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Dear Representative Marcotte and members of the Committee:

April 2, 2019

Regarding SB 154

I would respectfully like to request that the House Committee on Commerce and Economic Development consider an amendment to SB 154 we are proposing.

The let me explain the attached amendment.

The clarification that we are requesting is regarding the what the department can review, in regard to other business activities that are not regulated by the department of our firm and others do during an audit.

Currently under the proposed statue the department can examine all the business activities that we are involved with, to include activities in other states outside of the jurisdiction the department. The issue that we have is that our company, and I think several others, have other business activities under our umbrella of our operations that are not related to what the department can regulate under Vermont Law and as a result may cause an undue burden to the company when conducting an audit.

What we are requesting is a clarification that will still allow the department to have the ability to look at similarly related licensed products, but not have the ability to broadly look at other business activities that are not applicable to Vermont consumers or the department. As you can see from our amendment we are fine with the department reviewing transactions that are under the same type of license we have in other states.

For clarification we have discussed this with the department and made our concerns known but they are not in agreement to our position.

If your staff has any questions we would be happy to discuss. You can reach me at 847-513-7927 or via email at eschuller@oasisfinancial.com

Thank you for your consideration.

Eric Schuller
Director Government Affairs

1 § 2117. EXAMINATIONS AND INVESTIGATIONS; EXAMINATION FEES

2 (a) In addition to any authority allowed under this part or other law, and for the purpose of
3 examination, or discovering or investigating violations or complaints, of or arising under this
4 part; chapter 200, subchapter 2 of this title; chapter 200 of this title; 9 V.S.A. chapter 4, 59, or
5 61; or a rule adopted, or an order or directive issued pursuant to those sections, or securing
6 information required or useful thereunder, and for purposes of initial licensing, license renewal,
7 license suspension, license conditioning, license revocation or termination, or general or specific
8 inquiry or investigation, the Commissioner or his or her representative may:

9 (1) conduct investigations and examinations;

10 (2) access, receive, and use any books, accounts, records, files, documents, information,
11 or evidence including:

12 (A) criminal, civil, and administrative history information, including nonconviction
13 data;

14 (B) personal history and experience information, including independent credit reports
15 obtained from a consumer reporting agency described in 15 U.S.C. § 1681a; and

16 (C) any other documents, information, or evidence the Commissioner deems relevant
17 to the inquiry or investigation regardless of the location, possession, control, or custody of such
18 documents, information, or evidence.

19 (b)(1) The Commissioner may review, investigate, or examine any person, regardless of
20 whether the person has obtained a license under this part, as often as necessary in order to carry
21 out the purposes of this part.

22 (2) The Commissioner may direct, subpoena, or order the attendance of, and examine
23 under oath, a person whose testimony is required about the loans or the business or subject

1 matter of an examination or investigation, and may direct, subpoena, or order the person to
2 produce books, accounts, records, files, and any other documents the Commissioner deems
3 relevant to the inquiry.

4 (c)(1) A person subject to this part shall make available to the Commissioner upon request
5 the books and records relating to the operations of the person.

6 (2) The Commissioner shall have access to the books and records and to interview the
7 officers, principals, responsible individuals, control persons, mortgage loan originators,
8 employees, independent contractors, agents, and customers of the person concerning its business.

9 (d) A person subject to this part shall make or compile reports or prepare other information as
10 directed by the Commissioner in order to carry out the purposes of this section, including:

11 (1) accounting compilations;

12 (2) information lists and data concerning transactions in a format prescribed by the
13 Commissioner; and

14 (3) any other information as the Commissioner deems necessary to carry out the purposes
15 of this part.

16 (e)(1) In making any examination or investigation authorized by this part, the Commissioner
17 may control access to the documents and records of the person under examination or

18 investigation, with the exception in the case of Consumer Litigation Funding Companies of such
19 documents as pertain only to transactions with consumers in states where the person is not
20 similarly regulated as a Consumer Litigation Funding Company.

21 (2) The Commissioner may take possession of the documents and records referenced in §
22 2117(e)(1) or place a person in exclusive charge of the said documents and records in the place
23 where they are usually kept.

1 (3) During the period of control, a person shall not remove or attempt to remove any of
2 the documents and records except pursuant to a court order or with the consent of the
3 Commissioner.

4 (4) Unless the Commissioner has reasonable grounds to believe the documents or records
5 of the person have been or are at risk of being altered or destroyed for purposes of concealing a
6 violation of this part, the licensee or owner of the documents and records shall have access to the
7 documents or records as necessary to conduct its ordinary business affairs.

8 (f) In order to carry out the purposes of this part, the Commissioner may:

9 (1) retain attorneys, accountants, or other professionals and specialists as examiners,
10 auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

11 (2) enter into agreements or relationships with other government officials or regulatory
12 associations to improve efficiencies and reduce regulatory burden by sharing resources,
13 standardized or uniform methods or procedures, and documents, records, information, or
14 evidence obtained under this section;

15 (3) use, hire, contract, or employ public or privately available analytical systems,
16 methods, or software to examine or investigate a person subject to this part;

17 (4) accept and rely on examination or investigation reports made by other government
18 officials within or outside this State; or

19 (5) accept audit reports made by an independent certified public accountant for the person
20 subject to this part in the course of that part of the examination covering the same general subject
21 matter as the audit and may incorporate the audit report in the report of the examination, report
22 of investigation, or other writing of the Commissioner.

1 (g) The authority of this section shall remain in effect, whether a person subject to this part
2 acts or claims to act under any licensing or registration law of this State, acts without such
3 authority, or surrenders his or her license.

4 (h) No person subject to investigation or examination under this section may knowingly
5 withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or
6 other information.

7 (i) The Commissioner may, in the case of any person subject to this part who does not
8 maintain a Vermont office, accept reports of examinations prepared by another state or federal
9 regulatory agency as substitutes if such reports are available to the Commissioner and are
10 determined to be adequate in exercising his or her powers and discharging his or her
11 responsibilities under this part.

12 (j)(1) A person subject to this part shall pay to the Department all fees, costs, and expenses of
13 any examination, review, and investigation as prescribed by section 18 of this title, which fees,
14 costs, and expenses shall be billed when they are incurred.

15 (2) In addition to the powers set forth in section 2110 of this title, the Commissioner may
16 maintain an action for the recovery of examination, review, and investigation fees, costs, and
17 expenses as prescribed in section 18 of this title in any court of competent jurisdiction.

18 (k) Information obtained during an examination or investigation under this part shall be
19 confidential and privileged and shall be treated as provided in section 23 of this title.

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