

Section by Section Summary: S.136

An act relating to miscellaneous consumer protection provisions

As passed House Commerce 4/21/17

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.

Secs. 2-5. Fantasy Sports Contests

Sec. 2 creates a new 9 V.S.A. Chapter 116 governing fantasy sports contests:

§ 4185 adds definitions for "computer script," "confidential fantasy sports information," "fantasy sports contest," "fantasy sports operator," and "fantasy sports player."

§ 4186 creates consumer protections:

(a) requires operators to adopt commercially reasonable policies and procedures to:
(1) limit participation by the operator, employees, relatives, professional athletes, and officials;

(2) prevent disclosure of confidential information

(3) require players to be 18 or older

(4) limit and disclose number of entries per contest

(5) limit players to one account or username

- (6) protect player funds by segregating from operational funds or maintaining reserves
- (7) notify players that winnings may be taxable

- (b) impose duties on operators to:
 - (1) provide website link for information on addiction and compulsive behavior
 - (2) enable players to self-restrict access to contests
 - (3) provide access to historical player information on play history, spending, etc.

- (c) requires operator to contract with 3rd party to perform annual compliance audit

- (d) prohibits operator to extend credit to a player

- (e) prohibits fantasy contests based on college, high school, or youth athletic events**

§ 4187 – adopts certain requirements relating to fair and truthful advertising

§ 4188 – regulation and enforcement

- (a) – requires operator to register with the Secretary of State and \$250 registration fee
- (b)-(c) – regulation is by Attorney General under Consumer Protection Act

§ 4189 – provides that gambling and lottery statutes do not apply to fantasy sports contests

§ 4190 – imposes 6% annual assessment on operator annual net revenue → General Fund

Sec. 3 allows the Department of Taxes to share tax information with the Secretary of State to administer the registration fee

Sec. 4 adds 32 V.S.A. chapter 221, imposing an 11% tax on annual net fantasy sports contest revenue and governing returns and penalties

Sec. 5 requires an annual report on fantasy sports business activity in the State

Effective date – provisions take effect on January 1, 2018

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

Sec. 6 provides that a consumer contract of one year or longer 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 16 years) 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 lift the freeze.

Effective July 1, 2017

Sec. 11 – Use of Credit Information for Personal Insurance

Regulates the use of credit information for personal insurance based on NCOIL model act.

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