

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 \* \* \* Home Loan Escrow Account Analysis \* \* \*

9 Sec. 1. 8 V.S.A. § 10404 is amended to read:

10 § 10404. HOME LOAN ESCROW ACCOUNTS

11 \* \* \*

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

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

19 (2) a lender may require monthly deposits no greater than one-twelfth of  
20 the reasonably estimated total annual charges plus an amount needed to

1 maintain an additional account balance no greater than ~~one-twelfth~~ one-sixth  
2 of such total.

3 \* \* \*

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

10 (2) Upon submission of a revised property tax bill to the lender, the  
11 lender shall review the property tax bill and upon verifying that it has been  
12 reduced since the date of the last escrow account analysis, the lender shall,  
13 within 30 days of receiving notice from the borrower, conduct a new escrow  
14 account analysis, recalculate the borrower's monthly escrow payment, and  
15 notify the borrower of any change.

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

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\* \* \*

\* \* \* Fantasy Sports Contests \* \* \*

Sec. 2. 9 V.S.A. chapter 116 is added to read:

CHAPTER 116. FANTASY SPORTS CONTESTS

§ 4185. DEFINITIONS

As used in this chapter:

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

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

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

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

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

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

7           (D) the outcome is determined by the number of fantasy points  
8           earned; and

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

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

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

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

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

5           § 4186. CONSUMER PROTECTION

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

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

10           (A) the fantasy sports operator;

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

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

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

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

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

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

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

7           (7) segregate player funds from operational funds, or maintain a reserve  
8 in the form of cash, cash equivalents, payment processor receivables, payment  
9 processor reserves, an irrevocable letter of credit, a bond, or a combination  
10 thereof in an amount that equals or exceeds the amount of deposits in fantasy  
11 sports player accounts, for the benefit and protection of fantasy sports player  
12 funds held in their accounts; and

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

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

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

19           (2)(A) The operator shall enable a fantasy sports player to restrict  
20 irrevocably his or her own ability to participate in a fantasy sports contest, for a

1 period of time the player specifies, by submitting a request to the operator  
2 through its website or by online chat with the operator’s agent.

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

5 (i) available resources addressing addiction and compulsive  
6 behavior;

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

9 (iii) requirements to reinstate an account at the end of the  
10 period; and

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

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

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

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

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

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

7        (d) A fantasy sports operator shall not extend credit to a fantasy sports  
8        player.

9        (e) A fantasy sports operator shall not offer a fantasy sports contest based  
10       on the performance of participants in college, high school, or youth athletic  
11       events.

12       § 4187. FAIR AND TRUTHFUL ADVERTISING

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

15           (1) minors, other than professional athletes who may be minors;

16           (2) students;

17           (3) schools or colleges; or

18           (4) school or college settings, provided that incidental depiction of  
19        nonfeatured minors does not violate this section.

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



1           (1) minors, other than professional athletes who may be minors;

2           (2) collegiate athletes;

3           (3) colleges; or

4           (4) college athletic associations.

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

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

12          (d) A fantasy sports operator shall only make representations concerning  
13          winnings that are accurate, not misleading, and capable of substantiation at the  
14          time of the representation. For purposes of this subsection, an advertisement is  
15          misleading if it makes representations about average winnings without equally  
16          prominently representing the average net winnings of all players.

17          § 4188. EXEMPTION

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

1       § 4189. REGISTRATION

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

10       § 4190. ENFORCEMENT

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

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

17       Sec. 3. 32 V.S.A. § 3102(e)(19) is added to read:

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

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

21                               CHAPTER 221. FANTASY SPORTS

1     § 9001. DEFINITIONS

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

4     § 9002. TAX IMPOSED

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

13    § 9003. RETURNS

14            Any person liable for the tax imposed by this chapter shall, on or before the  
15    15th day of March, return to the Commissioner under oath of a person with  
16    legal authority to bind the fantasy sports operator a statement containing its  
17    name and place of business, its net fantasy sports contest revenues for the  
18    preceding year, and any other information required by the Commissioner,  
19    along with the tax due for the prior calendar year.

