

1 Introduced by Committee on Economic Development and Housing and
2 General Affairs

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; consumer protection

6 Statement of purpose of bill as introduced: This bill proposes to adopt
7 miscellaneous consumer protection provisions relating to nonresidential
8 improvement fraud; residential construction contracts; escrow account
9 analyses; fantasy sports contests; and automobile repossession.

10 An act relating to miscellaneous consumer protection provisions

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

12 * * * Nonresidential Improvement Fraud * * *

13 Sec. 1. 13 V.S.A. § 2029 is amended to read:

14 § 2029. HOME IMPROVEMENT FRAUD

15 (a) As used in this section, “home improvement” includes the fixing,
16 replacing, remodeling, removing, renovation, alteration, conversion,
17 improvement, demolition, or rehabilitation of or addition to any building or
18 land, or any portion thereof, which is used or designed to be used as a
19 residence or dwelling unit. Home improvement shall include the construction,
20 replacement, installation, paving, or improvement of driveways, roofs, and

1 sidewalks, and the limbing, pruning, and removal of trees or shrubbery and
2 other improvements to structures or upon land that is adjacent to a dwelling
3 house.

4 (b)(1) A person commits the offense of home improvement fraud when he
5 or she enters into a contract or agreement, written or oral, for \$500.00 or more,
6 with an owner for home improvement, or into several contracts or agreements
7 for \$2,500.00 or more in the aggregate, with more than one owner for home
8 improvement, and he or she knowingly:

9 (A)(1) fails to perform the contract or agreement, in whole or in
10 part; and

11 (B) when the owner requests performance or a refund of payment made,
12 the person fails to either:

13 (i)(A) refund the payment; or

14 (ii)(B) make and comply with a definite plan for completion of the
15 work that is agreed to by the owner;

16 (2) misrepresents a material fact relating to the terms of the contract or
17 agreement or to the condition of any portion of the property involved;

18 (3) uses or employs any unfair or deceptive act or practice in order to
19 induce, encourage, or solicit such person to enter into any contract or
20 agreement or to modify the terms of the original contract or agreement; or

1 (4) when there is a declared state of emergency, charges for goods or
2 services related to the emergency a price that exceeds two times the average
3 price for the goods or services and the increase is not attributable to the
4 additional costs incurred in connection with providing those goods or services.

5 (c) Whenever a person is convicted of home improvement fraud or of
6 fraudulent acts related to home improvement:

7 (1) the person shall notify the Office of Attorney General;

8 (2) the court shall notify the Office of the Attorney General; and

9 (3) the Office of Attorney General shall place the person's name on the
10 Home Improvement and Nonresidential Improvement Fraud Registry.

11 (d)(1) A person who violates subsection (b) of this section shall be
12 imprisoned not more than two years or fined not more than \$1,000.00, or both,
13 if the loss to a single consumer is less than \$1,000.00.

14 (2) A person who is convicted of a second or subsequent violation of
15 subdivision (1) of this subsection shall be imprisoned not more than three years
16 or fined not more than \$5,000.00, or both.

17 (3) A person who violates subsection (b) of this section shall be
18 imprisoned not more than three years or fined not more than \$5,000.00, or
19 both, if:

20 (A) the loss to a single consumer is \$1,000.00 or more; or

1 (B) the loss to more than one consumer is \$2,500.00 or more in the
2 aggregate.

3 (4) A person who is convicted of a second or subsequent violation of
4 subdivision (3) of this subsection shall be imprisoned not more than five years
5 or fined not more than \$10,000.00, or both.

6 (5) A person who violates subsection (c) or (e) of this section shall be
7 imprisoned for not more than two years or fined not more than \$1,000.00,
8 or both.

9 (e) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4) of
10 this section, subdivision of 2029a(d)(2), (3), or (4) of this title, or convicted of
11 fraudulent acts related to home improvement, may engage in home
12 improvement activities for compensation only if:

13 (1) the work is for a company or individual engaged in home
14 improvement activities or nonresidential improvement activities, and the
15 person first notifies the company or individual of the conviction and notifies
16 the Office of Attorney General of the person's current address and telephone
17 number; the name, address, and telephone number of the company or
18 individual for whom the person is going to work; and the date on which the
19 person will start working for the company or individual; or

20 (2) the person notifies the Office of Attorney General of the intent to
21 engage in home improvement activities or nonresidential improvement

1 activities, and that the person has filed a surety bond or an irrevocable letter of
2 credit with the Office in an amount of not less than \$50,000.00, and pays on a
3 regular basis all fees associated with maintaining such bond or letter of credit.

