

1 Introduced by Representative Marcotte of Coventry
2 Referred to Committee on
3 Date:
4 Subject: Banking; insurance; property and casualty; life; health
5 Statement of purpose of bill as introduced: This bill proposes to make various
6 amendments to Vermont’s banking and insurance laws.

7 An act relating to banking and insurance

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

9 * * * Personal Information Protection Companies * * *

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

11 § 2100. APPLICATION OF CHAPTER

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

14 (b) This chapter does not apply to:

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

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

17 (3) ~~personal information protection companies subject to chapter 78 of~~

18 ~~this title.~~

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

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

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

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

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

9 § 2453. QUALIFIED PERSONAL INFORMATION PROTECTION

10 COMPANY

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

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

17 * * *

18 Sec. 5. REPEAL

19 8 V.S.A. § 2456 (concerning fees applicable to personal information
20 protection companies under 8 V.S.A. chapter 78) is repealed.

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

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

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

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

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

7 § 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

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

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

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

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

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

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

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

9 (iii) foreclosures within the past three years; or

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

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

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

18 (4) The applicant, each officer, director, and responsible individual of,
19 and each person in control of, the applicant, has never had a financial services
20 license or similar license revoked in any governmental jurisdiction, except that

1 a subsequent formal vacation of such revocation shall not be deemed a
2 revocation.

3 ~~(5)~~(4) The applicant, each officer, director, and responsible individual
4 of, and each person in control of, the applicant has not been convicted of, or
5 pled guilty or nolo contendere to, a felony in a domestic, foreign, or military
6 court:

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

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

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

14 ~~(6)~~(5) The applicant has satisfied the applicable surety bond and liquid
15 asset requirement as follows:

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

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

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

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

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

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

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

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

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

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

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

1 (c)(1) If the Commissioner finds that an applicant meets the requirements
2 of subsection (a) of this section, he or she shall issue the license not later than
3 60 days after an applicant submits a complete application.

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

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

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

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

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

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

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

2 § 2115. PENALTIES

3 (a) The Commissioner may:

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

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

12 * * *

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

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

1 * * * Prepaid Access Cards; Fees * * *

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

3 § 2703. PROHIBITED FEES

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

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

11 ~~(1) 10 percent of the face amount purchased or added to the prepaid~~
12 ~~access card; or~~

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

15 * * * Credit for Reinsurance * * *

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

17 § 3634a. CREDIT FOR REINSURANCE

18 (a) It is the purpose of this section to protect the interest of insureds,
19 claimants, ceding insurers, assuming insurers, and the public generally. The
20 General Assembly hereby declares its intent is to ensure adequate regulation of
21 insurers and reinsurers and adequate protection for those to whom they owe

1 obligations. In furtherance of that State interest, the General Assembly hereby
2 provides a mandate that upon the insolvency of a non-U.S insurer or reinsurer
3 that provides security to fund its U.S. obligations in accordance with this
4 section, the assets representing the security shall be maintained in the United
5 States and claims shall be filed with and valued by the state insurance
6 Commissioner with regulatory oversight, and the assets shall be distributed in
7 accordance with the insurance laws of the state in which the trust is domiciled
8 that are applicable to the liquidation of domestic U.S. insurance companies.

9 The General Assembly declares that the matters contained in this section are
10 fundamental to the business of insurance in accordance with 15 U.S.C.

11 §§ 1011-1012.

12 (b) Credit for reinsurance shall be allowed a domestic ceding insurer as
13 either an asset or a deduction from liability on account of reinsurance ceded
14 only when the reinsurer meets the requirements of subdivision (1), (2), (3), (4),
15 (5), ~~or (6)~~, or (7) of this subsection. Credit shall be allowed under subdivision
16 (1), (2), or (3) of this subsection only with respect to cessions of those kinds or
17 classes of business which the assuming insurer is licensed or otherwise
18 permitted to write or assume in its state of domicile or, in the case of a U.S.
19 branch of an alien assuming insurer, in the state through which it is entered and
20 licensed to transact insurance or reinsurance. Credit shall be allowed under

1 subdivision (3) or (4) of this subsection only if the applicable requirements of
2 subdivision ~~(7)~~(8) of this subsection have been satisfied.

3 * * *

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

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

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

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

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

9 (ii) The assuming insurer must have and maintain, on an ongoing
10 basis, minimum capital and surplus, or its equivalent, calculated according to
11 the methodology of its domiciliary jurisdiction, in an amount to be set forth in
12 rule. If the assuming insurer is an association, including incorporated and
13 individual unincorporated underwriters, it must have and maintain, on an
14 ongoing basis, minimum capital and surplus equivalents, net of liabilities,
15 calculated according to the methodology applicable in its domiciliary
16 jurisdiction, and a central fund containing a balance in amounts to be set forth
17 in rule.

