

1 H.195

2 Introduced by Representative Botzow of Pownal

3 Referred to Committee on

4 Date:

5 Subject: Insurance; cooperative insurance companies; group life insurance;
6 medical examiner liability

7 Statement of purpose of bill as introduced: This bill proposes to make
8 amendments to Vermont law as it pertains to: the bylaws of cooperative
9 insurance companies; group life insurance; and Vermont medical examiner
10 liability.

11 An act relating to cooperative insurance companies, group life insurance,
12 and medical examiner liability

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

14 * * * Cooperative Insurance; Bylaws * * *

15 Sec. 1. 8 V.S.A. § 3925 is amended to read:

16 § 3925. BYLAWS; COMPULSORY PROVISIONS

17 The bylaws of a cooperative insurance corporation to which a certificate of
18 authority is issued shall include substantially the following provisions:

19 (1) The corporate powers of such corporation shall be exercised by a
20 board of directors, who shall be not less than five in number. Such directors

1 shall be divided into classes and a portion only elected each year. They shall
2 be elected for a term of not more than four years each and shall choose ~~from~~
3 ~~their number~~ a president, a secretary, and such other officers as may be deemed
4 necessary. After the first year, the directors shall be chosen at an annual
5 meeting to be held on the second Tuesday of January, unless some other day is
6 designated in such bylaws, at which meeting each person insured shall have
7 one vote and may be entitled to vote by proxy under such rules and regulations
8 as may be prescribed by the bylaws.

9 (2) Such corporation shall keep proper books, including a policy
10 register, in which the secretary shall enter the complete record of all its
11 transactions and those of the board of directors and executive committee. Such
12 books shall at all times show fully and truly the condition, affairs, and business
13 of such corporation and shall be open for inspection by every person insured,
14 each day from nine o'clock in the forenoon to four o'clock in the afternoon,
15 Saturdays, Sundays, and legal holidays excepted.

16 (3) If authorized as an assessment cooperative insurance corporation as
17 outlined in subsection 3920(a) of this title, such corporation may assess for the
18 purposes specified in section 3927 of this title, and the bylaws shall specify the
19 manner of giving notice of such assessments, which may be either personal or
20 by mail, and, if by mail, shall be deemed complete if such notice is deposited,
21 postage prepaid, in the post office at the place where the principal office of the

1 corporation is located, directed to the person insured at his or her last known
2 place of residence or business. A person insured who neglects or refuses to
3 pay his or her assessments, for that reason or for any other reason satisfactory
4 to the board of directors or its executive committee, may be excluded from
5 such corporation and, when thus excluded, the secretary shall cancel or
6 withdraw his or her policy or policies, subject to the cancellation provisions in
7 sections 3879 through 3882 and chapter 113, subchapter 2 of this title,
8 provided that such person shall remain liable for his or her pro rata share of
9 losses and expenses incurred on or before the date of his or her exclusion and
10 for the penalty herein provided, in case an action is brought against him or her.
11 If a member of such corporation is so excluded and his or her policy so
12 canceled, the secretary shall forthwith enter such cancellation and the date
13 thereof on the records kept in the office of the corporation and serve notice of
14 such cancellation on the person so excluded, as provided herein for the service
15 of notice of assessment. However, in such event, the person so excluded or
16 whose policy is so canceled shall be entitled to the repayment of an equitable
17 portion of the unearned paid premium on such policy. The officers of such
18 corporation shall proceed to collect all assessments within 30 days after the
19 expiration of the notice to pay the same. Neglect or refusal on their part so to
20 proceed or to perform any of the duties imposed on them by law shall render
21 them individually liable for the amount lost to any person, due to such neglect

1 or refusal, and an action may be maintained by such person against such
2 officers to collect such amount. An action may be brought by the corporation
3 against a person insured therein to recover all assessments which he or she may
4 neglect or refuse to pay, and there may be recovered from him or her in such
5 action both the amount so assessed, with lawful interest thereon, and, as a
6 penalty for such neglect or refusal, 50 percent of such assessment in addition
7 thereto.

