one or more derivative instruments.

1 ~~(13)~~(11) “Direct” when used in connection with “obligation” means that
2 a designated obligor shall be primarily liable on the instrument representing the
3 obligation.

4 ~~(14)~~(12) “Domestic jurisdiction” means the United States, any state of
5 the United States, or any political subdivision of any of the foregoing.

6 ~~(15)~~(13) “Equity interest” means any of the following that are not rated
7 credit instruments:

8 (A) common stock;

9 (B) preferred stock;

10 (C) trust certificate;

11 (D) equity investment in an investment company other than a money
12 market mutual fund or a ~~class one~~ listed bond mutual fund;

13 (E) investment in a common trust fund of a bank regulated by a
14 federal or state agency;

15 (F) an ownership interest in minerals, oil, or gas, the rights to which
16 have been separated from the underlying fee interest in the real estate where
17 the minerals, oil, or gas is located;

18 (G) instruments ~~which~~ that are mandatorily, or at the option of the
19 issuer, convertible to equity;

20 (H) limited partnership interests;

21 (I) member interests in limited liability companies;

1 (J) warrants or other rights to acquire equity interests that are created
2 by the person that owns or would issue the equity to be acquired; or

3 (K) instruments that would be rated credit instruments except for the
4 provisions of subdivision (39)(B) of this section.

5 ~~(16)~~(14) “Floor” means an agreement obligating the seller to make
6 payments to the buyer in which each payment is based on the amount by which
7 a predetermined number, sometimes called the floor rate or price, exceeds a
8 reference price, level, performance, or value of one or more underlying
9 interests.

10 ~~(17)~~(15)(A) “Foreign investment” means an investment in a foreign
11 jurisdiction, or an investment in a person, real estate, or asset domiciled in a
12 foreign jurisdiction, that is substantially of the same type as those eligible for
13 investment under this subchapter, other than under subdivision 3463(a)(28) of
14 this title. An investment shall not be deemed to be foreign if the issuing
15 person, qualified primary credit source, or qualified guarantor is a domestic
16 jurisdiction or Canada or a person domiciled in a domestic jurisdiction or
17 Canada, unless:

18 (i) the issuing person is a shell business entity; and

19 (ii) the investment is not assumed, accepted, guaranteed, or

20 insured or otherwise backed by a domestic jurisdiction or Canada or a person

1 that is not a shell business entity domiciled in a domestic jurisdiction or
2 Canada.

3 (B) For purposes of this definition:

4 (i) “Qualified guarantor” means a guarantor against which an
5 insurer has a direct claim for full and timely payment, evidenced by a
6 contractual right for which an enforcement action can be brought in a domestic
7 jurisdiction or Canada.

8 (ii) “Qualified primary credit source” means the credit source to
9 which an insurer looks for payment as to an investment and against which an
10 insurer has a direct claim for full and timely payment, evidenced by a
11 contractual right for which an enforcement action can be brought in a domestic
12 jurisdiction or Canada.

13 (iii) “Shell business entity” means a business entity having no
14 economic substance except as a vehicle for owning interests in assets issued,
15 owned, or previously owned by a person domiciled in a foreign jurisdiction.

16 ~~(18)~~(16) “Foreign jurisdiction” means a jurisdiction other than a
17 domestic jurisdiction or Canada.

18 ~~(19)~~(17) “Forward” means an agreement (other than a future) to make or
19 take delivery of, or effect a cash settlement based on the actual or expected
20 price, level, performance, or value of, one or more underlying interests.

1 ~~(20)~~(18) “Future” means an agreement, traded on a qualified exchange
2 or qualified foreign exchange, to make or take delivery of, or effect a cash
3 settlement based on the actual or expected price, level, performance, or value
4 of, one or more underlying interests.

5 ~~(21)~~(19) “Guaranteed” means that the guarantor will perform the
6 obligation of the obligor or will purchase the obligation to the extent of the
7 guaranty.

8 ~~(22)~~(20) “Hedging transaction” means a derivative transaction ~~which~~
9 that is entered into and maintained to reduce:

10 (A) the risk of a change in the value, yield, price, cash flow, or
11 quantity of assets or liabilities ~~which~~ that the insurer has acquired or incurred
12 or anticipates acquiring or incurring; or

13 (B) the currency exchange rate risk or the degree of exposure as to
14 assets or liabilities ~~which~~ that an insurer has acquired or incurred or anticipates
15 acquiring or incurring.

