

1 S.56

2 Introduced by Senator Cummings

3 Referred to Committee on

4 Date:

5 Subject: Insurance; life; enhanced penalties; securities; Philanthropy

6 Protection Act of 1995

7 Statement of purpose of bill as introduced: This bill proposes to amend  
8 Vermont law as it pertains to: life insurance policies and notices of  
9 cancellation; enhanced penalties for insurance or securities violations  
10 involving a vulnerable adult; penalty limitations applicable to violations of the  
11 Vermont Uniform Securities Act; and the Philanthropy Protection Act of 1995.

12 An act relating to life insurance policies and the Vermont Uniform  
13 Securities Act

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

15 \* \* \* Secondary Addressee for Life Insurance \* \* \*

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

17 (d) No individual policy of life insurance covering an individual 64 years  
18 of age or older that has been in force for at least one year shall be canceled for  
19 nonpayment of premium unless, after expiration of the grace period and not  
20 less than 21 days before the effective date of any such cancellation, the insurer

1 has mailed a notice of impending cancellation in coverage to the policyholder  
2 and to a specified secondary addressee if such addressee has been designated  
3 by name and address in writing by the policyholder. An insurer shall notify the  
4 applicant of the right to designate a secondary addressee at the time of  
5 application for the policy on a form provided by the insurer, and annually  
6 thereafter, and the policyholder shall have the right to designate a secondary  
7 addressee, in writing, by name and address, at any time the policy is in force,  
8 by submitting such written notice to the insurer. If a life insurance policy  
9 provides a grace period longer than 51 days for nonpayment of premium, the  
10 notice of cancellation in coverage required by this subsection shall be mailed  
11 to the policyholder and to the secondary addressee not less than 21 days prior  
12 to the expiration of the grace period provided in such policies.

13 \* \* \* Penalty Enhancements for

14 Violations Involving a Vulnerable Adult \* \* \*

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

16 § 24. SENIOR INVESTOR PROTECTION

17 \* \* \*

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

1           \* \* \* Securities Act Penalties, Generally; Vulnerable Adults \* \* \*

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

3           (c) If the Commissioner finds that the order is in the public interest and  
4           subdivisions (d)(1) through (6), (8), (9), (10), (12), or (13) of this section  
5           authorize the action, an order under this chapter may censure, impose a bar on,  
6           or impose a civil penalty on a registrant in an amount not more than  
7           \$15,000.00 for each violation ~~and not more than \$1,000,000.00 for more than~~  
8           ~~one violation~~, and recover the costs of the investigation from the registrant,  
9           and, if the registrant is a broker-dealer or investment adviser, a partner, officer,  
10          director, or person having a similar status or performing similar functions, or a  
11          person directly or indirectly in control of the broker-dealer or investment  
12          adviser. The limitations on civil penalties contained in this subsection shall not  
13          apply to settlement agreements.

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

15               (C) imposing a civil penalty up to \$15,000.00 for each violation ~~and~~  
16               ~~not more than \$1,000,000.00 for more than one violation~~; an order of  
17               rescission, restitution, or disgorgement directed to a person that has engaged in  
18               an act, practice, or course of business constituting a violation of this chapter or  
19               the predecessor act or a rule adopted or an order issued under this chapter or  
20               the predecessor act. The court may increase a civil penalty amount by not  
21               more than \$5,000.00 per violation for violations involving a person who is a

1 vulnerable adult as defined in 33 V.S.A. § 6902(14). The limitations on civil  
2 penalties contained in this subdivision shall not apply to settlement  
3 agreements; and

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

5 (d) In a final order under subsection (b) or (c) of this section, the  
6 Commissioner may impose a civil penalty of not more than \$15,000.00 for  
7 each violation ~~and not more than \$1,000,000.00 for more than one violation.~~  
8 The Commissioner may also require a person to make restitution or provide  
9 disgorgement of any sums shown to have been obtained in violation of this  
10 chapter, plus interest at the legal rate. The limitations on civil penalties  
11 contained in this subsection shall not apply to settlement agreements.

12 \* \* \* Securities Act Housekeeping \* \* \*

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

14 § 5302. NOTICE FILING

15 \* \* \*

16 (c) With respect to a security that is a federal covered security under  
17 15 U.S.C. ~~§ 77r(b)(4)(E)~~ § 77r(b)(4)(F), a rule under this chapter may require a  
18 notice filing by or on behalf of an issuer to include a copy of Form D,  
19 including the Appendix, as promulgated by the Securities and Exchange  
20 Commission, and a consent to service of process complying with section 5611  
21 of this chapter signed by the issuer not later than 15 days after the first sale of

1 the federal covered security in this State and the payment of a fee as set forth  
2 in subsection (e) of this section. The notice filing shall be effective for one  
3 year from the date the notice filing is accepted as complete by the Office of the  
4 Commissioner. On or before expiration, the issuer may annually renew a  
5 notice filing by filing a copy of those records filed by the issuer with the  
6 Securities and Exchange Commission that are required by rule or order under  
7 this chapter to be filed and by paying an annual renewal fee as set forth in  
8 subsection (e) of this section.

9 (d) Subject to the provisions of 15 U.S.C. § 77r(c)(2) and any rules adopted  
10 thereunder, with respect to any security that is a federal covered security under  
11 15 U.S.C. § 77r(b)(3) or ~~(4)(A)-(C)~~ (4)(A)-(E) and (G) and that is not  
12 otherwise exempt under sections 5201 through 5203 of this title, a rule adopted  
13 or order issued under this chapter may require any or all of the following with  
14 respect to such federal covered securities, at such time as the Commissioner  
15 may deem appropriate:

16 \* \* \*

17 \* \* \* Philanthropy Protection Act; Exemption Repeal \* \* \*

18 Sec. 7. REPEAL

19 9 V.S.A. § 5615 (exempting Vermont from the Philanthropy Protection Act  
20 of 1995) is repealed.

1

\* \* \* Effective Date \* \* \*

2

Sec. 8. EFFECTIVE DATE

3

This act shall take effect on passage.