

House Calendar

Friday, January 17, 2020

11th DAY OF THE ADJOURNED SESSION

House Convenes at 9:30 A.M.

TABLE OF CONTENTS

Page No.

ACTION CALENDAR

Favorable

H. 554 Approval of the dissolution of the Village of Perkinsville and the merger of the Village with the Town of Weathersfield..... 15
Rep. Palasik for Government Operations

NOTICE CALENDAR

Favorable with Amendment

H. 643 Banking and insurance..... 15
Rep. Ralph for Commerce and Economic Development

Constitutional Proposal

Proposal 2 Declaration of rights;clarifying the prohibition on slavery and indentured servitude 36
Rep. Kitzmiller for Government Operations

Consent Calendar

H.C.R. 200 Congratulating the Hazelett Corporation in Colchester on its centennial..... 37

H.C.R. 202 In memory of Lindy S. Lynch..... 37

H.C.R. 203 Designating January 22, 2020 as Mentoring Day at the State House..... 37

ORDERS OF THE DAY

ACTION CALENDAR

Favorable

H. 554

An act relating to approval of the dissolution of the Village of Perkinsville and the merger of the Village with the Town of Weathersfield

Rep. Palasik of Milton, for the Committee on Government Operations, recommends the bill ought to pass.

(Committee Vote: 10-0-1)

NOTICE CALENDAR

Favorable with Amendment

H. 643

An act relating to banking and insurance

Rep. Ralph of Hartland, for the Committee on Commerce and Economic Development, recommends the bill be amended by striking all after the enacting clause and inserting in lieu thereof the following:

* * * Personal Information Protection Companies * * *

Sec. 1. 8 V.S.A. § 2100 is amended to read:

§ 2100. APPLICATION OF CHAPTER

(a) Except as otherwise provided in this part, this chapter applies to a person doing or soliciting business in this State as described in this part.

(b) This chapter does not apply to:

(1) development credit corporations subject to chapter 65 of this title; or

(2) independent trust companies subject to chapter 77 of this title; ~~or~~

(3) ~~personal information protection companies subject to chapter 78 of this title.~~

Sec. 2. 8 V.S.A. § 2102(b)(14) is added to read:

(14) For an application for a personal information protection company license under chapter 78 of this title, \$500.00 as a license fee and \$500.00 as an application and investigation fee.

Sec. 3. 8 V.S.A. § 2109(a)(14) is added to read:

(14) For a personal information protection company license under chapter 78 of this title, \$500.00.

Sec. 4. 8 V.S.A. § 2453 is amended to read:

§ 2453. QUALIFIED PERSONAL INFORMATION PROTECTION
COMPANY

(a) A personal information protection company shall qualify to conduct its business under the terms of this chapter, chapter 72 of this title, and applicable rules adopted by the Department of Financial Regulation.

(b) A person shall not engage in business as a personal information protection company in this State without first obtaining a ~~certificate of authority~~ license from the Department.

* * *

Sec. 5. REPEAL

8 V.S.A. § 2456 (concerning fees applicable to personal information protection companies under 8 V.S.A. chapter 78) is repealed.

* * * Licensed Lenders; Exemption; All States * * *

Sec. 6. 8 V.S.A. § 2201(d)(1) is amended to read:

(1) A ~~State~~ state agency, political subdivision, or other public instrumentality of ~~the State~~ a state

* * * Financial and Related Services; Licensing * * *

Sec. 7. 8 V.S.A. § 2103 is amended to read:

§ 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

(a) Upon the filing of an application, payment of the required fees, and satisfaction of any applicable bond and liquid asset requirements, the Commissioner shall issue a license to the applicant if the Commissioner finds:

(1)(A) The financial responsibility, experience, character, and general fitness of the applicant command the confidence of the community and warrant belief that the business will be operated honestly, fairly, and efficiently pursuant to the applicable chapter of this title.

(i) If the applicant is a partnership or association, such findings are required with respect to each partner, member, and responsible individual of, and each person in control of, the applicant.

(ii) If the applicant is a corporation, such findings are required with respect to each officer, director, and responsible individual of, and each person in control of, the applicant.

(B) For purposes of assessing whether a person is financially responsible, the Commissioner may consider how the person has managed his or her own financial condition, which may include factors such as whether the person has:

(i) current outstanding judgments, except judgments solely as a result of medical expenses;

(ii) current outstanding tax liens or other government liens and filings;

(iii) foreclosures within the past three years; or

(iv) a pattern of seriously delinquent accounts within the past three years.

(2) Allowing the applicant to engage in business will promote the convenience and advantage of the community in which the applicant will conduct its business.

~~(3) The applicant is licensed to engage in the applicable business in its state of domicile and is in good standing in its state of domicile with its banking regulator or equivalent financial industry regulator.~~

(4) The applicant, each officer, director, and responsible individual of, and each person in control of, the applicant, has never had a financial services license or similar license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation.