16 ~~(23)~~(21) “High grade investment” means a rated credit instrument rated
17 1 or 2 by the SVO or that meets and continues to meet the conditions for
18 exemption as provided in section 3461d of this title.

19 ~~(24)~~(22) “Income generation transaction” means a derivative transaction
20 involving the writing of covered call options, covered put options, covered
21 caps, or covered floors that is intended to generate income or enhance return.

1 ~~(25)~~(23) “Institution” or “business entity” includes a sole proprietorship,
2 corporation, limited liability company, association, partnership, joint stock
3 company, joint venture, mutual fund, trust, joint tenancy, or other similar form
4 of business organization, whether organized for profit or ~~not for profit~~ not for
5 profit.

6 (24) “Listed bond mutual fund” means a mutual fund that at all times
7 qualifies for inclusion on the “bond fund list” within the Purposes and
8 Procedures of the NAIC Investment Analysis Office or any successor
9 publication.

10 ~~(26)~~(25) “Lower grade investment” or “lower grade obligation” means a
11 rated credit instrument rated 4, 5, or 6 by the SVO.

12 ~~(27)~~(26) “Medium grade investment” or “medium grade obligation”
13 means a rated credit instrument rated 3 by the SVO.

14 ~~(28)~~(27) “Money market mutual fund” means a mutual fund that meets
15 the conditions of 17 ~~Code of Federal Regulations Par.~~ C.F.R. Part 270.2a-7,
16 under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), as
17 amended or renumbered.

18 ~~(29)~~(28) “Mortgage loan” means an obligation secured by a mortgage,
19 deed of trust, trust deed, or other consensual lien on real estate.

20 ~~(30)~~(29) “Mutual fund” means an investment company or, in the case of
21 an investment company that is organized as a series company, an investment

1 company series that, in either case, is registered with the ~~U.S.~~ U.S. Securities
2 and Exchange Commission under the Investment Company Act of 1940 (15
3 U.S.C. § 80a-1 et seq.), as amended.

4 ~~(31)~~(30) “NAIC” means the National Association of Insurance
5 Commissioners.

6 ~~(32)~~(31) “Obligation” means a bond, note, debenture, trust certificate,
7 including an equipment certificate, production payment, negotiable bank
8 certificate of deposit, bankers’ acceptance, credit tenant plan, loan secured by
9 financing net leases, and other evidence of indebtedness for the payment of
10 money (or participations, certificates, or other evidences of interest in any of
11 the foregoing).

12 ~~(33)~~(32) “Option” means an agreement giving the buyer the right to buy
13 or receive (a “call option”), sell or deliver (a “put option”), enter into, extend,
14 or terminate or effect a cash settlement based on the actual or expected price,
15 level, performance, or value of one or more underlying interests.

16 ~~(34)~~(33) “Potential exposure” means the amount determined in
17 accordance with the NAIC Annual Statement Instructions.

18 ~~(35)~~(34) “Qualified bank” means:

19 (A) A national bank, state bank, or trust company that at all times is
20 no less than adequately capitalized as determined by standards adopted by U.S.

1 banking regulators, and that is either regulated by state banking laws or is a
2 member of the Federal Reserve System; or

3 (B) A bank or trust company incorporated or organized under the
4 laws of a country other than the United States that is regulated as a bank or
5 trust company by that country's government or an agency thereof; and that at
6 all times is no less than adequately capitalized as determined by the standards
7 adopted by international banking authorities.

8 ~~(36)~~(35) "Qualified clearinghouse" means a clearinghouse for, and
9 subject to the rules of, a qualified exchange or a qualified foreign exchange,
10 which provides clearing services, including acting as a counterparty to each of
11 the parties to a transaction, such that the parties no longer have credit risk as to
12 each other.

13 ~~(37)~~(36) "Qualified exchange" means:

14 (A) a securities exchange registered as a national securities exchange
15 or a securities market regulated under the Securities Exchange Act of 1934
16 (15 U.S.C. § 78 et seq.), as amended;

17 (B) a board of trade or commodities exchange designated as a
18 contract market by the Commodity Futures Trading Commission or any
19 successor thereof;

20 (C) private Offerings, Resales and Trading through Automated
21 Linkages (PORTAL);

1 (D) a designated offshore securities market as defined in Securities
2 Exchange Commission Regulation S, 17 C.F.R. Part 230, as amended; or

3 (E) a qualified foreign exchange.

