

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was  
3 referred Senate Bill No. 136 entitled “An act relating to miscellaneous  
4 consumer protection provisions” respectfully reports that it has considered the  
5 same and recommends that the House propose to the Senate that the bill be  
6 amended by striking out all after the enacting clause and inserting in lieu  
7 thereof the following:

8 \* \* \* Residential Construction Contracts; S.136 \* \* \*

9 Sec. 1. 9 V.S.A. chapter 102 is amended to read:

10 CHAPTER 102. CONSTRUCTION CONTRACTS

11 § 4001. DEFINITIONS

12 As used in this chapter:

13 (1) “Contractor” means a person or entity which contracts with an owner  
14 to perform work, or provide materials or machinery necessary to perform work  
15 on real property.

16 (2) “Work” means:

17 (A) to build, alter, repair, or demolish any improvement on,  
18 connected with, or on or beneath the surface of any real property, or to  
19 excavate, clear, grade, fill, or landscape any real property or to construct  
20 driveways, private roadways, highways and bridges, drilled wells, septic,  
21 sewage systems, utilities, including trees and shrubbery, or to furnish

1 materials, for any of such purposes, or to perform any labor upon real property-

2 ~~”Work” also includes; and~~

3 (B) to provide any design or other professional or skilled services  
4 rendered by architects, engineers, land surveyors, landscape architects, and  
5 construction managers.

6 (3) “Owner” means a person or entity having an interest in real property  
7 on which work is performed, if the person or entity has agreed to or requested  
8 such work. “Owner” includes successors in interest of the owner and agents of  
9 the owner acting within their authority. “Owner” shall also include the State of  
10 Vermont and instrumentalities and subdivisions of the State of Vermont  
11 including municipalities and school districts having an interest in such real  
12 property.

13 (4) “Real property” means real estate, including lands, leaseholds,  
14 tenements and hereditaments, and improvements placed thereon.

15 (5) “Construction contract” means any agreement, whether written or  
16 oral, to perform work on any real property located within the State of Vermont.

17 (6) “Subcontractor” means any person or entity which has contracted to  
18 perform work, or provide materials or machinery necessary to perform work  
19 for a contractor or another subcontractor in connection with a construction  
20 contract.

1 (7) “Delivery” means receipt by addressee, including first class,  
2 registered, or certified mail, hand delivered or transmitted by facsimile  
3 machine. Mail, properly addressed, shall be deemed delivered three days from  
4 the day it was sent.

5 (8) “Billing period” means the period agreed to by the parties or, in the  
6 absence of an agreement, the calendar month within which work is performed.

7 (9) “Residential home improvement contract” means a contract between  
8 a contractor and an owner for work on residential real estate where the  
9 estimated value of the work and materials exceeds \$10,000.00.

10 (10) “Residential real estate” means a residential structure with one to  
11 two dwelling units and the real property on which it is constructed.

12 \* \* \*

13 § 4010. RESIDENTIAL HOME IMPROVEMENT CONTRACTS

14 (a) Writing required. A residential home improvement contract, and any  
15 amendment to the contract, shall be in writing.

16 (b) Required provisions. A residential home improvement contract shall  
17 include the following:

18 (1) Contract price. One of the following provisions for the price of  
19 the contract:

20 (A) a maximum price for all work and materials;

1           (B) a statement that billing and payment will be made on a time and  
2           materials basis, not to exceed a maximum price; or

3           (C) a statement that billing and payment will be made on a time and  
4           materials basis and that there is no maximum price.

5           (2) Work dates. A start date and a completion date for work.

6           (3) Scope of work. A description of the work to be performed and a  
7           description of the materials to be used.

8           (4) Warranty. A provision that reads: “In addition to any other  
9           warranties agreed to by the parties, the contractor warrants that his or her work  
10           is free from faulty materials and is performed in a skillful manner according to  
11           the standards of the building code applicable for this location or to a higher  
12           standard agreed to by the parties.”

13           (5) Change order.

14           (A) Unless a residential home improvement contract specifies that  
15           billing and payment will be made on a time and materials basis and that there  
16           is no maximum price, subject to subdivision (B) of this subdivision (5), a  
17           provision that the contractor shall not perform any work or procure materials in  
18           excess of the maximum price of the contract without prior written approval of  
19           the owner.

1           (B) The contract may provide that an owner can approve a change  
2           order verbally, provided that the owner and contractor shall memorialize the  
3           approval in a writing within three days of the approval.

4           (c) Emergency work. If an owner requests a contractor to perform work in  
5           an emergency, the parties shall execute a residential home improvement  
6           contract not less than five days after the date on which the contractor  
7           completes the work.

8           (d) Enforcement and remedies.

9           (1) A contractor who violates a provision of this section commits an  
10           unfair and deceptive act in commerce in violation of section 2453 of this title.

11           (2) The Attorney General has the same authority to adopt rules, conduct  
12           civil investigations, enter into assurances of discontinuance, and bring civil  
13           actions to enforce the provisions of this section as is provided under chapter  
14           63, subchapter 1 of this title.

15           (e) Sample contract. The Attorney General shall adopt and make available  
16           on its website a sample residential home improvement contract, which a  
17           contractor may or may not use, that is consistent with the provisions of this  
18           section.

19           \* \* \* Home Loan Escrow Account Analysis; S.136 \* \* \*

20           Sec. 2. 8 V.S.A. § 10404 is amended to read:

21           § 10404. HOME LOAN ESCROW ACCOUNTS

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(c) A lender shall not require a borrower to deposit into an escrow account any greater sum than is sufficient to pay taxes, insurance premiums, and other charges with respect to the residential real estate, subject to the following additional charges:

(1) a lender may require aggregate annual deposits no greater than the reasonably estimated total annual charges plus ~~one-twelfth~~ ~~one-sixth~~ of such total; and

(2) a lender may require monthly deposits no greater than one-twelfth of the reasonably estimated total annual charges plus an amount needed to maintain an additional account balance no greater than ~~one-twelfth~~ ~~one-sixth~~ of such total.

\* \* \*

(g)(1) At least annually, a lender shall conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower’s monthly escrow account payments for the next computation year based on the borrower’s current tax bill liability, if made available to the lender either by the borrower or the municipality, after any applicable adjustment for a State credit on property taxes.

(2) Upon written or verbal notice from a borrower that his or her annual property tax bill has been revised submission of a revised property tax bill to

1 the lender, the lender shall review the property tax bill and upon verifying that  
2 it has been revised reduced since the date of the last escrow account analysis,  
3 the lender shall, within 30 days of receiving notice from the borrower, conduct  
4 a new escrow account analysis, recalculate the borrower's monthly escrow  
5 payment, and notify the borrower of any change.

6 (3) ~~The lender shall provide~~ At least annually, and whenever an escrow  
7 account analysis is conducted or upon request of the borrower, the lender shall  
8 provide to the borrower financial statements relating to the borrower's escrow  
9 account in a manner and on a form ~~approved by the Commissioner~~ consistent  
10 with the federal Real Estate Settlement Procedures Act. The lender shall not  
11 charge the borrower for the preparation and transmittal of such statements.

