

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred Senate Bill No. 56 entitled “An act relating to life insurance policies
4 and the Vermont Uniform Securities Act” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 * * * Secondary Addressee for Life Insurance * * *

9 Sec. 1. 8 V.S.A. § 3762(d) is added to read:

10 (d) No individual policy of life insurance covering an individual 64 years
11 of age or older that has been in force for at least one year shall be canceled for
12 nonpayment of premium unless, after expiration of the grace period and not
13 less than 21 days before the effective date of any such cancellation, the insurer
14 has mailed a notice of impending cancellation in coverage to the policyholder
15 and to a specified secondary addressee if such addressee has been designated
16 by name and address in writing by the policyholder. An insurer shall notify the
17 applicant of the right to designate a secondary addressee at the time of
18 application for the policy on a form provided by the insurer, and annually
19 thereafter, and the policyholder shall have the right to designate a secondary
20 addressee, in writing, by name and address, at any time the policy is in force,
21 by submitting such written notice to the insurer. If a life insurance policy

1 provides a grace period longer than 51 days for nonpayment of premium, the
2 notice of cancellation in coverage required by this subsection shall be mailed
3 to the policyholder and to the secondary addressee not less than 21 days prior
4 to the expiration of the grace period provided in such policies.

5 * * * Penalty Enhancements for Violations Involving a

6 Vulnerable Adult * * *

7 Sec. 2. 8 V.S.A. § 24 is amended to read:

8 § 24. SENIOR INVESTOR PROTECTION

9 * * *

10 (e) The Commissioner, in addition to other powers conferred on the
11 Commissioner by law, may increase the amount of an administrative penalty
12 by not more than \$5,000.00 per violation for violations involving a person who
13 is a vulnerable adult as defined in 33 V.S.A. § 6902(14).

14 * * * Securities Act Penalties, Generally; Vulnerable Adults * * *

15 Sec. 3. 9 V.S.A. § 5412(c) is amended to read:

16 (c) If the Commissioner finds that the order is in the public interest and
17 subdivisions (d)(1) through (6), (8), (9), (10), (12), or (13) of this section
18 authorize the action, an order under this chapter may censure, impose a bar on,
19 or impose a civil penalty on a registrant in an amount not more than
20 \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than~~
21 ~~one violation,~~ and recover the costs of the investigation from the registrant,

1 and, if the registrant is a broker-dealer or investment adviser, a partner, officer,
2 director, or person having a similar status or performing similar functions, or a
3 person directly or indirectly in control of the broker-dealer or investment
4 adviser. The limitations on civil penalties contained in this subsection shall not
5 apply to settlement agreements.

6 Sec. 4. 9 V.S.A. § 5603(b)(2)(C) is amended to read:

7 (C) imposing a civil penalty up to \$15,000.00 for each violation ~~and~~
8 ~~not more than \$1,000,000.00 for more than one violation~~; an order of
9 rescission, restitution, or disgorgement directed to a person that has engaged in
10 an act, practice, or course of business constituting a violation of this chapter or
11 the predecessor act or a rule adopted or an order issued under this chapter or
12 the predecessor act. The court may increase a civil penalty amount by not
13 more than \$5,000.00 per violation for violations involving a person who is a
14 vulnerable adult as defined in 33 V.S.A. § 6902(14). The limitations on civil
15 penalties contained in this subdivision shall not apply to settlement
16 agreements; and

17 Sec. 5. 9 V.S.A. § 5604(d) is amended to read:

18 (d) In a final order under subsection (b) or (c) of this section, the
19 Commissioner may impose a civil penalty of not more than \$15,000.00 for
20 each violation ~~and not more than \$1,000,000.00 for more than one violation.~~
21 The Commissioner may also require a person to make restitution or provide

1 disgorgement of any sums shown to have been obtained in violation of this
2 chapter, plus interest at the legal rate. The limitations on civil penalties
3 contained in this subsection shall not apply to settlement agreements.

4 * * * Securities Act Housekeeping * * *

5 Sec. 6. 9 V.S.A. § 5302 is amended to read:

6 § 5302. NOTICE FILING

7 * * *

8 (c) With respect to a security that is a federal covered security under
9 15 U.S.C. ~~§ 77r(b)(4)(E)~~ § 77r(b)(4)(F), a rule under this chapter may require a
10 notice filing by or on behalf of an issuer to include a copy of Form D,
11 including the Appendix, as promulgated by the Securities and Exchange
12 Commission, and a consent to service of process complying with section 5611
13 of this chapter signed by the issuer not later than 15 days after the first sale of
14 the federal covered security in this State and the payment of a fee as set forth
15 in subsection (e) of this section. The notice filing shall be effective for one
16 year from the date the notice filing is accepted as complete by the Office of the
17 Commissioner. On or before expiration, the issuer may annually renew a
18 notice filing by filing a copy of those records filed by the issuer with the
19 Securities and Exchange Commission that are required by rule or order under
20 this chapter to be filed and by paying an annual renewal fee as set forth in
21 subsection (e) of this section.