4 ~~(38)~~(37) “Qualified foreign exchange” means a foreign exchange, board
5 of trade, or contract market located outside the United States, its territories, or
6 possessions:

7 (A) that has received regulatory comparability relief under
8 Commodity Futures Trading Commission (CFTC) Rule 30.10 (as set forth in
9 Appendix C to Part 30 of the CFTC’s Regulations, 17 C.F.R. Part 30);

10 (B) that is, or its members are, subject to the jurisdiction of a foreign
11 futures authority that has received regulatory comparability relief under CFTC
12 Rule 30.10 (as set forth in Appendix C to Part 30 of the CFTC’s Regulations,
13 17 C.F.R. Part 30) as to futures transactions in the jurisdiction where the
14 exchange, board of trade, or contract market is located; or

15 (C) upon which foreign stock index futures contracts are listed that
16 are the subject of no-action relief issued by the CFTC’s Office of General
17 Counsel, provided that an exchange, board of trade, or contract market that
18 qualifies as a “qualified foreign exchange” only under this subdivision shall
19 only be a “qualified foreign exchange” as to foreign stock index futures
20 contracts that are the subject of no-action relief.

1 ~~(39)~~(38)(A) “Rated credit instrument” means a contractual right to
2 receive cash or another rated credit instrument from another entity, which
3 instrument:

4 (i) is rated or required to be rated by the SVO or meets and
5 continues to meet the conditions for exemption as provided in section 3461d of
6 this title;

7 (ii) in the case of an instrument with a maturity of 397 days or
8 less, is issued, guaranteed, or insured by an entity that is rated by, or another
9 obligation of such entity is rated by, the SVO or by a ~~nationally recognized~~
10 nationally recognized statistical rating organization recognized by the SVO;

11 (iii) in the case of an instrument with a maturity of 90 days or less,
12 is issued by a qualified bank;

13 (iv) is a share of a ~~class one~~ listed bond mutual fund; or

14 (v) is a share of a money market mutual fund.

15 (B) “Rated credit instrument” does not mean:

16 (i) an instrument that is mandatorily or, at the option of the issuer,
17 convertible to an equity interest; or

18 (ii) a security that has a par value and whose terms provide that
19 the issuer’s net obligation to repay all or part of the security’s par value is
20 determined by reference to the performance of an equity, a commodity, a

1 foreign currency, or an index of equities, commodities, foreign currencies, or
2 combinations thereof.

3 ~~(40)~~(39) “Special rated credit instrument” means a rated credit
4 instrument that is:

5 (A) An instrument that is structured so that, if it is held until retired
6 by or on behalf of the issuer, its rate of return, based on its purchase cost and
7 any cash flow stream possible under the structure of the transaction, may
8 become negative due to reasons other than the credit risk associated with the
9 issuer of the instrument; however, a rated credit instrument shall not be a
10 special rated credit instrument under this subdivision if it is:

11 (i) a share in a ~~class one~~ listed bond mutual fund;

12 (ii) an instrument, other than an asset-backed security, with
13 payments of par value fixed as to amount and timing, or callable but in any
14 event payable only at par or greater, and interest or dividend cash flows that
15 are based on either a fixed or variable rate determined by reference to a
16 specified rate or index;

17 (iii) an instrument, other than an asset-backed security, that has a
18 par value, and is purchased at a price no greater than 110 percent of par;

19 (iv) an instrument, including an asset-backed security, whose rate
20 of return would become negative only as a result of a prepayment due to

1 casualty, condemnation or economic obsolescence of collateral, or change of
2 law;

3 (v) an asset-backed security that relies on collateral that meets the
4 requirements of subdivision (ii) of this ~~subdivision (40)(A)~~ subdivision
5 (39)(A), the par value of which collateral:

6 (I) is not permitted to be paid sooner than one-half of the
7 remaining term to maturity from the date of acquisition;