~~(5)~~(4) The applicant, each officer, director, and responsible individual of, and each person in control of, the applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court:

(A)(i) during the seven-year period preceding the date of the application for licensing and registration; or

(ii) at any time preceding such date of application, if such felony involved an act of fraud or dishonesty, a breach of trust, or money laundering; and

(B) provided that any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

~~(6)~~(5) The applicant has satisfied the applicable surety bond and liquid asset requirement as follows:

(A) for an application for a lender license, mortgage broker license, mortgage loan originator license, or loan solicitation license, the applicable bond and liquid asset requirements of sections 2203 and 2203a of this title;

(B) for an application for a litigation funding company registration, the financial stability requirement of section 2252 of this title;

(C) for an application for a money transmitter license, the bond and net worth requirements of sections 2507 and 2510 of this title;

(D) for an application for a debt adjuster license, the bond requirement of section 2755 of this title; and

(E) for an application for a loan servicer license, the bond requirement of sections 2903 and 2907 of this title.

~~(7)~~(6) For an application for a mortgage loan originator license, the applicant has satisfied the prelicense education requirement of section 2204a of this title and the preclicensing testing requirement of section 2204b of this title.

(b)(1) If the Commissioner finds the applicant does not meet the requirements of subsection (a) of this section, the Commissioner shall not issue a license.

(2) Not later than 60 days after an applicant files a complete application, the Commissioner shall notify the applicant of the denial, stating the reason or reasons therefor.

(3) If the applicant does not file a timely request for reconsideration pursuant to section 2104 of this title, the Commissioner shall:

(A) return to the applicant any amounts paid for the applicable bond requirement and license fee; and

(B) retain the investigation fee to cover the costs of investigating the application.

(c)(1) If the Commissioner finds that an applicant meets the requirements of subsection (a) of this section, he or she shall issue the license not later than 60 days after an applicant submits a complete application.

(2) Except as otherwise provided in this title, a license is valid until the licensee surrenders the license or the Commissioner revokes, suspends, terminates, or refuses to renew the license.

(d) For good cause shown and consistent with the purposes of this section, the Commissioner may waive or modify the requirements of ~~subdivisions~~ subdivision (a)(3) and (a)(4) of this section; provided, however, that the Commissioner may not waive the requirement of ~~subdivision (a)(4)~~ subdivision (a)(3) of this section for applicants for a mortgage loan originator license.

(e) If an application is remains incomplete and ~~the applicant has not corresponded with the Commissioner for 90~~ 120 days, the Commissioner may deem the application abandoned or withdrawn.

(f) This section does not apply to a person applying for a commercial lender license under section 2202a of this title.

Sec. 8. 8 V.S.A. § 2104(b)(3)(A) is amended to read:

(A) return to the applicant the bond, if any, and any amounts paid for the applicable ~~bond requirement and~~ license fee; and

Sec. 9. 8 V.S.A. § 2115 is amended to read:

§ 2115. PENALTIES

(a) The Commissioner may:

(1) impose an administrative penalty of not more than \$10,000.00, plus the State's cost and expenses of investigating and prosecution of the matter, including attorney's fees, for each violation upon any person who violates or participates in the violation of this part; chapter 200 of this title; 9 V.S.A. chapter 4, 59, or 61; or any lawful rule adopted, or directive or order issued, pursuant to those sections; and

(2) order any person to make restitution to another person for a violation of this ~~title~~ part, chapter 200 of this title, or 9 V.S.A. chapter 4, 59, or 61.

* * *

Sec. 10. 8 V.S.A. § 2120(c) is amended to read:

(c) A licensee shall submit to the Nationwide Mortgage Multistate Licensing System and Registry reports of condition in a form and including the information the Nationwide Multistate Licensing System and Registry requires, if applicable.

* * * Prepaid Access Cards; Fees * * *

Sec. 11. 8 V.S.A. § 2703 is amended to read:

§ 2703. PROHIBITED FEES

(a) Dormancy fees, latency fees, issuance fees, redemption fees, or any other administrative fees or service charges in connection with a gift certificate are prohibited.