18 (iii) The assuming insurer must have and maintain, on an ongoing
19 basis, a minimum solvency or capital ratio, as applicable, which will be set
20 forth in rule. If the assuming insurer is an association, including incorporated
21 and individual unincorporated underwriters, it must have and maintain, on an

1 ongoing basis, a minimum solvency or capital ratio in the reciprocal
2 jurisdiction where the assuming insurer has its head office or is domiciled, as
3 applicable, and is also licensed.

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

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

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

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

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

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

20 (v) The assuming insurer or its legal successor must provide, if
21 requested by the Commissioner, on behalf of itself and any legal predecessors,

1 certain documentation to the Commissioner, as specified by the Commissioner
2 in rule.

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

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

11 (viii) Nothing in this provision precludes an assuming insurer
12 from providing the Commissioner with information on a voluntary basis.

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

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

1 (ii) The Commissioner may remove a jurisdiction from the list of
2 reciprocal jurisdictions upon a determination that the jurisdiction no longer
3 meets the requirements of a reciprocal jurisdiction, in accordance with a
4 process set forth in rules adopted by the Commissioner, except that the
5 Commissioner shall not remove from the list a reciprocal jurisdiction as
6 defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this subsection.
7 Upon removal of a reciprocal jurisdiction from this list credit for reinsurance
8 ceded to an assuming insurer that has its home office or is domiciled in that
9 jurisdiction shall be allowed, if otherwise allowed pursuant to this section.

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

20 (D) If the Commissioner determines that an assuming insurer no
21 longer meets one or more of the requirements under this subsection, the

1 Commissioner may revoke or suspend the eligibility of the assuming insurer
2 for recognition under this subsection in accordance with procedures set forth in
3 rule.

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

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

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

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

5 (G) Credit may be taken under this subsection only for reinsurance
6 agreements entered into, amended, or renewed on or after the effective date of
7 the statute adding this subsection, and only with respect to losses incurred and
8 reserves reported on or after the later of (i) the date on which the assuming
9 insurer has met all eligibility requirements pursuant to subdivision (6)(A) of
10 this subsection, and (ii) the effective date of the new reinsurance agreement,
11 amendment, or renewal.

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

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

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

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

6 ~~(7)~~(8) If the assuming insurer is not licensed or accredited or certified to
7 transact insurance or reinsurance in this State, the credit permitted by
8 subdivisions (3) and (4) of this subsection shall not be allowed unless the
9 assuming insurer agrees in the reinsurance agreements:

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

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

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

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

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

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

20 (C) If the Commissioner with regulatory oversight determines that
21 the assets of the trust fund or any part thereof are not necessary to satisfy the

1 claims of the U.S. ceding insurers of the grantor of the trust, the assets or part
2 thereof shall be returned by the Commissioner with regulatory oversight to the
3 trustee for distribution in accordance with the trust agreement.

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

6 ~~(9)~~(10) If an accredited or certified reinsurer ceases to meet the
7 requirements for accreditation or certification, the Commissioner may suspend
8 or revoke the reinsurer's accreditation or certification.

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

12 (i) the reinsurer waives its right to hearing;

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

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

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

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

11 * * *

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

13 Sec. 13. REPEAL

14 8 V.S.A. § 3665 (concerning the timely payment of insurance claims) is
15 repealed.

16 Sec. 14. 8 V.S.A. § 3665a is added to read:

17 § 3665a. TIMELY PAYMENT OF PROPERTY AND CASUALTY

18 INSURANCE CLAIMS; INTEREST

19 (a) This section applies to policies of property, casualty, surety, and title
20 insurance, as defined in section 3301 of this title. It does not apply to workers’
21 compensation insurance. As used in this section, “claimant” means any person

1 asserting a right to payment under an insurance policy or contract arising out of
2 the occurrence of the contingency or loss covered by such policy or contract or
3 any person asserting a claim against any other person or the interests insured
4 under an insurance policy or contract, and includes a claimant’s designated
5 legal representative and any member of the claimant’s immediate family
6 designated in writing by the claimant.

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

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

14 (2) For claims under policies of surety and title insurance, within
15 30 days after the date that settlement of the claim is agreed upon between the
16 insurer, the claimant, and the loss payee, as applicable, and in accordance with
17 rules adopted by the Commissioner.