8 (II) is permitted to be paid prior to maturity only at a premium
9 sufficient to provide a yield to maturity for the investment, considering the
10 amount prepaid and reinvestment rates at the time of early repayment, at least
11 equal to the yield to maturity of the initial investment; or

12 (III) is permitted to be paid prior to maturity at a premium at
13 least equal to the yield of a treasury issue of comparable remaining life; or

14 (vi) an asset-backed security that relies on cash flows from assets
15 that are not prepayable at any time at par, but is not otherwise governed by
16 subdivision (v) of this ~~subdivision (40)(A)~~ subdivision (39)(A), if the asset-
17 backed security has a par value reflecting principal payments to be received if
18 held until retired by or on behalf of the issuer, and is purchased at a price no
19 greater than 105 percent of such par amount.

1 (B) An asset-backed security that:

2 (i) Relies on cash flows from assets that are prepayable at par at
3 any time;

4 (ii) Does not make payments of par that are fixed as to amount and
5 timing; and

6 (iii) Has a negative rate of return at the time of acquisition if a
7 prepayment threshold assumption is used with such prepayment threshold
8 assumption defined as either:

9 (I) Two times the prepayment expectation reported by a
10 recognized, publicly available source as being the median of expectations
11 contributed by broker dealers or other entities, except insurers, engaged in the
12 business of selling or evaluating such securities or assets. The prepayment
13 expectation used in this calculation shall be, at the insurer's election, the
14 prepayment expectation for pass-through securities of the Federal National
15 Mortgage Association, the Federal Home Loan Mortgage Corporation, the
16 Government National Mortgage Association, or for other assets of the same
17 type as the assets that underlie the asset-backed security, in either case with a
18 gross weighted average coupon comparable to the gross weighted average
19 coupon of the assets that underlie the asset-backed security; or

20 (II) Another prepayment threshold assumption specified by the
21 ~~commissioner by regulation~~ Commissioner by rule.

1 (C) For purposes of subdivision (B) of this ~~subdivision (40)~~
2 subdivision (39), if the asset-backed security is purchased in combination with
3 one or more other asset-backed securities that are supported by identical
4 underlying collateral, the insurer may calculate the rate of return for these
5 specific combined asset-backed securities in combination. The insurer must
6 maintain documentation demonstrating that such securities were acquired and
7 are continuing to be held in combination.

8 ~~(41)~~(40) “State of the United States” means any state of the United
9 States of America, ~~and~~ the District of Columbia, and the Commonwealth of
10 Puerto Rico.

11 ~~(42)~~(41) “SVO” means the Securities Valuation Office of the NAIC or
12 any successor office established by the NAIC.

13 ~~(43)~~(42) “Swap” means an agreement to exchange or to net payments at
14 one or more times based on the actual or expected price, level, performance, or
15 value of one or more underlying interests.

16 ~~(44)~~(43) “Underlying interest” means the assets, liabilities, other
17 interests, or a combination thereof underlying a derivative instrument, such as
18 any one or more securities, currencies, rates, indices, commodities, or
19 derivative instruments.

20 ~~(45)~~(44) “Warrant” means an instrument that gives the holder the right
21 to purchase an underlying financial instrument at a given price and time or at a

1 series of prices and times outlined in the warrant agreement. Warrants may be
2 issued alone or in connection with the sale of other securities, for example, as
3 part of a merger or recapitalization agreement or to facilitate divestiture of the
4 securities of another business entity.

5 Sec. 3. 8 V.S.A. § 3461c(3) is amended to read:

6 (3)(A) Subject to applicable limitations of subsection 3461a(b) or
7 3461b(b) of this subchapter, but not the limitations of subsection 3461a(a) or
8 3461b(a), an insurer may acquire rated credit instruments, excluding asset-
9 backed securities:

10 (i) issued by a government money market mutual fund, ~~a class one~~
11 ~~money market mutual fund~~, or a ~~class one~~ listed bond mutual fund;

12 (ii) issued, assumed, guaranteed, or insured by a government-
13 sponsored enterprise of the United States other than those eligible under
14 subdivision (i) of this subdivision (3)(A);

15 (iii) issued, assumed, guaranteed, or insured by a state, if the
16 instruments are general obligations of the ~~State~~ state; or

17 (iv) issued by a multilateral development bank.