(b) Notwithstanding subsection (a) of this section, a money transmitter licensed under chapter 79 of this title, financial institution, or credit union may charge a one-time fee upon the issuance of a prepaid access card ~~equal to the lesser of:~~

~~(1) 10 percent of the face amount purchased or added to the prepaid access card; or~~

~~(2) that is reasonably related to the cost to the issuer of issuing the card; provided that, in no event shall the fee exceed \$10.00.~~

* * * Credit for Reinsurance * * *

Sec. 12. 8 V.S.A. § 3634a is amended to read:

§ 3634a. CREDIT FOR REINSURANCE

(a) It is the purpose of this section to protect the interest of insureds, claimants, ceding insurers, assuming insurers, and the public generally. The General Assembly hereby declares its intent is to ensure adequate regulation of insurers and reinsurers and adequate protection for those to whom they owe obligations. In furtherance of that State interest, the General Assembly hereby provides a mandate that upon the insolvency of a non-U.S. insurer or reinsurer that provides security to fund its U.S. obligations in accordance with this section, the assets representing the security shall be maintained in the United States and claims shall be filed with and valued by the state insurance Commissioner with regulatory oversight, and the assets shall be distributed in accordance with the insurance laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic U.S. insurance companies. The General Assembly declares that the matters contained in this section are fundamental to the business of insurance in accordance with 15 U.S.C. §§ 1011–1012.

(b) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subdivision (1), (2), (3), (4), (5), ~~or (6), or (7)~~ of this subsection. Credit shall be allowed under subdivision (1), (2), or (3) of this subsection only with respect to cessions of those kinds or

classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subdivision (3) or (4) of this subsection only if the applicable requirements of subdivision ~~(7)~~(8) of this subsection have been satisfied.

* * *

(6)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer meeting each of the conditions set forth below:

(i) The assuming insurer shall have its head office or be domiciled in, as applicable, and be licensed in a reciprocal jurisdiction. As used in this section, “reciprocal jurisdiction” means a jurisdiction that meets one of the following:

(I) a non-U.S. jurisdiction that is subject to an in-force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. As used in this subsection, a “covered agreement” means an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. §§ 313 and 314, that is currently in effect or in a period of provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in this State or for allowing the ceding insurer to recognize credit for reinsurance;

(II) a U.S. jurisdiction that meets the requirements for accreditation under the NAIC financial standards and accreditation program;
or

(III) a qualified jurisdiction, as determined by the Commissioner pursuant to subdivision (5)(C) of this subsection, that is not otherwise described in subdivision (6)(A)(i)(I) or (6)(A)(i)(II) of this subsection and that meets certain additional requirements, consistent with the terms and conditions of in-force covered agreements, as specified by the Commissioner in rule.

(ii) The assuming insurer must have and maintain, on an ongoing basis, minimum capital and surplus, or its equivalent, calculated according to the methodology of its domiciliary jurisdiction, in an amount to be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an

ongoing basis, minimum capital and surplus equivalents, net of liabilities, calculated according to the methodology applicable in its domiciliary jurisdiction, and a central fund containing a balance in amounts to be set forth in rule.

(iii) The assuming insurer must have and maintain, on an ongoing basis, a minimum solvency or capital ratio, as applicable, that will be set forth in rule. If the assuming insurer is an association, including incorporated and individual unincorporated underwriters, it must have and maintain, on an ongoing basis, a minimum solvency or capital ratio in the reciprocal jurisdiction where the assuming insurer has its head office or is domiciled, as applicable, and is also licensed.

(iv) The assuming insurer must agree and provide adequate assurance to the Commissioner, in a form specified in rule by the Commissioner, of the following:

(I) The assuming insurer must provide prompt written notice and explanation to the Commissioner if it falls below the minimum requirements set forth in subdivision (6)(A)(ii) or (6)(A)(iii) of this subsection, or if any regulatory action is taken against it for serious noncompliance with applicable law.

(II) The assuming insurer must consent in writing to the jurisdiction of the courts of this State and to the appointment of the Commissioner as agent for service of process. The Commissioner may require that consent for service of process be provided to the Commissioner and included in each reinsurance agreement. Nothing in this subsection shall limit, or in any way alter, the capacity of parties to a reinsurance agreement to agree to alternative dispute resolution mechanisms, except to the extent such agreements are unenforceable under applicable insolvency or delinquency laws.

(III) The assuming insurer must consent in writing to pay all final judgments, wherever enforcement is sought, obtained by a ceding insurer or its legal successor, that have been declared enforceable in the jurisdiction where the judgment was obtained.

(IV) Each reinsurance agreement must include a provision requiring the assuming insurer to provide security in an amount equal to 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded pursuant to that agreement if the assuming insurer resists enforcement of a final judgment that is enforceable under the law of the jurisdiction in which it was obtained or a properly enforceable arbitration award, whether obtained by the ceding insurer or by its legal successor on behalf of its resolution estate.

(V) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement that involves this State's ceding insurers, and agree to notify the ceding insurer and the Commissioner and to provide security in an amount equal to 100 percent of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent with the provisions of subdivision (b)(5) and subsection (c) of this section and as specified by the Commissioner in rule.

(v) The assuming insurer or its legal successor must provide, if requested by the Commissioner, on behalf of itself and any legal predecessors, certain documentation to the Commissioner, as specified by the Commissioner in rule.