12 \* \* \*

13 \* \* \* Fantasy Sports Contests; S.136 \* \* \*

14 Sec. 3. 9 V.S.A. chapter 116 is added to read:

15 CHAPTER 116. FANTASY SPORTS CONTESTS

16 § 4185. DEFINITIONS

17 As used in this chapter:

18 (1) "Computer script" means a list of commands that can be executed by  
19 a program, scripting engine, or similar mechanism that a fantasy sports player  
20 can use to automate participation in a fantasy sports contest.

1           (2) “Confidential fantasy sports contest information” means nonpublic  
2           information available to a fantasy sports operator that relates to a fantasy sports  
3           player’s activity in a fantasy sports contest and that, if disclosed, may give  
4           another fantasy sports player an unfair competitive advantage in a fantasy  
5           sports contest.

6           (3) “Fantasy sports contest” means a virtual or simulated sporting event  
7           governed by a uniform set of rules adopted by a fantasy sports operator in  
8           which:

9                   (A) a fantasy sports player may earn one or more cash prizes or  
10           awards, the value of which a fantasy sports operator discloses in advance of the  
11           contest;

12                   (B) a fantasy sports player uses his or her knowledge and skill of  
13           sports data, performance, and statistics to create and manage a fantasy sports  
14           team;

15                   (C) a fantasy sports team earns fantasy points based on the sports  
16           performance statistics accrued by individual athletes or teams, or both, in real  
17           world sporting events;

18                   (D) the outcome is determined by the number of fantasy points  
19           earned; and



1           (E) the outcome is not determined by the score, the point spread, the  
2           performance of one or more teams, or the performance of an individual athlete  
3           in a single real world sporting event.

4           (4) “Fantasy sports operator” means a person that offers to members of  
5           the public the opportunity to participate in a fantasy sports contest for  
6           consideration.

7           (5) “Fantasy sports player” means an individual who participates in a  
8           fantasy sports contest for consideration.

9           (6) “Location percentage” mean the percentage, rounded to the nearest  
10          tenth of a percent, of the total of all entry fees collected from fantasy sports  
11          players located in Vermont, divided by the total entry fees collected from all  
12          fantasy sports players in fantasy sports contests.

13          (7) “Net fantasy sports contest revenues” means the amount equal to the  
14          total of all entry fees that a fantasy sports operator collects from all fantasy  
15          sports players, less the total of all sums paid out as winnings to all fantasy  
16          sports players, multiplied by the location percentage for Vermont.

17          § 4186. CONSUMER PROTECTION

18          (a) A fantasy sports operator shall adopt commercially reasonable policies  
19          and procedures to:

20                 (1) prevent participation in a fantasy sports contest it offers to the public  
21                 with a cash prize of \$5.00 or more by:

1           (A) the fantasy sports operator;

2           (B) an employee of the fantasy sports operator or a relative of the  
3 employee who lives in the same household; or

4           (C) a professional athlete or official who participates in one or more  
5 real world sporting events in the same sport as the fantasy sports contest;

6           (2) prevent the disclosure of confidential fantasy sports contest  
7 information to an unauthorized person;

8           (3) require that a fantasy sports player is 18 years of age or older, and  
9 verify the age of each player using one or more commercially available  
10 databases, which government or business regularly use to verify and  
11 authenticate age and identity;

12           (4) limit and disclose to prospective players the number of entries a  
13 fantasy sports player may submit for each fantasy sports contest;

14           (5) limit a fantasy sports player to not more than one username or  
15 account;

16           (6) prohibit the use of computer scripts that provide a player with a  
17 competitive advantage over another player;

18           (7) segregate player funds from operational funds, or maintain a reserve  
19 in the form of cash, cash equivalents, payment processor receivables, payment  
20 processor reserves, an irrevocable letter of credit, a bond, or a combination  
21 thereof in an amount that equals or exceeds the amount of deposits in fantasy

1 sports player accounts, for the benefit and protection of fantasy sports player  
2 funds held in their accounts; and

3 (8) notify fantasy sports players that winnings of a certain amount may  
4 be subject to income taxation.

5 (b) A fantasy sports operator shall have the following duties:

6 (1) The operator shall provide a link on its website to information and  
7 resources addressing addiction and compulsive behavior and where to seek  
8 assistance with these issues in Vermont and nationally.

9 (2)(A) The operator shall enable a fantasy sports player to restrict  
10 irrevocably his or her own ability to participate in a fantasy sports contest, for a  
11 period of time the player specifies, by submitting a request to the operator  
12 through its website or by online chat with the operator’s agent.

13 (B) The operator shall provide to a player who self-restricts his or her  
14 participation information concerning:

15 (i) available resources addressing addiction and compulsive  
16 behavior;

17 (ii) how to close an account and restrictions on opening a new  
18 account during the period of self-restriction;

19 (iii) requirements to reinstate an account at the end of the  
20 period; and

1                   (iv) how the operator addresses reward points and account  
2 balances during and after the period of self-restriction, and when the player  
3 closes his or her account.

4                   (3) The operator shall provide a player access to the following  
5 information for the previous six months:

6                   (A) a player’s play history, including money spent, games played,  
7 previous line-ups, and prizes awarded;

8                   (B) a player’s account details, including deposit amounts, withdrawal  
9 amounts, and bonus information, including amounts remaining for a pending  
10 bonus and amounts released to the player.

11                   (c)(1) A fantasy sports operator shall contract with a third party to perform  
12 an annual independent audit, consistent with the standards established by the  
13 American Institute of Certified Public Accountants, to ensure compliance with  
14 the requirements in this chapter.

15                   (2) The fantasy sports operator shall submit the results of the  
16 independent audit to the Attorney General.

17                   (d) A fantasy sports operator shall not extend credit to a fantasy sports  
18 player.

19                   § 4187. FAIR AND TRUTHFUL ADVERTISING

20                   (a) A fantasy sports operator shall not depict in an advertisement to  
21 consumers in this State:

- 1           (1) minors, other than professional athletes who may be minors;  
2           (2) students;  
3           (3) schools or colleges; or  
4           (4) school or college settings, provided that incidental depiction of  
5 nonfeatured minors does not violate this section.

6           (b) A fantasy sports operator shall not state or imply in an advertisement to  
7 consumers in this State endorsement by:

- 8           (1) minors, other than professional athletes who may be minors;  
9           (2) collegiate athletes;  
10          (3) colleges; or  
11          (4) college athletic associations.

12          (c)(1) A fantasy sports operator shall include in an advertisement to  
13 consumers in this State information concerning assistance available to problem  
14 gamblers, or shall direct consumers to a reputable source of that information.

15          (2) If an advertisement is of insufficient size or duration to provide the  
16 information required in subdivision (1) of this subsection, the advertisement  
17 shall refer to a website or application that does prominently include such  
18 information.

19          (d) A fantasy sports operator shall only make representations concerning  
20 winnings that are accurate, not misleading, and capable of substantiation at the  
21 time of the representation. For purposes of this subsection, an advertisement is

1 misleading if it makes representations about average winnings without equally  
2 prominently representing the average net winnings of all players.

3 § 4188. EXEMPTION

4 The provisions of 13 V.S.A. chapter 51, relating to gambling and lotteries,  
5 shall not apply to a fantasy sports contest.

6 § 4189. REGISTRATION

7 In addition to applicable requirements under Titles 11–11C for a business  
8 organization doing business in this State to register with the Secretary of State,  
9 on or before January 15 following each year in which a fantasy sports operator  
10 offers a fantasy sports contest to consumers in this State, the operator shall file  
11 an annual registration with the Secretary of State on a form adopted for that  
12 purpose and pay to the Secretary an annual registration fee in an amount equal  
13 to one-half of one percent of its annual net fantasy sports contest revenue for  
14 the prior calendar year.