1 (d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted
2 thereunder, with respect to any security that is a federal covered security under
3 15 U.S.C. § 77r(b)(3) or ~~(4)(A)-(C)~~ (4)(A)-(E) and (G) and that is not
4 otherwise exempt under sections 5201 through 5203 of this title, a rule adopted
5 or order issued under this chapter may require any or all of the following with
6 respect to such federal covered securities, at such time as the Commissioner
7 may deem appropriate:

8 * * *

9 * * * Philanthropy Protection Act; Exemption Repeal * * *

10 Sec. 7. REPEAL

11 9 V.S.A. § 5615 (exempting Vermont from the Philanthropy Protection Act
12 of 1995) is repealed.

13 * * * Cooperative Insurance; Bylaws * * *

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

15 § 3925. BYLAWS; COMPULSORY PROVISIONS

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

18 (1) The corporate powers of such corporation shall be exercised by a
19 board of directors, who shall be not less than five in number. Such directors
20 shall be divided into classes and a portion only elected each year. They shall
21 be elected for a term of not more than four years each and shall choose ~~from~~

1 ~~their number~~ a president, a secretary, and such other officers as may be deemed
2 necessary. After the first year, the directors shall be chosen at an annual
3 meeting to be held on the second Tuesday of January, unless some other day is
4 designated in such bylaws, at which meeting each person insured shall have
5 one vote and may be entitled to vote by proxy under such rules and regulations
6 as may be prescribed by the bylaws.

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

14 (3) If authorized as an assessment cooperative insurance corporation as
15 outlined in subsection 3920(a) of this title, such corporation may assess for the
16 purposes specified in section 3927 of this title, and the bylaws shall specify the
17 manner of giving notice of such assessments, which may be either personal or
18 by mail, and, if by mail, shall be deemed complete if such notice is deposited,
19 postage prepaid, in the post office at the place where the principal office of the
20 corporation is located, directed to the person insured at his or her last known
21 place of residence or business. A person insured who neglects or refuses to

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

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

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

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

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

19 (7) ~~Nonresidents owning property within the state of Vermont may be~~
20 ~~insured therein and shall have all the rights and privileges of the corporation~~

1 ~~and be accountable as are other persons insured therein, but shall not be~~
2 ~~eligible to hold office in the corporation;~~

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

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

5 Sec. 9. [DELETED.]

6 Sec. 10. [DELETED.]

7 Sec. 11. [DELETED.]

8 Sec. 12. [DELETED.]

9 Sec. 13. [DELETED.]

10 Sec. 14. [DELETED.]

11 Sec. 15. [DELETED.]

12 * * * Assistant Medical Examiners; Liability Protections * * *

13 Sec. 16. 18 V.S.A. § 511 is added to read:

14 § 511. ACTIONS AGAINST MEDICAL EXAMINERS

15 Actions taken by any person given authority under this chapter, including
16 an assistant medical examiner, shall be considered to be actions taken by a
17 State employee for the purposes of 3 V.S.A. chapter 29 and 12 V.S.A. chapter
18 189 if such actions occurred within the scope of such person's duties.

19 * * * Portable Electronics Insurance; Notice Requirements * * *

20 Sec. 17. 8 V.S.A. § 4260 is amended to read:

21 § 4260. NOTICE REQUIREMENTS

1 (a) Whenever notice or correspondence with respect to a policy of portable
2 electronics insurance is required pursuant to the policy or is otherwise required
3 by law, it shall be in writing. Notwithstanding any other provision of law,
4 notices and correspondence may be sent either by mail or by electronic means
5 as set forth in this section. If the notice or correspondence is mailed, it shall be
6 sent to the portable electronics vendor at the vendor's mailing address
7 specified for such purpose and to its affected customers' last known mailing
8 address on file with the insurer. The insurer or vendor of portable electronics
9 shall maintain proof of mailing in a form authorized or accepted by the U.S.
10 Postal Service or other commercial mail delivery service. If the notice or
11 correspondence is sent by electronic means, it shall be sent to the portable
12 electronics vendor at the vendor's electronic mail address specified for such
13 purpose and to its affected customers' last known electronic mail address as
14 provided by each customer to the insurer or vendor of portable electronics. A
15 ~~customer is deemed to consent to receive notice and correspondence by~~
16 ~~electronic means if the insurer or vendor first discloses to the customer that by~~
17 ~~providing an electronic mail address the customer consents to receive~~
18 ~~electronic notice and correspondence at the address, and the customer provides~~
19 ~~an electronic mail address~~ customer's provision of an electronic mail address
20 to the insurer or vendor of portable electronics is deemed consent to receive
21 notices and correspondence by electronic means at such address if notice of

1 that consent is provided to the customer within 30 calendar days. The insurer
2 or vendor of portable electronics shall maintain proof that the notice or
3 correspondence was sent.