(vi) The assuming insurer must maintain a practice of prompt payment of claims under reinsurance agreements, pursuant to criteria set forth in rule.

(vii) The assuming insurer's supervisory authority must confirm to the Commissioner on an annual basis, as of the preceding December 31 or at the annual date otherwise statutorily reported to the reciprocal jurisdiction, that the assuming insurer complies with the requirements set forth in subdivisions (6)(A)(ii) and (6)(A)(iii) of this subsection.

(viii) Nothing in this subdivision (b)(6)(A) precludes an assuming insurer from providing the Commissioner with information on a voluntary basis.

(B) The Commissioner shall timely create and publish a list of reciprocal jurisdictions.

(i) A list of reciprocal jurisdictions is published through the NAIC committee process. The Commissioner's list shall include any reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection and shall consider any other reciprocal jurisdiction included on the NAIC list. The Commissioner may approve a jurisdiction that does not appear on the NAIC list of reciprocal jurisdictions in accordance with criteria to be developed in rules adopted by the Commissioner.

(ii) The Commissioner may remove a jurisdiction from the list of reciprocal jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a reciprocal jurisdiction, in accordance with a process set forth in rules adopted by the Commissioner, except that the Commissioner shall not remove from the list a reciprocal jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection.

Upon removal of a reciprocal jurisdiction from this list, credit for reinsurance ceded to an assuming insurer that has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

(C) The Commissioner shall timely create and publish a list of assuming insurers that have satisfied the conditions set forth in this subsection and to which cessions shall be granted credit in accordance with this subsection. The Commissioner may add an assuming insurer to such list if an NAIC accredited jurisdiction has added such assuming insurer to a list of such assuming insurers or if, upon initial eligibility, the assuming insurer submits the information to the Commissioner as required under subdivision (6)(A)(iv) of this subsection and complies with any additional requirements that the Commissioner may impose by rule, except to the extent that they conflict with an applicable covered agreement.

(D) If the Commissioner determines that an assuming insurer no longer meets one or more of the requirements under this subsection, the Commissioner may revoke or suspend the eligibility of the assuming insurer for recognition under this subsection in accordance with procedures set forth in rule.

(i) While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the effective date of the suspension qualifies for credit except to the extent that the assuming insurer's obligations under the contract are secured in accordance with subsection (c) of this section.

(ii) If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of the revocation with respect to any reinsurance agreements entered into by the assuming insurer, including reinsurance agreements entered into prior to the date of revocation, except to the extent that the assuming insurer's obligations under the contract are secured in a form acceptable to the Commissioner and consistent with the provisions of subsection (c) of this section.

(E) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an order requiring that the assuming insurer post security for all outstanding ceded liabilities.

(F) Nothing in this subsection shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by this section or other applicable law or rule.

(G)(i) Credit may be taken under this subsection only for reinsurance agreements entered into, amended, or renewed on or after January 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of:

(I) the date on which the assuming insurer has met all eligibility requirements pursuant to subdivision (6)(A) of this subsection, and

(II) the effective date of the new reinsurance agreement, amendment, or renewal.

(ii) This subdivision (b)(6)(G) does not alter or impair a ceding insurer's right to take credit for reinsurance, to the extent that credit is not available under this subsection, as long as the reinsurance qualifies for credit under any other applicable provision of this section.

(iii) Nothing in this subsection shall authorize an assuming insurer to withdraw or reduce the security provided under any reinsurance agreement except as permitted by the terms of the agreement.

(iv) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

(7) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of subdivision (1), (2), (3), (4), ~~or (5), or (6)~~ of this subsection, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

~~(7)~~(8) If the assuming insurer is not licensed or accredited or certified to transact insurance or reinsurance in this State, the credit permitted by subdivisions (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal.

(B) To designate the Commissioner, the Secretary of State, or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or

override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

~~(8)~~(9) If the assuming insurer does not meet the requirements of subdivision (1), (2), ~~or (3)~~, or (6) of this subsection, the credit permitted by subdivision (4) or (5) of this subsection shall not be allowed unless the assuming insurer agrees in the trust agreements to the following conditions:

(A) Notwithstanding any other provisions in the trust instrument to the contrary, if the trust fund is inadequate because it contains an amount less than the amount required by subdivisions (4)(B)–(D) of this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation, or similar proceedings under the laws of its state or country of domicile, the trustee shall comply with an order of the Commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the Commissioner with regulatory oversight all of the assets of the trust fund.

(B) The assets shall be distributed by and claims shall be filed with and valued by the Commissioner with regulatory oversight in accordance with the laws of the state in which the trust is domiciled that are applicable to the liquidation of domestic insurance companies.

