

**Section by Section Summary: H.593**

**An act relating to miscellaneous consumer protection provisions**

As Passed House and **As Amended by Senate Economic Development**

**Secs. 1-2 – Automatic Renewal Provisions in Consumer Contracts**

**Sec. 1** provides that a consumer contract of one year or longer and that auto renews for a term longer than one month will not automatically renew unless the consumer takes an affirmative step to opt in to the auto renew provision and the seller/lessor provides written or electronic notice of renewal between 30-60 days before the earliest of auto renewal date, termination date, or date by which consumer must provide notice to cancel.

**Sec. 2** applies to existing contracts with auto renewal provisions, and provides that those contracts do not auto renew unless the seller/lessor provides the notice required, in the time frame specified, in Sec. 1.

Effective date – January 1, 2019

**Sec. 3 – Retainage for Construction Materials**

Amends 9 V.S.A. § 4005 governing retainage in construction contracts. Provides that, unless a contractor or sub is the person who delivers the materials and performs the work, the contractor or subcontractor shall not hold retainage for contracted materials that:

- (1) have been delivered by a materialman and accepted by the contractor at the site, or off-site; and
- (2) are covered by a manufacturer’s warranty, or graded to meet industry standards, or both.

Effective July 1, 2018

**Secs. 4-5 – Credit Protection for Vulnerable Persons**

Sec. 4 amends 9 V.S.A. § 2480a to add necessary definitions in conjunction with Sec. 5.

As passed House – a protected consumer was 18 or younger, unless emancipated

**First instance of amendment- SED changes definition of “protected consumer” to be under 16 years of age**

**Second instance of amendment - SED adds a birth certificate to definition of “sufficient proof of authority”**

Sec. 5, which adds a new subchapter governing credit protection for a protected consumer to prevent identity theft of protected consumers. This subchapter creates a framework whereby the representative of a minor (less than 18 years, unless emancipated) protected person, defined as a person who is under 16, incapacitated, or subject to court-ordered guardianship, can request that a consumer reporting agency (1) freeze the credit report of the protected consumer or (2) create a credit record for the protected consumer and freeze it. It provides the details for how to request the freeze, consequences of the freeze, and how to lift the freeze.

Third, Fourth, and Fifth instances of amendment – SED makes conforming changes to specify the procedure by which a protected consumer’s representative may submit a request to place, lift temporarily, or lift permanently a credit security freeze;

→ House had special protocols for freezes concerning a “protected person” who is age 16 or 17. Because SED changed bill so that now a “protected person” is under 16, those House protocols are no longer necessary

Effective January 1, 2019

## **Sec. 6 – Use of Credit Information for Personal Insurance**

This section regulates the use of credit information for personal insurance, so that consumers are afforded certain protections with respect to the use of such information. It is modeled after a model act prepared by NCOIL (the National Conference of Insurance Legislators).

Among other things, the bill prohibits an insurer from basing underwriting and rate determinations solely on a consumer’s credit information. The insurer must consider other factors. In addition, the proposal requires insurers to use recent and, as applicable, updated credit information. It restricts what information on a credit report may be considered a negative factor in determining a consumer’s insurance score. For example, lender inquiries from a mortgage provider appearing on a credit report shall not be considered a negative factor.

The bill also provides a process for allowing a consumer to explain any negative influences on a credit report caused by “extraordinary life circumstances.” Such “extraordinary life circumstances” may include a serious illness, death of a family member, or loss of employment. Upon learning of such event or circumstance, the insurer may recalculate the consumer’s insurance score and apply more favorable underwriting terms and rates.

An Insurer is required to disclose its use of credit information at the time a consumer applies for insurance. In addition, it is required to notify a consumer if it takes adverse action based on credit information.

Finally, the proposal requires all Vermont insurers that use insurance scores to underwrite and rate risks to file their scoring model, or other scoring processes, with the Department of Financial Regulation.

Effective date - on passage and apply to personal insurance policies either written to be effective or renewed on or after nine months from the date of passage

**Sec. 6A – Study; One-Stop Freeze Notification**

Directs Attorney General to consider a one-stop freeze process or other methods to ease the burden on consumers who want to place a security freeze on their credit files.