4 (f) The Office of Attorney General shall release the letter of credit at such
5 time when:

6 (1) any claims against the person relating to home improvement fraud or
7 nonresidential improvement fraud have been paid;

8 (2) there are no pending actions or claims against the person for home
9 improvement fraud or nonresidential improvement fraud; and

10 (3) the person has not been engaged in home improvement activities or
11 nonresidential improvement activities for at least six years and has signed an
12 affidavit so attesting.

13 Sec. 2. 13 V.S.A. § 2029a is added to read:

14 § 2029a. NONRESIDENTIAL IMPROVEMENT FRAUD

15 (a) As used in this section, “nonresidential improvement” includes the
16 fixing, replacing, remodeling, removing, renovation, alteration, conversion,
17 improvement, demolition, or rehabilitation of or addition to any building or
18 land, or any portion thereof, which is used or designed to be used as a business,
19 office, or municipal building or unit. Nonresidential improvement shall
20 include the construction, replacement, installation, paving, or improvement of
21 driveways, parking lots, signs, roofs, and sidewalks, and the limbing, pruning,

1 and removal of trees or shrubbery and other improvements to structures or
2 upon land that is adjacent to a business, office, or municipal building or unit.

3 (b) A person commits the offense of nonresidential improvement fraud
4 when he or she enters into a contract or agreement, written or oral, for
5 \$1,000.00 or more, with an owner for nonresidential improvement, or into
6 several contracts or agreements for \$5,000.00 or more in the aggregate, with
7 more than one owner for nonresidential improvement, and he or she
8 knowingly:

9 (1) fails to perform the contract or agreement, in whole or in part, and,
10 when the owner requests performance or a refund of payment made, the person
11 fails to either:

12 (A) refund the payment; or

13 (B) make and comply with a definite plan for completion of the work
14 that is agreed to by the owner;

15 (2) misrepresents a material fact relating to the terms of the contract or
16 agreement or to the condition of any portion of the property involved;

17 (3) uses or employs any unfair or deceptive act or practice in order to
18 induce, encourage, or solicit such person to enter into any contract or
19 agreement or to modify the terms of the original contract or agreement; or

20 (4) when there is a declared state of emergency, charges for goods or
21 services related to the emergency a price that exceeds two times the average

1 price for the goods or services and the increase is not attributable to the
2 additional costs incurred in connection with providing those goods or services.

3 (c) Whenever a person is convicted of nonresidential improvement fraud:

4 (1) the person shall notify the Office of Attorney General;

5 (2) the court shall notify the Office of the Attorney General; and

6 (3) the Office of Attorney General shall place the person's name on the

7 Home Improvement and Nonresidential Improvement Fraud Registry.

8 (d)(1) A person who violates subsection (b) of this section shall be
9 imprisoned not more than two years or fined not more than \$1,000.00, or both,
10 if the loss to a single consumer is less than \$1,000.00.

11 (2) A person who is convicted of a second or subsequent violation of
12 subdivision (1) of this subsection shall be imprisoned not more than three years
13 or fined not more than \$5,000.00, or both.

14 (3) A person who violates subsection (b) of this section shall be
15 imprisoned not more than three years or fined not more than \$5,000.00, or
16 both, if:

17 (A) the loss to a single consumer is \$1,000.00 or more; or

18 (B) the loss to more than one consumer is \$2,500.00 or more in the
19 aggregate.

1 (4) A person who is convicted of a second or subsequent violation of
2 subdivision (3) of this subsection shall be imprisoned not more than five years
3 or fined not more than \$10,000.00, or both.

4 (5) A person who violates subsection (c) or (e) of this section shall be
5 imprisoned for not more than two years or fined not more than \$1,000.00, or
6 both.