(C) If the Commissioner with regulatory oversight determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. ceding insurers of the grantor of the trust, the assets or part thereof shall be returned by the Commissioner with regulatory oversight to the trustee for distribution in accordance with the trust agreement.

(D) The grantor shall waive any right otherwise available to it under U.S. law that is inconsistent with this provision.

~~(9)~~(10) If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commissioner may suspend or revoke the reinsurer's accreditation or certification.

(A) The Commissioner must give the reinsurer notice and opportunity for hearing. The Commissioner may suspend or revoke a reinsurer's accreditation or certification without a hearing if:

(i) the reinsurer waives its right to hearing;

(ii) the Commissioner's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subdivision (5)(F) of this subsection; or

(iii) the Commissioner finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commissioner's action.

(B) While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with subsection (c) of this section. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision (5)(E) of this subsection or subsection (c) of this section.

~~(10)~~(11) Concentration Risk.

* * *

* * * Insurance Claims; Annuity Death Benefits; Interest Payments * * *

Sec. 13. 8 V.S.A. § 3664 is amended to read:

§ 3664. FORMS; FILING PROOF OF LOSS AND OTHER DOCUMENTS, WAIVER OF FILING

Insurance companies, societies, or associations, or insurance adjusters appointed by said companies, societies, or associations shall furnish in form for completion by the ~~insured~~ claimant, as defined in section 3665a of this title, or beneficiary, as defined in section 3665b of this title, all documents as to proof of loss or other matter required by contract to be submitted to the companies. Failure to furnish said forms within a reasonable time after notice of loss or damage is received by said companies, societies, or associations shall be deemed a waiver of any requirement that proof of loss shall be filed with the insurer on said forms as a condition precedent to the recovery of losses or claims.

Sec. 14. REPEAL

8 V.S.A. § 3665 (concerning the timely payment of insurance claims) is repealed.

Sec. 15. 8 V.S.A. § 3665a is added to read:

§ 3665a. TIMELY PAYMENT OF PROPERTY AND CASUALTY INSURANCE CLAIMS; INTEREST

(a) This section applies to policies of property, casualty, surety, and title insurance, as defined in section 3301 of this title. It does not apply to workers'

compensation insurance. As used in this section, “claimant” means any person asserting a right to payment under an insurance policy or contract arising out of the occurrence of the contingency or loss covered by such policy or contract or any person asserting a claim against any other person or the interests insured under an insurance policy or contract, and includes a claimant’s designated legal representative and any member of the claimant’s immediate family designated in writing by the claimant.

(b) Unless a different time period is specified in another section of this title, all payments of claims under policies of insurance shall be made within time periods provided by this section:

(1) For claims under policies of insurance other than surety insurance and title insurance, within 10 business days after the date that settlement of the claim is agreed upon between the insurer, the claimant, and the loss payee, as applicable, and in accordance with rules adopted by the Commissioner.

(2) For claims under policies of surety and title insurance, within 30 days after the date that settlement of the claim is agreed upon between the insurer, the claimant, and the loss payee, as applicable, and in accordance with rules adopted by the Commissioner.

(3) If a claim is contested, within 30 days after the entry of a final nonappealable judgment against the insurer; the entry of a binding arbitration decision between the insurer, the claimant, the loss payee, and the Department, as applicable; or the execution of a settlement agreement between the insurer, the claimant, the loss payee, and the Department, as applicable.

(c) If an insurer fails to pay a claim within the applicable time period set forth in subsection (b) of this section or any other time period provided by statute, it shall thereafter pay interest on the amount of the claim at the judgment rate allowed by law. Interest shall accrue from 30 days after the date the insurer receives a properly executed proof of loss.

Sec. 16. 8 V.S.A. § 3665b is added to read:

§ 3665b. TIMELY PAYMENT OF LIFE INSURANCE CLAIMS AND

ANNUITY DEATH BENEFITS; INTEREST

(a) This section applies to policies of life insurance and contracts of annuity. As used in this section, a “beneficiary” means any person making a claim against a policy of life insurance or for death benefits provided under a contract of annuity.

(b) A claim for payment of benefits under a policy of life insurance shall be paid within 30 days after the date that a properly executed proof of loss is

received by the insurer. All payments of claims under policies of life insurance shall include interest accrued from the date of death of the insured to the date of payment. The interest rate shall be the rate paid on proceeds left on deposit or six percent, whichever is greater.

(c) A claim for payment of benefits under a contract of annuity shall be paid within 30 days after the date that a properly executed proof of loss is received by the insurer. Payments of claims for death benefit proceeds under contracts of annuity shall include interest at the rate paid for proceeds left on deposit or six percent, whichever is greater. Interest shall accrue and be payable as follows:

(1) For variable annuity contracts subject to the Securities and Exchange Commission's rules governing the liquidation of account values at the death of the beneficiary, from the eighth day following the date that a properly executed proof of loss is received by the insurer.