4 * * *

5 * * * Workers' Compensation; High-Risk Occupations and Industries * * *

6 Sec. 18. WORKERS' COMPENSATION; INDUSTRIES AND

7 OCCUPATIONS WITH HIGH RISK, HIGH PREMIUMS, AND

8 FEW POLICY HOLDERS; STUDY; REPORT

9 (a) The Commissioner of Financial Regulation, in consultation with the
10 Commissioner of Labor, the National Council on Compensation Insurance, and
11 other interested stakeholders, shall identify and study industries and
12 occupations in Vermont that experience a high risk of workplace and on-the-
13 job injuries and whose workers' compensation insurance is characterized by
14 high premiums and few policy holders in the insurance pool. The industries
15 and occupations addressed in the study shall include, among others, logging
16 and log hauling, as well as arborists, roofers, and occupations in saw mills and
17 wood manufacturing operations. In particular, the Commissioner shall:

18 (1) examine difference in the potential for loss, premium rates, and
19 experience and participation in the workers' compensation marketplace
20 between the industries and occupations identified, and the average for all
21 industries and occupations in Vermont;

1 (2) study potential methods for reducing workers' compensation
2 premium rates and costs for high-risk industries and occupations, including
3 risk pooling between multiple high-risk industries or occupations, creating
4 self-insured trusts; creating voluntary safety certification programs, and
5 programs or best practices employed by other states; and

6 (3) model the potential impact on workers' compensation premiums and
7 costs from each of the methods identified pursuant to subdivision (2) of this
8 subsection.

9 (b) On or before January 15, 2018, the Commissioner of Financial
10 Regulation shall submit a written report to the House Committee on Commerce
11 and Economic Development and the Senate Committee on Finance regarding
12 his or her findings and any recommendations for legislative action to reduce
13 the workers' compensation premium rates and costs for the industries
14 identified in the study.

15 * * * Workers' Compensation; Short-term and Seasonal Policies; Studies * * *

16 Sec. 19. [DELETED.]

17 Sec. 20. SHORT-TERM WORKERS' COMPENSATION POLICIES;

18 STUDY; REPORT

19 The Commissioner of Financial Regulation, in consultation with the
20 Commissioner of Labor, shall examine potential measures to encourage the
21 creation of affordable seasonal and short-term workers' compensation policies

1 and measures to reduce the cost of workers' compensation insurance coverage
2 for small employers in seasonal occupations. On or before January 15, 2018,
3 the Commissioner shall report to the House Committee on Commerce and
4 Economic Development and the Senate Committee on Finance regarding his or
5 her finding and any recommendations for legislative action.

6 Sec. 21. REGIONAL ASSIGNED RISK POOL; STUDY; REPORT

7 The Commissioner of Financial Regulation shall examine potential
8 mechanisms for joining with neighboring states to create a regional assigned
9 risk pool for workers' compensation insurance and whether the creation of a
10 regional assigned risk pool could reduce the cost of administering Vermont's
11 assigned risk pool. On or before January 15, 2018, the Commissioner shall
12 submit a written report to the House Committee on Commerce and Economic
13 Development and the Senate Committee on Finance with his or her findings
14 and any recommendations for legislative action related to the implementation
15 of a regional assigned risk pool for workers' compensation insurance.

16 Sec. 22. ADMINISTRATION OF ASSIGNED RISK POOL; STUDY;
17 REPORT

18 The Commissioner of Financial Regulation shall examine whether any
19 premium savings or reductions in costs could be realized if the assigned risk
20 pool for workers' compensation was administered directly by the Department
21 of Financial Regulation rather than through a third-party. On or before

1 January 15, 2018, the Commissioner shall submit a written report to the House
2 Committee on Commerce and Economic Development and the Senate
3 Committee on Finance with his or her findings and any recommendations for
4 legislative action.

5 * * * Unemployment Compensation; Referee Final Decisions * * *

6 Sec. 23. [DELETED.]

7 Sec. 24. [DELETED.]

8 * * * Effective Date; Application * * *

9 Sec. 25. EFFECTIVE DATE; APPLICATION

10 (a) This act shall take effect on July 1, 2017.

11 (b) Sec. 17 shall apply to portable electronics insurance policies issued or
12 renewed on or after July 1, 2107.

13 and that after passage the title of the bill be amended to read: “An act relating
14 to insurance and securities”

15

16

17

18 (Committee vote: _____)

19

20

21

Representative _____

FOR THE COMMITTEE