7 (e) A person who is sentenced pursuant to subdivision (d)(2), (3), or (4) of
8 this section or subdivision 2029(d)(2), (3), or (4) of this title may engage in
9 home improvement activities or nonresidential improvement activities for
10 compensation only if:

11 (1) the work is for a company or individual engaged in home
12 improvement activities or nonresidential improvement activities, and the
13 person first notifies the company or individual of the conviction and notifies
14 the Office of Attorney General of the person's current address and telephone
15 number; the name, address, and telephone number of the company or
16 individual for whom the person is going to work; and the date on which the
17 person will start working for the company or individual; or

18 (2) the person notifies the Office of Attorney General of the intent to
19 engage in home improvement activities or nonresidential improvement
20 activities, and that the person has filed a surety bond or an irrevocable letter of

1 credit with the Office in an amount of not less than \$50,000.00, and pays on a
2 regular basis all fees associated with maintaining such bond or letter of credit.

3 (f) The Office of Attorney General shall release the letter of credit at such
4 time when:

5 (1) any claims against the person relating to home improvement fraud or
6 nonresidential improvement fraud have been paid;

7 (2) there are no pending actions or claims against the person for home
8 improvement fraud or nonresidential improvement fraud; and

9 (3) the person has not been engaged in home improvement activities or
10 nonresidential improvement activities for at least six years and has signed an
11 affidavit so attesting.

12 * * * Residential Construction Contracts * * *

13 Sec. 3. 9 V.S.A. chapter 102 is amended to read:

14 CHAPTER 102. CONSTRUCTION CONTRACTS

15 § 4001. DEFINITIONS

16 As used in this chapter:

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

20 (2) “Work” means:

1 (A) to build, alter, repair, or demolish any improvement on,
2 connected with, or on or beneath the surface of any real property, or to
3 excavate, clear, grade, fill, or landscape any real property or to construct
4 driveways, private roadways, highways and bridges, drilled wells, septic,
5 sewage systems, utilities, including trees and shrubbery, or to furnish
6 materials, for any of such purposes, or to perform any labor upon real property;
7 and. ~~”Work” also includes~~

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

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

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

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

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

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

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

11 (9) “Residential home improvement contract” means a contract between
12 a contractor and an owner for work on residential real estate where the
13 estimated value of the work and materials exceeds \$5,000.00.

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

16 * * *

17 § 4010. RESIDENTIAL HOME IMPROVEMENT CONTRACTS

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

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

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

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

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

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

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

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

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

16 (5) Change order.

17 (A) Unless a residential home improvement contract specifies that
18 billing and payment will be made on a time and materials basis and that there
19 is no maximum price, subject to subdivision (5)(B) of this subsection, a
20 provision that the contractor shall not perform any work or procure materials in

1 excess of the maximum price of the contract without prior written approval of
2 the owner.

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

6 (c) Down payment. Unless a residential home improvement contract
7 specifies that billing and payment will be made on a time and materials basis
8 and that there is no maximum price, the contract may require a down payment
9 of up to one-third of the maximum price of the contract, or the price of
10 materials, whichever is greater.

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

14 * * * Home Loan Escrow Accounts * * *

15 Sec. 4. 8 V.S.A. § 10404 is amended to read:

16 § 10404. HOME LOAN ESCROW ACCOUNTS

17 (a) As used in this section:

18 (1) “Borrower” means one or more natural persons who are obligated to
19 make escrow account payments under the terms of a loan agreement secured
20 by residential real estate occupied by the borrower.

1 (2) “Escrow account” means an account into which a borrower is
2 required under the terms of a residential real estate loan agreement to make
3 periodic payments of property taxes, insurance premiums, or other similar
4 charges.

5 (3) “Lender” means a person who services or holds the beneficial
6 interest in a loan secured by residential real estate located in this State and who
7 requires periodic payments by a borrower into an escrow account in
8 accordance with the provisions of a residential real estate loan agreement.