15 § 4190. ENFORCEMENT

16 (a) A person that violates a provision of this chapter commits an unfair and  
17 deceptive act in commerce in violation of section 2453 of this title.

18 (b) The Attorney General has the authority to adopt rules to implement the  
19 provisions of this chapter and to conduct civil investigations, enter into  
20 assurances of discontinuance, and bring civil actions as provided under  
21 chapter 63, subchapter 1 of this title.

1 Sec. 4. 32 V.S.A. § 3102(e)(19) is added to read:

2 (19) To the Secretary of State for the purpose of administering the  
3 registration fee for fantasy sports operators under 9 V.S.A. § 4189.

4 Sec. 5. 32 V.S.A. § chapter 221 is added to read:

5 CHAPTER 221. FANTASY SPORTS

6 § 9001. DEFINITIONS

7 The terms used in this chapter shall have the same mean as the terms  
8 defined in 9 V.S.A. chapter 116.

9 § 9002. TAX IMPOSED

10 A fantasy sports operator shall annually pay 11 percent of its annual net  
11 fantasy sports contest revenue to the Department of Taxes for deposit in the  
12 General Fund. The tax shall be on annual net fantasy sports contest revenue  
13 for each calendar year. To the extent it does not conflict with the terms of this  
14 chapter, the tax imposed by this section shall be implemented under the  
15 administrative and appeal provisions related to Vermont’s personal income tax  
16 under chapter 151 of this title.

17 § 9003. RETURNS

18 Any person liable for the tax imposed by this chapter shall, on or before the  
19 15th day of March, return to the Commissioner under oath of a person with  
20 legal authority to bind the fantasy sports operator a statement containing its  
21 name and place of business, its net fantasy sports contest revenues for the

1 preceding year, and any other information required by the Commissioner,  
2 along with the tax due for the prior calendar year.

3 § 9004. PENALTIES

4 Any person subject to the provisions of this chapter who fails to pay the tax  
5 imposed by this chapter by the date that payment is due or fails to submit a  
6 return as required by this chapter is subject to the provisions of section 3202 of  
7 this title.

8 \* \* \* Automobile advertising; H.112 \* \* \*

9 Sec. 6. 9 V.S.A. § 2466c is added to read:

10 § 2466c. AUTOMOBILE ADVERTISING

11 (a) In any advertisement for an automobile that is available for sale or lease  
12 to consumers, an automobile dealer shall specify in clear and conspicuous  
13 language:

14 (1) whether the vehicle is available for sale or for lease, or both; and

15 (2) the price and terms that relate to the sale or the lease of the vehicle.

16 (b) An automobile dealer who advertises an automobile for sale or lease to  
17 consumers on the Internet shall remove the automobile advertisement from the  
18 Internet within 48 hours of the time it becomes unavailable for sale or lease.

19 \* \* \* Warranty Obligations for Motorboat and Watercraft Dealers;

20 H.180 \* \* \*

21 Sec. 7. 9 V.S.A. chapter 106 is added to read:



1           CHAPTER 106. MOTORBOAT AND PERSONAL WATERCRAFT

2                           DEALERS; WARRANTY OBLIGATIONS

3           § 4051. DEFINITIONS

4           As used in this chapter:

5                   (1) “Dealer” means a person primarily engaged in the business of retail  
6 sales of inventory.

7                   (2) “Dealer agreement” means a written or oral agreement between a  
8 dealer and a supplier by which the supplier gives the dealer the right to sell or  
9 distribute inventory, goods, or services, or to use a trade name, trademark,  
10 service mark, logotype, or advertising or other commercial symbol.

11                   (3) “Inventory” means motorboats, personal watercraft, trailers, and  
12 related parts and accessories covered by a manufacturer’s warranty.

13                   (4) “Motorboat” means any vessel propelled by machinery, whether or  
14 not the machinery is the principal source of propulsion, but does not include a  
15 vessel that has a valid marine document issued by the Bureau of Customs of  
16 the U.S. government or any federal agency successor thereto.

17                   (5) “Personal watercraft” means a Class A vessel that uses an inboard  
18 engine powering a water jet pump as its primary source of motive power and  
19 that is designed to be operated by a person or persons sitting, standing, or  
20 kneeling on, or being towed behind the vessel rather than in the conventional  
21 manner of sitting or standing inside the vessel.

1           (6) “Supplier” means a wholesaler, manufacturer, or distributor of  
2           inventory that enters into a dealer agreement with a dealer.

3           (7) “Vessel” means every description of watercraft, other than a  
4           seaplane on the water or a racing shell or rowing scull, occupied exclusively by  
5           persons over 12 years of age, used or capable of being used as a means of  
6           transportation on water.

7           § 4052. WARRANTY SERVICE OBLIGATIONS

8           (a) A supplier shall:

9           (1) specify in writing a dealer’s reasonable obligation to perform  
10           warranty service on the supplier’s inventory;

11           (2) provide the dealer a schedule of reasonable compensation for  
12           warranty service, including amounts for diagnostic work, parts, labor, and the  
13           time allowance for the performance of warranty service; and

14           (3) compensate the dealer pursuant to the schedule of compensation for  
15           the warranty service the supplier requires it to perform.

16           (b) Time allowances for the diagnosis and performance of warranty service  
17           shall be reasonable and adequate for the service performed by a dealer that is  
18           equipped to complete the requirements of the warranty service.

19           (c) The hourly rate paid to a dealer shall not be less than the rate the dealer  
20           charges to customers for nonwarranty service.

1        (d) A supplier shall compensate a dealer for parts used to fulfill warranty  
2        and recall obligations at a rate not less than the price the dealer actually paid  
3        the supplier for the parts plus 20 percent, plus freight and handling if charged  
4        by the supplier.

5        (e) The wholesale price on which a dealer's markup reimbursement is  
6        based for any parts used in a recall or campaign shall not be less than the  
7        highest wholesale price listed in the supplier's wholesale price catalogue  
8        within six months prior to the start of the recall or campaign.

9        (f)(1) Whenever a supplier and a dealer enter into an agreement providing  
10       consumer warranties, the supplier shall pay a warranty claim made for  
11       warranty parts and service within 30 days after its receipt and approval.

12       (2) The supplier shall approve or disapprove a warranty claim within  
13       30 days after its receipt.

14       (3) If a claim is not specifically disapproved in writing within 30 days  
15       after its receipt, it is deemed to be approved and the supplier shall pay the  
16       dealer within 30 days after receipt.

17       (g) A supplier violates this section if it:

18       (1) fails to perform its warranty obligations;

19       (2) fails to include in written notices of factory recalls to owners of  
20       inventory and to dealers the expected date by which necessary parts and  
21       equipment will be available to dealers for the correction of such defects; or

1           (3) fails to compensate a dealer for repairs required by a recall.

2           (h) A supplier shall not:

3           (1) impose an unreasonable requirement in the process a dealer must  
4 follow to file a warranty claim; or

5           (2) impose a surcharge or fee to recover the additional costs the supplier  
6 incurs from complying with the provisions of this section.