8 (4) Any person insured by an assessment cooperative insurance
9 corporation may withdraw therefrom at any time by giving written notice to
10 the corporation, stating the date of withdrawal, paying his or her share of all
11 claims then existing against such corporation, and surrendering his or her
12 policy or policies.

13 (5) Any person insured by a nonassessment cooperative insurance
14 corporation may withdraw from it at any time by giving written notice to the
15 corporation stating the date of withdrawal and surrendering his or her policy or
16 policies.

17 (6) Persons residing or owning property within ~~the state of Vermont~~ any
18 state where the corporation is authorized to do business may be insured upon
19 the same terms and conditions as original members and such other terms as
20 may be prescribed in the bylaws of the corporation.

1 ~~(7) Nonresidents owning property within the state of Vermont may be~~
2 ~~insured therein and shall have all the rights and privileges of the corporation~~
3 ~~and be accountable as are other persons insured therein, but shall not be~~
4 ~~eligible to hold office in the corporation;~~

5 ~~(8)~~ The bylaws of such corporation may be amended at any time.

6 * * * Group Life Insurance; Employee Pay All * * *

7 Sec. 2. 8 V.S.A. § 3803 is amended to read:

8 § 3803. EMPLOYEE GROUPS

9 The lives of a group of individuals may be insured under a policy issued to
10 an employer; or to the trustees of a fund established by an employer, which
11 employer or trustees shall be deemed the policyholder, to insure employees of
12 the employer for the benefit of persons other than the employer, subject to the
13 following requirements:

14 (1) The employees eligible for insurance under the policy shall be all of
15 the employees of the employer, or all of any class or classes thereof
16 determined by conditions pertaining to their employment. The policy may
17 provide that the term “employees” shall include the employees of one or more
18 subsidiary corporations, and the employees, individual proprietors, and
19 partners of one or more affiliated corporations, proprietors, or partnerships if
20 the business of the employer and of such affiliated corporations, proprietors, or
21 partnerships is under common control through stock ownership, contract, or

1 otherwise. The policy may provide that the term “employees” shall include the
2 individual proprietor or partners if the employer is an individual proprietor or a
3 partnership. The policy may provide that the term “employees” shall include
4 retired employees. No director of a corporate employer shall be eligible for
5 insurance under the policy unless such person is otherwise eligible as a bona
6 fide employee of the corporation, by performing services other than the usual
7 duties of a director. No individual proprietor or partner shall be eligible for
8 insurance under the policy unless he or she is actively engaged in and devotes
9 a substantial part of his or her time to the conduct of the business of the
10 proprietor or partnership. A policy issued to insure the employees of a public
11 body may provide that the term “employees” shall include elected or appointed
12 officials.

13 (2) The premium for the policy shall be paid by the policyholder, either
14 wholly from the employer’s funds or funds contributed by him or her, or partly
15 from such funds and partly from funds contributed by the insured employees,
16 or wholly from funds contributed by the insured employees. ~~No policy may be~~
17 ~~issued on which the entire premium is to be derived from funds contributed by~~
18 ~~the insured employees.~~ A policy on which no part of the premium is to be
19 derived from funds contributed by the insured employees must insure all
20 eligible employees, or all except any as to whom evidence of individual
21 insurability is not satisfactory to the insurer.

1 (3) The policy must cover at least two employees at date of issue.

2 (4) The amounts of insurance under the policy must be based upon some
3 plan precluding individual selection either by the employees or by the
4 employer or trustees.

5 Sec. 3. 8 V.S.A. § 3804 is amended to read:

6 § 3804. LABOR UNION GROUPS

7 The lives of a group of individuals may be insured under a policy issued to
8 a labor union, which shall be deemed the policyholder, to insure members of
9 such union for the benefit of persons other than the union or any of its officials,
10 representatives, or agents, subject to the following requirements:

11 (1) The members eligible for insurance under the policy shall be all of
12 the members of the union; or all of any class or classes thereof determined by
13 conditions pertaining to their employment or to membership in the union, or
14 both.

15 (2) The premium for the policy shall be paid by the policyholder, either
16 wholly from the union's funds, or partly from such funds and partly from funds
17 contributed by the insured members specifically for their insurance, or wholly
18 from funds contributed by the insured members specifically for their insurance.