18 (3) If a claim is contested, within 30 days after entry of judgment
19 against the insurer, the entry of a binding arbitration decision between the
20 insurer, the claimant, the loss payee, and the Department, as applicable, or the

1 execution of a settlement agreement between the insurer, the claimant, the loss
2 payee, and the Department, as applicable.

3 (c)(1) If an insurer fails to pay a claim within the applicable time period set
4 forth in subdivision (b)(1) or (b)(2) or any other time period provided by
5 statute, it shall thereafter pay interest on the amount of the claim at the
6 judgment rate allowed by law.

7 (2) In the event judgment is entered against the insurer, a binding
8 arbitration decision is entered between the insurer, the claimant, the loss payee,
9 and the Department, as applicable, or a settlement agreement is executed
10 between the insurer, the claimant, the loss payee, and the Department, as
11 applicable, interest shall accrue and be paid beginning 31 days after the date
12 such judgment or arbitration decision is entered or such settlement agreement
13 is executed, in each case at the judgment rate allowed by law.

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

15 § 3665b. TIMELY PAYMENT OF LIFE INSURANCE CLAIMS AND

16 ANNUITY DEATH BENEFITS; INTEREST

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

1 (b) A claim for payment of benefits under a policy of life insurance shall be
2 paid within 30 days after the date that a properly executed proof of loss is
3 received by the insurer. All payments of claims under policies of life
4 insurance shall include interest accrued from the date of death of the insured to
5 the date of payment. The interest rate shall be the rate paid on proceeds left on
6 deposit or six percent, whichever is greater.

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

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

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

1 (d)(1) If an insurer fails to pay a claim within the applicable time period set
2 forth in subsection (b) or (c) of this section, it shall pay interest on the amount
3 of the claim beginning 31 days after the date it receives a properly executed
4 proof of loss, at the judgment rate allowed by law.

5 (2) In the event judgment is entered against the insurer, a binding
6 arbitration decision is entered between the insurer, the beneficiary, and the
7 Department, as applicable, or a settlement agreement is executed between the
8 insurer, he beneficiary, and the Department, as applicable, interest shall accrue
9 and be paid beginning 31 days from the date such judgment or arbitration
10 decision is entered or such settlement agreement is executed, in each case at
11 the judgment rate allowed by law.

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

13 § 3665c. DAMAGES

14 An insurance company, including a society and an association, is
15 responsible for payment of any consequential damages caused by improper
16 delay in payment or settlement of claims to claimants, loss payees, or
17 beneficiaries under policies of insurance subject to section 3665a or 3665b of
18 this title. Consequential damages for improper delay are not applicable when a
19 policy expressly provides for periodic payments or when a claimant, loss
20 payee, or beneficiary agrees to accept periodic payments, unless an insurer
21 improperly delays making such periodic payments.

1 Sec. 17. 8 V.S.A. § 3731(10) is amended to read:

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

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

10 Sec. 18. 8 V.S.A. § 3683(f) is amended to read:

11 (f) Approval by Commissioner; hearings.

12 (1) The Commissioner shall hold a public hearing on any merger or
13 other acquisition of control referred to in subsection (a) of this section if the
14 Commissioner determines that the statement filed as required by this section
15 does not demonstrate compliance with the standards referred to in subsection
16 (b) of this section or if the Commissioner determines that such acquisition of
17 control is likely to be hazardous or prejudicial to the insurance buying public,
18 or at the request of the acquiring party. Holding a public hearing is otherwise
19 optional at the discretion of the Commissioner. In the event the Commissioner
20 determines that a public hearing is not required, the Commissioner shall
21 require that notice of the transaction be published in two media platforms

1 based in Vermont, as determined by the Commissioner. The notice shall
2 describe the proposed transaction and state that members of the public and
3 interested parties may file written comments on the proposed transaction with
4 the Commissioner. The Commissioner shall consider all written comments
5 received within 14 days after initial publication of the notice and may
6 subsequently hold a public hearing in response to any comments received. The
7 Commissioner shall approve any merger or other acquisition of control
8 referred to in subsection (a) of this section unless, ~~after a public hearing~~
9 ~~thereon~~, he or she finds that:

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

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

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

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

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

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

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

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

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

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

1 (2) The public hearing referred to in subdivision (1) of this subsection
2 (f), if required, shall be held within ~~30~~ 60 days after the statement required by
3 subsection (a) of this section is filed, and at least 20 days' notice thereof shall
4 be given by the Commissioner to the person filing the statement. Not less than
5 seven days' notice of such public hearing shall be given by the person filing
6 the statement to the insurer and to such other persons as may be designated by
7 the Commissioner. The insurer shall give such notice to its security holders.
8 The Commissioner shall make a determination within 30 days after the
9 conclusion of such hearing or, if a public hearing is not required, within
10 30 days after the comment period deadline; provided, however, that, if the
11 insurer is or will be an affiliate of a depository institution or any affiliate
12 thereof, the Commissioner shall issue a determination within the 60-day period
13 preceding the effective date of the acquisition or change or continuation of
14 control of an insurer. At such hearing, the person filing the statement, the
15 insurer, any person to whom notice of hearing was sent, and any other person
16 whose interests may be affected thereby shall have the right to present
17 evidence, examine, and cross-examine witnesses, and offer oral and written
18 arguments and in connection therewith shall be entitled to conduct discovery
19 proceedings in the same manner as is presently allowed in the Superior Court
20 of this State. All discovery proceedings shall be concluded not later than three
21 days prior to the commencement of the public hearing.

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

14 (4) In connection with a change of control of a domestic insurer, any
15 determination by the Commissioner that the person acquiring control of the
16 insurer shall be required to maintain or restore the capital of the insurer to the
17 level required by the laws and rules of this State shall be made not later than
18 60 days after the date of notification of the change in control submitted
19 pursuant to subdivision (a)(1) of this section.

20 (5) The Commissioner may retain at the acquiring person's expense any
21 attorneys, actuaries, accountants, and other experts not otherwise a part of the

1 Commissioner’s staff as may be reasonably necessary to assist the
2 Commissioner in reviewing the proposed acquisition of control.

3 * * * INSURANCE HOLDING COMPANIES; CONFORMING

4 CROSS REFERENCE * * *

5 Sec. 19. 8 V.S.A. § 3681(3) is amended to read:

6 (3) “Control” ~~including the terms “controlling,” “controlled by” and~~
7 “under common control with”~~),~~ means the possession, direct or indirect, of the
8 power to direct or cause the direction of the management and policies of a
9 person, whether through the ownership of voting securities, by contract other
10 than a commercial contract for goods or nonmanagement services, or
11 otherwise, unless the power is the result of an official position with or
12 corporate office held by the person. Control shall be presumed to exist if any
13 person, directly or indirectly, owns, controls, holds with the power to vote, or
14 holds proxies representing, 10 percent or more of the voting securities of any
15 other person. This presumption may be rebutted by a showing made in the
16 manner provided by subsection ~~3684(i)~~ 3684(l) of this title that control does
17 not exist in fact. The Commissioner may determine, after furnishing all
18 persons in interest notice and opportunity to be heard and making specific
19 findings of fact to support such determination, that control exists in fact,
20 notwithstanding the absence of a presumption to that effect.

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

1 Sec. 20. 8 V.S.A. § 3859(a) is amended to read:

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

12 * * * INSURANCE TRADE PRACTICES; CONFORMING

13 CROSS REFERENCE * * *

14 Sec. 21. 8 V.S.A. § 4724(7)(B)(ii) is amended to read:

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

1 * * * Hospital and Medical Service Corporations; Annual

2 Report Deadline * * *

3 Sec. 22. 8 V.S.A. § 4516 is amended to read:

4 § 4516. ANNUAL REPORT TO COMMISSIONER

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

16 Sec. 23. 8 V.S.A. § 4588 is amended to read:

17 § 4588. ANNUAL REPORT TO COMMISSIONER

18 Annually, on or before ~~March 15~~ March 1, a medical service corporation
19 shall file with the Commissioner of Financial Regulation a statement sworn to
20 by the president and treasurer of the corporation showing its condition on
21 December 31, which shall be in such form and contain such matters as the

1 Commissioner shall prescribe. To qualify for the tax exemption set forth in
2 section 4590 of this title, the statement shall include a certification that the
3 medical service corporation operates on a nonprofit basis for the purpose of
4 providing an adequate medical service plan to individuals of the State, both
5 groups and nongroups, without discrimination based on age, gender,
6 geographic area, industry, and medical history, except as allowed by
7 subdivisions 4080a(h)(2)(B) and 4080b(h)(2)(B) of this title.

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

9 Sec. 24. 8 V.S.A. § 4079a(d)(3) is added to read:

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

15 Sec. 25. 8 V.S.A. § 4080(b) is amended to read:

16 (b)(1) Preexisting condition exclusions.

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

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

4 * * *

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

9 Sec. 26. 8 V.S.A. § 4089d(a) is amended to read:

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

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

2 Sec. 27. 9 V.S.A. § 5410(e) is amended to read:

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

13 * * * Effective Date * * *

14 Sec. 28. EFFECTIVE DATE

15 This act shall take effect on July 1, 2020, except that Sec. 12 shall take
16 effect on January 1, 2021.