7           \* \* \* Automatic Renewal Provisions in Consumer Contracts; H.286 \* \* \*

8           Sec. 8. 9 V.S.A. § 2454a is added to read:

9           § 2454a. CONSUMER CONTRACTS; AUTOMATIC RENEWAL

10          (a) A contract between a consumer and a seller or a lessor shall not  
11 automatically renew upon termination unless:

12           (1) the contract states the terms of the automatic renewal provisions in  
13 plain, unambiguous language;

14           (2) the consumer takes an additional, affirmative action to opt in to the  
15 automatic renewal provision; and

16           (3) if the consumer accepts the automatic renewal provision, the seller  
17 or lessor provides a written or electronic notice to the consumer not less than  
18 30 days but not more than 60 days before the termination date that includes:

19           (A) the date the contract will terminate and a clear statement that  
20 unless the consumer cancels the contract on or before the termination date, the  
21 contract will renew automatically;

1           (B) the length and any additional terms of the renewal period;

2           (C) one or more methods by which the consumer can cancel the  
3 contract; and

4           (D) contact information for the seller or lessor,

5           (b) A person who violates a provision of subsection (a) of this section  
6 commits an unfair and deceptive act in commerce in violation of section 2453  
7 of this title.

8           \* \* \* Retainage of Payment for Construction Materials; H.288 \* \* \*

9           Sec. 9. 9 V.S.A. § 4005 is amended to read:

10          § 4005. RETAINAGE

11           (a) If payments under a construction contract are subject to retainage, any  
12 amounts ~~which~~ that have been retained during the performance of the contract  
13 and ~~which~~ that are due to be released to the contractor upon final completion  
14 shall be paid within 30 days after final acceptance of the work.

15           (b) If an owner is not withholding retainage, a contractor or subcontractor  
16 may withhold retainage from its subcontractor in accordance with their  
17 agreement. The retainage shall be paid within 30 days after final acceptance of  
18 the work.

19           (c) Notwithstanding any contrary agreement, a contractor shall pay to its  
20 subcontractors, and each subcontractor shall in turn pay to its subcontractors,

1 within seven days after receipt of the retainage, the full amount due to each  
2 such subcontractor.

3 (d) If an owner, contractor, or subcontractor unreasonably withholds  
4 acceptance of the work or fails to pay retainage as required by this section, the  
5 owner, contractor, or subcontractor shall be subject to the interest, penalty, and  
6 attorney's fees provisions of sections 4002, 4003, and 4007 of this title.

7 (e) Notwithstanding any provision of this section or an agreement to the  
8 contrary, except in the case of a contractor or subcontractor who is both a  
9 materialman who delivers materials and is contracted to perform work using  
10 those materials, a contractor or subcontractor shall not hold retainage for  
11 contracted materials that:

12 (1) have been delivered by a materialman and accepted by the contractor  
13 at the site, or off-site; and

14 (2) are covered by a manufacturer's warranty, or graded to meet  
15 industry standards, or both.

16 \* \* \* Credit Protection for Vulnerable Persons; H.390 \* \* \*

17 Sec. 10. 9 V.S.A. § 2480a is amended to read:

18 § 2480a. DEFINITIONS

19 ~~For purposes of~~ As used in this subchapter and subchapter 9 of this chapter:

20 (1) "Consumer" means a natural person ~~residing in this State~~ other than  
21 a protected consumer.

1           (2) “Credit report” means ~~any written, oral, or other communication of~~  
2 ~~any information by a credit reporting agency bearing on a consumer’s credit~~  
3 ~~worthiness, credit standing, credit capacity, character, general reputation,~~  
4 ~~personal characteristics, or mode of living, including an investigative credit~~  
5 ~~report. The term does not include:~~

6           (A) ~~a report containing information solely as to transactions or~~  
7 ~~experiences between the consumer and the person making the report; or~~

8           (B) ~~an authorization or approval of a specific extension of credit~~  
9 ~~directly or indirectly by the issuer of a credit card or similar device. a~~  
10 ~~consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in~~  
11 ~~whole or in part for the purpose of serving as a factor in establishing a~~  
12 ~~consumer’s eligibility for credit for personal, family, or household purposes.~~

13           (3) “Credit reporting agency” or “agency” means ~~any person which, for~~  
14 ~~monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in~~  
15 ~~whole or in part in the practice of assembling or evaluating consumer credit~~  
16 ~~information or other information on consumers for the purpose of reporting to~~  
17 ~~third parties on the credit rating or creditworthiness of any consumer a person~~  
18 ~~who, for fees, dues, or on a cooperative basis, regularly engages in whole or in~~  
19 ~~part in the practice of assembling or evaluating information concerning a~~  
20 ~~consumer’s credit or other information for the purpose of furnishing a credit~~  
21 ~~report to another person.~~

1           (4) “Identity theft” means the unauthorized use of another person’s  
2 personal identifying information to obtain credit, goods, services, money, or  
3 property.

4           (5) “Investigative credit report” means a report in which information on  
5 a consumer’s character, general reputation, personal characteristics, or mode of  
6 living is obtained through personal interviews with neighbors, friends, or  
7 associates of the consumer reported on or with others with whom the consumer  
8 is acquainted or who may have knowledge concerning any such items of  
9 information. The term does not include reports of specific factual information  
10 on a consumer’s credit record obtained directly from a creditor of the  
11 consumer or from a credit reporting agency when such information was  
12 obtained directly from a creditor of the consumer or from the consumer.

13           (6) “Proper identification,” ~~as used in this subchapter, means that~~  
14 ~~information generally deemed sufficient to identify a person~~ has the same  
15 meaning as in 15 U.S.C. § 1681h(a)(1), and includes:

16           (A) the consumer’s full name, including first, last, and middle names  
17 and any suffix;

18           (B) any name the consumer previously used;

19           (C) the consumer’s current and recent full addresses, including street  
20 address, any apartment number, city, state, and ZIP code;

21           (D) the consumer’s Social Security number; and



1           (E) the consumer’s date of birth.

2           (7) “Security freeze” means a notice placed in a credit report, at the  
3 request of the consumer, pursuant to section 2480h of this title.

4           (8) “Consumer who is subject to a protected consumer security freeze”  
5 means a natural person:

6           (A) for whom a credit reporting agency placed a security freeze  
7 under section 2480h of this title; and

8           (B) who, on the day on which a request for the removal of the  
9 security freeze is submitted under section 2480h of this title, is not a protected  
10 consumer.

11           (9) “File” has the same meaning as in 15 U.S.C. § 1681a.

12           (10) “Incapacitated person” has the same meaning as in 14 V.S.A.  
13 § 3152.

14           (11)(A) “Personal information” means personally identifiable financial  
15 information:

16                   (i) provided by a consumer to another person;

17                   (ii) resulting from any transaction with the consumer or any  
18 service performed for the consumer; or

19                   (iii) otherwise obtained by another person.

20           (B) “Personal information” does not include:

1                    (i) publicly available information, as that term is defined by the  
2 regulations prescribed under 15 U.S.C. § 6804; or

3                    (ii) any list, description, or other grouping of consumers, and  
4 publicly available information pertaining to the consumers, that is derived  
5 without using any nonpublic personal information.

6                    (C) Notwithstanding subdivision (B) of this subdivision (11),  
7 “personal information” includes any list, description, or other grouping of  
8 consumers, and publicly available information pertaining to the consumers,  
9 that is derived using any nonpublic personal information other than publicly  
10 available information.

