



AN ACT RELATING TO BANKING AND INSURANCE

Commissioner Michael Pieciak
Department of Financial Regulation
January 8, 2020

SEC. 1-5: PERSONAL INFORMATION PROTECTION COMPANIES

- Subject personal information protection companies to the general licensing provisions of Title 8, Chapter 72, which govern all non-depository licensees.
 - Chapter 72 includes:
 - license application & renewal requirements
 - notification and reporting requirements
 - exams & investigations
 - use of NMLS
 - enforcement
 - penalties common to all licensees
 - Fees would remain unchanged.

SEC. 6: LICENSED LENDER EXEMPTION

- Technical correction to exempt all state agencies, political subdivisions, and public instrumentalities from the requirement to obtain a lender license.
- Reason for change: Last session “State” was capitalized (meaning the State of Vermont), creating an unintended change to the licensed lender exemption, which has historically applied to any state, not just Vermont.

SEC. 7: HOME STATE LICENSURE; TIME PERIOD FOR DEEMING APPLICATION ABANDONED

- Remove the home state licensure requirement for non-depository licensees.
 - Reason for change: NMLS and the new exam system have formalized communications channels between states, making licensure in a lender's home state unnecessary.
- Change the time period for deeming incomplete applications abandoned (from 90 to 120 days) so that it works in harmony with recent changes to the federal SAFE Act.
 - Reason for change: The SAFE Act gives certain mortgage loan originators a 120-day temporary authority period while their application is pending; temporary authority ends if the application remains incomplete for 120 days.

SEC 8-10: FINANCIAL SERVICES TECHNICAL CHANGES

- Clarify that if a license is denied, DFR returns the bond rather than the amount the applicant paid for the bond (which DFR does not hold).
- Technical correction to change the phrase “violation of this title” to “violation of this part.”
 - Reason for change: To be consistent with other changes made in Chapter 72 (the reorganized general non-depository licensing sections).
- Correct the title of “National Multistate Licensing Service.”

SEC. 11: PREPAID ACCESS CARDS; FEES

- Remove the fee cap of 10% of the face amount for prepaid access cards issued by licensed money transmitters, financial institutions, and credit unions.
- Reasons for change:
 - Helps level the playing field for Vermont institutions.
 - Intended to provide greater consumer access to lower value cards.

SEC. 12: CREDIT FOR REINSURANCE

- “Bilateral Agreement Between the United States of America and the European Union on Prudential Measures Regarding Insurance and Reinsurance” (Covered Agreement) was signed on 9/22/2017; a similar Covered Agreement was signed with the United Kingdom on 12/18/2018.
- Eliminates reinsurance collateral and local presence requirements for EU reinsurers that maintain a minimum amount of own funds equivalent to \$250 million and a solvency capital requirement of 100% under Solvency II.
- Conversely, U.S. reinsurers that maintain capital and surplus equivalent to €226 million with risk-based capital of 300% of authorized control level are not be required to maintain a local presence in order to do business in the EU or post collateral in any EU jurisdiction.

CREDIT FOR REINSURANCE (CONTINUED)

- NAIC model act extends similar treatment to Qualified Jurisdictions that meet certain additional requirements consistent with the Covered Agreement.
 - Currently three countries that are not subject to a Covered Agreement meet the requirements for a Qualified Jurisdiction: Bermuda, Japan, and Switzerland.
- NAIC model act also extends similar treatment to accredited NAIC jurisdictions.

CREDIT FOR REINSURANCE (CONTINUED)

- The Dodd-Frank Act provides that state insurance laws can be preempted if the Director of the Federal Office of Insurance determines the law is inconsistent with a covered agreement or results in less favorable treatment to reinsurers from covered agreement jurisdictions.
- To comply with the requirements of the Covered Agreement, the NAIC model act revisions provide that jurisdictions subject to an in-force covered agreement will be considered as Reciprocal Jurisdictions whose reinsurers are not required to post reinsurance collateral.

