

1 *New DFR Proposed Amendments* – Highlighted in **Yellow**

2 *Technical Edits* – Highlighted in **Blue**

3 TO THE HOUSE OF REPRESENTATIVES:

4 The Committee on Commerce and Economic Development to which was
5 referred House Bill No. 643 entitled “An act relating to banking and insurance”
6 respectfully reports that it has considered the same and recommends that the
7 bill be amended by striking out all after the enacting clause and inserting in
8 lieu thereof the following:

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20 protection companies under 8 V.S.A. chapter 78) is repealed.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 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 that** is
5 not otherwise described in subdivision (6)(A)(i)(I) or (6)(A)(i)(II) of this
6 subsection and **which that** meets certain additional requirements, consistent
7 with the terms and conditions of in-force covered agreements, as specified by
8 the Commissioner **by in** 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 that** will be
20 set forth in rule. If the assuming insurer is an association, including
21 incorporated and individual unincorporated underwriters, it must have and

1 maintain, on an ongoing basis, a minimum solvency or capital ratio in the
2 reciprocal jurisdiction where the assuming insurer has its head office or is
3 domiciled, as 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 subdivision (6)(A)(ii) or (6)(A)(iii) of this subsection,
10 or if any regulatory action is taken against it for serious noncompliance with
11 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 100** percent of the assuming insurer's liabilities attributable to
8 reinsurance ceded pursuant to that agreement if the assuming insurer resists
9 enforcement of a final judgment that is enforceable under the law of the
10 jurisdiction in which it was obtained or a properly enforceable arbitration
11 award, whether obtained by the ceding insurer or by its legal successor on
12 behalf of its resolution estate.

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

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

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

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

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

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

18 (i) A list of reciprocal jurisdictions is published through the NAIC
19 committee process. The Commissioner’s list shall include any reciprocal
20 jurisdiction as defined under subdivisions (6)(A)(i)(I) and (6)(A)(i)(II) of this
21 subsection and shall consider any other reciprocal jurisdiction included on the

1 NAIC list. The Commissioner may approve a jurisdiction that does not appear
2 on the NAIC list of reciprocal jurisdictions in accordance with criteria to be
3 developed in rules adopted by the Commissioner.

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

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

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

1 Commissioner may impose by rule, except to the extent that they conflict with
2 an applicable covered agreement.

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

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

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

20 (E) If subject to a legal process of rehabilitation, liquidation, or
21 conservation, as applicable, the ceding insurer, or its representative, may seek

1 and, if determined appropriate by the court in which the proceedings are
2 pending, may obtain an order requiring that the assuming insurer post security
3 for all outstanding ceded liabilities.

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

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

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

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

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

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

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

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

11 ~~(7)~~(8) If the assuming insurer is not licensed or accredited or certified to
12 transact insurance or reinsurance in this State, the credit permitted by
13 subdivisions (3) and (4) of this subsection shall not be allowed unless the
14 assuming insurer agrees in the reinsurance agreements:

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

1 (B) To designate the Commissioner, the Secretary of State, or a
2 designated attorney as its true and lawful attorney upon whom may be served
3 any lawful process in any action, suit, or proceeding instituted by or on behalf
4 of the ceding company. This provision is not intended to conflict with or
5 override the obligation of the parties to a reinsurance agreement to arbitrate
6 their disputes, if this obligation is created in the agreement.

7 ~~(8)~~(9) If the assuming insurer does not meet the requirements of
8 subdivision (1), (2), ~~or (3)~~, or (6) of this subsection, the credit permitted by
9 subdivision (4) or (5) of this subsection shall not be allowed unless the
10 assuming insurer agrees in the trust agreements to the following conditions:

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

20 (B) The assets shall be distributed by and claims shall be filed with
21 and valued by the Commissioner with regulatory oversight in accordance with

1 the laws of the state in which the trust is domiciled that are applicable to the
2 liquidation of domestic insurance companies.

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

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

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

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

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

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

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

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

13 ~~(40)~~(11) Concentration Risk.

14 * * *

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

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

17 § 3664. FORMS; FILING PROOF OF LOSS AND OTHER DOCUMENTS,

18 WAIVER OF FILING

19 Insurance companies, societies, or associations, or insurance adjusters

20 appointed by said companies, societies, or associations shall furnish in form for

21 completion by the insured claimant, as defined in section 3665a of this title, or

1 beneficiary, as defined in section 3665b of this title, all documents as to proof
2 of loss or other matter required by contract to be submitted to the companies.
3 Failure to furnish said forms within a reasonable time after notice of loss or
4 damage is received by said companies, societies, or associations shall be
5 deemed a waiver of any requirement that proof of loss shall be filed with the
6 insurer on said forms as a condition precedent to the recovery of losses or
7 claims.

8 Sec. 14. REPEAL

9 8 V.S.A. § 3665 (concerning the timely payment of insurance claims) is
10 repealed.

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

12 § 3665a. TIMELY PAYMENT OF PROPERTY AND CASUALTY

13 INSURANCE CLAIMS; INTEREST

14 (a) This section applies to policies of property, casualty, surety, and title
15 insurance, as defined in section 3301 of this title. It does not apply to workers’
16 compensation insurance. As used in this section, “claimant” means any person
17 asserting a right to payment under an insurance policy or contract arising out of
18 the occurrence of the contingency or loss covered by such policy or contract or
19 any person asserting a claim against any other person or the interests insured
20 under an insurance policy or contract, and includes a claimant’s designated

1 legal representative and any member of the claimant’s immediate family
2 designated in writing by the claimant.

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

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

10 (2) For claims under policies of surety and title insurance, within
11 30 days after the date that settlement of the claim is agreed upon between the
12 insurer, the claimant, and the loss payee, as applicable, and in accordance with
13 rules adopted by the Commissioner.