11                    (12) “Protected consumer” means a natural person who, at the time a  
12 request for a security freeze is made, is:

13                    (A) less than 16 years of age;

14                    (B) an incapacitated person; or

15                    (C) a protected person.

16                    (13) “Protected person” has the same meaning as in 14 V.S.A. § 3152.

17                    (14) “Record” means a compilation of information that:

18                    (A) identifies a protected consumer;

19                    (B) is created by a consumer reporting agency solely for the purpose  
20 of complying with this section; and

1           (C) may not be created or used to consider the protected consumer’s  
2           credit worthiness, credit standing, credit capacity, character, general reputation,  
3           personal characteristics, or mode of living.

4           (15) “Representative” means a person who provides to a consumer  
5           reporting agency sufficient proof of authority to act on behalf of a protected  
6           consumer.

7           (16) “Sufficient proof of authority” means documentation that shows  
8           that a person has authority to act on behalf of a protected consumer, including:

9                   (A) a court order;

10                   (B) a lawfully executed power of attorney; or

11                   (C) a written, notarized statement signed by the person that expressly  
12           describes the person’s authority to act on behalf of the protected consumer.

13           (17) “Sufficient proof of identification” means information or  
14           documentation that identifies a protected consumer or a representative,  
15           including:

16                   (A) a Social Security number or a copy of a Social Security card  
17           issued by the U.S. Social Security Administration;

18                   (B) a certified or official copy of a birth certificate; or

19                   (C) a copy of a government issued driver license or identification  
20           card.

21           Sec. 11. 9 V.S.A. chapter 63, subchapter 9 is added to read:

1                                    Subchapter 9. Credit Report Protection for Minors

2                    § 2493. TITLE

3                    This subchapter is known as “Credit Report Protection for Minors.”

4                    § 2494. DEFINITIONS

5                    As used in this subchapter:

6                    (1) “Proper authority” means:

7                                    (A) in the case that it is required of a protected consumer’s  
8 representative:

9    (i) sufficient proof of identification of the protected consumer;

10     (ii) sufficient proof of identification of the protected consumer’s  
11 representative; and

12     (iii) sufficient proof of authority to act on behalf of the protected  
13 consumer; and

14                                    (B) in the case that it is required of a consumer who is subject to a  
15 protected consumer security freeze:

16     (i) sufficient proof of identification of the consumer who is subject  
17 to a protected consumer security freeze; and

18     (ii) proof that the consumer who is subject to a protected  
19 consumer security freeze is not a protected consumer.

20                    (2) “Protected consumer security freeze” means:

1           (A) if a consumer reporting agency does not have a file that pertains  
2 to a protected consumer, a restriction that:

3           (i) is placed on the protected consumer’s record in accordance  
4 with this subchapter; and

5           (ii) except as otherwise provided in this subchapter, prohibits the  
6 consumer reporting agency from releasing the protected consumer’s record; or

7           (B) if a consumer reporting agency has a file that pertains to the  
8 protected consumer, a restriction that:

9           (i) is placed on the protected consumer’s credit report in accordance  
10 with this subchapter; and

11           (ii) except as otherwise provided in this subchapter, prohibits the  
12 consumer reporting agency from releasing the protected consumer’s credit  
13 report or any information derived from the protected consumer’s credit report.

14 § 2495. APPLICABILITY

15           This subchapter does not apply to the use of a protected consumer’s credit  
16 report or record by:

17           (1) a person administering a credit file monitoring subscription service  
18 to which:

19           (A) the protected consumer has subscribed; or

20           (B) the protected consumer’s representative has subscribed on the  
21 protected consumer’s behalf;

1           (2) a person who, upon request from the protected consumer or the  
2           protected consumer’s representative, provides the protected consumer or the  
3           protected consumer’s representative with a copy of the protected consumer’s  
4           credit report;

5           (3) a check services or fraud prevention services company that issues:

6                 (A) reports on incidents of fraud; or

7                 (B) authorization for the purpose of approving or processing  
8           negotiable instruments, electronic funds transfers, or similar payment methods;

9           (4) a deposit account information service company that issues reports  
10           regarding account closures due to fraud, substantial overdrafts, automated  
11           teller machine abuse, or similar information regarding an individual to  
12           inquiring banks or other financial institutions for use only in reviewing an  
13           individual’s request for a deposit account at the inquiring bank or financial  
14           institution;

15           (5) an insurance company for the purpose of conducting the insurance  
16           company’s ordinary business;

17           (6) a consumer reporting agency that:

18                 (A) only resells credit information by assembling and merging  
19           information contained in a database of another consumer reporting agency or  
20           multiple consumer reporting agencies; and

1           (B) does not maintain a permanent database of credit information  
2           from which new credit reports are produced; or

3           (7) a consumer reporting agency’s database or file that consists of  
4           information that:

5           (A) concerns and is used for:

6           (i) criminal record information;

7           (ii) fraud prevention or detection;

8           (iii) personal loss history information; or

9           (iv) employment, tenant, or individual background screening; and

10          (B) is not used for credit granting purposes.

11          § 2496. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN  
12          EFFECT

13          (a) A consumer reporting agency shall place a security freeze for a  
14          protected consumer if:

15           (1) the consumer reporting agency receives a request from the protected  
16           consumer’s representative for the placement of the security freeze; and

17           (2) the protected consumer’s representative:

18           (A) submits the request described in subdivision (1) of this  
19           subsection (a):

20           (i) to the address or other point of contact provided by the  
21           consumer reporting agency; and

1                   (ii) in the manner specified by the consumer reporting agency;

2                   (B) demonstrates proper authority to the consumer reporting  
3 agency; and

4                   (C) if applicable, pays the consumer reporting agency a fee described  
5 in section 2497 of this title.

6           (b) If a consumer reporting agency does not have a file that pertains to a  
7 protected consumer when the consumer reporting agency receives a request  
8 described in subsection (a) of this section, the consumer reporting agency shall  
9 create a record for the protected consumer.

10           (c) The credit reporting agency shall:

11                   (1) place a security freeze no later than 30 days after the date the agency  
12 receives a request pursuant to subsection (a) of this section; and

13                   (2) no later than 10 business days after placing the freeze:

14                   (A) send a written confirmation of the security freeze to the protected  
15 consumer or the protected consumer’s representative; and

16                   (B) provide a unique personal identification number or password,  
17 other than a Social Security number, to be used to authorize the release of the  
18 protected consumer’s credit for a specific party, parties, or period of time.

19           (d) If the protected consumer or protected consumer’s representative  
20 wishes to allow the protected consumer’s credit report to be accessed by a



1 specific party or parties, or for a specific period of time while a freeze is in  
2 place, he or she shall:

3 (1) contact the credit reporting agency;

4 (2) request that the freeze be temporarily lifted;

5 (3) provide:

6 (A) proper authority;

7 (B) the unique personal identification number or password provided  
8 by the credit reporting agency pursuant to subsection (c) of this section;

9 (C) the proper information regarding the third party, parties, or time  
10 period for which the report shall be available to users of the credit report; and

11 (4) if applicable, pay the consumer reporting agency a fee described in  
12 section 2497 of this title.

13 (e) A credit reporting agency may develop procedures involving the use of  
14 telephone, fax, the Internet, or other electronic media to receive and process a  
15 request from a consumer to lift temporarily a freeze on a credit report pursuant  
16 to subsection (d) of this section in an expedited manner.