20    § 9004. PENALTIES

1        Any person subject to the provisions of this chapter who fails to pay the tax  
2        imposed by this chapter by the date that payment is due or fails to submit a  
3        return as required by this chapter is subject to the provisions of sections 3202  
4        and 5864 of this title.

5        Sec. 5. REPORT

6        On or before January 15, 2019, and annually thereafter, the Attorney  
7        General, in collaboration with the Department of Taxes and the Secretary of  
8        State, shall submit to the House Committees on Commerce and Economic  
9        Development and on Ways and Means, and to the Senate Committees on  
10       Economic Development, Housing and General Affairs and on Finance, a report  
11       that provides a summary of fantasy sports business activity in this State.

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

13       Sec. 6. 9 V.S.A. § 2454a is added to read:

14       § 2454a. CONSUMER CONTRACTS; AUTOMATIC RENEWAL

15       (a) A contract between a consumer and a seller or a lessor with an initial  
16       term of one year or longer shall not renew automatically unless:

17       (1) the contract states clearly and conspicuously the terms of the  
18       automatic renewal provision in plain, unambiguous language, and in bold-face  
19       type;

20       (2) in addition to accepting the contract, the consumer takes an  
21       affirmative action to opt in to the automatic renewal provision; and

1           (3) if the consumer opts in to the automatic renewal provision, the seller  
2           or lessor provides a written or electronic notice to the consumer:

3                   (A) not less than 30 days, and not more than 60 days, before the  
4           earliest of:

5                           (i) the automatic renewal date;

6                           (ii) the termination date; or

7                           (iii) the date by which the consumer must provide notice to cancel  
8           the contract; and

9                   (B) that includes:

10                           (i) the date the contract will terminate and a clear statement that  
11           unless the consumer cancels the contract on or before the termination date, the  
12           contract will renew automatically;

13                           (ii) the length and any additional terms of the renewal period;

14                           (iii) one or more methods by which the consumer can cancel the  
15           contract; and

16                           (iv) contact information for the seller or lessor,

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

20                   (c) The provisions of this section do not apply to a contract between a  
21           consumer and a financial institution, as defined in 8 V.S.A. § 11101.

1       Sec. 7. AUTOMATIC RENEWAL OF CONTRACTS; APPLICABILITY TO  
2                   EXISTING CONTRACTS

3           (a) A contract between a consumer and a seller or lessor in effect on  
4           January 1, 2018, with an initial term of one year or longer, and that includes an  
5           automatic renewal provision, shall not renew automatically unless the seller or  
6           lessor sends written or electronic notice to the consumer with the information  
7           required 9 V.S.A. § 2454a(a)(3)(B):

8                   (1) not less than 30 days, and not more than 60 days, before the earliest  
9           of:

10                   (A) the automatic renewal date;

11                   (B) the termination date; or

12                   (C) the date by which the consumer must provide notice to cancel the  
13           contract; or

14                   (2) if the contract will automatically renew on or before January 31,  
15           2018, then as soon as is commercially reasonable after this section takes effect.

16           (b) The Attorney General shall have the same authority to enforce this  
17           section as for 9 V.S.A. § 2454a.

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

19       Sec. 8. 9 V.S.A. § 4005 is amended to read:

20       § 4005. RETAINAGE

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

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

9 (c) Notwithstanding any contrary agreement, a contractor shall pay to its  
10 subcontractors, and each subcontractor shall in turn pay to its subcontractors,  
11 within seven days after receipt of the retainage, the full amount due to each  
12 such subcontractor.

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

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

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

3           (2) are covered by a manufacturer’s warranty, or graded to meet  
4           industry standards, or both.

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

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

7           § 2480a. DEFINITIONS

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

9           (1) “Consumer” means a natural person ~~residing in this State~~ other than  
10           a protected consumer.