(2) For all other contracts of annuity, from the date of death of the measuring life, unless the contract specifies that the contract remains in force until the date that a properly executed proof of loss is received by the insurer. For purposes of this section, the individual whose death triggers the death benefit proceeds is the measuring life.

(d) If a claim is contested, it shall be paid within 30 days after the entry of a final nonappealable judgment against the insurer; the entry of a binding arbitration decision between the insurer, the beneficiary, and the Department, as applicable; or the execution of a settlement agreement between the insurer, the beneficiary, and the Department, as applicable.

(e) If an insurer fails to pay a claim within the applicable time period set forth in subsection (b), (c), or (d) of this section, it shall thereafter pay interest on the amount of the claim at the judgment rate allowed by law. Interest shall accrue from 30 days after the date the insurer receives a properly executed proof of loss.

Sec. 17. 8 V.S.A. § 3665c is added to read:

§ 3665c. DAMAGES

An insurance company, including a society and an association, is responsible for payment of any consequential damages, including all penalties or costs, caused by improper delay in payment or settlement of claims to claimants, loss payees, or beneficiaries under policies of insurance subject to section 3665a or 3665b of this title. Consequential damages for improper delay are not applicable when a policy expressly provides for periodic payments or when a claimant, loss payee, or beneficiary agrees to accept

periodic payments, unless an insurer improperly delays making such periodic payments.

Sec. 18. 8 V.S.A. § 3731(10) is amended to read:

(10) Payment of claims. There shall be a provision that when the benefits under the policy shall become payable by reason of the death of the insured, settlement shall be made upon receipt of due proof of death, and at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer shall specify a particular period prior to the expiration of which settlement shall be made, such period shall not exceed ~~two months~~ 30 days from the receipt of such proofs.

* * * Public Holding Company Acquisitions; Public Hearings * * *

Sec. 19. 8 V.S.A. § 3683(f) is amended to read:

(f) Approval by Commissioner; hearings.

(1) The Commissioner shall hold a public hearing on any merger or other acquisition of control referred to in subsection (a) of this section if the Commissioner determines that the statement filed as required by this section does not demonstrate compliance with the standards referred to in subsection (b) of this section or if the Commissioner determines that such acquisition of control is likely to be hazardous or prejudicial to the insurance buying public, or at the request of the acquiring party. Holding a public hearing is otherwise optional at the discretion of the Commissioner. In the event the Commissioner determines that a public hearing is not required, the Commissioner shall require that notice of the transaction be published on the website maintained by the Department of Financial Regulation and in two daily newspapers of general jurisdiction in Vermont, as determined by the Commissioner. The notice shall describe the proposed transaction and state that members of the public and interested parties may file written comments on the proposed transaction with the Commissioner. The Commissioner shall consider all written comments received within 14 days after initial publication of the notice and may subsequently hold a public hearing in response to any comments received. The Commissioner shall approve any merger or other acquisition of control referred to in subsection (a) of this section unless, ~~after a public hearing thereon,~~ he or she finds that:

(A) after the change of control the domestic insurer referred to in subsection (a) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(B) the effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly. In applying the competitive standard in this subdivision:

(i) the informational requirements of subdivision 3683a(c)(1) and the standards of subdivision 3683a(d)(2) of this chapter shall apply;

(ii) the merger or other acquisition shall not be disapproved if the Commissioner finds that any of the situations meeting the criteria provided by subdivision 3683a(d)(3) of this chapter exist; and

(iii) the Commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(C) the financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(D) the terms of the offer, request, invitation, agreement, or acquisition referred to in subsection (a) of this section are unfair and unreasonable to the security holders of the insurer;

(E) the plans or proposals ~~which~~ that the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(F) the competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(G) the acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

(2) The public hearing referred to in subdivision (1) of this subsection (f), if required, shall be held within ~~30~~ 60 days after the statement required by subsection (a) of this section is filed, and at least 20 days' notice thereof shall be given by the Commissioner to the person filing the statement. Not less than seven days' notice of such public hearing shall be given by the person filing the statement to the insurer and to such other persons as may be designated by the Commissioner. The insurer shall give such notice to its security holders. The Commissioner shall make a determination within 30 days after the conclusion of such hearing or, if a public hearing is not required, within 30 days after the comment period deadline; provided, however, that, if the

insurer is or will be an affiliate of a depository institution or any affiliate thereof, the Commissioner shall issue a determination within the 60-day period preceding the effective date of the acquisition or change or continuation of control of an insurer. At such hearing, the person filing the statement, the insurer, any person to whom notice of hearing was sent, and any other person whose interests may be affected thereby shall have the right to present evidence, examine, and cross-examine witnesses, and offer oral and written arguments and in connection therewith shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the Superior Court of this State. All discovery proceedings shall be concluded not later than three days prior to the commencement of the public hearing.

