

1 H.643

2 Introduced by Representatives Marcotte of Coventry, Bancroft of Westford,  
3 Carroll of Bennington, Jerome of Brandon, Kimbell of  
4 Woodstock, Kornheiser of Brattleboro, Morris of Springfield,  
5 and Ralph of Hartland

6 Referred to Committee on

7 Date:

8 Subject: Banking; insurance; property and casualty; life; health

9 Statement of purpose of bill as introduced: This bill proposes to make various  
10 amendments to Vermont's banking and insurance laws.

11 An act relating to banking and insurance

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

13 \* \* \* Personal Information Protection Companies \* \* \*

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

15 § 2100. APPLICATION OF CHAPTER

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

18 (b) This chapter does not apply to:

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

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



1 Sec. 5. REPEAL

2 8 V.S.A. § 2456 (concerning fees applicable to personal information  
3 protection companies under 8 V.S.A. chapter 78) is repealed.

4 \* \* \* Licensed Lenders; Exemption; All States \* \* \*

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

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

8 \* \* \* Financial and Related Services; Licensing \* \* \*

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

10 § 2103. APPROVAL OF APPLICATION AND ISSUANCE OF LICENSE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17           ~~(6)~~(5) The applicant has satisfied the applicable surety bond and liquid  
18           asset requirement as follows:

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

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

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

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

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

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

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

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

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

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

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

3           (c)(1) If the Commissioner finds that an applicant meets the requirements  
4 of subsection (a) of this section, he or she shall issue the license not later than  
5 60 days after an applicant submits a complete application.

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

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

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

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

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

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

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

5 § 2115. PENALTIES

6 (a) The Commissioner may:

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

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

15 \* \* \*

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

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





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.



1                   \* \* \* Life Insurance; Conforming Cross References \* \* \*

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

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

13                   \* \* \* INSURANCE TRADE PRACTICES; CONFORMING

14                                   CROSS REFERENCE \* \* \*

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

16                  (ii) Rates; however, nothing in this subdivision shall prevent any  
17          person who contracts to insure another from setting rates for such insurance in  
18          accordance with reasonable classifications based on relevant actuarial data or  
19          actual cost experience in accordance with ~~section 4656~~ section 4686 of this  
20          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                   \* \* \* 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.