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

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

18                   ~~(B) an authorization or approval of a specific extension of credit~~  
19                   ~~directly or indirectly by the issuer of a credit card or similar device. a~~

20           consumer report, as defined in 15 U.S.C. § 1681a, that is used or collected in



1 whole or in part for the purpose of serving as a factor in establishing a  
2 consumer’s eligibility for credit for personal, family, or household purposes.

3 (3) “Credit reporting agency” or “agency” means ~~any person which, for~~  
4 ~~monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in~~  
5 ~~whole or in part in the practice of assembling or evaluating consumer credit~~  
6 ~~information or other information on consumers for the purpose of reporting to~~  
7 ~~third parties on the credit rating or creditworthiness of any consumer~~ a person  
8 who, for fees, dues, or on a cooperative basis, regularly engages in whole or in  
9 part in the practice of assembling or evaluating information concerning a  
10 consumer’s credit or other information for the purpose of furnishing a credit  
11 report to another person.

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

15 (5) “Investigative credit report” means a report in which information on  
16 a consumer’s character, general reputation, personal characteristics, or mode of  
17 living is obtained through personal interviews with neighbors, friends, or  
18 associates of the consumer reported on or with others with whom the consumer  
19 is acquainted or who may have knowledge concerning any such items of  
20 information. The term does not include reports of specific factual information  
21 on a consumer’s credit record obtained directly from a creditor of the

1 consumer or from a credit reporting agency when such information was  
2 obtained directly from a creditor of the consumer or from the consumer.

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

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

8 (B) any name the consumer previously used;

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

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

12 (E) the consumer’s date of birth.

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

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

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

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

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

2           (10) “Incapacitated person” has the same meaning as in 14 V.S.A.  
3           § 3152.

4           (11)(A) “Personal information” means personally identifiable financial  
5           information:

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

7                   (ii) resulting from any transaction with the consumer or any  
8           service performed for the consumer; or

9                   (iii) otherwise obtained by another person.

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

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

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

16           (C) Notwithstanding subdivision (B) of this subdivision (11),  
17           “personal information” includes any list, description, or other grouping of  
18           consumers, and publicly available information pertaining to the consumers,  
19           that is derived using any nonpublic personal information other than publicly  
20           available information.

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

3           (A) less than 16 years of age;

4           (B) an incapacitated person; or

5           (C) a protected person.

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

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

8           (A) identifies a protected consumer;

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

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

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

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

19           (A) a court order;

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

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

3           (17) “Sufficient proof of identification” means information or  
4           documentation that identifies a protected consumer or a representative,  
5           including:

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

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

9           (C) a copy of a government issued driver license or identification  
10          card.

11          Sec. 10. 9 V.S.A. chapter 63, subchapter 9 is added to read:

12                           Subchapter 9. Credit Report Protection for Minors

13          § 2493. TITLE

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

15          § 2494. DEFINITIONS

16                   As used in this subchapter:

17                   (1) “Proper authority” means:

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

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

1                    (ii) sufficient proof of identification of the protected consumer’s  
2                    representative; and

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

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

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

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

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

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

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

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

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

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

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

4           § 2495. APPLICABILITY

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

7           (1) a person administering a credit file monitoring subscription service  
8           to which:

9                   (A) the protected consumer has subscribed; or

10                   (B) the protected consumer’s representative has subscribed on the  
11           protected consumer’s behalf;

12           (2) a person who, upon request from the protected consumer or the  
13           protected consumer’s representative, provides the protected consumer or the  
14           protected consumer’s representative with a copy of the protected consumer’s  
15           credit report;

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

17                   (A) reports on incidents of fraud; or

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

20           (4) a deposit account information service company that issues reports  
21           regarding account closures due to fraud, substantial overdrafts, automated

1 teller machine abuse, or similar information regarding an individual to  
2 inquiring banks or other financial institutions for use only in reviewing an  
3 individual's request for a deposit account at the inquiring bank or financial  
4 institution;

5 (5) an insurance company for the purpose of conducting the insurance  
6 company's ordinary business;

7 (6) a consumer reporting agency that:

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

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

13 (7) a consumer reporting agency's database or file that consists of  
14 information that:

15 (A) concerns and is used for:

16 (i) criminal record information;

17 (ii) fraud prevention or detection;

18 (iii) personal loss history information; or

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

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

21 § 2496. SECURITY FREEZE FOR PROTECTED CONSUMER; TIME IN



1               EFFECT

2           (a) A consumer reporting agency shall place a security freeze for a  
3 protected consumer if:

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

6           (2) the protected consumer’s representative:

7           (A) submits the request described in subdivision (1) of this  
8 subsection (a):

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

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

12           (B) demonstrates proper authority to the consumer reporting  
13 agency; and

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

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

20           (c) The credit reporting agency shall:

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

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

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

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

9           (d) If the protected consumer or protected consumer’s representative  
10          wishes to allow the protected consumer’s credit report to be accessed by a  
11          specific party or parties, or for a specific period of time while a freeze is in  
12          place, he or she shall:

13                   (1) contact the credit reporting agency;

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

15                   (3) provide:

16                           (A) proper authority;

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

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

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

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

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

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

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

14           (2) If the protected consumer's credit report was frozen due to a material  
15          misrepresentation of fact by the consumer. If a credit reporting agency intends  
16          to remove a freeze upon a protected consumer's credit report pursuant to this  
17          subdivision, the credit reporting agency shall notify the protected consumer  
18          and his or her representative in writing prior to removing the freeze on the  
19          consumer's credit report.

20          (h) If a third party requests access to a credit report on which a protected  
21          consumer security freeze is in effect and this request is in connection with an

1 application for credit or any other use and neither the consumer subject to the  
2 protected consumer security freeze nor the protected consumer's representative  
3 allows the credit report to be accessed for that specific party or period of time,  
4 the third party may treat the application as incomplete.

5 (i) If a protected consumer's representative requests a security freeze  
6 pursuant to this section, the credit reporting agency shall disclose to the  
7 protected consumer's representative the process of placing and lifting  
8 temporarily a security freeze and the process for allowing access to  
9 information from the protected consumer's credit report for a specific party,  
10 parties, or period of time while the protected consumer security freeze is in  
11 place.

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

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

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

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

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

4           (4) When submitting a proper request for removal, a protected  
5           consumer’s representative or a consumer who is subject to a protected  
6           consumer security freeze shall:

7           (A) provide proper authority;

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

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

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

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

18               (1) A person, or the person’s subsidiary, affiliate, agent, or assignee with  
19               which the protected consumer has or, prior to assignment, had an account,  
20               contract, or debtor-creditor relationship for the purposes of reviewing the  
21               account or collecting the financial obligation owing for the account, contract,

1 or debt, or extending credit to a consumer with a prior or existing account,  
2 contract, or debtor-creditor relationship, subject to the requirements of section  
3 2480e of this title. As used in this subdivision, “reviewing the account”  
4 includes activities related to account maintenance, monitoring, credit line  
5 increases, and account upgrades and enhancements.

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

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

10 (4) The Office of Child Support when investigating a child support case  
11 pursuant to Title IV-D of the Social Security Act (42 U.S.C. §§ 651-669b) and  
12 33 V.S.A. 4102.

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

16 (6) The Department of Taxes, municipal taxing authorities, or the  
17 Department of Motor Vehicles or any of their agents or assignees, acting to  
18 investigate or collect delinquent taxes or assessments, including interest and  
19 penalties, unpaid court orders, or to fulfill any of their other statutory or charter  
20 responsibilities.

1           (7) A person’s use of credit information for the purposes of prescreening  
2           as provided by the federal Fair Credit Reporting Act.

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

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

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

9           § 2497. FEES

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

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

16                   (1) the protected consumer’s representative:

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

19                           (B) provides a copy of the report to the consumer reporting  
20           agency; or

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

3           (B) the consumer reporting agency has a file that pertains to the  
4           protected consumer.