19 ~~No policy may be issued on which the entire premium is to be derived from~~
20 ~~funds contributed by the insured members specifically for their insurance.~~ A
21 policy on which part of the premium is to be derived from funds contributed by

1 the insured members specifically for their insurance may be placed in force
2 only if at least 75 percent of the then eligible members, excluding any as to
3 whom evidence of individual insurability is not satisfactory to the insurer, elect
4 to make the required contributions. A policy on which no part of the premium
5 is to be derived from funds contributed by the insured members specifically for
6 the insurance must insure all eligible members, or all except any as to whom
7 evidence of individual insurability is not satisfactory to the insurer.

8 (3) The policy must cover at least 10 members at date of issue.

9 (4) The amounts of insurance under the policy must be based upon some
10 plan precluding individual selection either by the members or by the union.

11 Sec. 4. 8 V.S.A. § 3808 is amended to read:

12 § 3808. TRUSTEE GROUPS

13 The lives of a group of individuals may be insured under a policy issued to
14 the trustees of a fund established by, adopted by, or participated in by two or
15 more employers, or by one or more labor unions, or by one or more employers
16 and one or more labor unions, which trustees shall be deemed the policyholder,
17 to insure employees of the employers or members of the unions for the benefit
18 of persons other than the employers or the unions, subject to the following
19 requirements:

20 (1) No policy may be issued to insure employees of any employer
21 whose eligibility to participate in the fund as an employer arises out of

1 considerations directly related to the employer being a commercial
2 correspondent or business client or patron of another employer, except where
3 such other employer exercises substantial control over the business operations
4 of the participating employers.

5 (2) The persons eligible for insurance shall be all of the employees of
6 the employers or all of the members of the unions, or all of any class or classes
7 thereof determined by conditions pertaining to their employment; or to
8 membership in the unions, or to both. The policy may provide that the term
9 “employees” shall include retired employees, former employees, and the
10 individual proprietor or partners if an employer is an individual proprietor or a
11 partnership. No director of a corporate employer shall be eligible for insurance
12 under the policy unless such person is otherwise eligible as a bona fide
13 employee of the corporation by performing services other than the usual duties
14 of a director. No individual proprietor or partner shall be eligible for insurance
15 under the policy unless he or she is actively engaged in and devotes a
16 substantial part of his or her time to the conduct of the business of the
17 proprietor or partnership. The policy may provide that the term “employees”
18 shall include the trustees or their employees, or both, if their duties are
19 principally connected with such trusteeship.

20 (3) The premium for the policy shall be paid by the trustees wholly from
21 funds contributed by the employer or employers of the insured persons; or by

1 the union or unions, or by both, or partly from such funds and partly from
2 funds contributed by the insured persons, or wholly from funds contributed by
3 the insured persons. A policy on which no part of the premium is to be derived
4 from funds contributed by the insured persons specifically for their insurance
5 must insure all eligible persons, or all except any as to whom evidence of
6 individual insurability is not satisfactory to the insurer.

7 (4) The policy must cover at date of issue at least 100 persons; and it
8 must cover an average of not less than three persons per employer unit unless
9 the policy is issued to the trustees of a fund established by employers ~~which~~
10 that have assumed obligations through a collective bargaining agreement and
11 are participating in the fund either pursuant to those obligations with regard to
12 one or more classes of their employees ~~which~~ that are encompassed in the
13 collective bargaining agreement or as a method of providing insurance benefits
14 for other classes of their employees, or unless the policy is issued to the
15 trustees of a fund established by one or more labor unions.

16 (5) The amount of insurance under the policy must be based upon some
17 plan precluding individual selection either by the insured persons or by the
18 policyholder, employers, or unions.

1 Sec. 5. 8 V.S.A. § 3809 is amended to read:

2 § 3809. ASSOCIATION OF EMPLOYERS GROUPS

3 The lives of a group of individuals may be insured under a policy issued to
4 an association of two or more employers, which association shall be deemed
5 the policyholder, to insure employees of such employers for the benefits of
6 persons other than the association or the employers, subject to the following
7 requirements:

8 (1) The policy may be issued only if:

9 (A) the association has been in existence for at least five years and
10 was formed for purposes other than obtaining the insurance; and

11 (B) the participating employers constitute at date of issue at least ~~fifty~~
12 50 percent of the total employers eligible to participate, unless the total number
13 of persons covered at date of issue exceeds 600, in which event such
14 participating employers must constitute at least 25 percent of such total
15 employers, in either case omitting from consideration any employer whose
16 employees are already covered for group life insurance.