17 (f) A credit reporting agency that receives a request from a consumer to lift  
18 temporarily a freeze on a credit report pursuant to subsection (e) of this section  
19 shall comply with the request not later than three business days after receiving  
20 the request.

1       (g) A credit reporting agency shall remove or lift temporarily a freeze  
2       placed on a protected consumer’s credit report only in the following cases:

3               (1) Upon request, pursuant to subsection (d) or (j) of this section.

4               (2) If the protected consumer’s credit report was frozen due to a material  
5       misrepresentation of fact by the consumer. If a credit reporting agency intends  
6       to remove a freeze upon a protected consumer’s credit report pursuant to this  
7       subdivision, the credit reporting agency shall notify the protected consumer  
8       and his or her representative in writing prior to removing the freeze on the  
9       consumer’s credit report.

10              (h) If a third party requests access to a credit report on which a protected  
11       consumer security freeze is in effect and this request is in connection with an  
12       application for credit or any other use and neither the consumer subject to the  
13       protected consumer security freeze nor the protected consumer’s representative  
14       allows the credit report to be accessed for that specific party or period of time,  
15       the third party may treat the application as incomplete.

16              (i) If a protected consumer’s representative requests a security freeze  
17       pursuant to this section, the credit reporting agency shall disclose to the  
18       protected consumer’s representative the process of placing and lifting  
19       temporarily a security freeze and the process for allowing access to  
20       information from the protected consumer’s credit report for a specific party.

1 parties, or period of time while the protected consumer security freeze is in  
2 place.

3 (j)(1) A protected consumer security freeze shall remain in place until the  
4 consumer subject to the protected consumer security freeze or the protected  
5 consumer's representative requests that the security freeze be removed.

6 (2) A credit reporting agency shall remove a protected consumer  
7 security freeze within three business days of receiving a proper request for  
8 removal.

9 (3) The protected consumer's representative or the consumer who is  
10 subject to a protected consumer security freeze shall submit to the consumer  
11 reporting agency a proper request for removal:

12 (A) at the address or other point of contact provided by the consumer  
13 reporting agency; and

14 (B) in the manner specified by the consumer reporting agency.

15 (4) When submitting a proper request for removal, a protected  
16 consumer's representative or a consumer who is subject to a protected  
17 consumer security freeze shall:

18 (A) provide proper authority;

19 (B) provide the unique personal identification number or password  
20 provided by the credit reporting agency pursuant to subsection (c) of this  
21 section; and

1           (C) if applicable, pay the consumer reporting agency a fee described  
2           in section 2497 of this title.

3           (k) A credit reporting agency shall require proper identification of the  
4           person making a request to place or remove a protected consumer security  
5           freeze.

6           (l) The provisions of this section, including the protected consumer security  
7           freeze, do not apply to the use of a consumer report by the following:

8           (1) A person, or the person’s subsidiary, affiliate, agent, or assignee with  
9           which the protected consumer has or, prior to assignment, had an account,  
10           contract, or debtor-creditor relationship for the purposes of reviewing the  
11           account or collecting the financial obligation owing for the account, contract,  
12           or debt, or extending credit to a consumer with a prior or existing account,  
13           contract, or debtor-creditor relationship, subject to the requirements of section  
14           2480e of this title. As used in this subdivision, “reviewing the account”  
15           includes activities related to account maintenance, monitoring, credit line  
16           increases, and account upgrades and enhancements.

17           (2) A subsidiary, affiliate, agent, assignee, or prospective assignee of a  
18           person to whom access has been granted under subsection (d) of this section  
19           for purposes of facilitating the extension of credit or other permissible use.

20           (3) Any person acting pursuant to a court order, warrant, or subpoena.

1           (4) The Office of Child Support when investigating a child support case  
2           pursuant to Title IV-D of the Social Security Act (42 U.S.C. et seq.) and  
3           33 V.S.A. 4102.

4           (5) The Economic Services Division of the Department for Children and  
5           Families or the Department of Vermont Health Access or its agents or assignee  
6           acting to investigate welfare or Medicaid fraud.

7           (6) The Department of Taxes, municipal taxing authorities, or the  
8           Department of Motor Vehicles or any of their agents or assignees, acting to  
9           investigate or collect delinquent taxes or assessments, including interest and  
10           penalties, unpaid court orders, or to fulfill any of their other statutory or charter  
11           responsibilities.

12           (7) A person's use of credit information for the purposes of prescreening  
13           as provided by the federal Fair Credit Reporting Act.

14           (8) Any person for the sole purpose of providing a credit file monitoring  
15           subscription service to which the consumer has subscribed.

16           (9) A credit reporting agency for the sole purpose of providing a  
17           consumer with a copy of his or her credit report upon the consumer's request.

18           (10) Any property and casualty insurance company for use in setting or  
19           adjusting a rate or underwriting for property and casualty insurance purposes.

20           § 2497. FEES

1        (a) Except as provided in subsection (b) of this section, a consumer  
2        reporting agency may not charge a fee for any service performed under this  
3        subchapter.

4        (b) A consumer reporting agency may charge a reasonable fee, which does  
5        not exceed \$5.00, for each placement, suspension, or removal of a protected  
6        consumer security freeze, unless:

7                (1) the protected consumer's representative:

8                        (A) has obtained a police report that states the protected consumer is  
9        the alleged victim of identity fraud; and

10                      (B) provides a copy of the report to the consumer reporting  
11        agency; or

12                      (2)(A) the protected consumer is less than 16 years of age at the time the  
13        request is submitted to the consumer reporting agency; and

14                      (B) the consumer reporting agency has a file that pertains to the  
15        protected consumer.

16                \* \* \* Use of Credit Information for Personal Insurance; H.432 \* \* \*

17        Sec. 12. 8 V.S.A. § 4727 is added to read:

18        § 4727. PERSONAL INSURANCE; USE OF CREDIT INFORMATION

19                (a) Purpose. The purpose of this section is to regulate the use of credit  
20        information for personal insurance, so that consumers are afforded certain  
21        protections with respect to the use of such information.

1        (b) Scope. This section applies to personal insurance and not to  
2        commercial insurance. As used in this section, “personal insurance” means  
3        private passenger automobile, homeowners, motorcycle, mobile home owners,  
4        and noncommercial dwelling fire insurance policies, and any other policies  
5        individually underwritten for personal, family, or household use.

6        (c) Definitions. As used in this section:

7            (1) “Adverse action” means a denial or cancellation of, an increase in  
8            any charge for, or a reduction or other adverse or unfavorable change in the  
9            terms of coverage or amount of, any insurance, existing or applied for, in  
10           connection with the underwriting of personal insurance.

11           (2) “Affiliate” means any company that controls, is controlled by, or is  
12           under common control with another company.

13           (3) “Applicant” means an individual who has applied to be covered by a  
14           personal insurance policy with an insurer.

15           (4) “Consumer” means an insured whose credit information is used or  
16           whose insurance score is calculated in the underwriting or rating of a personal  
17           insurance policy or an applicant for such a policy.

18           (5) “Consumer reporting agency” means any person which, for  
19           monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in  
20           whole or in part in the practice of assembling or evaluating consumer credit

1 information or other information on consumers for the purpose of furnishing  
2 consumer reports to third parties.