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

6           Sec. 11. 8 V.S.A. § 4727 is added to read:

7           § 4727. PERSONAL INSURANCE; USE OF CREDIT INFORMATION

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

11           (b) Scope. This section applies to personal insurance and not to  
12           commercial insurance. As used in this section, “personal insurance” means  
13           private passenger automobile, homeowners, motorcycle, mobile home owners,  
14           and noncommercial dwelling fire insurance policies. Such policies must be  
15           underwritten for personal, family, or household use. No other types of  
16           insurance shall be included as personal insurance for the purpose of this  
17           section.

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

19           (1) “Adverse action” means a denial or cancellation of, an increase in  
20           any charge for, or a reduction or other adverse or unfavorable change in the



1 terms of coverage or amount of, any insurance, existing or applied for, in  
2 connection with the underwriting of personal insurance.

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

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

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

10 (5) “Consumer reporting agency” means any person which, for  
11 monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in  
12 whole or in part in the practice of assembling or evaluating consumer credit  
13 information or other information on consumers for the purpose of furnishing  
14 consumer reports to third parties.

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

20 (7) “Credit report” means any written, oral, or other communication of  
21 information by a consumer reporting agency bearing on a consumer’s credit

1 worthiness, credit standing, or credit capacity which is used or expected to be  
2 used or collected in whole or in part for the purpose of serving as a factor to  
3 determine personal insurance premiums, eligibility for coverage, or tier  
4 placement.

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

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

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

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

18 (3) Base an insured’s renewal rates for personal insurance solely upon  
19 credit information, without consideration of any other applicable factor  
20 independent of credit information.

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

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

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

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

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

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

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

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

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

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

12           (i) The insurer is treating the consumer as otherwise approved by  
13          the Commissioner.

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

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

1                    (iv) The insurer reevaluates the insured beginning not later than  
2                    36 months after inception and thereafter based upon other underwriting or  
3                    rating factors, excluding credit information.

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

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

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

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

13                   (D) multiple lender inquiries, if coded by the consumer reporting  
14                   agency on the consumer's credit report as being from the home mortgage  
15                   industry and made within 30 days of one another, unless only one inquiry is  
16                   considered; and

17                   (E) multiple lender inquiries, if coded by the consumer reporting  
18                   agency on the consumer's credit report as being from the automobile lending  
19                   industry and made within 30 days of one another, unless only one inquiry is  
20                   considered.

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

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

10              (B) a serious illness or injury, or a serious illness or injury to an  
11       immediate family member;

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

13              (D) divorce or involuntary interruption of legally owed alimony or  
14       support payments;

15              (E) identity theft;

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

18              (G) military deployment overseas; or

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

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

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

6                   (B) require the consumer to demonstrate that the event had direct and  
7                   meaningful impact on the consumer’s credit information;

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

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

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

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

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

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

6           (f) Dispute resolution and error correction. If it is determined through the  
7           dispute resolution process set forth in the federal Fair Credit Reporting Act, 15  
8           U.S.C. § 1681i(a)(5), that the credit information of a current insured was  
9           incorrect or incomplete and if the insurer receives notice of such determination  
10           from either the consumer reporting agency or from the insured, the insurer  
11           shall reunderwrite and rerate the consumer within 30 days of receiving the  
12           notice. After reunderwriting or rerating the insured, the insurer shall make any  
13           adjustments necessary, consistent with its underwriting and rating guidelines.  
14           If an insurer determines that the insured has overpaid premium, the insurer  
15           shall refund to the insured the amount of overpayment calculated back to the  
16           shorter of either the last 12 months of coverage or the actual policy period.

17           (g)(1) Initial notification. If an insurer writing personal insurance uses  
18           credit information in underwriting or rating a consumer, the insurer or its agent  
19           shall disclose, either on the insurance application or at the time the insurance  
20           application is taken, that it may obtain credit information in connection with  
21           such application. Such disclosure shall be either written or provided to an



1 applicant in the same medium as the application for insurance. The insurer  
2 need not provide the disclosure statement required under this section to any  
3 insured on a renewal policy if such consumer has previously been provided a  
4 disclosure statement.