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

19 (c)(1) If an insurer fails to pay a claim within the applicable time period set
20 forth in subdivision (b)(1) or (b)(2) of this section or any other time period

1 provided by statute, it shall thereafter pay interest on the amount of the claim at
2 the judgment rate allowed by law.

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

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

11 § 3665b. TIMELY PAYMENT OF LIFE INSURANCE CLAIMS AND
12 ANNUITY DEATH BENEFITS; INTEREST

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

17 (b) A claim for payment of benefits under a policy of life insurance shall be
18 paid within 30 days after the date that a properly executed proof of loss is
19 received by the insurer. All payments of claims under policies of life
20 insurance shall include interest accrued from the date of death of the insured to

1 the date of payment. The interest rate shall be the rate paid on proceeds left on
2 deposit or six percent, whichever is greater.

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

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

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

18 (d) If a claim is contested, it shall be paid within 30 days after the entry of a
19 final nonappealable judgment against the insurer; the entry of a binding
20 arbitration decision between the insurer, the beneficiary, and the Department.

1 as applicable; or the execution of a settlement agreement between the insurer,
2 the beneficiary, and the Department, as applicable.

3 (e)(1) If an insurer fails to pay an uncontested claim within the applicable
4 time period set forth in subsection (b) or (c) of this section, it shall pay interest
5 on the amount of the claim beginning 31 days after the date it receives a
6 properly executed proof of loss, at the 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 beneficiary, and the
9 Department, as applicable, or a settlement agreement is executed between the
10 insurer, the beneficiary, and the Department, as applicable, interest shall accrue
11 and be paid beginning 31 days from the date such judgment or arbitration
12 decision is entered or such settlement agreement is executed, in each case at
13 the judgment rate allowed by law.

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

15 § 3665c. DAMAGES

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

1 payee, or beneficiary agrees to accept periodic payments, unless an insurer
2 improperly delays making such periodic payments.

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

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

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

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

13 (f) Approval by Commissioner; hearings.

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

1 determines that a public hearing is not required, the Commissioner shall
2 require that notice of the transaction be published **in two media platforms**
3 **based in Vermont on the website maintained by the Department of**
4 **Financial Regulation and in two daily newspapers of general jurisdiction**
5 **in Vermont**, as determined by the Commissioner. The notice shall describe
6 the proposed transaction and state that members of the public and interested
7 parties may file written comments on the proposed transaction with the
8 Commissioner. The Commissioner shall consider all written comments
9 received within 14 days after initial publication of the notice and may
10 subsequently hold a public hearing in response to any comments received. The
11 Commissioner shall approve any merger or other acquisition of control
12 referred to in subsection (a) of this section unless, ~~after a public hearing~~
13 ~~thereon~~, he or she finds that:

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

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

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

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

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

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

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

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

20 (F) the competence, experience, and integrity of those persons who
21 would control the operation of the insurer are such that it would not be in the

1 interest of policyholders of the insurer and of the public to permit the merger
2 or other acquisition of control; or

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

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

1 arguments and in connection therewith shall be entitled to conduct discovery
2 proceedings in the same manner as is presently allowed in the Superior Court
3 of this State. All discovery proceedings shall be concluded not later than three
4 days prior to the commencement of the public hearing.

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

18 (4) In connection with a change of control of a domestic insurer, any
19 determination by the Commissioner that the person acquiring control of the
20 insurer shall be required to maintain or restore the capital of the insurer to the
21 level required by the laws and rules of this State shall be made not later than

1 60 days after the date of notification of the change in control submitted
2 pursuant to subdivision (a)(1) of this section.

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

7 * * * INSURANCE HOLDING COMPANIES; CONFORMING

8 CROSS REFERENCE * * *

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

10 (3) “Control” ~~including the terms “controlling,” “controlled by” and~~
11 “under common control with”~~),~~ means the possession, direct or indirect, of the
12 power to direct or cause the direction of the management and policies of a
13 person, whether through the ownership of voting securities, by contract other
14 than a commercial contract for goods or nonmanagement services, or
15 otherwise, unless the power is the result of an official position with or
16 corporate office held by the person. Control shall be presumed to exist if any
17 person, directly or indirectly, owns, controls, holds with the power to vote, or
18 holds proxies representing, 10 percent or more of the voting securities of any
19 other person. This presumption may be rebutted by a showing made in the
20 manner provided by subsection ~~3684(i)~~ 3684(1) of this title that control does
21 not exist in fact. The Commissioner may determine, after furnishing all

1 persons in interest notice and opportunity to be heard and making specific
2 findings of fact to support such determination, that control exists in fact,
3 notwithstanding the absence of a presumption to that effect.

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

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

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

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

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

19 (ii) Rates; however, nothing in this subdivision shall prevent any
20 person who contracts to insure another from setting rates for such insurance in
21 accordance with reasonable classifications based on relevant actuarial data or

1 actual cost experience in accordance with ~~section 4656~~ section 4686 of this
2 title.

3 * * * Hospital and Medical Service Corporations; Annual

4 Report Deadline * * *

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

6 § 4516. ANNUAL REPORT TO COMMISSIONER

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

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

19 § 4588. ANNUAL REPORT TO COMMISSIONER

20 Annually, on or before ~~March 15~~ March 1, a medical service corporation
21 shall file with the Commissioner of Financial Regulation a statement sworn to

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

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

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

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

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

18 (b)(1) Preexisting condition exclusions.

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

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

2 Sec. 28. 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 Dates * * *

14 Sec. 29. EFFECTIVE DATES

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

1 (Committee vote: _____)

2

3

Representative _____

4

FOR THE COMMITTEE