17 (2) The persons eligible for insurance under the policy shall be all of the
18 employees of the participating employers, or all of any class or classes thereof
19 determined by conditions pertaining to their employment. The policy may
20 provide that the term “employees” shall include the individual proprietor or
21 partners whenever a participating employer is an individual proprietor or a

1 partnership. The policy may provide that the term “employees” shall include
2 retired employees. The policy may provide that the term “employees” shall
3 include the employees of the association to which the policy is issued.

4 (3) The premium for the policy shall be paid by the association, either
5 wholly from the association’s funds or funds contributed by the employers, or
6 partly from such funds and partly from funds contributed by the insured
7 employees, or wholly from funds contributed by the insured employees. ~~No~~
8 ~~policy may be issued on which the entire premium payable by the policyholder~~
9 ~~is to be derived from funds contributed by the insured employees.~~ A policy on
10 which part of the premium so payable is to be derived from funds contributed
11 by the insured employees may be placed in force only if at least 75 percent of
12 the then eligible employees of each participating employer, excluding any as to
13 whom evidence of individual insurability is not satisfactory to the insurer, elect
14 to make the required contributions. A policy on which no part of the premiums
15 so payable is to be derived from funds contributed by the insured employees
16 must insure all eligible employees, or all except any as to whom evidence of
17 individual insurability is not satisfactory to the insurer.

18 (4) The policy must cover at least 100 employees at date of issue.

19 (5) The amounts of insurance under the policy must be based upon some
20 plan precluding individual selection either by the employees or by the
21 policyholder or the employer.

1 Sec. 6. GROUP LIFE INSURANCE; APPLICATION

2 A group life insurance policy authorized by 8 V.S.A. § 3803 (employee
3 groups), 3804 (labor union groups), 3808 (trustee groups), or 3809 (association
4 of employers groups) and in effect on or before the effective date of this act,
5 and renewed anytime thereafter, shall not require that the premium for the
6 policy be paid wholly from funds contributed by the insured persons. Only a
7 new group life insurance policy issued after the effective date of this act, and
8 renewed anytime thereafter, may collect a premium paid wholly from funds
9 contributed by the insured persons.

10 Sec. 7. 8 V.S.A. § 3812a is added to read:

11 § 3812a. REQUIRED CONSUMER DISCLOSURE

12 A group life insurance policy shall include the following notice on the face
13 page of certificates issued under the policy:

14 REQUIRED CONSUMER DISCLOSURE: READ YOUR

15 CERTIFICATE CAREFULLY. Unlike individual insurance, group

16 insurance, while offering advantages for life insurance coverage, may be

17 cancelled for reasons other than nonpayment of premium. To help you

18 to fully understand the group life insurance described in this certificate

19 as well as other life insurance options, you may want to consult a

20 financial advisor.

1 Sec. 8. 8 V.S.A. § 3821 is amended to read:

2 § 3821. CONVERSION ON TERMINATION OF POLICY

3 The group life insurance policy shall contain a provision that if the group
4 policy terminates or is amended so as to terminate the insurance of any class of
5 insured persons, every person insured thereunder at the date of such
6 termination whose insurance terminates and who has been so insured for at
7 least five years prior to such termination date shall be entitled to have issued to
8 him or her by the insurer an individual policy of life insurance, subject to the
9 same conditions and limitations as are provided by section 3820 of this title
10 except that the group policy may provide that the amount of such individual
11 policy shall not exceed the smaller of:

12 ~~(1) the amount of the person's life insurance protection ceasing because~~
13 ~~of the termination or amendment of the group policy, less the amount of any~~
14 ~~life insurance for which he or she is or becomes eligible under any group~~
15 ~~policy issued or reinstated by the same or another insurer within 31 days after~~
16 ~~such termination; or~~

17 ~~(2) \$2,000.00.~~