3 (6) “Credit information” means any credit-related information derived  
4 from a credit report, found on a credit report itself, or provided on an  
5 application for personal insurance. Information that is not credit-related shall  
6 not be considered “credit information,” regardless of whether it is contained in  
7 a credit report or in an application, or is used to calculate an insurance score.

8 (7) “Credit report” means any written, oral, or other communication of  
9 information by a consumer reporting agency bearing on a consumer’s credit  
10 worthiness, credit standing, or credit capacity which is used or expected to be  
11 used or collected in whole or in part for the purpose of serving as a factor to  
12 determine personal insurance premiums, eligibility for coverage, or tier  
13 placement.

14 (8) “Insurance score” means a number or rating that is derived from an  
15 algorithm, computer application, model, or other process that is based in whole  
16 or in part on credit information for the purposes of predicting the future  
17 insurance loss exposure of an individual applicant or insured.

18 (d) Use of credit information. An insurer authorized to do business in this  
19 State that uses credit information to underwrite or rate risks, shall not:



1           (1) Use an insurance score that is calculated using income, gender,  
2           address, zip code, ethnic group, religion, marital status, or nationality of the  
3           consumer as a factor.

4           (2) Deny, cancel or nonrenew a policy of personal insurance solely on  
5           the basis of credit information, without consideration of any other applicable  
6           underwriting factor independent of credit information and not expressly  
7           prohibited by subdivision (1) of this subsection.

8           (3) Base an insured's renewal rates for personal insurance solely upon  
9           credit information, without consideration of any other applicable factor  
10          independent of credit information.

11          (4) Take an adverse action against a consumer solely because he or she  
12          does not have a credit card account, without consideration of any other  
13          applicable factor independent of credit information.

14          (5) Consider an absence of credit information or an inability to calculate  
15          an insurance score in underwriting or rating personal insurance, unless the  
16          insurer does one of the following:

17               (A) Treats the consumer as otherwise approved by the  
18               Commissioner, if the insurer presents information that such an absence or  
19               inability relates to the risk for the insurer.

20               (B) Treats the consumer as if the applicant or insured had neutral  
21               credit information, as defined by the insurer.

1           (C) Excludes the use of credit information as a factor and uses only  
2           other underwriting criteria.

3           (6) Take an adverse action against a consumer based on credit  
4           information, unless an insurer obtains and uses a credit report issued or an  
5           insurance score calculated within 90 days from the date the policy is first  
6           written or renewal is issued.

7           (7) Use credit information unless not later than every 36 months  
8           following the last time that the insurer obtained current credit information for  
9           the insured, the insurer recalculates the insurance score or obtains an updated  
10          credit report. Regardless of the requirements of this subsection:

11           (A) At annual renewal, upon the request of a consumer or the  
12          consumer's agent, the insurer shall reunderwrite and rerate the policy based  
13          upon a current credit report or insurance score. An insurer need not recalculate  
14          the insurance score or obtain the updated credit report of a consumer more  
15          frequently than once in a 12-month period.

16           (B) The insurer shall have the discretion to obtain current credit  
17          information upon any renewal before the 36 months, if consistent with its  
18          underwriting guidelines.

19           (C) No insurer need obtain current credit information for an insured,  
20          despite the requirements of subdivision (A) of this subdivision (7), if one of the  
21          following applies:

1                   (i) The insurer is treating the consumer as otherwise approved by  
2                   the Commissioner.

3                   (ii) The insured is in the most favorably priced tier of the insurer,  
4                   within a group of affiliated insurers. However, the insurer shall have the  
5                   discretion to order such report, if consistent with its underwriting guidelines.

6                   (iii) Credit was not used for underwriting or rating such insured  
7                   when the policy was initially written. However, the insurer shall have the  
8                   discretion to use credit for underwriting or rating such insured upon renewal, if  
9                   consistent with its underwriting guidelines.

10                  (iv) The insurer reevaluates the insured beginning not later than  
11                  36 months after inception and thereafter based upon other underwriting or  
12                  rating factors, excluding credit information.

13                  (8) Use the following as a negative factor in any insurance scoring  
14                  methodology or in reviewing credit information for the purpose of  
15                  underwriting or rating a policy of personal insurance:

16                  (A) credit inquiries not initiated by the consumer or inquiries  
17                  requested by the consumer for his or her own credit information;

18                  (B) inquiries relating to insurance coverage, if so identified on a  
19                  consumer's credit report;

20                  (C) collection accounts with a medical industry code, if so identified  
21                  on the consumer's credit report;

1           (D) multiple lender inquiries, if coded by the consumer reporting  
2           agency on the consumer’s credit report as being from the home mortgage  
3           industry and made within 30 days of one another, unless only one inquiry is  
4           considered; and

5           (E) multiple lender inquiries, if coded by the consumer reporting  
6           agency on the consumer’s credit report as being from the automobile lending  
7           industry and made within 30 days of one another, unless only one inquiry is  
8           considered.

9           (e)(1) Extraordinary life circumstances. Notwithstanding any other law or  
10          rule to the contrary, an insurer that uses credit information shall, on written  
11          request from an applicant for insurance coverage or an insured, provide  
12          reasonable exceptions to the insurer’s rates, rating classifications, company or  
13          tier placement, or underwriting rules or guidelines for a consumer who has  
14          experienced and whose credit information has been directly influenced by any  
15          of the following events:

16           (A) a catastrophic event, as declared by the federal or State  
17           government;

18           (B) a serious illness or injury, or a serious illness or injury to an  
19           immediate family member;

20           (C) the death of a spouse, child, or parent;

1           (D) divorce or involuntary interruption of legally owed alimony or  
2 support payments;

3           (E) identity theft;

4           (F) the temporary loss of employment for a period of three months or  
5 more, if it results from involuntary termination;

6           (G) military deployment overseas; or

7           (H) other events, as determined by the insurer.

8           (2) If an applicant or insured submits a request for an exception as set  
9 forth in subdivision (1) of this subsection, an insurer may, in its sole discretion,  
10 but is not mandated to:

11           (A) require the consumer to provide reasonable written and  
12 independently verifiable documentation of the event;

13           (B) require the consumer to demonstrate that the event had direct and  
14 meaningful impact on the consumer's credit information;

15           (C) require such request be made no more than 60 days from the date  
16 of the application for insurance or the policy renewal;

17           (D) grant an exception despite the consumer not providing the initial  
18 request for an exception in writing; or

19           (E) grant an exception where the consumer asks for consideration of  
20 repeated events or the insurer has considered this event previously.

1           (3) An insurer is not out of compliance with any law or rule relating to  
2           underwriting, rating, or rate filing as a result of granting an exception under  
3           this section. Nothing in this section shall be construed to provide a consumer  
4           or other insured with a cause of action that does not exist in the absence of this  
5           section.

6           (4) The insurer shall provide notice to consumers that reasonable  
7           exceptions are available and information about how the consumer may inquire  
8           further.

9           (5) Within 30 days of the insurer's receipt of sufficient documentation  
10          of an event described in subdivision (1) of this subsection, the insurer shall  
11          inform the consumer of the outcome of the request for a reasonable exception.  
12          Such communication shall be in writing or provided to an applicant in the same  
13          medium as the request.