9 (b) A lender shall pay into an escrow account for the benefit of the
10 borrower interest on funds deposited into the account under the same
11 conditions as the lender’s regular savings account, if offered, and otherwise at
12 a rate not less than the prevailing market rate of interest for regular savings
13 accounts offered by local financial institutions, calculated on the basis of the
14 average monthly balance in the account and credited on the first day of each
15 quarter. This subsection shall not apply when a lender requires payment into
16 an escrow account because a borrower has failed, within the past year, to make
17 timely payments for property taxes and insurance in accordance with the
18 provisions of the loan agreement.

19 (c) A lender shall not require a borrower to deposit into an escrow account
20 any greater sum than is sufficient to pay taxes, insurance premiums, and other

1 charges with respect to the residential real estate, subject to the following
2 additional charges:

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

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

9 (d) A lender shall make timely payments of all charges with respect to the
10 residential real estate payable from the escrow account.

11 (e) The lender shall maintain escrow account funds in a federally insured
12 depository institution.

13 (f) With respect to borrowers who have maintained escrow accounts in
14 accordance with the provisions of the loan agreement, the lender shall be
15 primarily obligated for the payment of any municipal or county taxes,
16 insurance premiums, or other similar charges with respect to the residential
17 real estate, and any penalties attributable to the lender's late payment of such
18 charges.

19 (g)(1) Upon notice from a borrower that his or her property tax bill has
20 been revised, the lender shall review the property tax bill and upon verifying
21 that it has been revised since the date of the last escrow account analysis, the

1 lender shall, within 30 days of receiving notice from the borrower, conduct a
2 new escrow account analysis and recalculate the borrower's monthly escrow
3 payment accordingly.

4 (2) The lender shall provide ~~annually, or upon request of the borrower,~~
5 financial statements relating to the borrower's escrow account in a manner and
6 on a form approved by the Commissioner whenever an escrow account
7 analysis is conducted or a borrower requests such information. The lender
8 shall not charge the borrower for the preparation and transmittal of such
9 statements.

10 (h) A borrower aggrieved by a violation of the provisions of this section, or
11 a rule adopted by the Commissioner in connection with this section, may bring
12 an action for injunctive relief, three times the amount of any interest unpaid in
13 violation of this section, other damages, costs, and reasonable attorneys' fees.
14 The Commissioner may bring an action in the Superior Court of Washington
15 County for injunctive relief, restitution, and any administrative costs and
16 attorneys' fees incurred as a result of a violation of this section.

17 * * * Fantasy Sports Contests * * *

18 Sec. 5. 9 V.S.A. chapter 116 is added to read:

19 CHAPTER 116. FANTASY SPORTS CONTESTS

20 § 4185. DEFINITIONS

21 As used in this chapter:

1 (1) “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 (2) “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 (3) “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 (4) “Fantasy sports player” means an individual who participates in a
8 fantasy sports contest for consideration.

9 § 4186. CONSUMER PROTECTION

10 (a) A fantasy sports operator shall adopt policies and procedures to:

11 (1) prevent participation in a fantasy sports contest he or she offers with
12 a cash prize of \$5.00 or more by:

13 (A) the fantasy sports operator;

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

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

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

20 (3) require that a fantasy sports player is 18 years of age or older, and
21 verify the age of each player using one or more commercially available

1 databases, which primarily consist of data from government sources and which
2 government and business regularly use to verify and authenticate age and
3 identity;

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

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

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

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

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

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

1 (i) available resources addressing addiction and compulsive
2 behavior;

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

5 (iii) requirements to reinstate an account at the end of the
6 period; and

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

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

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

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

17 (c)(1) A fantasy sports operator shall contract with a third party to perform
18 an annual independent audit, consistent with the standards established by the
19 Public Company Accounting Oversight Board, to ensure compliance with the
20 requirements in this chapter.

1 (2) The fantasy contest operator shall submit the results of the
2 independent audit to the Attorney General.

3 § 4187. PENALTY

4 A person who violates a provision of this chapter commits an unfair and
5 deceptive act in commerce in violation of section 2453 of this title.

6 § 4188. EXEMPTION

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

9 Sec. 6. 9 V.S.A. chapter 58 is added to read:

10 CHAPTER 58. VERMONT AUTOMOBILE REPOSSESSION ACT

11 § 2341. FINDINGS AND PURPOSE

12 (a) The General Assembly finds:

13 (1) Living in a rural State, Vermonters rely heavily on automobiles for
14 their personal and professional obligations.