18 (B) However, an insurer shall not acquire an instrument of any one
19 fund, any one enterprise or entity or any one state under this section if, as a
20 result of and after giving effect to the investment, the aggregate amount of

1 investments then held in any one fund, enterprise, or entity or state under this
2 subdivision would exceed 10 percent of its admitted assets.

3 Sec. 4. 8 V.S.A. § 3461d is amended to read:

4 § 3461d. REGISTRATION OR FILING EXEMPTION

5 Notwithstanding the provisions of any other section of subchapter 4 of this
6 chapter, an insurer shall not be required to register or file with the SVO any
7 security that meets and continues to meet the conditions for exemption for
8 certain nationally recognized statistical rating organization rated securities
9 consistent with the Purposes and Procedures Manual of the NAIC ~~Securities~~
10 ~~Valuation Office, as amended from time to time~~ Investment Analysis Office or
11 any successor publication.

12 * * * Interest Rate for Late Payment of Insurance Claims * * *

13 Sec. 5. 8 V.S.A. § 3665(d) is amended to read:

14 (d)(1) If an insurer fails to pay timely a claim, it shall pay interest on the
15 amount of the claim beginning 30 days after a beneficiary files a properly
16 executed proof of loss. The interest rate shall be the rate paid on proceeds left
17 on deposit, or six percent, whichever is greater.

18 (2) In the event judgment is entered for a beneficiary or a settlement
19 agreement between the insurer and the beneficiary is executed, interest shall
20 accrue from 30 days after the beneficiary filed a proof of loss. The interest rate
21 imposed on the insurer shall be the judgment rate allowed by law.

1 * * * Property and Casualty Insurance; Unfairly Discriminatory Rates * * *

2 Sec. 6. 8 V.S.A. § 4685 is amended to read:

3 § 4685. RATE STANDARDS

4 (a) General. Rates shall not be excessive, inadequate, or unfairly
5 discriminatory.

6 (b) Excessiveness.

7 (1) Competitive market. A rate in a competitive market is not excessive
8 ~~or unfairly discriminatory.~~

9 (2) Noncompetitive market. Rates in a noncompetitive market are
10 excessive if they are producing or are likely to produce unreasonably high
11 profits for the insurance provided or if expenses are unreasonably high in
12 relation to services rendered.

13 (c) Inadequacy. Rates are not inadequate unless insufficient to sustain
14 projected losses and expenses in the class or classes of business to which they
15 apply or the use of such rates has or, if continued, will have the effect of
16 substantially lessening competition or the tendency to create a monopoly in
17 any market.

18 (d) Unfair discrimination. Unfair discrimination exists if, after allowing for
19 practical limitations, price differentials fail to reflect equitably the differences
20 in expected losses and expenses. A rate is not unfairly discriminatory because
21 different premiums result for a class of policyholders with like loss exposures

1 but different expenses, or like expenses but different loss exposures, ~~so long as~~
2 provided that the rate equitably reflects the differences with reasonable
3 accuracy. A rate is not unfairly discriminatory if it is averaged broadly among
4 persons insured under a group, franchise, or blanket policy or a mass marketed
5 plan.

6 * * * Trust Company Board Meeting Requirements * * *

7 Sec. 7. 8 V.S.A. § 2402(f) is amended to read:

8 (f) An independent trust company formed and authorized under this chapter
9 shall:

10 (1) maintain its principal place of business in this State;

11 (2) appoint a registered agent to accept service of process and to
12 otherwise act on its behalf in this State, provided that whenever such registered
13 agent cannot with reasonable diligence be found at the Vermont registered
14 office of the independent trust company, the Secretary of State shall be an
15 agent of such independent trust company upon whom any process, notice, or
16 demand may be served;

17 (3) hold at least ~~one meeting~~ four meetings of its governing body ~~in this~~
18 State each year, including once quarterly, and at least one such meeting each
19 year shall be held in Vermont; and

20 (4) have at least one Vermont resident as a member of its governing
21 body.

1 Sec. 8. 8 V.S.A. § 12602(q) is added to read:

2 (q) Notwithstanding section 12201 of this title, the governing body of a
3 nondepository trust company shall meet at least four times a year, including
4 once quarterly.

5 * * * Effective Date ***

6 Sec. 9. EFFECTIVE DATE

7 This act shall take effect on July 1, 2018.