Section by Section Summary: S.136

An act relating to miscellaneous consumer protection provisions

As passed House Commerce 4/21/17
(highlighted language reflects change from As Passed Senate)

Sec. 1. Home Loan Escrow Account Analysis

Currently:
(1) A lender may require a borrower to escrow the amounts necessary to cover taxes, insurance, and other charges, plus 1/12 of total annual charges (on an annual or monthly basis).
(2) A lender that escrows funds for a borrower must perform an annual escrow account analysis and provide financial statements concerning the escrow account annually, or at the request of the borrower.

Sec. 1 amends 8 V.S.A. § 10404:

(1) Allows a lender to escrow amounts required for taxes, insurance, and other charges, plus 1/6 of total annual charges (on an annual or monthly basis)
(2) Incorporates requirement to perform annual escrow account analysis into State law (tracks federal Real Estate Settlement Procedures Act ~ RESPA).
(3) Requires a lender, upon receipt of a revised tax bill, to verify if it was reduced and if so, conduct a new escrow account analysis, recalculate borrower's monthly escrow payment, and notify consumer of change.
(4) Requires lender to provide financial statements relating to escrow account at least annually, and whenever an analysis is conducted or at request of borrower.

Effective July 1, 2017

Secs. 2-3. Fantasy Sports Contests

Sec. 2 includes findings and purpose language.

Sec. 3 requires two proposals concerning fantasy sports by December 15, 2017:
(1) Secretary of Administration – registration requirements, a flat registration fee amount, and an appropriate percentage tax on an appropriate measure of revenue
(2) Attorney General – consumer protection provisions regulating fantasy sports

Effective on passage

Secs. 6-7 – Automatic Renewal Provisions in Consumer Contracts

Sec. 6 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. 7 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. 6.

Effective date – January 1, 2018

Sec. 8 – 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, 2017

Secs. 9-10 – Credit Protection for Vulnerable Persons

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

Sec. 10, 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 a guardian of a minor (less than 18 years, unless emancipated) or other protected consumer (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 file for the protected consumer and freeze it. It provides the details for how to request the freeze, consequences of the freeze, and how to life the freeze.

Effective January 1, 2017

Sec. 11 – 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 effective date of the act.

Secs. 12-15 – Credit Card Debt Collection

Sec. 12 reduces the statute of limitations to initiate a civil action to collect credit card debt from 6 years to 3 years.

Sec. 13 provides that in the case of a judgment against a debtor where the debtor's income may be attached through trustee process, the debtor's income will be exempt in an action arising from a default on credit card debt in an amount equal to 85 percent of the debtor's weekly disposable earnings, or 40 times the applicable minimum hourly wage, whichever is greater.

Sec. 14 provides that interest on a judgment against a debtor in default on credit card debt accrues at 12 percent per year (standard); however, gives a court the authority to suspend accrual of interest in that case if the court finds the debtor has an inability to pay.

Sec. 15 makes a corresponding technical change to specify that in the case of a judgment lien against real property, interest accrues at 12 percent unless a court suspends accrual of interest.

Effective July 1, 2017