CREDIT FOR REINSURANCE (CONTINUED)

- Since the Dodd-Frank Act requires state insurance laws to be “consistent” with the Covered Agreement, the NAIC recommends states adopt revisions in close to identical form to the NAIC model act.
- Revisions should be adopted this year, as the FIO may begin evaluating potential preemption determinations 42 months after the signature of the Covered Agreement (3/1/2021) and **must** complete any necessary preemption determinations 60 months after signature of the Covered Agreement (9/1/2022).
- **NAIC revised Model Act #175 will become an accreditation standard as of 9/21/2022.**

SEC. 13-17: INSURANCE CLAIMS; ANNUITY DEATH BENEFITS; INTEREST PAYMENTS

- Reorganize a confusing section by separating it into three: one for property & casualty insurance claims; one for life insurance and annuity death benefit claims; and one for common damages provisions.
- Incorporate existing laws and regulations for timely payments.
 - Incorporate Regulation I-1979-02 time periods for payments of P&C claims.
 - Fix discrepancy in 8 V.S.A. § 3731 (which allowed an insurer to specify a longer period in a policy).
- Eliminate the unintended 30-day grace period for judgment interest on P&C claims.
- Add a provision requiring the payment of interest on annuity death benefit claims.
 - This would harmonize Vermont law with Interstate Insurance Product Regulation Committee standards and with existing law for life insurance benefits.

INSURANCE CLAIMS; ANNUITY DEATH BENEFITS; INTEREST PAYMENTS (CONTINUED)

P&C claims

- Claims under policies other than surety and title insurance must be paid within 10 business days after the date the claim is agreed upon between the insurer & the claimant (Regulation I-1979-02).
 - Surety & title insurance claims must be paid within 30 days.
- Contested claims must be paid within 30 days after the entry of judgment or a binding arbitration decision or the execution of a settlement agreement.
- If an insurer fails to pay a claim within these time periods, it must pay interest thereafter at the statutory judgment rate (12%).

INSURANCE CLAIMS; ANNUITY DEATH BENEFITS; INTEREST PAYMENTS (CONTINUED)

Life insurance & annuity death benefit claims

- Interest is payable from the date of death at the greater of 6% and the rate for proceeds left on deposit (except some annuities that are subject to SEC rules governing liquidation of account values).
- Uncontested claims must be paid within 30 days after proof of loss is received by the insurer.
- Contested claims must be paid within 30 days after the entry of judgment or a binding arbitration decision or the execution of a settlement agreement.
- If an insurer fails to pay a claim within these time periods, it must pay interest thereafter at the statutory judgment rate (12%).

SEC. 18: PUBLIC HOLDING COMPANY ACQUISITIONS; PUBLIC HEARINGS

- Make public hearings on insurance holding company mergers and acquisitions discretionary rather than mandatory.
 - If the Commissioner determines a hearing is not necessary, DFR will publish notice of the proposed transaction and consider public comments received.
- Provide the Commissioner with 60 days (rather than 30 days) to hold a hearing after receiving notice of proposed transaction.

SEC. 19-21: CONFORM CROSS-REFERENCES

- 8V.S.A. § 3684 amended generally in 2013.
- 8V.S.A. §§ 3741-3749 repealed and re-codified in 2015.
- 8V.S.A. § 4656 was repealed and re-codified in 1984.

SEC. 22-23: HOSPITAL AND MEDICAL SERVICE CORPORATIONS; ANNUAL REPORT DEADLINE

- Revise annual report filing deadlines for hospital and medical service corporations (from March 15 to March 1).
 - Reasons for change:
 - Resolves a statutory conflict with NAIC filing requirements, which were revised in 2013.
 - Conforms to the current practice of BC/BS and Delta Dental.

SEC. 24: ASSOCIATION HEALTH PLANS

- Clarify that the bans on enrollment of new employer members in existing association health plans and formation of new association health plans apply to “pathway 2” AHPs only-- AHPs that formed or could have formed under ERISA and Dept. of Labor guidance in effect as of 1/19/2017.
 - “Pathway 1” AHPs (or *bona fide* AHPs) are considered single employers under ERISA.
 - Members must have a common interest (such as being in the same trade or industry) or close economic connection and a representational nexus to the association (i.e. not based solely on geographic proximity).
- “Pathway 2” AHPs were permitted to form under DOL’s 2018 regulations. The D.C. district court found these regulations violated ERISA; DOL has appealed.

SEC. 25: REQUIRED POLICY PROVISIONS

- Clarify that ACA protections incorporated into Vermont law do not apply to certain limited benefit policies (specified diseases, retirees only, etc.).
 - Protections include a prohibition on preexisting condition exclusions, annual limitations on cost sharing, ban on annual and lifetime limits, and prohibition on cost sharing.
- Tie to definition of “group health plan” in federal regulation, which is subject to certain “excepted benefits.”