(3) If the proposed acquisition of control will require the approval of more than one commissioner, the public hearing ~~required by subdivision (2) of this subsection~~ may be held on a consolidated basis upon request of the person filing the statement referred to in subsection (a) of this section. Such person shall file the statement referred to in subsection (a) of this section with the NAIC within five days of making the request for a public hearing. A commissioner may opt out of a consolidated hearing and shall provide notice to the applicant of the opt-out within 10 days of the receipt of the statement referred to in subsection (a) of this section. A hearing conducted on a consolidated basis shall be public and shall be held within the United States before the commissioners of the states in which the insurers are domiciled. Such commissioners shall hear and receive evidence. A commissioner may attend such hearing in person or by telecommunication.

(4) In connection with a change of control of a domestic insurer, any determination by the Commissioner that the person acquiring control of the insurer shall be required to maintain or restore the capital of the insurer to the level required by the laws and rules of this State shall be made not later than 60 days after the date of notification of the change in control submitted pursuant to subdivision (a)(1) of this section.

(5) The Commissioner may retain at the acquiring person's expense any attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the proposed acquisition of control.

* * * INSURANCE HOLDING COMPANIES; CONFORMING
CROSS REFERENCE * * *

Sec. 20. 8 V.S.A. § 3681(3) is amended to read:

(3) "Control" ~~(including the terms "controlling," "controlled by" and "under common control with")~~, means the possession, direct or indirect, of the

power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, 10 percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by subsection ~~3684(i)~~ 3684(l) of this title that control does not exist in fact. The Commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support such determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

* * * Life Insurance; Conforming Cross References * * *

Sec. 21. 8 V.S.A. § 3859(a) is amended to read:

(a) Except for subdivisions 3731(2), (7), (8), and (9), ~~sections 3741-3749~~ ~~sections 3760-3773~~, inclusive, ~~and~~ section 3813 of this title in the case of a variable life insurance policy, and section 3750 of this title in the case of a variable annuity contract, and except as otherwise provided in this subchapter, all pertinent provisions of this title apply to separate accounts and contracts relating thereto. Any individual variable life insurance contract, delivered or issued for delivery in this State shall contain grace, reinstatement, and nonforfeiture provisions appropriate to such a contract. Any group variable life insurance contract, delivered or issued for delivery in this State, shall contain grace provisions appropriate to such a contract.

* * * INSURANCE TRADE PRACTICES; CONFORMING
CROSS REFERENCE * * *

Sec. 22. 8 V.S.A. § 4724(7)(B)(ii) is amended to read:

(ii) Rates; however, nothing in this subdivision shall prevent any person who contracts to insure another from setting rates for such insurance in accordance with reasonable classifications based on relevant actuarial data or actual cost experience in accordance with ~~section 4656~~ section 4686 of this title.

* * * Hospital and Medical Service Corporations; Annual
Report Deadline * * *

Sec. 23. 8 V.S.A. § 4516 is amended to read:

§ 4516. ANNUAL REPORT TO COMMISSIONER

Annually, on or before ~~March 15~~ March 1, a hospital service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31. The statement shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4518 of this title, the statement shall include a certification that the hospital service corporation operates on a nonprofit basis for the purpose of providing an adequate hospital service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

Sec. 24. 8 V.S.A. § 4588 is amended to read:

§ 4588. ANNUAL REPORT TO COMMISSIONER

Annually, on or before ~~March 15~~ March 1, a medical service corporation shall file with the Commissioner of Financial Regulation a statement sworn to by the president and treasurer of the corporation showing its condition on December 31, which shall be in such form and contain such matters as the Commissioner shall prescribe. To qualify for the tax exemption set forth in section 4590 of this title, the statement shall include a certification that the medical service corporation operates on a nonprofit basis for the purpose of providing an adequate medical service plan to individuals of the State, both groups and nongroups, without discrimination based on age, gender, geographic area, industry, and medical history, except as allowed by subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

* * * Association Health Plans; Required Policy Provisions * * *

Sec. 25. 8 V.S.A. § 4079a(d)(3) is added to read:

(3) This subsection does not apply to association health plans that were formed or could have been formed under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1901, et. seq., and accompanying U.S. Department of Labor regulations and guidance, in each case, as in effect as of January 19, 2017.

Sec. 26. 8 V.S.A. § 4080(b) is amended to read:

(b)(1) Preexisting condition exclusions.

(A) A group insurance policy shall not contain any provision that excludes, restricts, or otherwise limits coverage under the policy for one or more preexisting health conditions.