14          (f) Dispute resolution and error correction. If it is determined through the  
15          dispute resolution process set forth in the federal Fair Credit Reporting Act, 15  
16          U.S.C. § 1681i(a)(5), that the credit information of a current insured was  
17          incorrect or incomplete and if the insurer receives notice of such determination  
18          from either the consumer reporting agency or from the insured, the insurer  
19          shall reunderwrite and rerate the consumer within 30 days of receiving the  
20          notice. After reunderwriting or rerating the insured, the insurer shall make any  
21          adjustments necessary, consistent with its underwriting and rating guidelines.

1 If an insurer determines that the insured has overpaid premium, the insurer  
2 shall refund to the insured the amount of overpayment calculated back to the  
3 shorter of either the last 12 months of coverage or the actual policy period.

4 (g)(1) Initial notification. If an insurer writing personal insurance uses  
5 credit information in underwriting or rating a consumer, the insurer or its agent  
6 shall disclose, either on the insurance application or at the time the insurance  
7 application is taken, that it may obtain credit information in connection with  
8 such application. Such disclosure shall be either written or provided to an  
9 applicant in the same medium as the application for insurance. The insurer  
10 need not provide the disclosure statement required under this section to any  
11 insured on a renewal policy if such consumer has previously been provided a  
12 disclosure statement.

13 (2) Use of the following example disclosure statement constitutes  
14 compliance with this section: “In connection with this application for  
15 insurance, we may review your credit report or obtain or use a credit-based  
16 insurance score based on the information contained in that credit report. We  
17 may use a third party in connection with the development of your insurance  
18 score.”

1       (h) Adverse action notification. If an insurer takes an adverse action based  
2       upon credit information, the insurer must meet the notice requirements of this  
3       subsection. Such insurer shall:

4               (1) Provide notification to the consumer that an adverse action has been  
5       taken, in accordance with the requirements of the federal Fair Credit Reporting  
6       Act, 15 U.S.C. § 1681m(a).

7               (2) Provide notification to the consumer explaining the reason for the  
8       adverse action. The reasons must be provided in sufficiently clear and specific  
9       language so that a person can identify the basis for the insurer’s decision to  
10       take an adverse action. Such notification shall include a description of up to  
11       four factors that were the primary influences of the adverse action. The use of  
12       generalized terms such as “poor credit history,” “poor credit rating,” or “poor  
13       insurance score” does not meet the explanation requirements of this subsection.  
14       Standardized credit explanations provided by consumer reporting agencies or  
15       other third party vendors are deemed to comply with this section.

16               (i) Filing. Insurers that use insurance scores to underwrite and rate risks  
17       must file their scoring models, or other scoring processes, with the Department  
18       of Financial Regulation. A third party may file scoring models on behalf of  
19       insurers. A filing that includes insurance scoring may include loss experience  
20       justifying the use of credit information. Any filing relating to credit



1 information is considered trade secret under and not subject to disclosure under  
2 Vermont's Public Records Act.

3 (j) Indemnification. An insurer shall indemnify, defend, and hold agents  
4 harmless from and against all liability, fees, and costs arising out of or relating  
5 to the actions, errors, or omissions of a producer who obtains or uses credit  
6 information or insurance scores, or both, for an insurer, provided the producer  
7 follows the instructions of or procedures established by the insurer and  
8 complies with any applicable law or regulation. Nothing in this section shall  
9 be construed to provide a consumer or other insured with a cause of action that  
10 does not exist in the absence of this section.

11 (k) Sale of policy term information by consumer reporting agency. A  
12 consumer reporting agency shall not provide or sell data or lists that include  
13 any information that in whole or in part was submitted in conjunction with an  
14 insurance inquiry about a consumer's credit information or a request for a  
15 credit report or insurance score. Such information includes the expiration  
16 dates of an insurance policy or any other information that may identify time  
17 periods during which a consumer's insurance may expire and the terms and  
18 conditions of the consumer's insurance coverage. The restrictions provided in  
19 this subsection do not apply to data or lists the consumer reporting agency  
20 supplies to the insurance producer from whom information was received, the  
21 insurer on whose behalf such producer acted, or such insurer's affiliates or

1 holding companies. Nothing in this section shall be construed to restrict any  
2 insurer from being able to obtain a claims history report or a motor vehicle  
3 report.

4 \* \* \* Credit Card Debt Collection; H.482 \* \* \*

5 Sec. 13. 12 V.S.A. § 511 is amended to read:

6 § 511. CIVIL ACTION

7 (a) A civil action, except one brought upon the judgment or decree of a  
8 court of record of the United States or of this or some other state, and except as  
9 otherwise provided, shall be commenced within six years after the cause of  
10 action accrues and not thereafter.

11 (b) Notwithstanding subsection (a) of this section, a civil action to collect a  
12 debt arising from default on an open end revolving line of credit account issued  
13 by a bank, credit union, or other entity that extends such lines of credit through  
14 credit cards, shall be commenced within three years after the cause of action  
15 accrues and not thereafter.

16 Sec. 14. 12 V.S.A. § 3170 is amended to read:

17 § 3170. EXEMPTIONS; ISSUANCE OF ORDER

18 \* \* \*

19 (b) The earnings of a judgment debtor shall be exempt as follows:

20 (1) seventy-five percent of the debtor's weekly disposable earnings, or 30  
21 times the ~~federal~~ minimum hourly wage, whichever is greater; or

1 (2) if the judgment debt arose from a consumer credit transaction, as that  
2 term is defined by 15 U.S.C. section 1602 and implementing regulations of the  
3 Federal Reserve Board, 85 percent of the debtor's weekly disposable earnings,  
4 or 40 times the ~~federal~~ minimum hourly wage, whichever is greater; or

5 \* \* \*

6 Sec. 15. 12 V.S.A. § 2903 is amended to read:

7 § 2903. DURATION AND EFFECTIVENESS

8 \* \* \*

9 (c) Interest on a judgment lien shall accrue at the rate of 12 percent per  
10 annum, provided that a court may suspend the accrual of interest if it finds,  
11 through a financial disclosure, that the defendant has an inability to pay.

12 \* \* \*

13 Sec. 16. 9 V.S.A. § 41a is amended to read:

14 § 41A. LEGAL RATES

15 \* \* \*

16 (e) Interest on a judgment shall accrue in accordance with 12 V.S.A. §  
17 2903(c).

18 Sec. 17. EFFECTIVE DATES

19 (a) This section shall take effect on passage.

1        (b) Sec. 12 (credit information for personal insurance) shall take effect on  
2        passage and apply to personal insurance policies either written to be effective  
3        or renewed on or after nine months from the effective date of the act.

4        (c) Sec. 1 (residential construction contracts) shall take effect on January 1,  
5        2018.

6        (d) Secs. 3–5 (fantasy sports operators) shall take effect on January 1, 2018  
7        and apply to calendar year 2018 and after.

8        (e) The following sections shall take effect on July 1, 2017:

9            (1) Sec. 2 (home loan escrow accounts).

10          (2) Sec. 6 (automobile advertising).

11          (3) Sec. 7 (warranty obligations for motorboat and watercraft dealers).

12          (4) Sec. 8 (automatic renewal provisions).

13          (5) Sec. 9 (retainage for materials).

14          (6) Secs. 10–11 (credit protection for vulnerable persons).

15          (7) Secs. 13–16 (credit card debt collection).

16

17

18        (Committee vote: \_\_\_\_\_)

19

\_\_\_\_\_

20

Representative \_\_\_\_\_

21

FOR THE COMMITTEE