15 (2) Vermont consumers who have purchased an automobile through an
16 extension of credit, or who have leased an automobile, may fall behind on
17 payments, and default may occur more frequently during difficult economic or
18 emotional times.

19 (3) Vermont consumers should be allowed an opportunity to cure a
20 default on the loan or lease within a reasonable time before an automobile is
21 repossessed.

1 (b) The purpose of this chapter is to ensure that:

2 (1) Vermont consumers are allowed to cure a default on a loan or lease
3 within the time provided in this chapter.

4 (2) If a Vermont consumer is unable to cure a default, and the secured
5 party or lessor repossesses the automobile, the repossession cannot take place
6 unless without a breach of the peace.

7 (3) In the event of repossession, a consumer is allowed to redeem the
8 automobile within the time provided by this chapter.

9 (4) The secured party who holds title to the automobile, or the lessor,
10 shall be allowed to dispose of the automobile after repossession in order to
11 recover the fair market value of the vehicle and expenses from the repossession
12 according to the provisions of this chapter and any other applicable laws of this
13 State.

14 § 2342. DEFINITIONS

15 As used in this chapter:

16 (1) “Automobile” means a passenger motor vehicle that is purchased,
17 leased, or registered in the State of Vermont and shall not include tractors,
18 motorized highway building equipment, road-making appliances,
19 snowmobiles, the living portion of recreation vehicles, or trucks with a gross
20 vehicle weight rating over 12,000 pounds, and that is used or bought for use
21 primarily for personal, family, or household purposes.

1 (2) “Automobile lease agreement” means the bargain, with respect to the
2 lease, of the lessor and the consumer in fact as found in their language. The
3 term includes a sublease agreement.

4 (3) “Automobile loan agreement” means a transaction that creates or
5 provides for a security interest in an automobile in which:

6 (A) a consumer incurs an obligation primarily for personal, family, or
7 household purposes;

8 (B) a security interest secures the obligation; and

9 (C) the automobile is held or acquired primarily for personal, family,
10 or household purposes.

11 (4) “Consumer”:

12 (A) means a natural person in an automobile lease agreement who
13 acquires, applies for, or is offered the right to possession and use of an
14 automobile, and includes his or her legal representative, fiduciary, executor,
15 administrator, or successor in interest, but does not include a guarantor on a
16 consumer lease; or

17 (B) means a natural person, and his or her legal representative,
18 fiduciary, executor, administrator, or successor in interest, who, with respect to
19 an obligation secured by a security interest in the automobile:

20 (i) owes payment or other performance of the obligation;

1 (ii) has provided property other than the collateral to secure
2 payment or other performance of the obligation; or

3 (iii) is otherwise accountable in whole or part for payment or other
4 performance of the obligation; and

5 (C) does not include issuers or nominated persons under a letter of
6 credit.

7 (5) “Lessor” means a person who transfers the right to possession and
8 use of an automobile under an automobile lease agreement. Unless the context
9 clearly indicates otherwise, the term includes a sublessor.

10 (6) “Secured party” means a person or business that holds a security
11 interest arising under an automobile loan agreement.

12 § 2343. DEFAULT; NOTICE; RIGHT TO CURE; REINSTATEMENT

13 (a) The default provisions of a consumer automobile lease agreement or
14 automobile loan agreement are enforceable only to the extent that:

15 (1) the consumer does not make one or more payments required by the
16 lease or loan agreement; or

17 (2) the lessor or secured party establishes that the prospect of payment,
18 performance, or realization of the lessor’s or secured party’s interest in the
19 automobile is significantly impaired.

20 (b)(1) After a default under an automobile lease agreement or automobile
21 loan agreement by the consumer, the lessor or secured party shall not

1 accelerate, take judicial action to collect, or repossess the automobile until the
2 lessor or secured party gives the consumer the notice required by this section
3 and the consumer does not cure the default in the time allowed under this
4 section.

5 (2) A lessor or secured party may initiate a procedure to cure by sending
6 to the consumer, at any time after the consumer has been in default for 10 days,
7 a notice of the right to cure the default.