(B) ~~As used in this subdivision (1), “group insurance policy” shall not include a policy providing coverage for a specified disease or other limited benefit coverage.~~

* * *

(5) As used in this subsection, “group insurance policy” has the same meaning as “group health plan” and shall be subject to the same excepted benefits, in each case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

Sec. 27. 8 V.S.A. § 4089d(a) is amended to read:

(a) ~~As used in this section, “health insurance plan” means any group or individual policy; nonprofit hospital or medical service corporation subscriber contract; health maintenance organization contract; self-insured group plan, to the extent permitted under federal law; and prepaid health insurance plans delivered, issued for delivery, renewed, replaced, or assumed by another insurer, or in any other way continued in force in this State~~ has the same meaning as “group health plan” and shall be subject to the same excepted benefits, in each case, as set forth in 45 C.F.R. § 146.145, as in effect as of December 31, 2017.

* * * Securities; Filing Fees; Federal Covered Firms * * *

Sec. 28. 9 V.S.A. § 5410(e) is amended to read:

(e) ~~A federal covered investment adviser required to file a notice under section 5405 of this title shall pay an initial fee of \$300.00 and an annual notice fee of \$300.00. To the extent required to be included in documents filed with the Securities and Exchange Commission, such notice filing shall include information on the branch offices of a federal covered investment adviser who transacts business in this State from any place of business located within this State, accompanied by a notice filing fee of \$120.00 per branch office in Vermont. A notice filing may be terminated by filing notice of such termination with the Commissioner. If a notice filing results in a denial or withdrawal, the Commissioner shall retain the fee.~~

* * * Effective Dates * * *

Sec. 29. EFFECTIVE DATES

This act shall take effect on July 1, 2020, except that Sec. 12 (credit for reinsurance) shall take effect on January 1, 2021.

(Committee Vote: 11-0-0)

Constitutional Proposal

Proposal 2

Fourth Day on the Notice Calendar

Rep. Kitzmiller of Montpelier for Government Operations.

PROPOSAL 2

Sec. 1. PURPOSE

This proposal would amend the Constitution of the State of Vermont to clarify that slavery and indentured servitude in any form are prohibited.

Sec. 2. Article 1 of Chapter I of the Vermont Constitution is amended to read:

Article 1. [All persons born free; their natural rights; slavery and indentured servitude prohibited]

That all persons are born equally free and independent, and have certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety; ~~therefore no person born in this country, or brought from over sea, ought to be holden by law, to serve any person as a servant, slave or apprentice, after arriving to the age of twenty-one years, unless bound by the person's own consent, after arriving to such age, or bound by law for the payment of debts, damages, fines, costs, or the like~~ slavery and indentured servitude in any form are prohibited.

Sec. 3. EFFECTIVE DATE

The amendment set forth in Sec. 2 shall become a part of the Constitution of the State of Vermont on the first Tuesday after the first Monday of November 2022 when ratified and adopted by the people of this State in accordance with the provisions of 17 V.S.A. chapter 32.

Consent Calendar

Concurrent Resolutions for Adoption Under Joint Rule 16a

The following concurrent resolutions have been introduced for approval by the Senate and House and will be adopted automatically unless a Senator or Representative requests floor consideration before today's adjournment. Requests for floor consideration in either chamber should be communicated to the Secretary's office and/or the House Clerk's office, respectively. For text of

resolutions, see Addendum to House Calendar and Senate Calendar of January 16, 2020.

H.C.R. 200

House concurrent resolution congratulating the Hazelett Corporation in Colchester on its centennial

H.C.R. 202

House concurrent resolution in memory of Lindy S. Lynch

H.C.R. 203

House concurrent resolution designating January 22, 2020 as Mentoring Day at the State House

Information Notice

JFO #2989 - \$1,250,000 from the U.S. Dept. of Justice to the VT Dept. of Children & Families to fund the expansion of mentoring opportunities for youth in rural parts of Vermont who are at risk of adverse childhood experiences (ACES), substance abuse and poverty. Expedited review of this grant has been requested by the Administration.

[JFO received 01/09/20]

JFO #2990 – \$3,200,000 from the Substance Abuse and Mental Health Services Administration (SAMHSA) to the VT Dept. of Health. Funds will be used to provide first responders with improved and expanded access to opioid overdose prevention training, equipment and medication. One (1) limited-service position has been requested in conjunction with this grant.

[JFO received 01/14/20]

JFO #2991 – \$53,768 from the National Fish and Wildlife Foundation to the VT Dept. of Fish & Wildlife. Funds will be used to restore brook trout habitat in tributaries along the Connecticut River watershed.

[JFO received 01/14/20]

JFO #2992 – \$30,000 from the Federal Emergency Management Agency to the VT Dept. of Environmental Conservation. Funds will be used to increase earthquake hazard risk awareness in areas of Chittenden County.

[JFO received 01/14/20]