5 (2) Use of the following example disclosure statement constitutes  
6 compliance with this section: “In connection with this application for  
7 insurance, we may review your credit report or obtain or use a credit-based  
8 insurance score based on the information contained in that credit report. We  
9 may use a third party in connection with the development of your insurance  
10 score.”

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

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

17 (2) Provide notification to the consumer explaining the reason for the  
18 adverse action. The reasons must be provided in sufficiently clear and specific  
19 language so that a person can identify the basis for the insurer’s decision to  
20 take an adverse action. Such notification shall include a description of up to  
21 four factors that were the primary influences of the adverse action. The use of

1 generalized terms such as “poor credit history,” “poor credit rating,” or “poor  
2 insurance score” does not meet the explanation requirements of this subsection.  
3 Standardized credit explanations provided by consumer reporting agencies or  
4 other third party vendors are deemed to comply with this section.

5 (i) Filing. Insurers that use insurance scores to underwrite and rate risks  
6 must file their scoring models, or other scoring processes, with the Department  
7 of Financial Regulation. A third party may file scoring models on behalf of  
8 insurers. A filing that includes insurance scoring may include loss experience  
9 justifying the use of credit information. Any filing relating to credit  
10 information is considered trade secret under and not subject to disclosure under  
11 Vermont’s Public Records Act.

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

20 (k) Sale of policy term information by consumer reporting agency. A  
21 consumer reporting agency shall not provide or sell data or lists that include

1 any information that in whole or in part was submitted in conjunction with an  
2 insurance inquiry about a consumer's credit information or a request for a  
3 credit report or insurance score. Such information includes the expiration  
4 dates of an insurance policy or any other information that may identify time  
5 periods during which a consumer's insurance may expire and the terms and  
6 conditions of the consumer's insurance coverage. The restrictions provided in  
7 this subsection do not apply to data or lists the consumer reporting agency  
8 supplies to the insurance producer from whom information was received, the  
9 insurer on whose behalf such producer acted, or such insurer's affiliates or  
10 holding companies. Nothing in this section shall be construed to restrict any  
11 insurer from being able to obtain a claims history report or a motor vehicle  
12 report.

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

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

15 § 511. CIVIL ACTION

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

1        (b) Notwithstanding subsection (a) of this section, a civil action to collect a  
2        debt arising from default on a credit card account shall be commenced within  
3        three years after the cause of action accrues and not thereafter.

4        Sec. 13. 12 V.S.A. § 3170 is amended to read:

5        § 3170. EXEMPTIONS; ISSUANCE OF ORDER

6        (a) No order approving the issuance of trustee process against earnings shall  
7        be entered against a judgment debtor who was, within the two-month period  
8        preceding the hearing provided in section 3169 of this title, a recipient of  
9        assistance from the Vermont Department for Children and Families or the  
10       Department of Vermont Health Access. The judgment debtor must establish  
11       this exemption at the time of hearing.

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

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

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



1           (c) ~~Interest~~ Unless a court suspends the accrual of interest pursuant to 9  
2           V.S.A. § 41a(e), interest on a judgment lien shall accrue at the rate of 12  
3           percent per annum.

4           Sec. 16. EFFECTIVE DATES

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

6           (b) Sec. 11 (credit information for personal insurance) shall take effect on  
7           passage and apply to personal insurance policies either written to be effective  
8           or renewed on or after nine months from the effective date of the act.

9           (c) Secs. 2–5 (fantasy sports operators) shall take effect on January 1, 2018  
10          and apply to calendar year 2018 and after.

11          (d) Secs. 6–7 (automatic renewal provisions) shall take effect on January 1,  
12          2018.

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

14                 (1) Sec. 1 (home loan escrow accounts).

15                 (2) Sec. 8 (retainage for construction materials).

16                 (3) Secs. 9–10 (credit protection for vulnerable persons).

17                 (4) Secs. 12–15 (credit card debt collection).

18

19

20                 (Committee vote: \_\_\_\_\_)

1

\_\_\_\_\_

2

Representative \_\_\_\_\_

3

FOR THE COMMITTEE