8 (3) The notice shall be delivered via certified mail, return receipt
9 requested, or via first-class mail, at the consumer’s address last known to the
10 lessor or secured party.

11 (4) The time when notice is given shall be deemed to be upon actual
12 delivery of the notice to the consumer or three business days following the
13 mailing of the notice to the consumer at the consumer’s address last known to
14 the lessor or secured party.

15 (c) The notice shall be in writing and shall conspicuously state the rights of
16 the consumer upon default in substantially the following form:

17 (1) The heading shall read: “Rights of Defaulting Consumer under
18 Vermont Law.”

19 (2) The body of the notice shall read:
20 “You may cure your default in (describe automobile lease or loan agreement in
21 a manner enabling the consumer to identify it) by paying to (name and address

1 of lessor or secured party) (amount due) before (date that is at least 21 days
2 after notice is delivered).

3 “If you pay this amount within the time allowed, you are no longer in default
4 and may continue with the automobile (lease or loan) agreement as though no
5 default has occurred.

6 “If you do not cure your default by the date stated above, the lessor or secured
7 party may sue you to obtain a judgment for the amount of the debt and may
8 take possession of the automobile.

9 “If the lessor or secured party takes possession of the automobile, you may get
10 it back by paying the full amount of your debt plus any reasonable expenses
11 incurred by the lessor or secured party if you make the required payment
12 within 20 days after the lessor or secured party takes possession.

13 “If (the secured party) sells the vehicle repossessed from the consumer for an
14 amount exceeding the amount outstanding on the automobile (loan) agreement,
15 including reasonable expenses related to judicial action and or repossession,
16 the excess funds shall be returned promptly to the defaulting consumer.

17 “You have the right to cure a default only once in any 12-month period during
18 the automobile (lease or loan) agreement.

19 “If you default again within the next 12 months in making your payments, we
20 may exercise our rights without sending you another right-to-cure notice.

1 “If you have questions, telephone (name of lessor or secured party) at
2 (telephone number).”

3 (d)(1) Within the period for cure stated in the notice under this section, the
4 consumer may cure the default by tendering the amount of all unpaid sums due
5 at the time of tender, including any unpaid delinquency or default charges, but
6 without additional security deposit or prepayment of period payments not
7 yet due.

8 (2) Cure restores the rights of the lessor or secured party and consumer
9 under the automobile loan agreement or automobile lease agreement as if the
10 default had not occurred.

11 (e) A consumer has the right to cure only once in any 12-month period
12 during the automobile lease agreement or automobile loan agreement.

13 § 2344. REPOSSESSION OF AUTOMOBILE AS A RESULT OF
14 DEFAULT UNDER A LOAN OR LEASE AGREEMENT

15 (a)(1) A lessor or secured party under a consumer automobile lease
16 agreement or automobile loan agreement may take possession of the
17 automobile.

18 (2) In taking possession, the lessor or secured party may proceed only if
19 the possession can be obtained without a breach of the peace.

20 (b) The consumer under an automobile lease agreement or automobile loan
21 agreement may redeem the automobile from the lessor or secured party and

1 have the automobile lease agreement or automobile loan agreement reinstated
2 at any time within 20 days of the lessor's or secured party's taking possession
3 of the automobile, or thereafter until the lessor or secured party has either
4 disposed of the automobile, entered into a contract for its disposition, or gained
5 the right to retain the automobile.

6 (c) The lessor or secured party may, after gaining possession of the
7 automobile, sell or otherwise dispose of the automobile after the 20-day
8 redemption period provided for in subsection (b) of this section.

9 § 2345. STATUTE OF LIMITATIONS

10 (a) An action for default under an automobile lease agreement or
11 automobile loan agreement, including breach of warranty or indemnity, must
12 be commenced within two years after the cause of action accrued.

13 (b) By the original lease or loan agreement, the parties may reduce the
14 period of limitation to not less than one year.

15 Sec. 7. PROSPECTIVE APPLICATION

16 Sec. 6 of this act shall apply only to a loan or lease agreement that is
17 executed or renewed on or after July 1, 2017.

18 Sec. 8. EFFECTIVE DATE

19 This act shall take effect on July 1, 2017.